

April 17, 1900.

Treaty between the United States and Chile providing for the extradition of criminals. Signed at Santiago, April 17, 1900; ratification with amendments advised by the Senate, December 18, 1900; ratified by the President, May 24, 1902; ratified by Chile, February 26, 1902; ratifications exchanged at Washington, May 27, 1902; proclaimed May 27, 1902.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Preamble.

Whereas a Treaty between the United States of America and the Republic of Chile providing for the extradition of fugitives from justice was concluded and signed by their respective Plenipotentiaries at Santiago, on the seventeenth day of April, one thousand nine hundred, the original of which Treaty, being in the English and Spanish languages is, (as amended by the Senate of the United States) word for word as follows:

Contracting parties.

The United States of America and the Republic of Chile, being desirous to confirm their friendly relations and to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the United States of America and the Republic of Chile, and have appointed for that purpose the following Plenipotentiaries:

Los Estados Unidos de América i la República de Chile, deseando confirmar sus amistosas relaciones i promover la causa de la justicia, han resuelto celebrar un tratado para la estradicion de los prófugos de la justicia entre los Estados Unidos de América i la República de Chile, i han nombrado al efecto los siguientes Plenipotenciarios:

Plenipotentiaries.

The President of the United States of America, Henry L. Wilson, Envoy Extraordinary and Minister Plenipotentiary of the United States in Chile, and the President of Chile, Señor Don Rafael Errázuriz Urmeneta, Minister of Foreign Relations of Chile.

El Presidente de los Estados Unidos de América, al señor Henry L. Wilson, Enviado Extraordinario i Ministro Plenipotenciario de los Estados Unidos en Chile, i el Presidente de la República de Chile, al señor don Rafael Errázuriz Urmeneta, Ministro de Relaciones Exteriores de Chile:

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

Quienes, después de comunicarse sus respectivos Plenos Poderes, que encontraron en buena i debida forma, han acordado i concluido los artículos siguientes:

ARTICLE I.

ARTÍCULO I.

Reciprocal delivery of persons charged with crimes.

The Government of the United States and the Government of Chile mutually agree to deliver up persons who, having been charged

El Gobierno de los Estados Unidos i el Gobierno de Chile convienen en entregarse mutuamente las personas que, habiendo sido acusa-

with or convicted of any of the crimes and offenses specified in the following article, committed within the jurisdiction of one of the contracting parties, shall seek an asylum or be found within the territories of the other: Provided, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime or offense had been there committed.

ARTICLE II.

Extradition shall be granted for the following crimes and offenses:

1. Murder, comprehending assassination, parricide, infanticide, and poisoning; attempt to commit murder; manslaughter, when voluntary.

2. Arson.

3. Robbery, defined to be the act of feloniously and forcibly taking from the person of another money, goods, documents or other property by violence or putting him in fear; burglary.

4. Forgery, or the utterance of forged papers; the forgery or falsification of official acts of Government, of public authorities, or of courts of justice, or the utterance of the thing forged or falsified.

5. The counterfeiting, falsifying or altering of money, whether coin or paper, or of instruments of debt created by national, state, provincial, or municipal governments, or of coupons thereof, or of bank notes or the utterance or circulation of the same; or the counterfeiting, falsifying or altering of seals of state.

6. Embezzlement by public officers; embezzlement by persons hired or salaried, to the detriment of their employers where in either class of cases the embezzlement exceeds the sum of two hundred dollars; larceny.

7. Fraud or breach of trust by a bailee, banker, agent, factor,

das o condenadas por alguno de los crímenes o delitos especificados en el artículo siguiente, i cometidos dentro de la jurisdicción de una de las Partes Contratantes, busquen asilo o se encuentren en los territorios de la otra; siempre que ello se haga solo en virtud de pruebas tales de culpabilidad que, según las leyes del lugar donde el prófugo o la persona acusada se encuentre, habria habido mérito para su aprehension i enjuiciamiento, si allí se hubiera cometido el crimen o delito.

