

THE  
LAW OF EXTRADITION  
FROM AND TO  
BRITISH INDIA

BY

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SECOND EDITION

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*"Cum vero non soleant civitates permitttere ut civitas altera armata intra fines suos pœna expetende nomine veniat, neque id expediat, sequitur, ut civitas, apud quam degit qui culpe est compertus, alterum facere debeat, aut ut ipsa interpellata pro merito puniat nocentem, aut ut cum permittat arbitrio interpellantis: hoc enim illud est dedere, quod in historiis sæpissime occurrit."—Grotius De jure Belli et pacis: Lib. II. c. XXI, IV.*

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## PREFACE TO THE FIRST EDITION.

THIS book was written and a greater part of it had been put into print before the war broke out. Had this not been the case its publication would have been further postponed.

While a state of war exists there is no place for extradition proceedings between the belligerents and all treaties on the subject are at an end, at any rate during the continuance of war.

Whether extradition treaties are abrogated or merely suspended during the continuance of hostilities is a more doubtful point. Perhaps the safer view is to regard such treaties as abrogated and to hold that they do not revive on the restoration of peace save by express agreement. This was the theory followed after the Franco-Prussian war in 1871.

A. P. M.

*31st December, 1914.*

## PREFACE TO THE SECOND EDITION.

IN preparing a new edition of this book we have not attempted to alter its nature as there is ample evidence to show that the book fulfils the purpose for which it was written. We have accordingly restricted ourselves to the task of making corrections wherever we have detected inaccuracies, and of bringing the book up to date by reference to the latest cases and the latest treaties.

We have dealt in the body of the book with the position as regards the treaties abrogated temporarily by the outbreak of the War of 1914-1918, and we only mention the point here because it is noticed in the preface to the first edition.

For very valuable assistance in the correction of the proofs we here express our gratitude to Mr. S. C. Sen of the Printing Branch of the Legislative Department of the Government of India.

L. G.  
J. A. S.

20th March, 1927.

# CONTENTS

	Page.
TABLE OF CASES CITED .. .. .	ix—xii
INTRODUCTION .. .. .	1—4
PART I—Extradition from British India .. .. .	5—13
PART II—The Indian Extradition Act (XV of 1903) .. .. .	14—75
PART III—Extradition to British India .. .. .	76—84
APPENDIX A.—The Extradition Acts :	
1870 (33 & 34 Vict., c. 52) .. .. .	85—101
1873 (36 & 37 Vict., c. 60) .. .. .	101—105
1895 (58 & 59 Vict., c. 33) .. .. .	105—106
1906 ( 6 Edw. VII, c. 13) .. .. .	106—107
—The Slave Trade Act :	
1873 (36 & 37 Vict., c. 88, s. 27) .. .. .	107
—The Fugitive Offenders' Act :	
1881 (44 & 45 Vict., c. 69) .. .. .	107—124
1915 (5 & 6 Geo. V, c. 39) .. .. .	124—125
APPENDIX B.—List of " Foreign States " giving dates of Treaties and Orders in Council applying the Acts .. .. .	126—129
APPENDIX C.—Selected Treaties with Foreign States :	
Austria-Hungary .. .. .	130—136
Belgium .. .. .	136—147
Denmark .. .. .	147—154
Finland .. .. .	154—162
France .. .. .	162—171
Germany .. .. .	171—176
Greece .. .. .	176—183
Italy .. .. .	183—189
Netherlands .. .. .	189—198
Portugal .. .. .	198—205
Russia .. .. .	205—211
Siam .. .. .	212—218
Spain .. .. .	218—227
Sweden and Norway .. .. .	227—234
Switzerland .. .. .	234—243
United States .. .. .	244—249
APPENDIX D.—Treaties with States to which the Extradition Acts do not apply :	
1. Nepal .. .. .	250—253
2. Hyderabad .. .. .	253—255
3. Rajputana States .. .. .	255—258

## TABLE OF CASES.

### A

	PAGE.
Administrator General of Bengal <i>v.</i> Premlal Mullick, I. L. R., 22 Cal., 788 .. .. .	30
Ameer Khan, <i>Re</i> , (1870), 6 B. L. R., 392 .. .. .	31
Ameer Khan, <i>Re</i> , (1870), 6 B. L. R., 459 .. .. .	31
Anderson, <i>Re</i> , (1861), 30 L. J. Q. B., 129 .. .. .	32
Arton, <i>Re</i> , [1896], 1 Q. B., 108, 5 <sup>9</sup> .. .. .	1, 28
Ashworth, <i>Re</i> , (1892), 8 T. L. R., 283 .. .. .	56

### B

Balthasar <i>v.</i> Emperor, I. L. R., 33 Cal., 1032 .. .. .	43, 45
Bessett, <i>Re</i> , (1844), 6 Q. B., 481 .. .. .	31
Borovsky and Weinbaum, <i>Re</i> , [1902], 2 K. B., 312 .. .. .	36

### C

Galberla, <i>Ex parte</i> , R. <i>v.</i> , Brixton Prison (Governor), [1907], 2 K. B., 861 .. .. .	23
Castioni, <i>Re</i> , (1891), 1 Q. B., 149 .. .. .	27
Cazo, Case of. 1887. Snow's Cases, p. 161 .. .. .	27
Celeste Cullington, <i>Re</i> , I. L. R., 48 Cal., 328 .. .. .	6, 61
Counhaye, Elise, <i>Re</i> , (1872), L. R., 8 Q. B., 410 .. .. .	59
Creole, The Case of, Hansard Third Series. Vol. LX, p. 321 .. .. .	1
Crewe, Earl of, R. <i>v.</i> , <i>Ex parte</i> Sekgome [1910], 2 K. B., 576 .. .. .	32
Crowley's Case (1818), 2 Swans., 1 .. .. .	31

### D

Daye, R. <i>v.</i> , [1908], 2 K. B., 333 .. .. .	25
---	----

### E

Emperor, Balthasar, <i>v.</i> , I. L. R., 33 Cal., 1032 .. .. .	43, 45
„ Gulli Sahu, <i>v.</i> , I. L. R., 41 Cal., 400 .. .. .	53
„ „ „ „ 42 Cal., 793 .. .. .	20, 53
„ <i>v.</i> Huseinally Niazally, 7 Bombay Law Reporter, 463 .. .. .	50, 53
„ Jaipal Bhagat, <i>v.</i> , I. L. R., 1 Pat., 57 .. .. .	42, 47, 51, 54, 60
„ Rahamat Ali, <i>v.</i> , I. L. R., 47 Cal., 37 .. .. .	8, 60, 61
„ Rudolf Stallman, <i>v.</i> , I. L. R., 38 Cal., 547 .. .. .	31, 32
„ Subodh Chandra Roy Chowdhry, <i>v.</i> , I. L. R., 52 Cal., 319 .. .. .	49, 72
„ Tops, A. O., <i>v.</i> , I. L. R., 46 Cal., 52 .. .. .	35

