

HIGH COMMISSIONER'S NOTICE No. 100 of 1927.

The following Order of His Majesty-in-Council, dated the 26th May, 1927, applying the Extradition Acts, 1870 to 1906, in the case of the Lithuanian Republic in accordance with the Treaty signed on the 18th of May, 1926, between His Majesty and the President of the Republic of Lithuania for the mutual extradition of fugitive criminals is published for general information.

By Command of His Excellency the High Commissioner.

B. E. H. CLIFFORD,
Imperial Secretary.

High Commissioner's Office,
Capetown, 24th September, 1927.

At the Court at *Buckingham Palace*, the 26th day of May, 1927.

PRESENT,

THE KING'S MOST EXCELLENT MAJESTY.

LORD PRESIDENT.
LORD STEWARD.
VISCOUNT PEEL.
SIR MALCOLM ROBERTSON.

Whereas by the Extradition Acts 1870 (33 & 34 Vict., c. 52) to 1906 (6 Edw. VII, c. 15), it was amongst other things enacted that, where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, His Majesty may, by Order-in-Council, direct that the said Acts shall apply in the case of such foreign State; and that His Majesty may, by the same or any subsequent Order, limit the operation of the Order, and restrict the same to fugitive criminals who are in or suspected of being in the part of His Majesty's dominions specified in the Order, and render the operation thereof subject to such conditions, exceptions and qualifications as may be deemed expedient;

And whereas a Treaty was concluded on the 18th day of May, 1926, between His Majesty and the President of the Republic of Lithuania for the mutual extradition of fugitive criminals, which Treaty is in the terms following:—

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 the President of the Republic of Lithuania, 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:

Sir John Charles Tudor Vaughan, K.C.M.G., M.V.O., His Envoy Extraordinary and Minister Plenipotentiary to the Republic of Lithuania;

And the President of the Republic of Lithuania;

Dr. Leonas Bistras, Prime Minister and Minister for Foreign Affairs *p.i.*;

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 1.

The High Contracting Parties engage to deliver up to each other, under certain circumstances and conditions stated in the present treaty, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article 2, committed within the jurisdiction of the one Party, shall be found within the territory of the other Party.

ARTICLE 2.

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

1. Murder (including assassination, parricide, infanticide, poisoning), or attempt or conspiracy to murder.
2. Manslaughter.
3. Administering drugs or using instruments with intent to procure the miscarriage of women.
4. Rape.
5. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 14 years of age.
6. Indecent assault.
7. Kidnapping and false imprisonment.
8. Child stealing, including abandoning, exposing, or unlawfully detaining.
9. Abduction.
10. Procuration.
11. Bigamy.
12. Maliciously wounding or inflicting grievous bodily harm.
13. Assault occasioning actual bodily harm.
14. Threats, by letter or otherwise, with intent to extort money or other things of value.
15. Perjury, or subornation of perjury.
16. Arson.
17. Burglary or housebreaking, robbery with violence, larceny, or embezzlement.
18. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any company, or fraudulent conversion.
19. 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 feloniously obtained.
20. (a) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money.
(b) Knowingly making without lawful authority any instrument, tool, or engine adapted and intended for the counterfeiting of the coin of the realm.
21. Forgery or uttering what is forged.
22. Crimes against bankruptcy law.
23. Any malicious act done with intent to endanger the safety of any persons travelling or being upon a railway.
24. Malicious injury to property, if such offence be indictable.
25. Piracy and other crimes or offences committed at sea against person or things which, according to the laws of the High Contracting Parties, are extradition crimes or offences.
26. Dealing in slaves in such manner as to constitute a crime or offence against the laws of both States.

The extradition is also to be granted for participation in any of the aforesaid crimes or offences, providing 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 or offence for which, according to the law of both the Contracting Parties for the time being in force, the grant can be made.

ARTICLE 3.

Each Party reserves the right to refuse or grant the surrender of its own subjects or citizens to the other Party.

ARTICLE 4.

The extradition shall not take place if the person claimed has already been tried and discharged or punished, or is still under trial in the State applied to, for the crime or offence for which his extradition is demanded.

If the person claimed should be under examination or under punishment in the State applied to for any other crime or offence, his extradition shall be deferred until the conclusion of the trial and the full execution of any punishment awarded to him.

ARTICLE 5.

The extradition shall not take place if, subsequently to the commission of the crime or offence 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 6.

A fugitive criminal shall not be surrendered if the crime or 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 a crime or offence of a political character.

ARTICLE 7.

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

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

ARTICLE 8.

The requisition for extradition shall be made through the diplomatic agents of the High Contracting Parties respectively.

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 or offence had been committed there.

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 9.

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 10.

A criminal fugitive may be apprehended under a warrant issued by any police magistrate, justice of the peace, or other competent authority in either State, on such information or complaint and such evidence, or after such proceedings, as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime or offence had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the magistrate, justice of the peace, or other competent authority, exercises jurisdiction. He shall, in accordance with any article, be discharged if within the term of thirty days a requisition for extradition shall not have been made by the diplomatic agent of the State claiming his extradition in accordance with the stipulations of this treaty. The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this treaty, and committed on the high seas on board any vessel of either State which may come into a port of the other.

ARTICLE 11.

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 or offence had been committed in the territory of the same State, or to prove that the prisoner is the identical person convicted by

the courts of the State which makes the requisition, and that the crime or offence 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 12.

In the examinations which they 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, or copies thereof, and certificates of, or judicial documents stating the fact of a conviction, provided the same are authenticated as follows:—

1. A warrant, or copy thereof, must purport to be signed by a judge, magistrate, or officer of the other State, or purport to be certified under the hand of a judge, magistrate, or officer of the other State to be a true copy thereof, as the case may require.