ARTÍCULO II.

Se considerará la extradición por los siguientes crímenes i delitos:

1. Homicidio, comprendiendo el asesinato, parricidio, infanticidio i envenenamiento; tentativa de homicidio, homicidio impremeditado pero voluntario.

2. Incendio.

3. Robo, definido como acto de quitar maliciosa i forzadamente dinero, bienes, documentos u otra propiedad a otra persona, con violencia o intimidación en ella; robo con fuerza en las cosas.

4. Falsificación, o circulación de papeles falsificados; imitación o falsificación de documentos oficiales del Gobierno, de las autoridades públicas o de los tribunales de justicia, o la circulación de la cosa imitada o falsificada.

5. El delito de contrahacer, falsificar o alterar monedas, sea de metal o papel, de instrumentos de crédito creados por el gobierno nacional, por el de un estado, provincia o municipalidad, o de sus cupones, o de billetes de banco, o la emisión o circulación de los mismos; o el delito de contrahacer, falsificar o alterar sellos del Estado.

6. Malversación cometida por empleados públicos; malversación cometida por personas contratadas o asalariadas, en detrimento de sus patrones; siempre que en uno i otra clase de casos la malversación exceda de la suma de doscientos pesos de 48d; hurto.

7. Fraude o abuso de confianza de un depositario, banquero,

Extraditable crimes

Murder, etc.

Arson.

Robbery, etc.

Forgery.

Counterfeiting, etc.

Embezzlement.

Breach of trust, etc.

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| | trustee, or other person acting in a fiduciary capacity, or director or member or officer of any company, when such act is made criminal by the laws of both countries and the amount of money or the value of the property misappropriated is not less than two hundred dollars. | ajente, factor, tenedor de bienes u otra persona que obre en carácter fiduciario, o de un director, miembro o empleado de una compañía, cuando las leyes de ambos países declaran criminoso semejante acto i el dinero o el valor de los bienes defraudados no es inferior a doscientos pesos de cuarenta i ocho peniques. |
| Perjury. | 8. Perjury; subornation of perjury. | 8. Perjurio; instigacion a perjurar. |
| Rape, etc. | 9. Rape; abduction; kidnapping. | 9. Violacion; rapto; sustraccion de personas. |
| Injuries to railroads. | 10. Willful and unlawful destruction or obstruction of railroads which endangers human life. | 10. Destruccion u obstruccion voluntaria e ilegal de ferrocarriles, poniendo en peligro la vida de personas. |
| Crimes committed at sea. | 11. Crimes committed at sea. | 11. Delitos cometidos en el mar. |
| Piracy. | (a) Piracy, by statute or by the laws of nations. | (a) Pirateria, segun la lei o el Derecho Internacional. |
| Revolt, etc. | (b) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master. | (b) Motin, o conspiracion para amotinarse de dos o mas personas a bordo de un buque en alta mar contra la autoridad del capitán. |
| Destroying vessels, etc. | (c) Wrongfully sinking or destroying a vessel at sea, or attempting to do so. | (c) Sumersion o destruccion dolosa de un buque en el mar, o tentativa de hacerlo. |
| Assaults on ship board. | (d) Assaults on board a ship on the high seas with intent to do grievous bodily harm. | (d) Atentados a bordo de un buque en alta mar con el propósito de causar daño corporal grave. |
| Slave trading, etc. | 12. Crimes and offenses against the laws of both countries for the suppression of slavery and slave trading. | 12. Crímenes i delitos contra las leyes de ambos países relativas a la supresion de la esclavitud i a la trata de esclavos. |
| Complicity. | Extradition is also to take place for participation in any of the crimes and offenses mentioned in this Treaty, provided such participation may be punished, in the United States as a felony, and in the Republic of Chile by imprisonment at hard labor. | Tambien habrá lugar a la extradicion por la participacion en cualquiera de los crímenes i delitos mencionados en este Tratado, siempre que dicha participacion sea castigada, en los Estados Unidos como una felonía, i en la República de Chile, con presidio u otras penas mayores. |

ARTICLE III.