	PAGE.
Empress v., Jhoja Singh, I. L. R., 23 Cal., 493 .. ..	51
„ v., Maganlal, I. L. R., 6 Bom., 622 .. ..	43
<b>F</b>	
Finkelstein and Truscovitch, R. v., (1886), 16 Cox, C. C., 107 .. ..	84
Fletcher, R. v., (1876), 2 Q. B. D., 43 .. ..	55
<b>G</b>	
Ganz, R. v., (1882), 9 Q. B. D., 93 .. ..	23, 26, 59
Gaynor, U. S. A. v., (1905), A. C., 128 .. ..	33
Godfrey, R. v., [1923], 1 K. B., 24 .. ..	24, 34
Gulli Sahu v. Emperor, I. L. R., 41 Cal., 400 .. ..	53
„ „ „ „ „ 42 Cal., 793 .. ..	20, 53
<b>H</b>	
Huseinaliy Niazally, Emperor, v., 7 Bombay Law Reporter, 463 .. ..	50, 53
Hartley v. Hooker, (1777), 2 Cowp., 523 .. ..	55
Hong Kong, Att.-G. of, v. Kwok-A-Sing, (1873), L. R., 5 P. C., 179 .. ..	33, 41
<b>I</b>	
Ismailji Abdulali, Mahomedalli Allabux, v., I. L. R., 50 Bom., 616 .. ..	32
<b>J</b>	
Jaipal Bhagat v. Emperor, I. L. R., 1 Pat., 57 .. ..	42, 47, 51, 54, 60
Jhoja Singh v. Empress, I. L. R., 23 Cal., 493 .. ..	51
<b>K</b>	
Kwok-A-Sing, Att.-G. of Hong Kong v., (1873), L. R., 5 P. C., 179 .. ..	33, 41
<b>L</b>	
Lewis, <i>Ex parte</i> , R. v., Lord Mayor of Cardiff, [1922], 2 K. B., 777 .. ..	26
Lushington, R. v., <i>Ex parte</i> , Otto, [1894], 1 Q. B., 420 .. ..	36
<b>M</b>	
Maganlal v. Empress, I. L. R., 6 Bom., 622 .. ..	43
Mahomedalli Allabux v. Ismailji Abdulali, I. L. R., 50 Bom., 616 .. ..	32
Mohamed Ben Romdan, <i>Ex parte</i> , R. v., Brixton Prison (Governor), [1912], 3 K. B., 190 .. ..	35
Meunier, <i>Re</i> , [1894], 2 Q. B., 415 .. ..	27
Moser, <i>Ex parte</i> , [1915], 2 K. B., 698 .. ..	23, 51
Mount, R. v., (1875), L. R., 6 P. C., 283 .. ..	33
Mukund, Babu Vethe, <i>Re</i> , I. L. R., 19 Bom., 72 .. ..	49
Murlidhar Bhagwandas, <i>Re</i> , I. L. R., 43 Bom., 310 .. ..	42, 45, 59

	PAGE.
<b>N</b>	
Nillins, R. v., 53, L. J. M. G., 157 .. .. .	24
Norwich Corporation v. Norwich Electric Tramways Co., Ltd., [1906], 2 K. B., 119 .. .. .	55
<b>O</b>	
Otto, <i>Ex parte</i> , R. v., Lushington, [1894], 1 Q. B., 420 .. .. .	36
<b>P</b>	
Percival, <i>Ex parte</i> , R. v., Brixton Prison (Governor), [1907], 1 K. B., 696. .. .. .	81
Perry, <i>Ex parte</i> , R. v. Brixton Prison (Governor), [1924], 1 K. B., 455 .. .. .	34
Premal Mullick v., Administrator-General of Bengal, I. L. R., 22 Cal., 788 .. .. .	30
<b>R</b>	
Rahamat Ali v. Emperor, I. L. R., 47 Cal., 37 .. .. .	6, 60, 61
R. v. Brixton Prison (Governor), <i>Ex parte</i> Calberla, [1907], 2 K. B., 861 .. .. .	23
" " " " " " Mehamed Ben Romdan, [1912], 3 K. B., 190. .. .. .	35
" " " " " " Percival, [1907], 1 K. B., 696 .. .. .	81
" " " " " " Perry, [1924], 1 K. B., 455 .. .. .	34
" " " " " " Savarkar, [1910], 2 K. B., 1056 .. .. .	56
" " " " " " Servini, [1914], 1 K. B., 77 .. .. .	26, 34
" " " " " " Stallmann, [1912], 3 K. B., 424 .. .. .	33
" " " " " " Wells, [1912], 2 K. B., 578 .. .. .	23
" Crewe, Earl of, <i>Ex parte</i> Sekgome, [1910], 2 K. B., 576 .. .. .	32
" Daye, [1908], 2 K. B., 333 .. .. .	25
" Finkelstein and Truscovitch, (1886), 16 Cox, c.c., 107 .. .. .	84
" Fletcher, (1876), 2 Q. B. D., 43 .. .. .	55
" Ganz, (1882), 9 Q. B. D., 93 .. .. .	23, 26, 59
" Godfrey, [1923], 1 K. B., 24 .. .. .	24, 34
" Holloway Prison (Governor), <i>Re</i> Siletti, (1902), 71 L. J., K. B., 935 .. .. .	31
" Holloway Prison (Governor), <i>Ex parte</i> Siletti, 87 L. T., 332 .. .. .	34
" Lord Mayor of Cardiff, <i>Ex parte</i> Lewis, [1922], 2 K. B., 777 .. .. .	26
" Lushington, <i>Ex parte</i> Otto, [1894], 1 Q. B., 420 .. .. .	36
" Mount, (1875), L. R., 6 P. C., 283 .. .. .	33



	PAGE.
R. v. Nibbins, 53 L. J., M. C., 157 .. ..	24
„ Weil, (1882), 9 Q. B. D., 701 .. ..	38, 50
„ Wilson, (1877), 3 Q. B. D., 42 .. ..	35, 47, 76
„ Zossenheim, (1903), 20 T. L. R., 121 .. ..	27