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.

In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated, either by the 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, or by any other mode of authentication for the time being permitted by the law of the State to which the application for extradition is made.

ARTICLE 13.

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 within their respective jurisdictions, his extradition shall be granted to the State whose claim is earliest in date, unless such claim is waived.

ARTICLE 14.

If sufficient evidence for the extradition be not produced within two months 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 15.

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, and any articles that may serve as a proof of the crime or offence shall be given up when the extradition takes place, in so far as this may be permitted by the law of the State granting the extradition.

ARTICLE 16.

Each of the High Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons whom it may have consented to surrender in pursuance of the present treaty.

ARTICLE 17.

The stipulations of the present treaty shall be applicable, so far as the laws permit, to all His Britannic Majesty's Dominions, except to the self-governing Dominions herein after named—that is to say, the Dominion of Canada, the Commonwealth of Australia (including for this purpose Papua and Norfolk Island), the Dominion of New Zealand, the Union of South Africa, the Irish

Free State, and Newfoundland—and India, provided always that the said stipulations shall be applicable to any of the above-named Dominions or India in respect of which notice to that effect shall have been given on behalf of the Government of such Dominion or India by His Britannic Majesty's Representative at Kaunas (Kovno), and provided also that it shall be competent for either of the Contracting Parties to terminate separately the application of this treaty to any of the above-named Dominions or India by a notice to that effect not exceeding one year and not less than six months.

ARTICLE 18.

The requisition for the surrender of a fugitive criminal, who has taken refuge in any of His Britannic Majesty's self-governing Dominions, Colonies, or Possessions to which this treaty applies shall be made to the Governor-General, Governor, or chief authority of such self-governing Dominion, Colony, or Possession by the appropriate consular officer of the Republic of Lithuania.

Such requisition may be disposed of, subject always, as nearly as may be, and so far as the law of such self-governing Dominion, Colony, or Possession will allow, to the provisions of this treaty, by the competent authorities of such self-governing Dominion, Colony, or Possession, provided nevertheless that, if an order for the committal of the fugitive criminal to prison to await surrender shall be made, the said Governor-General, Governor, or chief authority, may, instead of issuing a warrant for the surrender of such fugitive, refer the matter to His Britannic Majesty's Government.

Requisitions for the surrender of a fugitive criminal emanating from any self-governing Dominion, Colony, or Possession of His Britannic Majesty shall be governed, as far as possible, by the rules laid down in the preceding articles of the present treaty.

ARTICLE 19.

It is understood that the stipulations of the two preceding articles apply in the same manner as if they were Possessions of His Britannic Majesty, to the following British Protectorates, that is to say, the Bechuanaland Protectorate, Gambia Protectorate, Kenya Protectorate, Nigeria Protectorate, Northern Rhodesia, Northern Territories of the Gold Coast, Nyasaland, Sierra Leone Protectorate, Solomon Islands Protectorate, Somaliland Protectorate, Swaziland, Uganda Protectorate, and Zanzibar, and to the following territories in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, that is to say, British Cameroons, British Togoland, the Tanganyika Territory, and Palestine.

It is also understood that if, after the signature of the present treaty, it is considered advisable to extend its provisions to any British Protectorates other than those mentioned above, or to any British-protected State, or to any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty other than those mentioned above, including the territories in respect to which mandates are being exercised on behalf of His Britannic Majesty by the Government of the Commonwealth of Australia, the Government of the Dominion of New Zealand and the Government of the Union of South Africa, the stipulations of the two preceding articles shall be deemed to apply to such Protectorates or States or mandated territories from the date and in the manner prescribed in the notes to be exchanged for the purpose of effecting such extension.

It is further understood that the provisions of the present treaty which apply to British subjects shall be deemed also to apply to natives of any British Protectorate or protected State or mandated territory to which the stipulations of the two preceding articles apply or shall hereafter apply.

ARTICLE 20.

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, and the ratifications shall be exchanged at Kaunas (Kovno) as soon as possible.

In witness whereof the respective plenipotentiaries have signed the treaty and have affixed thereto their respective seals.

Done at Kaunas (Kovno) the 18th day of May in the year 1926.

(L.S.) J. C. T. VAUGHAN.
(L.S.) DR. L. BISTRAS.

And whereas the ratifications of the said Treaty were exchanged at Kovno on the 29th day of March, 1927:

Now, therefore, His Majesty, by and with the advice of His Privy Council, and in virtue of the authority committed to Him by the said recited Acts, doth order, and it is hereby ordered, that from and after the 11th day of June, 1927, the said Acts shall apply in the case of the Republic of Lithuania under and in accordance with the said Treaty of the 18th May, 1926.

Provided always that the operation of the said Acts shall be and remain suspended within the Dominion of Canada so long as an Act of the Parliament of Canada, being Part I of Chapter 155 of the Revised Statutes of Canada, 1906, and entitled "An Act respecting the Extradition of Fugitive Criminals," shall continue in force there, and no longer.

Provided further that the operation of the said Acts shall be and remain suspended within the self-governing Dominions herein after named, that is to say, the Commonwealth of Australia (including for this purpose Papua and Norfolk Island), the Dominion of New Zealand, the Union of South Africa, the Irish Free State, and Newfoundland, and India, until notification shall have been made in the *London Gazette* that the Treaty has been made applicable thereto, and that on such notification being made in respect of any such Dominion or India the said Acts shall apply in such Dominion or India in the case of the Republic of Lithuania under and in accordance with the said Treaty as from the date of the said notification.

This order may be cited as the "Lithuania (Extradition) Order-in-Council, 1927."

M. P. A. Hankey.