ARTÍCULO III.

Requisitions. Requisitions for the surrender of fugitives from justice shall be made by the diplomatic agents of the contracting parties, or in the absence of these from the country or its seat of government, may be made by the superior consular officers.

La demanda de entrega de prófugos de la justicia, se hará por los agentes diplomáticos de las Partes Contratantes, o si estuvieren ausentes del país o de la residencia del Gobierno, podrán hacerla los funcionarios consulares superiores.

Copy of sentence or warrant. If the person whose extradition is requested shall have been convicted of a crime or offense, a duly authenticated copy of the sentence of the court in which he was con-

Si la persona cuya extradicion se solicita hubiere sido condenada por el crimen o delito, se exhibirá una copia debidamente autenticada de la sentencia del tribunal que lo haya

victed, or if the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime has been committed, and of the depositions or other evidence upon which such warrant was issued, shall be produced.

The extradition of fugitives under the provisions of this Treaty shall be carried out in the United States and in the Republic of Chile, respectively, in conformity with the laws regulating extradition for the time being in force in the state on which the demand for surrender is made.

ARTICLE IV.

Where the arrest and detention of a fugitive are desired on telegraphic or other information in advance of the presentation of formal proofs, the proper course in the United States shall be to apply to a judge or other magistrate authorized to issue warrants of arrest in extradition cases and present a complaint on oath, as provided by the statutes of the United States.

When, under the provisions of this article, the arrest and detention of a fugitive are desired in the Republic of Chile, the proper course shall be to apply to the Foreign Office, which will immediately cause the necessary steps to be taken in order to secure the provisional arrest or detention of the fugitive.

The provisional detention of a fugitive shall cease and the prisoner be released if a formal requisition for his surrender, accompanied by the necessary evidence of his criminality has not been produced under the stipulations of this Treaty, within two months from the date of his provisional arrest or detention.

ARTICLE V.

Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this Treaty.

condenado, o, si el prófugo estuviere simplemente acusado del crimen, se exhibirá una copia debidamente autenticada de la orden de arresto espedida en el país donde se ha cometido el crimen, i de las declaraciones u otras pruebas que han dado mérito a dicha orden.

La estradicion de prófugos en virtud de las disposiciones de este Tratado, se efectuará en los Estados Unidos i la República de Chile, respectivamente, de acuerdo con las leyes que sobre estradicion estuvieren entónces vijentes en el Estado a quien se dirija la solicitud de entrega.

ARTÍCULO IV.

Si el arresto i detencion de un prófugo se desearan por parte telegráfico o de otro modo anticipándose a la presentacion de las pruebas formales, la via adecuada en los Estados Unidos consistirá en dirigirse a un juez u otro magistrado autorizado para librar órdenes de arresto, en causas de estradicion, i, en presentar una querrela bajo de juramento, segun lo disponen las leyes de los Estados Unidos.

Cuando, en virtud de las prescripciones de este artículo, el arresto i detencion de un prófugo se desearan en la República de Chile, la via adecuada consistirá en dirigirse al Ministerio de Relaciones Exteriores, el cual dispondrá inmediatamente que se den los pasos necesarios para asegurar el arresto o detencion provisional del prófugo.

La detencion provisional del prófugo cesará i el preso será puesto en libertad si dentro de dos meses contados desde la fecha de su arresto o detencion provisionales, no se hubiere formalizado, segun las estipulaciones de este Tratado, la reclamacion de su entrega acompañada de las pruebas necesarias de su culpabilidad.

ARTÍCULO V.

Ninguna de las Partes Contratantes estará obligada a entregar a sus propios ciudadanos en virtud de las estipulaciones de este Tratado.