## S

Savarkar, <i>Ex parte</i> , R. v., Brixton Prison (Governor), [1910], 2 K. B., 1056 .. .. .	55
Sallaman, <i>Ex parte</i> , v., Borovsky and Weinbaum, [1902], 2 K. B., 312 .. .. .	36
Sekgome, <i>Ex parte</i> , R. v., Earl of Crewe, [1910], 2 K. B., 576 .. ..	32
Servini, <i>Ex parte</i> , R. v. Brixton Prison (Governor), [1914], 1 K. B., 77 .. .. .	26, 34
Siletti, <i>Re</i> , R. v. Holloway Prison (Governor) (1902), 71 L. J., K. B., 935 .. .. .	31
Siletti, <i>Ex parte</i> , R. v., Holloway Prison (Governor), 87 L. T., 332 .. ..	34
Stallmann, Rudolf v. Emperor, I. L. R., 33 Cal., 547 .. ..	31, 32
Stallmann, Rudolf <i>Re</i> , I. L. R., 39 Cal., 164 .. ..	24, 27, 30, 32
Stallmann, <i>Ex parte</i> , R. v., Brixton Prison (Governor), [1912], 3 K. B., 424 .. .. .	33
Subodh Chandra Roy Chowdhry v. Emperor, I. L. R., 52 Cal., 319 .. ..	49, 72

## T

Tivnan's Case, (1864), 5 B. & S., 645 .. ..	56
Tops, A. C. v. Emperor, I. L. R., 46 Cal., 52 .. ..	35

## U

United States of America v. Gaynor, (1905), A. C., 128 .. ..	33
--	----

## W

Weil, R. v., (1882), 9 Q. B. D., 701 .. ..	38, 50
Wells, <i>Ex parte</i> , R. v. Brixton Prison (Governor), [1912], 2 K. B., 578 .. .. .	23
Wilson, R. v., (1877), 3 Q. B. D., 42 .. ..	35, 47, 76
Woodhall, <i>Re</i> , (1888), 20 Q. B. D., 832 .. ..	55
Zossenheim, R. v., (1903), 20 T. L. R., 121 .. ..	27

## INTRODUCTION.

“The law of extradition is, without doubt, founded upon the broad principle that it is to the interest of civilized communities that crimes, acknowledged to be such, should not go unpunished, and it is part of the comity of nations that one state should afford to another every assistance towards bringing persons guilty of such crimes to justice.” *Per* Lord Russell, C. J., in *In re Arton* [1896], 1 Q. B., 108. In its international aspect it is usually based on the existence of a treaty which is made operative in municipal law by legislation. Thus in the debate in the House of Lords on the case of *The Creole* on the 14th February, 1842, it was stated by Lord Denman that “in this country there was no right of delivering up, indeed, no means of securing, persons accused of crimes committed in foreign countries.” (Hansard—Third Series, Vol. LX, p. 321.) This theory, however, is by no means of universal acceptance. Most Continental nations regard the surrender of fugitive offenders as a purely political matter with which the Courts have no concern.

2. Closely akin to, though not in strictness part of, the law of extradition is the question of the surrender of fugitive offenders between different possessions of the Empire, and it is proposed to deal with this subject also as part of the law of extradition.

3. Prior to The Extradition Act, 1870 (33 and 34 Vict., c. 52), there was no general statute giving legal validity to extradition treaties concluded with Foreign States by His Majesty the King, and a separate Act had to be passed on the occasion of each new treaty. This statute, as subsequently amended, is the foundation of the law of extradition for the whole Empire, except in the case of Canada where by Order in Council, dated 6th July, 1907, issued under section 18 of the Act, the operation thereof in Canada is suspended so long as Part I of Chapter 155 of “The Revised Statutes of Canada, 1906,” shall continue in force. It will

be observed that the Act imposes four restrictions on extradition (see section 3), namely :—

- (1) no extradition for political offences ;
- (2) the offender must not be detained or tried for any offence prior to his surrender other than the extradition crime proved by the facts on which the surrender was grounded ;
- (3) an undertrial or convict offender is not to be surrendered till the termination of his trial or sentence ;
- (4) fifteen days must elapse before surrender from date of committal to await surrender ;

and no Order in Council under the Act can be made (see section 4) unless the treaty provides for these restrictions.

Application  
of Act to  
British India.

4. The application of the Act of 1870 to British possessions outside the United Kingdom is provided for by section 17, while section 18 provides for the saving of laws of British possessions. By an Order in Council, dated the 7th March, 1904, published in the *Gazette of India*, 1904, Pt. I, p. 363, which was issued in virtue of the powers conferred by section 18, Chapter II of the Indian Extradition Act, 1903, has been declared to have effect in British India as if it were part of The Extradition Act, 1870.

The general  
law as to  
fugitive  
offenders  
within the  
Empire.

5. The question of the surrender of fugitive offenders between the various possessions of the Empire has also been the subject of an Imperial statute, *viz.*, The Fugitive Offenders Act, 1881 (44 and 45 Vict., c. 69) ; and as in the case of The Extradition Act, 1870, provision has been made by section 32 thereof for the recognition of Acts of the legislatures of British possessions providing for the application and carrying into effect within those possessions of the Act in question.

Application  
of The Fugi-  
tive Offend-  
ers Act,  
1881, to  
British India.

6. In the case of British India, this power has been exercised by the Order in Council, dated the 7th March, 1904, recognising Chapter IV of the Indian Extradition Act, 1903, and declaring that it should be given effect to throughout His Majesty's dominions and on the high seas, as if it were part of The Fugitive Offenders Act, 1881.

7. The Indian legislature in enacting The Indian Extradition Act, 1903, has, in addition to the modifications of these Imperial statutes in their application to British India in a manner necessary to adapt them to the circumstances of this country, also provided for cases not covered by the Imperial statutes. It will be convenient to summarise the provisions of this Act, which is made up of provisions which fall into several classes—

- (1) The provisions of Chapter II which are part of The Extradition Act, 1870 (33 and 34 Vict., c. 52), and deal with the surrender of fugitive criminals to Foreign States to which that Statute applies.
- (2) The provisions of Chapter III which deal with the surrender of fugitive criminals to States other than those to which that Statute applies.
- (3) The provisions of Chapter IV which deal with the application of The Fugitive Offenders Act, 1881 (44 and 45 Vict., c. 69), to British India and are strictly not part of the law of extradition proper at all.
- (4) The provisions of Chapter VI which provide for the execution of commissions issued by Criminal Courts outside British India which is also a subject outside the strict scope of the law of extradition.

8. In applying the provisions of Chapter II of the Indian Extradition Act, 1903, therefore, the fact must always be borne in mind that those provisions are part of the general extradition law of the Empire, and the importance of this will be seen later in the notes to that Act. As has been pointed out above, the provisions of Chapter III only apply to those States to which The Extradition Acts of 1870 and 1873 do not apply, that is, to those States in respect of which His Majesty in Council has not made an Order in Council under section 2 of The Extradition Act, 1870. The provisions, therefore, of that Chapter constitute express statutory provision applying to British India only for the extradition

Indian Law  
not exclusive  
but supplementary.

of criminals in cases not provided for by the general extradition law of the Empire.

