

EXTRADITION ACT B.E. 2472

BY THE KING'S MOST EXCELLENT MAJESTY

Whereas it is deemed expedient to declare the right of the Royal Siamese Government, irrespective of treaty obligations, to surrender to foreign States persons accused or convicted of crimes committed within the jurisdiction of such States, and also to provide for a uniform procedure to be followed in all extradition cases,

It is hereby enacted as follows: -

Article 1. This Act shall be called the "Extradition Act B.E.2472."

Article 2. It shall come into force on the day of its promulgation in the government gazette.

Article 3. This Act shall be applicable to all extradition proceedings in Siam so far as it is not inconsistent with the terms of any Treaty, Convention or Agreement with a foreign State, or any Royal Proclamation issued in connection therewith.

Article 4. The Royal Siamese Government may at its discretion surrender to Foreign States with which no extradition treaties exist persons accused or convicted of crimes committed within the jurisdiction of such States, provided that by the laws of Siam such crimes are punishable with imprisonment of not less than one year.

Article 5. Extradition will not be granted if the person claimed has already been tried and discharged or punished in any country for the crime for which his extradition is requested.

Article 6. Proceedings shall commence with a request from a foreign government to the Royal Siamese Government through the diplomatic agents of such Government for the extradition of a certain person, or in the absence of such diplomatic agents through the Competent Consular Officers.

Article 7. The request for extradition must be accompanied by,

(a) in the case of a person who has been convicted of a crime, a duly authenticated copy of the judgment of the Court which tried him;

(b) in the case of a person charged with crime, a warrant of arrest issued by the Competent Authority of the country making the request, or a duly authenticated copy thereof, and by such evidence as would justify the commitment for trial of the accused if the crime had been committed in Siam.

Article 8. Unless the Royal Siamese Government decides otherwise, the request together with the accompanying documents shall be transmitted to the Ministry of the Interior in order that the case may be brought before the Court by the Public Prosecutor. The Ministry of the Interior may order the accused to be arrested or may apply to the Court for a warrant of arrest.

Article 9. When an extradition case is entered, the Court must notify the Minister of Justice and proceed with the hearing.

Article 10. In case of urgency, a request for the provisional arrest and detention of the accused may be made by the foreign government. Such a request must clearly state the nature of the offence and that a warrant of arrest has been issued. Upon the receipt of such a request, the Ministry of Foreign Affairs shall, unless the Royal Siamese Government decides otherwise, notify the Ministry of the Interior who may order the accused to be arrested or may apply to the Court for a warrant of arrest. The accused must be as soon as possible sent before a proper Court.

The Court shall order the accused to be detained pending the arrival of the formal requisition and the necessary documents providing (a) there is evidence (which may be contained in the letter of the

Ministry of Foreign Affairs) that a warrant has been issued for the arrest and that the nature of the crime is clearly stated ; (b) that the offence charged is extraditable ; and (c) that the offence is not one of a political character.

If the formal requisition and the necessary documents have not been received by the Court within two months from the date of the order for detention or within such further time as the Court may for sufficient reason direct, the accused shall be set at liberty.

Article 11. After arrest the accused must be brought without unnecessary delay before the Court and a preliminary investigation must be made in accordance as far as possible with the Siamese rules of procedure in criminal cases. The Court may order a remand from time to time on the request of either party and for good and sufficient reasons but the Court should not allow bail in these cases.

Article 12. The Court must be satisfied :

- (1) That the identity of the accused is established;
- (2) That there is sufficient evidence against him to commit him for trial, if the offence had been committed in Siam ;
- (3) That the offence is extraditable and is not one of a political character.

The evidence may be given either orally by witnesses or by means of depositions (properly authenticated).

Article 13. The Court need not hear evidence for the accused in his defence except upon the following points:

- (1) That he is not the person wanted ;
- (2) That the offence is not extraditable or is of a political character ;
- (3) That his extradition is in fact being asked for with a view to punishing him for an offence of a political character ;
- (4) His nationality.

Article 14. If the Court is of opinion that the evidence is insufficient, it shall order the accused to be discharged at the end of forty-eight hours after such order has been read, unless within this period the Public Prosecutor notifies his intention to appeal. The appeal must be filed within fifteen days and the Court shall order the accused to be detained pending the hearing of such appeal.

Article 15. If the Court is satisfied that the evidence is sufficient, it shall make an order authorizing the accused to be detained with a view to being surrendered. The accused shall not be sent out of the country for fifteen days and within that period he has a right to appeal.

If the accused has not been surrendered within three months from the date when the order of the Court becomes final or within such further time as the Court may for sufficient reason direct, the accused shall be set at liberty.

Article 16. In all cases in which the Court is of opinion that the accused is a Siamese subject and in all cases in which doubt or technical difficulty arises as to the authority of the documents or the method of making the requisition, reference must be made to the Minister of Justice before making an order for the release of the accused.

Article 17. Appeals in extradition cases lie to the Appeal Court and its decision upon all questions both of fact and of law shall be final.

If there was any evidence as to the facts found by the lower Court to justify the order made, the Appeal Court has no power to interfere, the Appeal Court will only see that the Lower Court had such evidence before it as to give it authority and jurisdiction to make the order and for this purpose may review the evidence and consider arguments:

- (1) As to the nationality of the accused ;
- (2) That the crime charged is not extraditable ;

(3) That the offence is of a political character ; or that the requisition was in fact made with a view to punish the accused for a political offence ; or

(4) That there was no evidence before the Lower Court upon which such Court could exercise its discretion whether to make the order or not.

Given on the 15th day of December, B.E. 2472. Being the 5th year of the Present Reign.