

EXTRADITION

Treaty signed at Berlin July 12, 1930

Senate advice and consent to ratification January 22, 1931

Ratified by the President of the United States January 26, 1931

Ratified by Germany February 25, 1931

Ratifications exchanged at Washington March 26, 1931

Proclaimed by the President of the United States April 22, 1931

Entered into force April 26, 1931

47 Stat. 1862; Treaty Series 836

The United States of America and Germany desiring to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice, between the two countries, and have appointed for that purpose the following Plenipotentiaries:

The President of the United States of America:

The Ambassador of the United States of America in Berlin

Mr. Frederic Moseley Sackett,

The German Reichspräsident:

the Secretary of State of the Foreign Office

Dr. Bernhard W. von Bülow

and

the Privy Counsellor in the Ministry of Justice

Dr. Wolfgang Mettgenberg.

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

ARTICLE I

It is agreed that the Government of the United States and the Government of Germany shall, under conditions of reciprocity, upon requisition duly made as herein provided, deliver up to justice any person, who may be charged with, or may have been convicted of, any of the crimes or offenses specified in Article III of the present Treaty committed within the territorial jurisdiction of one of the High Contracting Parties, and who shall be found within the territories of the other; provided that such surrender shall take

place only 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 commitment for trial if the crime or offense had been there committed.

The words "territorial jurisdiction" as used in this article mean territory, including territorial waters, belonging to or under the control of one of the High Contracting Parties, merchant vessels on and aircraft over the high seas and men of war wherever situated.

ARTICLE II

Under the stipulations of this Treaty neither of the High Contracting Parties shall be bound to deliver up its own citizens.

ARTICLE III

Persons shall be delivered up according to the provisions of the present Treaty, who shall have been charged with or convicted of any of the following crimes or offenses, but only if they are punishable as crimes or offenses by the laws of both countries applicable to the case:

1. Murder, including the crimes designated by the terms assassination, manslaughter and infanticide.
2. Willful assault resulting in grievous bodily harm.
3. Rape, immoral assault, incest, abortion, carnal knowledge of children under the age of twelve years.
4. Bigamy.
5. Arson.
6. Willful and unlawful destruction or obstruction of railroads, which endangers traffic.
7. Piracy.
8. Wrongfully sinking or destroying a vessel.
9. Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the Captain or Commander of such vessel, or by fraud or violence taking possession of such vessel.
10. Assault on board ship upon the high seas committed by a member of the crew upon an officer.
11. Breaking into and entering the house or the office of another with intent to commit a theft therein.
12. Robbery, defined to be the act of taking from the person of another goods or money by violence or by putting him in fear.
13. Blackmail or extortion by unlawful means.
14. Forgery or the utterance of forged papers.

15. The forgery or falsification of the official acts of the Government or public authority, including Courts of Justice, or the uttering or fraudulent use of any of such acts.

16. Any fraudulent making or altering or uttering of currency including banknotes; of titles or coupons of public debt, seals, stamps, dies or marks of State or public administrations, whatever means are employed; or the introduction into a country or the receiving or obtaining of counterfeit objects of the foregoing character with a view to uttering them and with knowledge that they are counterfeit; or the fraudulent making, receiving or obtaining of instruments or other articles peculiarly adapted for the counterfeiting or altering of objects of the foregoing character.

17. Embezzlement committed by public officers or depositaries, where the amount embezzled exceeds twenty-five dollars or one hundred reichsmarks.

18. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals, where the amount embezzled exceeds twenty-five dollars or one hundred reichsmarks.

19. Kidnapping, defined to be the abduction or detention of a person or persons, in order to exact money from them, their families or any other person or persons, or for any other unlawful end; abandonment of infants.

20. Larceny, defined to be the theft of effects, personal property or money of the value of twenty-five dollars or one hundred reichsmarks or more.

21. Obtaining money, valuable securities or other property by false pretences, where the amount of money or the value of the property so obtained or received exceeds twenty-five dollars or one hundred reichsmarks.

22. Perjury or subornation of perjury.

23. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director or officer of any company or corporation, or by any one in a fiduciary position, where the amount of money or the value of the property misappropriated exceeds twenty-five dollars or one hundred reichsmarks.

24. Crimes and offenses against the laws of both countries for the suppression of slavery and slave trading.

25. Use of explosives so as to endanger human life or property.

26. Bribery.

27. Crimes or offenses against the bankruptcy laws.

28. Crimes or offenses against the laws for the suppression of the traffic in narcotics.

Extradition shall also take place for an attempt to commit, or for the participation in any of the crimes or offenses before mentioned as an accessory before or after the fact, including receiving any money, valuable securities, or other property knowing the same to have been unlawfully obtained but

only where the amount of money or the value of the property so received exceeds twenty-five dollars or one hundred reichsmarks.