Conspectus  
of British In-  
dian Law.

9. It may be convenient here to exhibit in tabular form a general conspectus of the law regarding the rendition of fugitive offenders from British India.

#### RENDITION OF FUGITIVE OFFENDERS.

- |   |   |
|---|---|
| 1. <i>States outside the Empire</i>                 | <i>Law applicable</i>   |
| (a) to States where the Extradition Statutes apply. | The Extradition Acts, 1870 to 1906, and Chapter II of the Indian Extradition Act, 1903. |
| (b) to States where they do not apply.              | The Indian Extradition Act, 1903.   |
| 2. <i>British Possessions.</i>                      | The Fugitive Offenders Act, 1881, and Chapter IV of the Indian Extradition Act, 1903.   |

Recapture of  
fugitive  
offenders  
from British  
India.

10. It is obvious that the converse of the rendition of fugitive offenders from British India is the surrender to the British Indian authorities of offenders who have fled to other parts of the world. Although this is largely a matter for administrative rather than legal consideration, a short chapter has been added dealing with this question as it may be convenient to draw attention to the main features of the procedure in order to prevent officers from falling into mistakes which may lead to great inconvenience and delay.

Object of  
book.

11. The object of this work is to afford assistance to those officers of Government and others in remote places who are not provided with the ordinary works of reference and for whom the construction of this branch of the law must necessarily present great difficulties. Those who have within reach books of reference will doubtless consult—and prefer to rely on—the well-known works on the subject, without which it is obvious that this book could not have been written.

## PART I.

### EXTRADITION FROM BRITISH INDIA.

1. The procedure to be adopted for securing the extradition of a fugitive offender from British India varies according to the class of State which seeks to obtain the surrender. Classification of States.

The first division is into—

- (i) States to which The Extradition Acts, 1870 to 1906, apply ;
- (ii) States to which The Extradition Acts, 1870 to 1906, do not apply.

2. States to which the Extradition Acts apply are by section 2(c) of the Indian Extradition Act, 1903, for the purposes of that Act, defined to be " Foreign States." They are the foreign countries with which the English Crown has concluded extradition treaties, and to which the Extradition Acts have been applied by Order in Council under section 2 of the Act of 1870. A separate list of these countries with the date of the treaty and the Order in Council applying the same is given in Appendix B. It will be seen that it includes all the principal civilized nations with the exception of Japan, Turkey and certain South American countries. The procedure to be followed on an application by a State of this class is that laid down in Chapter II of the Indian Extradition Act, 1903. It will be observed that an alternative procedure allowing the initiation of proceedings either by application to Government or to the Magisterial authorities is permissible in certain cases, but in either case a requisition of the State asking for the rendition is essential before extradition can take place and that in virtue of Chapter V special provisions are in force in the case of offenders committing offences on board vessels on the high seas. It is of the greatest importance, whatever authority is applied to, that the necessary formalities are duly complied with, as otherwise great delay and difficulty may be experienced. For a

discussion of the actual procedure to be adopted the reader is referred to the notes to this portion of the Act in the annotated edition in Part II of this book.

**Other States.** 3. In the case of States to which the Extradition Acts do not apply, i.e., States which are not "Foreign" States for the purposes of the Indian Extradition Act, 1903, a further division must be made into—

(i) States with which there is a treaty;

(ii) States with which there is not a treaty.

"Non-foreign"  
"treaty"  
States.

4. Section 18 provides that where a treaty is in force, the procedure laid down therein shall be followed, and that the procedure laid down by Chapter III of the Indian Extradition Act, 1903, shall be modified to that extent. Where a treaty exists, therefore, it will be necessary to consult its provisions, but as regards many Native States in India, by subsequent arrangement, the procedure prescribed by the Act has been substituted for that laid down by the original treaty. See in this connection the supplementary agreements entered into with Hyderabad and the Rajputana States which are reproduced in Appendix D.

French  
possessions  
in India.

5. The law governing extradition between the French and British possessions in India must at present be regarded as being in a somewhat unsettled state. In the last edition of this work the view was taken that the East Indian possessions of England and France are expressly excluded from the Extradition Treaty of the 14th August, 1876, between those powers and hence those possessions were held not to be within The Extradition Acts of 1870 and 1873, and further it was held that the procedure for extradition between British India and the French possessions in British India was that laid down by Art. IX of the Convention between Great Britain and France signed at London on the 7th March, 1815. That view was confirmed in Criminal Revision Case *Rahamat Ali v. Emperor* (I. L. R., 47 Cal., 37), but that case was not followed by Mr. Justice Buckland in disposing of the original criminal application by *Celeste Cullington* (I. L. R., 48 Cal., 328). Mr. Justice Buckland held that the concluding portion of Art. XVI of the Extradition Treaty of

1876 with France does not exclude the East Indian possessions of that country but is a saving clause intended to preserve intact the special arrangement established by Art. IX of the Treaty of 1815. The effect of the application of the English Extradition Acts to France by the Order in Council of 16th May, 1878, is to put into operation section 25 of The Extradition Act, 1870, and thereby to extend the provisions of the Act to the East Indian possessions of France as being a part of France.

The provisions of Art. IX of the Treaty of 1815 are here quoted for ready reference :—

“IX. All Europeans and others whosoever against whom judicial proceedings shall be instituted within the limits of the said settlements or factories belonging to His Most Christian Majesty, for offences committed or for debts contracted within the said limits, and who shall take refuge out of the same, shall be delivered up to the chiefs of the said settlements and factories ; and all Europeans and others whosoever, against whom judicial proceedings aforesaid shall be instituted without the said limits, and who shall take refuge within the same, shall be delivered up by the chiefs of the said settlements and factories, upon demand being made of them by the British Government.”

6. Where no treaty exists, then the procedure laid down in Chapter III of the Indian Extradition Act, 1903, must be followed ; but here again States can be divided into—

“ Non-foreign States with which no treaty is in force.”

(i) States where there is a Political Agent in or for such State ;

(ii) States without such an officer.

In the case of the first class alternative procedures are available, *viz.*, (a) to apply to the Political Agent for the issue of a warrant under section 7 of the Indian Extradition Act, 1903, or (b) to make requisition to Government for surrender under section 9 of that Act. In the case of the second class only the latter procedure is available.

7. The case of the Portuguese possessions in India calls for special notice. The Anglo-Portuguese Treaty of

Portuguese possessions in India.



