

TREATY BETWEEN THE UNITED KINGDOM AND PERU FOR THE MUTUAL SURRENDER OF FUGITIVE CRIMINALS

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and his Excellency the President of the Republic of Peru, having determined by common consent to conclude a Treaty for the extradition of criminals, have accordingly named as their Plenipotentiaries:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, William Nelthorpe Beauclerk, His Majesty's Minister Resident in Peru;

And his Excellency the President of the Republic of Peru, José Pardo, his Minister for Foreign Relations;

Who after having exhibited to each other their respective full powers and found them in good and due form, have agreed upon the following Articles:

ARTICLE I

The High Contracting Parties engage to deliver up to each other, in accordance with the stipulations of the present Treaty, any persons who, being accused or convicted in one of the two countries of one or more of the offences enumerated in the following Article are found in the territory of the other.

ARTICLE II

Extradition shall be reciprocally granted for the following crimes or offences:

1. Murder (including parricide, infanticide, poisoning) or attempt or conspiracy to murder. The Peruvian Government may, however, in its absolute discretion, refuse to deliver up any person charged with a crime punishable with death.
2. Manslaughter.
3. Procuring or attempting to procure abortion.
4. Rape, abduction and indecent assault.
5. Unlawfully detaining or kidnapping children, abandoning or exposing them.
6. Bigamy
7. Wounding or inflicting grievous bodily harm.
8. Assault occasioning actual bodily harm.
9. Threats, by letter or otherwise, with intent to extort money or other things of value.
10. Perjury or subordination of perjury.
11. Arson and other malicious injury to property if such injuries are indictable.
12. Burglary or housebreaking, robbery with violence, larceny or embezzlement.

13. Fraud by a bailee, banker, agent, factor, trustee, director, member or public officer of any company punishable with imprisonment for not less than one year.
14. Obtaining money, valuable security, or goods by false pretences; receiving any money, valuable security or other property, knowing the same to have been stolen or unlawfully obtained.
15. Counterfeiting or altering money or bringing into circulation counterfeited or altered money.
16. Making or having possession of instruments adapted and intended for the counterfeiting of the coin of the realm or for the forgery of documents. Forgery and uttering what is forged.
17. Offences against bankruptcy law.
18. Any malicious act done with intent to endanger the safety of any persons travelling or being upon a railway.
19. Piracy by the law of nations.
20. Dealing in slaves in such manner as to constitute a criminal offence against the laws of both States.
21. Extradition is also to be granted for other crimes or offences against persons or things which, according to the laws of the High Contracting Parties, are Extradition offences and are punishable by not less than one year's imprisonment.

The extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both Contracting Parties.

Extradition may also be granted at the discretion of the State applied to in respect of any other crime for which, according to the law of both the Contracting Parties for the time being in force, the grant can be made.

ARTICLE III

Each of the High Contracting Parties reserves the right to grant or refuse the surrender of its own subjects or citizens.

ARTICLE IV

The surrender shall not take place when the person claimed by the Government of either of the two nations has already been tried and sentenced by the authorities of the other for the crime for which his extradition is demanded.

If the person claimed should be awaiting trial in the territory of one of the two nations, or be undergoing sentence in it on account of any other crime than that for which his extradition is claimed, his surrender shall be deferred until after he has been discharged, whether by acquittal or on the expiration of his sentence, or by pardon or otherwise.

ARTICLE V

The extradition shall not take place if subsequently to the commission of the crime or the institution of the penal prosecution or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applying or applied to.

ARTICLE VI

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

ARTICLE VII

A person surrendered may in no case be kept in prison or be brought to trial in the State to which the surrender has been made for any other crime, or on account of any other matters than those for which the extradition shall have taken place, until he has had an opportunity of returning to the State by which he has been surrendered.

This stipulation does not apply to crimes committed after the extradition.

