

HIGH COMMISSIONER'S NOTICE No. 19 of 1927.

The following Order of His Majesty-in-Council dated the 20th November, 1926, applying the Extradition Acts, 1870 to 1906, in the case of the Czechoslovak Republic in accordance with the Treaty concluded on the 11th of November, 1924, as amended by the Protocol of the 4th of June, 1926, between His Majesty the King and the President of the Czechoslovak Republic for the mutual extradition of fugitive criminals, is published for general information.

By Command of His Excellency
the High Commissioner.

SHIRLEY EALES,
Acting Imperial Secretary.

High Commissioner's Office,
Capetown, 21st February, 1927.

CZECHOSLOVAKIA (EXTRADITION) ORDER-IN-COUNCIL.

At the Court at Sandringham, the 20th day of November, 1926.

PRESENT,

THE KING'S MOST EXCELLENT MAJESTY.

HIS ROYAL HIGHNESS PRINCE HENRY.

EARL OF SEFTON.

HON. WILLIAM WATSON.

Whereas by the Extradition Acts, 1870(a) to 1906(b) 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 11th day of November, 1924, between His Majesty and the President of the Czechoslovak Republic 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 Czechoslovak Republic;
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 William George Tyrrell, K.C.M.G., K.C.V.O., C.B.,
Assistant Under-Secretary of State for Foreign Affairs;

And the President of the Czechoslovak Republic:

Dr. Emil Spira, Head of Department in the Ministry of Justice;

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, under certain circumstances and conditions stated in the present treaty, those persons who, being charged with 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.

(a) 33 & 34 V. c. 52.

(b) 6 E. 7. c. 15.

ARTICLE 2.

Extradition shall be reciprocally granted for the following crimes or offences, provided that such crimes or offences be indictable and be punishable in accordance with the laws of that part of the territories of the High Contracting Parties in which the person claimed is found:—

1. Murder (including assassination, parricide, infanticide, poisoning) and attempt 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 fourteen years of age.
6. False imprisonment.
7. Child stealing, including abandoning, exposing or unlawfully detaining.
8. Abduction of a female with intent to have carnal knowledge.
9. Procuration.
10. Bigamy.
11. Maliciously wounding or inflicting grievous bodily harm.
12. Threats, by letter or otherwise, with intent to extort money or other things of value.
13. Perjury, or subornation of perjury.
14. Arson.
15. Burglary or housebreaking, robbery with violence, and larceny.
16. Fraud by a bailee, banker, agent, factor, trustee, director, member or officer of any company, embezzlement, and fraudulent conversion.
17. 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.
18. (a) Counterfeiting or altering money and bringing into circulation counterfeited or altered money.
(b) Knowingly making without lawful authority any instrument, or engine adapted and intended for the counterfeiting of the coin of either State.
19. Forgery, or uttering what is forged.
20. Crimes or offences against bankruptcy law.
21. Any act done with intent to endanger the safety of any persons travelling or being upon a railway.
22. Malicious injury to property.
23. Dealing in slaves.

Extradition shall also be reciprocally granted for piracy and other crimes or offences committed anywhere at sea which, according to the laws of the High Contracting Parties, are extradition crimes or offences.

Extradition is also to be granted for participation in any of the aforesaid crimes or offences, provided that 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, the grant can be made.

ARTICLE 3.

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

ARTICLE 4.

The extradition shall not take place if the person claimed has already been tried and discharged or convicted, or is still awaiting 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 or, in case of his conviction, until the full execution of any punishment imposed on him.

ARTICLE 5.

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

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 been made with a view to try or to punish him for a crime or offence of a political character.

The State applied to or the courts of that State shall decide whether the crime or offence is of a political character or not.

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 set at liberty and 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.

The requisition for the extradition of a person charged must be accompanied by a warrant of arrest or other judicial document of like nature issued by the competent authority of the State demanding the extradition, and by such evidence as, according to the laws of the place where the person charged is found, would justify his arrest if the crime or offence had been committed there.

If the claim for extradition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed on him by the competent court of the State that makes the claim.

A person sentenced *in contumaciam* shall not be dealt with as a convicted person, but as a person charged.

The documents forwarded in support of the requisition shall be drawn up in the State (official) language of the State making it.