1894 excludes East Indian possessions. Formerly extradition was governed by a special Act, the Portuguese Treaty Act (IV of 1880), but the Treaty having expired the Act has been repealed. Apparently therefore a requisition under section 9 of the Indian Extradition Act, 1903, is the only course now available.

The treaty between England and Portugal of the 17th of October, 1892, has the following Protocol attached to it:—"The stipulations of the present treaty do not apply to extradition between British and Portuguese India, which is reserved for ulterior negotiations."

Surrender  
to British  
possessions.

8. Where the surrender is desired of a fugitive offender who has fled into British India from some other British possession, the law applicable is The Fugitive Offenders Act, 1881, read with section 19 of the Indian Extradition Act, 1903. The procedure under that statute is either under Part I or Part II according as British India is or is not grouped with the possession from which the offender has fled. For a full account of the groups which include British India, see the notes to Chapter IV of the annotated text of the Indian Extradition Act, 1903, *infra*, pages 63—64, where the Orders in Council making the grouping are cited. In the case of proceedings under Part I, *i.e.*, where the offender has fled from a possession with which British India is not grouped, the Magistrate will receive the warrant endorsed either by—

- (i) the Local Government, or
- (ii) a Judge of the High Court—see section 3 of the Act read with section 19 of the Indian Extradition Act, 1903.

On the arrest of the fugitive the procedure laid down in sections 5 and 6 of the Act is to be followed. In dealing with cases under The Fugitive Offenders Act, 1881, particular attention must be paid to the latter part of section 9.

Intercolonial  
backing of  
warrants.

9. In the case of proceedings under Part II of The Fugitive Offenders Act, 1881, *i.e.*, cases in which the possession or territory is one with which British India is grouped

for the purposes of the Act, the original warrant issued in the possession in question is produced to the Magistrate who must satisfy himself that it was made by a person having lawful authority to issue it, and that it is duly authenticated as required by section 29 of the Act. On being satisfied of these facts, the Magistrate endorses the warrant under section 26 of the Act. It is to be noticed that a warrant may be issued from any other British possession under Part II of the Act for any offence although applications from British India to other British possessions are restricted to the offences specified in section 19 (*d*) of the Indian Extradition Act, 1903. It is to be observed that section 19 of The Fugitive Offenders Act, 1881, allows a Magistrate to refuse to return the fugitive when arrested in the circumstances specified in that section, but in exercising the powers conferred by that section, it is most desirable that the Magistrate should make it abundantly clear that its terms have been satisfied.

10. Application may be made under both parts of the Act in virtue of sections 4 and 16 for the issue of provisional warrants, and the Magistrate may issue such warrants, where time is of the essence, and where the facts in his opinion are such as would justify the issue of a warrant if the offence had been committed within his own jurisdiction. Provisional warrants.

11. Section 36 of The Fugitive Offenders Act, 1881, and section 1 of The Fugitive Offenders (Protected States) Act, 1915 (5 & 6 Geo. V, c. 39), allow the earlier Act to be applied by Order in Council, subject to such conditions, etc., as may be contained in the Order, to any place outside the dominions of the Crown in which the Crown has jurisdiction, and also to any place or group of places over which the Crown extends its protection. Also section 5 of The Foreign Jurisdiction Act, 1890 (53 & 54 Vict., c. 37), empowers the Crown to make similar directions applying The Fugitive Offenders Act, 1881, to any foreign country in which for the time being His Majesty has jurisdiction. Where an Order in Council has been made under any one of these powers the surrender of persons who have fled from the territory for which such Order has been made will be regulated Places outside the dominions of the Crown in which the Crown exercises jurisdiction.

by The Fugitive Offenders Act, 1881, read with that Order. The Orders in Council so issued to which it is most likely that there will in British India be occasion to refer are :—

- (1) *Abyssinia*. The Abyssinia Order in Council, 1913 (No. 1363), dated 19th December, 1913. Art. 78. (S. R. & O., 1913, p. 177.)  
(The Foreign Jurisdiction Act, 1890.)
- (2) *Bahrein*. The Bahrein Order in Council, 1913 (No. 891), dated 12th August, 1913. Art. 12. (S. R. & O., 1913, p. 247.) This Order was brought into force on 3rd February, 1919. (*Gazette of India*, 1919, Pt. I, p. 258.)  
(The Foreign Jurisdiction Act, 1890.)
- (3) *China*. The China Order in Council, 1925 (No. 603), dated 17th March, 1925. Art. 103. (S. R. & O., 1925, p. 379.)  
(The Foreign Jurisdiction Acts, 1890 and 1913.)
- (4) *Kashgar*. The China (Kashgar) Order in Council, 1920 (No. 568), dated 11th March, 1920. Art. 9. (S. R. & O., 1920, Vol. I, p. 723.)  
(The Foreign Jurisdiction Act, 1890.)
- (5) *Kenya Protectorate*. The Kenya Protectorate Order in Council, 1920 (No. 2343), dated 13th August, 1920. (S. R. & O., 1920, Vol. I, p. 658.) Art. 3 of this Order saves the East Africa Order in Council, 1902 (No. 661), dated 11th August, 1902, so far as it applies to the Kenya Protectorate. See also the East Africa Fugitive Offenders Order in Council, 1920 (No. 2351), dated 3rd December, 1920. Art. 2. (S. R. & O., 1920, Vol. I, p. 754.)  
(The Fugitive Offenders Act, 1881, and the Foreign Jurisdiction Act, 1890.)
- (6) *Kuwait*. The Kuwait Order in Council, 1925 (No. 972), dated 17th March, 1925. Art. 12. (S. R. & O., 1925, p. 445.)  
(The Foreign Jurisdiction Acts, 1890 and 1913.)

- (7) *Malay Protected States.* The Straits Settlements and Protected States Fugitive Offenders Order in Council, 1916 (No. 745), dated 24th October, 1916. Art. 2. (S. R. & O., 1916, Vol. III, p. 102.) Article 2 of this Order applies The Fugitive Offenders Act, 1881, to the Federated Malay States, Johore, Kedah and Perlis, Kelantan, Brunei, North Borneo.  
(The Fugitive Offenders Acts, 1881 and 1915.)

This Order was subsequently extended to Trengannu and Sarawak by the Straits Settlements and Protected States Fugitive Offenders Order in Council, 1917 (No. 568), dated 13th June, 1917. Art. 2. (S. R. & O., 1917, p. 961.)

(The Fugitive Offenders Acts, 1881 and 1915.)

- (8) *Maskat.* The Maskat Order in Council, 1915 (No. 132), dated 3rd February, 1915. Art. 12. (S. R. & O., 1915, Vol. I, p. 280.)  
(The Foreign Jurisdiction Act, 1890.)