ARTICLE IV

The provisions of the present Treaty shall not import a claim of extradition for any crime or offense of a political character, nor for acts connected with such crimes or offenses. However, a willful crime against human life except in battle or an open combat, shall in no case be deemed a crime of a political character, or an act connected with crimes or offenses of such a character.

ARTICLE V

In the country to which he has been surrendered, a person extradited under this Treaty shall not, without the consent of the government which surrendered him, be tried or punished or given up to a third government for a crime or offense committed previously to his extradition other than that which gave rise to the extradition, nor be restricted in his personal liberty for any reason existing previously to his extradition, unless he shall have been allowed one month to leave the country after having been discharged; and if he shall have been tried and condemned to punishment he shall be allowed one month after having suffered his penalty or having been pardoned. This exemption shall not be granted if the person surrendered, after leaving the country to which his extradition has been granted, there returns or is extradited to that country by a third government.

ARTICLE VI

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of the country where the fugitive shall be found, the criminal is exempt from prosecution or punishment for the crime or offense for which the surrender is asked, or when his extradition is asked for the same crime or offense for which he has been tried, convicted or acquitted in that country, or so long as he is under prosecution for that crime or offense.

ARTICLE VII

If a fugitive criminal whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution, out on bail, or in custody, otherwise than for the crime or offense for which his extradition has been sought, his extradition may be deferred until such proceedings be terminated, and until he shall have been set at liberty in due course of law.

ARTICLE VIII

If the extradition of a fugitive which is requested by one of the parties hereto, shall also be requested by one or more other governments, the sur-

rendering government shall be free to choose to which request it will give preference.

ARTICLE IX

Everything found in the possession of the fugitive criminal, whether being the proceeds of the crime or offense, or which may be material as evidence in making proof of the crime or offense, shall so far as practicable, according to the laws of the respective High Contracting Parties be delivered up with his person at the time of surrender. Nevertheless, the rights of a third party with regard to the articles referred to, shall be duly respected, and, upon the request of the Government which has delivered up such articles, they shall be returned to that Government, provided that a reservation to that effect shall have been made at the time of delivery.

ARTICLE X

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the High Contracting Parties. In the event of the absence of such agents from the country or its seat of government, or where extradition is sought from territory referred to in Article I, other than the United States or Germany, requisitions may be made by superior consular officers.

The arrest of the fugitive shall be brought about in accordance with the laws of the party to which the request is made, and if, after an examination, it shall be decided, according to the law and the evidence, that extradition is due, pursuant to this Treaty, the fugitive shall be surrendered according to the forms of law prescribed in such cases.

If the fugitive criminal shall have been convicted of the crime or offense for which his surrender is asked, a copy of the sentence following such conviction, duly authenticated, shall be produced. If, however, the fugitive is merely charged with a crime or offense, a duly authenticated copy of the warrant of arrest in the country where the crime or offense was committed shall be produced, together with the depositions upon which such warrant may have been issued, or such other evidence or proof as may be deemed competent in the case, or both.

The person provisionally arrested shall be released, unless within one month from the date of arrest in Germany, or from the date of commitment in the United States, the formal requisition for surrender with the documentary proofs hereinbefore prescribed be made as aforesaid by the diplomatic agent of the demanding government or, in his absence, by a consular officer thereof. However, each government agrees that, upon the request of the other government, it will address to the competent authorities an application for the extension of the time thus limited so as to allow an additional month for the purposes indicated and nothing herein contained shall be construed to prevent the granting of such an application.

ARTICLE XI

The expense of transportation of the fugitive shall be borne by the government which has preferred the demand for extradition. The appropriate legal officers of the country where the proceedings of extradition are had, shall assist the officers of the Government demanding the extradition before the respective judges and magistrates, by every legal means within their power; and no claim other than for the board and lodging of a fugitive prior to his surrender, arising out of the arrest, detention, examination and surrender of fugitives under this treaty shall be made against the government demanding the extradition; provided, however, that any officer or officers of the surrendering government giving assistance, who shall, in the usual course of their duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XII

The present treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional methods and shall take effect one month after the exchange of ratifications which shall take place at Washington as soon as possible.

ARTICLE XIII

The present treaty shall remain in force for a period of ten years, and in case neither of the High Contracting Parties shall have given notice one year before the expiration of that period of its intention to terminate the treaty, it shall continue in force until the expiration of one year from the date on which such notice of termination shall be given by either of the High Contracting Parties.

IN WITNESS WHEREOF the above named Plenipotentiaries have signed the present treaty and have hereunto affixed their seals.

DONE in duplicate in the English and German languages at Berlin this 12th day of July 1930.

FREDERIC MOSELEY SACKETT	[SEAL]
BERNHARD W. VON BULOW	[SEAL]
WOLFGANG METTGENBERG	[SEAL]