ARTICLE VIII

The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively; in default of these by the Consular Officers, and in the absence of both of these, directly, from Government to Government.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

Also, in case of extradition being demanded by Great Britain for a crime which is an offence against some statute, a copy of the said statute shall be sent; and if for a crime at common law only, an extract from some text-book generally recognized as authoritative may be sent, as indicating the punishment applicable to the offence giving rise to the requisition.

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

A sentence passed *in contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

ARTICLE IX

If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

ARTICLE X

When either of the Contracting Governments considers the case urgent it may apply for the provisional arrest of the criminal and the safe keeping of any objects relating to the offence.

Such request will be granted, provided the existence of a sentence or warrant of arrest is proved and the nature of the offence of which the fugitive is accused is clearly stated.

The warrant of arrest to which this Article refers should be issued by the competent judicial authorities of the Country applying for extradition. In the United Kingdom the accused shall on arrest be sent as speedily as possible before a Police Magistrate. The prisoner shall be discharged if the State applying does not complete the requisition within the term of ninety days counting from the date of the arrest of the prisoner.

ARTICLE XI

The extradition shall take place only if the evidence be found sufficient according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the same State, or to prove by the documents presented which shall contain a description of the person claimed and any particulars which shall serve to identify him, that the prisoner is the identical person convicted by the Courts of the State which makes the requisition and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction have been granted by the State applied to; and no criminal shall be surrendered until after the expiration of fifteen days from the date of his committal to prison to await the warrant for his surrender.

ARTICLE XII

In the examinations which they may have to make in accordance with the foregoing stipulations, the Authorities of the State applied to shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of a conviction, provided the same are authenticated as follows:

1. A warrant must purport to be signed by a Judge, Magistrate or officer of the other State.
2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate or Officer of the other State to be the original depositions or affirmations, or to be true copies thereof, as the case may require.
3. A certificate of or judicial document stating the fact of a conviction must purport to be certified by a Judge, Magistrate or Officer of the other State.
4. In every case such warrant, deposition, affirmation, copy, certificate or judicial document must be authenticated either by oath of some witness, or by being sealed with the official seal of the Minister of Justice or some other Minister of the other State: but any other mode of authentication for the time being permitted by the law of the Country where the examination is taken may be substituted for the foregoing.

ARTICLE XIII

If the individual claimed by one of the High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to the State whose demand is earliest in date.

ARTICLE XIV

If sufficient evidence for the extradition be not produced within ninety days from the date of the apprehension of the fugitive, or within such further time as the State applied to or the proper Tribunal thereof shall direct, the fugitive shall be set at liberty.

ARTICLE XV

When extradition is conceded the papers and other articles connected with the offence or its authors, or which were in their possession at the time of their arrest, shall be delivered to the State to which extradition is granted.

This State shall be bound to return them after the termination of the trial, if any persons shall satisfy the authorities of the State granting extradition that they have a right to them.

ARTICLE XVI

All expenses connected with extradition shall be borne by the demanding State.

ARTICLE XVII

The stipulations of the present Treaty shall be applicable to the colonies and foreign possessions of His Britannic Majesty, so far as the laws in such colonies and foreign possessions allow.

The requisition for the surrender of a fugitive criminal who has taken refuge in any of such colonies or foreign possessions shall be made to the Governor or chief authority of such colony or possession by the Chief Consular officer of the Republic of Peru in such Colony or possession.

The Governor or chief authority may dispose of the requisition, in accordance with the laws of the territory in which he exercises authority, and shall be at liberty to grant the surrender or to refer the matter to his Government.

Requisitions for the surrender of a fugitive criminal emanating from any colony or foreign possession of His Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

ARTICLE XVIII

The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties by a notice not exceeding one year and not less than six months.

It shall be ratified after receiving the approval of the Congress of the Republic of Peru and the ratifications shall be exchanged at Lima as soon as possible.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the same and affixed thereto their respective seals.

DONE at Lima, this 26th day of January in the year 1904.

William Nelthorpe Beauclerk

José Pardo