- (9) *Nyasaland Protectorate.* The British Central Africa Order in Council, 1902 (No. 663), dated 11th August, 1902. Art. 13. (S. R. & O.—Revised—1904, “Foreign Jurisdiction,” p. 40), and the East Africa Fugitive Offenders Order in Council, 1920 (No. 2351), dated 3rd December, 1920. Art. 11. (S. R. & O., 1920, Vol. I, p. 754.)  
(The Fugitive Offenders Act, 1881, and The Foreign Jurisdiction Act, 1890.)

- (10) *Palestine.* (Mandated Territory.) The Palestine Order in Council, 1922 (No. 1282), dated 10th August, 1922. Art. 35. (S. R. & O., 1922, p. 362.)  
(Recites Mandate of League of Nations and The Foreign Jurisdiction Act, 1890.)

- (11) *Persia.* The Persia Order in Council, 1889, dated 13th December, 1889. Art. 287. (S. R. & O.—Revised—1904, Vol. V, p. 575.)  
(The Foreign Jurisdiction Acts, 1843 and 1878.)

- (12) *The Persian Coast and Islands.* The Persian Coast and Islands Order in Council, 1907 (No. 382), dated 7th May, 1907. Art. 8. (S. R. & O., 1907, p. 243.)  
(The Foreign Jurisdiction Act, 1890.)

The limits of this Order were defined by two subsequent Orders, *viz.*—

- (1) The Persian Coast and Islands (Amendment) Order in Council (No. 535), 1912 (S. R. & O., 1912, p. 175) ; and
- (2) The Persian Coast and Islands (Amendment) Order in Council, 1922 (No. 1203). (S. R. & O., 1922, p. 392.)
- (13) *Somaliland.* The Somaliland Order in Council, 1899 (No. 758), dated 7th October, 1899. Art. 8. (S. R. & O.—Revised—1904, Vol. V, “Foreign Jurisdiction.” p. 173.)  
(The Foreign Jurisdiction Act, 1890.)
- (14) *Tanganyika.* The Tanganyika Order in Council, 1920 (No. 1583), dated 22nd July, 1920. Art. 14. (S. R. & O., 1920, Vol. I, p. 685.) This Order in Council was issued with the consent of the Allies before the Mandate was conferred on Great Britain.  
(Recites agreement of Principal Allied Powers and The Foreign Jurisdiction Act, 1890.)

See also the East Africa Fugitive Offenders Order in Council, 1920 (No. 2351), dated 3rd December, 1920. (S. R. & O., 1920, Vol. I, p. 754.)

- (15) *Uganda.* The Uganda Order in Council, 1902 (No. 662), dated 11th August, 1902. Art. 13. (S. R. & O.—Revised—1904, Vol. V, “Foreign Jurisdiction,” p. 77), and the East Africa Fugitive Offenders Order in Council, 1920 (No. 2351), dated 3rd December, 1920. (S. R. & O., Vol. I, 1920, p. 754.)  
(The Foreign Jurisdiction Act, 1890.)

- (16) *Wei-Hai-Wei*. The Wei-Hai-Wei Order in Council, 1901 (No. 590), dated 24th July, 1901, as amended by the Wei-Hai-Wei Order in Council, 1903 (No. 210). Art. 40. (S. R. & O.—Revised—1904, Vol. V, p. 233.)  
(The Foreign Jurisdiction Act, 1890.)
- (17) *Zanzibar*. The Zanzibar Order in Council, 1924 (No. 1401), dated 8th December, 1924. Art. 25. (S. R. & O., 1924, p. 434.)  
(The Foreign Jurisdiction Act, 1890.)

12. In certain cases of desertion from foreign ships a special procedure is available for the arrest of deserters in virtue of section 238 of The Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60). Deserters  
from foreign  
ships.

That section provides that, where a foreign country concedes reciprocal facilities, the operation of the section can be extended to that country by Order in Council. In such a case any seaman or apprentice, not being a slave, who deserts anywhere in the dominions of the Crown from a merchant ship belonging to a subject of the country in question can, on the application of a consular officer of that country, be arrested and handed over to his ship by any court which would have had cognizance of the matter if the desertion had taken place from a British ship.

For a list of Orders in Council applying this section see "Index to the Statutory Rules and Orders in force on June 30, 1924, p. 483."

In the case of desertion from Portuguese ships special provision exists, for which see 12 and 13 Vict., c. 25, s. 2, and 39 and 40 Vict., c. 20, s. 2.

## PART II.

### THE INDIAN EXTRADITION ACT, XV OF 1903.

AS AMENDED UP TO THE 1ST OF JANUARY, 1927.

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## CONTENTS.

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### CHAPTER I.

#### PRELIMINARY.

#### SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

---

### CHAPTER II.

#### SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

3. (1) Requisition for surrender.  
(2) Summons or warrant for arrest.  
(3) Inquiry by Magistrate.  
(4) Committal.  
(5) Bail.  
(6) Magistrate's report.  
(7) Reference to High Court if Government thinks necessary.  
(8) Warrant for surrender.  
(9) Lawfulness of custody and re-taking under warrant for surrender.  
(10) Discharge of fugitive criminals committed to prison after two months.
4. (1) Power to Magistrate to issue warrant of arrest in certain cases.  
(2) Issue of warrant to be reported forthwith.  
(3) Person arrested not to be detained unless order received.  
(4) Bail.
5. (1) Power of Government to refuse to issue order under section 3 when crime of political character.  
(2) Power of Government to discharge any person in custody at any time.
6. References to "Police Magistrate" and "Secretary of State" in section 3 of The Extradition Act, 1870.

## CHAPTER III.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN  
FOREIGN STATES.

## SECTIONS.

7. (1) Issue of warrant by Political Agents in certain cases.
- (2) Execution of such warrant.
- (3) Proclamation and attachment in case of persons absconding.
8. (1) Release on giving security.
- (2) Magistrate to retain bond.
- (3) Re-arrest in case of default.
- (4) Deposit in lieu of bond, and forfeiture of bonds.
- 8A. Power to report case for orders of Local Government.
9. Requisitions by States not being Foreign States.
10. (1) Power to Magistrates to issue warrants of arrest in certain cases.
- (2) Issue of warrant to be reported forthwith.
- (3) Limit of time of detention of person arrested.
- (4) Bail.
11. (1) Surrender of person accused of, or undergoing sentence for, offence in British India.
- (2) Suspension of sentence on surrender.
12. Application of Chapter to convicted persons.
13. Abetment and attempt.
14. Lawfulness of custody and re-taking under warrant issued under Chapter.
15. Power of Government to stay proceedings and discharge persons in custody.
16. Application of Chapter to offences committed before its commencement.
17. (1) Receipt in evidence of exhibits, depositions and other documents.
- (2) Authentication of the same.
- (3) Definition of "warrant."
18. Chapter not to derogate from treaties.

