

EXTRADITION

Treaty signed at Lima September 12, 1870

Senate advice and consent to ratification March 31, 1871

Ratified by the President of the United States April 11, 1871

*Period for exchange of ratifications extended by agreement of June 5, 1873*¹

Ratified by Peru May 28, 1874

Ratifications exchanged at Lima May 28, 1874

Entered into force May 28, 1874

Proclaimed by the President of the United States July 27, 1874

*Terminated March 31, 1886*²

18 Stat. 719; Treaty Series 283

The United States of America and the Republic of Peru, having judged it expedient, with a view to the better administration of justice and the prevention of crime within their respective territories and jurisdictions, that persons charged with the crimes hereinafter enumerated should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a treaty for this purpose, and have named as their respective Plenipotentiaries, that is to say: the President of the United States of America has appointed Alvin P. Hovey, Envoy Extraordinary and Minister Plenipotentiary of the United States of America near the Government of the Republic of Peru; and the President of Peru has appointed his Excellency Doctor José J. Loayza, Minister of Foreign Affairs of Peru; who, after having communicated to each other their respective full powers, found in good and true form, have agreed upon and concluded the following articles:

ARTICLE I

It is agreed that the contracting parties shall, on requisitions made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who, being accused or convicted of the crimes enumerated in Article II of the present treaty, committed within the jurisdiction of the requiring party, shall seek an asylum, or shall be found within the territories of the other: *Provided*, That this shall be done only when the fact of the

¹ TS 284, *post*, p. 1056.

² Pursuant to notice of termination given by Peru Mar. 31, 1885.

commission of the crime shall be so established as that the laws of the country in which the fugitive or the person so accused shall be found would justify his or her apprehension and commitment for trial if the crime had been there committed.

ARTICLE II

Persons shall be so delivered up who shall be charged, according to the provisions of this treaty, with any of the following crimes, whether as principals, accessories, or accomplices, to wit:

1. Murder, comprehending the crimes of parricide, assassination, poisoning and infanticide.
2. Rape, abduction by force.
3. Bigamy.
4. Arson.
5. Kidnapping, defining the same to be the taking or carrying away of a person by force or deception.
6. Robbery, highway robbery, larceny.
7. Burglary, defined to be the action of breaking and entering by night-time into the house of another person with the intent to commit a felony.
8. Counterfeiting or altering money, the introduction or fraudulent commerce of and in false coin and money; counterfeiting the certificates or obligations of the Government, of bank-notes, and of any other documents of public credit, the uttering and use of the same; forging or altering judicial judgments or decrees of the Government or courts of the seals, dies, postage-stamps and revenue-stamps of the Government, and the use of the same; forging public and authentic deeds and documents, both commercial and of banks, and the use of the same.
9. Embezzlement of public moneys committed within the jurisdiction of either party by public officers or bailees, and embezzlement by any persons hired or salaried.
10. Fraudulent bankruptcy.
11. Fraudulent barratry.
12. Mutiny on board of a vessel, when the persons who compose the crew have taken forcible possession of the same or have transferred the ship to pirates.
13. Severe injuries intentionally caused on railroads, to telegraph-lines, or to persons by means of explosions of mines or steam boilers.
14. Piracy.

ARTICLE III

The provisions of the present treaty shall not be applied in any manner to any crime or offence of a purely political character, nor shall the provisions of the present treaty be applied in any manner to the crimes enumerated in the second article committed anterior to the date of the exchange

of the ratifications hereof. Neither of the contracting parties shall be bound to deliver up its own citizens under the stipulations of this treaty.

ARTICLE IV

The extradition will be granted in virtue of the demand made by the one Government on the other, with the remission of a condemnatory sentence, an order of arrest, or of any other process equivalent to such order, in which will be specified the character and gravity of the imputed acts, and the dispositions of the penal laws relative to the case. The documents accompanying the demand for extradition shall be originals or certified copies, legally authorized by the tribunals or by a competent person. If possible, there shall be remitted at the same time a descriptive list of the individual required, or any other proof towards his identity.

ARTICLE V

If the person accused or condemned is not a citizen of either of the contracting powers, the Government granting the extradition will inform the Government of the country to which the accused or condemned may belong of the demand made, and if the last-named Government reclaims the individual on its own account for trial in its own tribunals, the Government to which was made the demand of extradition may, at will, deliver the criminal to the State in whose territories the crime was committed, or to that to which the criminal belongs. If the accused or sentenced person whose extradition may be demanded in virtue of the present convention from one of the contracting parties, should at the same time be the subject of claims from one or other Governments simultaneously for crimes or misdemeanors committed in their respective territories, he or she shall be delivered up to that Government in whose territories the offense committed was of the gravest character; and when the offenses are of like nature and gravity, the delivery will be made to the Government making the first demand; and if the dates of the demands be the same, that of the nation to which the criminal may belong will be preferred.

ARTICLE VI

If the person claimed is accused or sentenced in the country where he may have taken refuge, for a crime or misdemeanor committed in that country, his delivery may be delayed until the definitive sentence releasing him be pronounced, or until such time as he may have complied with the punishment inflicted on him in the country where he took refuge.

ARTICLE VII

In cases not admitting of delay, and especially in those where there is danger of escape, each of the two Governments, authorized by the order for apprehension, may, by the most expeditious means, ask and obtain the arrest

of the person accused or sentenced, on condition of presenting the said order for apprehension as soon as may be possible, not exceeding four months.

ARTICLE VIII

All expenses whatever of detention and delivery effected in virtue of the preceding provisions shall be borne and defrayed by the Government in whose name the requisition shall have been made.

ARTICLE IX

This treaty shall commence from the date of the exchange of the ratifications, and shall continue in force until it shall be abrogated by the contracting parties or one of them; but it shall not be abrogated, except by mutual consent, unless the party desiring to abrogate it shall give twelve months' previous notice.

ARTICLE X

The present treaty shall be ratified in conformity with the constitutions of the two countries, and the ratifications shall be exchanged at the cities of Washington or Lima, within eighteen months from the date hereof, or sooner if possible.

In witness whereof we, the Plenipotentiaries of the United States of America and the Republic of Peru, have signed and sealed these presents.

Done in the city of Lima, in duplicate, English and Spanish, this the twelfth day of September, in the year of our Lord one thousand eight hundred and seventy.

ALVIN P. HOVEY [SEAL]

JOSÉ J. LOAYZA [SEAL]