Proceedings.

Applications for provisional arrest.

In the United States.

In Chile.

Discharge on failure to make formal requisition within two months.

Neither party bound to deliver up its own citizens.

ARTICLE VI.

No surrender for political offenses.

A fugitive criminal shall not be surrendered if the offense in respect of which his surrender is demanded be 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 offense of a political character.

Political offenses prior to extradition.

No person surrendered by either of the high contracting parties to the other shall be triable or tried, or be punished, for any political crime or offense, or for any act connected therewith, committed previously to his extradition.

Decision.

If any question shall arise as to whether a case comes within the provisions of this article, the decision of the authorities of the government on which the demand for surrender is made, or which may have granted the extradition, shall be final.

ARTÍCULO VI.

No será entregado el criminal fujitivo si el delito con respecto al cual se solicita su entrega, es de carácter político, o si prueba que la reclamacion de su entrega se ha formulado en realidad con el objeto de enjuiciarlo o castigarlo por un delito de carácter político.

Ninguna persona entregada por una de las Altas Partes Contratantes a la otra, podrá ser acusada o enjuiciada o castigada por algun crimen o delito politicos o por algun acto relacionado con ellos, cometido con anterioridad a su estradicion.

Dado que surjiere cualquiera cuestion acerca de si un caso cae bajo las disposiciones de este articulo, será definitiva la decision que adopten las autoridades del Gobierno a quien se ha dirigido la solicitud de entrega o que haya concedido la estradicion.

ARTICLE VII.

No delivery if trial barred by limitation.

Extradition shall not be granted, in pursuance of the provisions of this Treaty if legal proceedings or the enforcement of the penalty for the act committed by the person claimed has become barred by limitation, according to the laws of the country to which the requisition is addressed.

ARTÍCULO VII.

No se concederá la estradicion en conformidad a las disposiciones de este Tratado, si los procedimientos legales o la aplicacion de la pena correspondiente al hecho cometido por la persona reclamada, hubieren quedado escludidos por prescripcion, de acuerdo con las leyes del pais a que se ha dirigido el reclamo.

ARTICLE VIII.

Trial to be only for offenses for which extradited.

No person surrendered by either of the high contracting parties to the other shall, without his consent, freely granted and publicly declared by him, be triable or tried or be punished for any crime or offense committed prior to his extradition, other than that for which he was delivered up, until he shall have had an opportunity of returning to the country from which he was surrendered.

ARTÍCULO VIII.

Ninguna persona entregada por una de las Partes Contratantes a la otra podrá, sin el consentimiento prestado por ella libre i públicamente ser acusada o enjuiciada o castigada por otro crimen o delito cometido ántes de su estradicion que aquel por el cual ha sido entregada, hasta tanto que no haya tenido oportunidad para regresar al pais de que ha sido estraída.

ARTICLE IX.

Disposition of articles seized with person.

All articles seized which are in the possession of the person to be surrendered at the time of his

ARTÍCULO IX.

Todos los objetos secuestrados que al tiempo de la aprehension se hallaren en poder de la persona

apprehension, whether being the proceeds of the crime or offense charged, or being material as evidence in making proof of the crime or offense, shall, so far as practicable and in conformity with the laws of the respective countries, be given up when the extradition takes place. Nevertheless, the rights of third parties with regard to such articles shall be duly respected.

ARTICLE X.

If the individual claimed by one of the high contracting parties, in pursuance of the present Treaty, shall also be claimed by one or several other powers on account of crimes or offenses committed within their respective jurisdictions, his extradition shall be granted to the state whose demand is first received: Provided, that the government from which extradition is sought is not bound by treaty to give preference otherwise.

ARTICLE XI.