## CHAPTER IV.

## RENDITION OF FUGITIVE OFFENDERS IN HIS MAJESTY'S DOMINIONS.

19. Application of The Fugitive Offenders Act, 1881.

## CHAPTER V.

## OFFENCES COMMITTED AT SEA.

20. Requisition for surrender in case of offence committed at sea.



## CHAPTER VI.

EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL COURTS OUTSIDE  
BRITISH INDIA.

## SECTIONS.

21. Execution of commissions issued by Criminal Courts outside  
British India.
- 

## CHAPTER VII.

## SUPPLEMENTAL.

22. Power to make rules.
  23. Detention of persons arrested under section 54, clause *seventhly*  
Act V, 1898.
  24. [*Repealed.*]
- 

THE FIRST SCHEDULE.—EXTRADITION OFFENCES.

THE SECOND SCHEDULE.—[*Repealed.*]

# THE INDIAN EXTRADITION ACT

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## ACT XV OF 1903.

[4th November, 1903.]

*An Act to consolidate and amend the law relating to the  
Extradition and Rendition of Criminals.*

WHEREAS it is expedient to provide for the more convenient administration in British India of the Extradition Acts, 1870 and 1873, and of the Fugitive Offenders Act, 1881 ;

and whereas it is also expedient to amend the law relating to the extradition of criminals in cases to which the Extradition Acts, 1870 and 1873, do not apply ;

It is hereby enacted as follows :—

The Act of 1870 has also been amended by The Extradition Act, 1895 (58 & 59 Vict., c. 33) and The Extradition Act, 1906 (6 Edw. 7, c. 15), which latter includes bribery in the list of crimes in the First Schedule to the Act. These Acts with the Act of 1873 may be cited as The Extradition Acts, 1870 to 1906. Section 5 of the Act of 1873 has been amended by The Perjury Act, 1911 (1 & 2 Geo. V, c. 6), and perjury in extradition proceedings is thereby made punishable under that Act, see section 1 of that Act.

As to the first paragraph of the preamble, see section 18 of The Extradition Act, 1870, and section 32 of The Fugitive Offenders Act, 1881.

For Statement of Objects and Reasons, see *Gazette of India*, 1901, Pt. V, p. 24 ; for Report of the Select Committee, see *ibid*, 1903, Pt. V, p. 469 ; for proceedings in Council, see *ibid*, Pt. VI, pp. 151, 163 and 177.

# CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Indian Extradition Act, 1903 ;

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of British India (including British Baluchistan, the Santhal Parganas and the Pargana of Spiti) ; and

(3) It shall come into force on such day as the Governor General in Council, by notification in the *Gazette of India*, may direct.

The Act has been declared to come into force from 1st June 1904 (see *Gazette of India*, 1904, Pt. I, p. 364). The Act has been declared in force in the Angul district by section 3 of the Angul Laws Regulation, 1913, Regulation 3 of 1913 (Bihar & Orissa Code, Vol. I, p. 863), and in the Arakan Hill district by the Arakan Hill District Laws Regulation, 1916, Regulation I of 1916 (Burma Code, Vol. I, p. 215).

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “ European British subject ” means a European British subject as defined by the Code of Criminal Procedure for the time being in force :

(b) “ extradition offence ” means any such offence as is described in the First Schedule :

(c) “ Foreign State ” means a State to which, for the time being, the Extradition Acts, 1870 and 1873, apply :

33 & 34  
Vict., c. 52 ;  
36 & 37  
Vict., c. 60.

(d) “ **High Court** ” means the High Court as defined by the Code of Criminal Procedure for the time being in force :

(e) “ **offence** ” includes any act wheresoever committed which would, if committed in British India, constitute an offence : and

(f) “ **rules** ” include prescribed forms.

“ **European British subject** ” [see section 4 (1) (i) of the Code of Criminal Procedure, 1898] means :—

(i) any subject of His Majesty of European descent in the male line born, naturalised or domiciled in the British Islands or any Colony, or

(ii) any subject of His Majesty who is the child or grand-child of any such person by legitimate descent.

“ **Extradition offence.** ” It is to be noticed that the definition is only applicable to Chapter III. Chapter II of the Act is incorporated in the Act of 1870, and as regards that Chapter the definition has no application. The meaning of “ **extradition crime** ” in that Chapter is that given in section 26 of The Extradition Act, 1870, *i.e.*, a crime described in the First Schedule to that Act.

“ **Foreign State.** ” For a list of the Orders in Council applying The Extradition Acts (1870 to 1906), see Appendix B. There are extradition treaties with all the principal European States, except Turkey, and with most other civilized powers. As regards the possessions in India of France and Portugal, see paragraphs 5 and 7 of Part I. Nepal is not a Foreign State. *Gulji Sahu v. Emperor*, I. L. R., 42 Cal., 793.

“ **High Court** ” [see section 4(1) (j) of the Code of Criminal Procedure, 1898] means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the High Courts of Judicature at Fort William, Madras, Bombay, Allahabad, Patna, Lahore and Rangoon, the Chief Courts of Oudh and Sind and the Court

of the Judicial Commissioner of the Central Provinces : in other cases " High Court " means the highest Court of criminal appeal or revision for any local area : or, where no such Court is established under any law for the time being in force, such officer as the Governor General in Council may appoint in this behalf.

## CHAPTER II.

### SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

Requisition  
for sur-  
render.

3. (1) Where a requisition is made to the Government of India or to any Local Government by the Government of any Foreign State for the surrender of a fugitive criminal of that State, who is in or who is suspected of being in British India, the Government of India or the Local Government, as the case may be, may, if it thinks fit, issue an order to any Magistrate who would have had jurisdiction to inquire into the crime if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

This Chapter has been declared to have effect in British India as if it were part of The Extradition Act, 1870 (33 & 34 Vict., c. 52), by an Order in Council, dated the 7th March, 1904, issued in exercise of the power conferred by section 18 of that Act, and published in the *Gazette of India*, 1904, Pt. I, p. 363.

**The requisition** need not be in any particular form, but it should be accompanied by some evidence that the person whose surrender is demanded is a fugitive criminal of the State making the demand. It may be made by a diplomatic representative of the State asking for the surrender or by any person recognized by the Government of India as the Consul-General, Consul or Vice-Consul or (if the fugitive criminal has escaped from a colony or dependency of the Foreign State on behalf of which the requisition is made) as the Governor of such colony or dependency [*cf.* section 17 (1), The Extradition Act, 1870].