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 also be arrested before the requisition for his surrender is made, under a warrant or other judicial document of like nature issued by a competent judicial authority in either State, on such information or complaint and such evidence, or after such proceedings, as would justify the issue of a warrant or other judicial document of like nature if the crime or offence had been committed or the person convicted in that part of the territory of the two Contracting Parties in which the competent judicial authority exercises jurisdiction.

Notice of the date of his arrest shall be given forthwith to the diplomatic agent of the Party claiming extradition.

The person arrested shall be discharged, in so far as the laws of the State where he has been arrested do not oppose, if within the term of forty days from his arrest a requisition for extradition shall not have been made, in accordance with the stipulations of this treaty, by the diplomatic agent of the State claiming his extradition.

The same rule shall apply to persons charged with 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 for which extradition may be granted under this treaty.

ARTICLE 12.

Warrants, depositions, and all other documents and copies thereof shall be accepted as evidence in support of a claim for extradition if they are signed or certified by a competent authority and are authenticated in the United Kingdom by the seal of a Secretary of State, and in the Czechoslovak Republic by the seal of the Minister of Justice.

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.

This article shall not affect such treaties as have already previously been concluded by one of the Contracting Parties with other States.

ARTICLE 14.

If sufficient evidence for the extradition be not produced within two months from the date of the arrest of the fugitive, or within such further time as the State applied to, or its competent tribunal, shall direct, the fugitive shall be set at liberty in so far as the laws of the State where the person claimed has been arrested do not oppose.

ARTICLE 15.

All articles seized which were in the possession of the person to be surrendered at the time of his arrest, and any articles that may serve as a proof of the crime or offence, shall be given up, if possible, when the extradition takes place.

The State to whom extradition is granted shall nevertheless return any article so given up for a temporary purpose if the State granting extradition shall so require.

The above stipulations are subject to the rights of third persons and are applicable only so far as the law of the State concerned permits.

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.

The cost of supplying translations of the documents forwarded in support of the requisition under articles 8 and 12 shall be defrayed by the party claiming extradition.

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 in the Czechoslovak Republic, 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 chief consular officer of the Czechoslovak Republic in such self-governing Dominion, Colony, or Possession.

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 said Governor-General, Governor, or chief authority, who, however, shall be at liberty either to grant the surrender or to 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.

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, the stipulations of the two preceding articles shall be deemed to apply to such protectorates or States or mandated territories from the date 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, of which the English and Czechoslovak texts are equally authentic, shall come into force forty days after the date on which ratifications are exchanged. 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 London as soon as possible.

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

Done at London the eleventh day of November, in the year 1924.

(L.S.) W. TYRRELL.
(L.S.) DR. EMIL SPIRA.

And whereas a Protocol was signed on the 4th day of June, 1926, in the terms following:—

PROTOCOL:

It being considered necessary to amend Article 12 of the Extradition Treaty between 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 Czechoslovak Republic, which was signed at London on 11th November, 1924, the undersigned Plenipotentiaries have agreed that that Article shall be amended to read as follows:—

“Warrants, depositions and all other documents and copies thereof shall be accepted as evidence in support of a claim for extradition if they are signed or certified by a competent authority and are authenticated in the United Kingdom by the seal of a Secretary of State, and in the Czechoslovak Republic by the seal of the Minister of Justice or other Minister of State.”

The present Protocol shall have the same force and duration as the Extradition Treaty of 11th November, 1924, to which it relates. It shall be ratified at the same time as that Treaty, of which it shall be regarded as an integral part.

In witness whereof the respective Plenipotentiaries have signed the present Protocol and have affixed thereto their seals.

Done in duplicate at London, the 4th June, 1926.

(L.S.) AUSTEN CHAMBERLAIN.
(L.S.) JAN MASARYK.

And whereas the ratifications of the said Treaty and Protocol were exchanged at London on the 5th day of November, 1926:

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 15th day of December, 1926, the said Acts shall apply in the case of the Czechoslovak Republic under and in accordance with the said Treaty of the 11th November, 1924, as amended by the said Protocol of the 4th June, 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, as amended by the said Protocol of the 4th June, 1926, 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 Czechoslovak Republic under and in accordance with the said Treaty, as amended by the said Protocol of the 4th June, 1926, as from the date of the said notification.

This Order may be cited as the “Czechoslovak (Extradition) Order in Council, 1926.”

A. H. L. HARDINGE.