The expenses incurred in the arrest, detention, examination, and delivery of fugitives under this Treaty shall be borne by the state in whose name the extradition is sought: Provided, that the demanding government shall not be compelled to bear any expense for the services of such public officers of the government from which extradition is sought as receive a fixed salary; And, provided, that the charge for the services of such public officers as receive only fees or perquisites shall not exceed their customary fees for the acts or services performed by them had such acts or services been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XII.

The present treaty shall take effect on the thirtieth day after the date of the exchange of rati-

reclamada, ya sean fruto del crimen o delito imputados, o piezas que puedan servir de prueba del crimen o delito, deberán, en cuanto fuere practicable i con arreglo a las leyes de los respectivos paises, entregarse al tener lugar la estradicion. Sin embargo se respetarán debidamente los derechos de terceros en órden a esos objetos.

ARTÍCULO X.

Si el individuo reclamado por una de las Altas Partes Contratantes, en conformidad al presente Tratado, fuere reclamado tambien por una o varias otras Potencias en razon de crímenes o delitos cometidos dentro de sus respectivas jurisdicciones, su estradicion se concederá al Estado cuya solicitud se haya recibido primero, siempre que el Gobierno de quien se solicite la estradicion no esté sujeto por tratado a dar preferencia a otro.

ARTÍCULO XI.

Los gastos ocasionados por el arresto, detencion, exámen i entrega de los prófugos en virtud de este Tratado, serán de cargo al Estado en cuyo nombre se pida la estradicion; siendo entendido que el Gobierno solicitante no estará obligado a hacer ningun desembolso por servicios de los empleados públicos del Gobierno a quien se pida la estradicion, que perciben sueldo fijo; i bien entendido que el gravámen por los servicios de los empleados públicos que solo perciben derechos o emolumentos, no excederá el de sus aranceles acostumbrados en los actos o servicios ejecutados por ellos como si dichos actos o servicios lo hubieran sido en procedimientos criminales ordinarios a virtud de las leyes del pais del cual son empleados.

ARTÍCULO XII.

El presente Tratado empezará a rejir el trijésimo día despues de la fecha en que se hayan canjeado

Persons claimed by two or more countries.

Expenses.

Effect.

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| Exchange of ratifications. | fications, and shall not operate retroactively. | las ratificaciones, i no tendrá efecto retroactivo. |
| Signatures. | The ratifications of the present Treaty shall be exchanged at Washington as soon as possible, and it shall remain in force for a period of six months after either of the contracting governments shall have given notice of a purpose to terminate it | Las ratificaciones del presente Tratado se canjearán en Washington tan pronto como sea posible, i éste permanecerá en vigor hasta seis mesas despues que cualquiera de los Gobiernos Contratantes haya notificado al otro su intencion de ponerle término. |
| | In witness whereof, the respective Plenipotentiaries have signed the above articles, both in the English and Spanish languages, and have hereunto affixed their seals. | En fé de lo cual los respectivos Plenipotenciarios han firmado los artículos precedentes en los idiomas ingles i español, i puesto al pié sus sellos. |
| | Done in duplicate, at the city of Santiago, this 17th day of April 1900. | Hecho por duplicado en la ciudad de Santiago, a los 17 dias de abril de 1900. |
| | HENRY L WILSON [SEAL.] | R. ERRÁZURIZ URMENETA [SEAL.] |
| Ratification. | And whereas the said Treaty (as amended by the Senate of the United States) has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the City of Washington, on the twenty-seventh day of May, one thousand nine hundred and two; | |
| Proclamation. | Now therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Treaty to be made public, to the end that the same and every article and clause thereof, (as amended) may be observed and fulfilled with good faith by the United States and the citizens thereof. | |
| | In testimony whereof I have hereunto set my hand and caused the Seal of the United States of America to be affixed. | |
| | Done at the City of Washington, this twenty-seventh day of May in the year of our Lord one thousand nine hundred and two, and of the Independence of the United States the one hundred and twenty sixth. | |
| | By the President: JOHN HAY <i>Secretary of State.</i> | THEODORE ROOSEVELT |