A Consul or Vice-Consul shall be deemed to include any person recognised by the Government of India as a Consular Officer of the Foreign State (*cf.* section 7, The Extradition Act, 1873).

“**Local Government**” is defined by section 3 (29) of the General Clauses Act, 1897, as “the person authorized by law to administer executive government in the part of British India in which the Act or Regulation containing the expression operates, and shall include a Chief Commissioner.”

“**A fugitive criminal of that state**” means a fugitive criminal accused or convicted of an extradition crime committed within the jurisdiction of that state (*cf.* section 26, The Extradition Act, 1870).

The expression may include a person convicted and sentenced for an extradition crime by a Foreign Court, who has been released before the termination of his sentence with a liability to be called on to serve the residue of his term. *The King v. The Governor of Brixton Prison, Ex parte Calberla*, [1907], 2 K. B., 861.

A person who is convicted and sentenced to imprisonment for an extradition crime and who breaks out of prison and escapes before the expiration of his sentence is a fugitive criminal. *Ex parte Moser*, [1915], 2 K. B., 698.

The term “**convicted**” does not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term “**accused person**” includes a person so convicted—see section 26, The Extradition Act, 1870.

The term “**extradition crime**” means a crime which, if committed in England or within English jurisdiction, would be one of the crimes described in the First Schedule to The Extradition Act, 1870 (see section 26).

It is not essential that the fugitive should be a subject of the State which demands his extradition. Unless there are treaty arrangements to the contrary, a requisition by State B for the surrender of a subject of State A who committed a crime in State B and has fled to State C is valid. Thus a naturalized subject of the United States who committed a crime in Holland was extradited from England at the instance of the Dutch Government. *R. v. Ganz*, (1882), 9 Q. B. D., 93. See also *The King v. The Governor of Brixton Prison, Ex parte Wells*, [1912], 2 K. B., 578.

It is not even necessary that the person accused of an extradition crime should have been in the Foreign State at the time the



crime was committed. A resident in England who committed an extradition crime (procuring goods by false pretences) in Germany by means of letters written in England was a fugitive criminal within the meaning of the Act. *R. v. Nillins*, 53 L. J. (M. C.), 157. The words in the Act are "who is in" not "who has fled to" *per* Smith, J. Again, a person resident in England charged with obtaining goods by false pretences in Switzerland, the false pretences being alleged to be made in Switzerland by a partner of his and at his procuration in England, was held to be a fugitive criminal. *The King v. Godfrey*, [1923], 1. K. B., 24, following *R. v. Nillins*.

**Accessories** equally with principals are liable to be surrendered, see section 3, The Extradition Act, 1873.

**"may if it thinks fit."** The words are permissive, but if the law and the treaty provisions are complied with, it seems that the order would be as of course.

**"issue an order."** The only Government competent to issue the order for inquiry is the Government to which the Foreign State has made the requisition. "This function must be performed strictly in accordance with the Statute and cannot be delegated" *per* Mookerjee, J., in *In re Rudolf Stallmann*, I. L. R., 39 Cal., 164, at p. 209.

In the Second Schedule to The Extradition Act, 1870, a form of order of the Secretary of State to a Police Magistrate is provided, and section 20 of the Act provides that in case of a British possession these forms may be used, *mutatis mutandis*, and when used shall be deemed valid and sufficient in law. The Indian Act provides no special form for the order.

Government may issue the order to any Magistrate who has jurisdiction to inquire into the crime of the nature of that for which extradition is sought. *In re Rudolf Stallmann*, I. L. R., 39 Cal., 164.

Summons or  
warrant for  
arrest.

(2) The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue.

The crime charged need not and will not probably be described in the exact language of the Indian Penal Code. In determining whether a summons or a warrant will issue, the

Magistrate should consider the facts before him and act accordingly, having regard to the provisions of Schedule II to the Code of Criminal Procedure, 1898.

(3) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session or High Court, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime. Inquiry by Magistrate.

**“in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session or High Court.”**

Chapter XVIII of the Code of Criminal Procedure, 1898, lays down the procedure to be followed on inquiry into cases triable by the Court of Session or High Court.

There are of course distinctions of procedure which are required by the Acts themselves which are covered by the words “as nearly as may be”, e.g., the power of Government to stay proceedings under section 5 (2) of this Act, the putting in of depositions and statements taken in a Foreign State which are made evidence by section 14 of The Extradition Act, 1870, and the like.

See also in this connection *R. v. Daye*, [1908], 2 K. B., 333, as to the power of the Magistrate under section 5 of The Extradition Act, 1873, to compel production of a sealed packet held by a bank upon the terms that it shall not be delivered up except with the consent of the depositors. This section must be read in conjunction with section 29 of The Criminal Justice Administration Act, 1914 (4 & 5 Geo. V, c. 58). Where a Magistrate was ordered by a Secretary of State to take evidence in connection with a criminal matter then pending in the Italian Courts, it was

within the power of the Magistrate to issue a summons for the production of documents and to inspect such documents when produced, in order that he might specify such as might be relevant to the case being investigated in the Italian Courts. *The King v. Lord Mayor of Cardiff. Ex parte Lewis*, [1922], 2 K. B., 777.

**“such evidence as may be produced”**

As extradition proceedings are not very numerous in the Courts of this country, the following remarks on the evidence to be produced may be of use.

The following documents should be placed before the Magistrate :—

(1) A copy of the Order in Council applying the Extradition Acts in the case of the Foreign State demanding the surrender.

(2) The foreign warrants authorising the arrest.

A copy will suffice [*R. v. Ganz*, (1882), 9 Q. B. D., 93], but in either case the warrant or copy must be authenticated as required by section 15 of the Act of 1870.

(3) If it is sought to prove that the fugitive has already been convicted, a certificate of, or a judicial document stating the fact of, such conviction and purporting to be certified by a Judge, Magistrate or Officer of the Foreign State where the conviction was had. Such certificate, etc., must be authenticated as provided for by section 15 (3) of the Act of 1870.

(4) Any depositions or statements on oath or affirmation taken in the Foreign State, or copies thereof which must be authenticated as provided by section 15 (2) of the Act of 1870.

It was held in *The King v. The Governor of Brixton Prison, Ex parte Servini*, [1914], 1 K. B., 77, that proof of the Order in Council though not a legal necessity was desirable.

Documents of the kind described in items (3) and (4) will be admissible in evidence by virtue of section 14 of The Extradition Act, 1870.

The Indian Evidence Act, 1872, does not contain the whole law of evidence for this country., "Section 2 of the Act saves rules of evidence contained in any Statute, Act, or Regulation in force in any part of British India. . . . One of such Statutes is The English Extradition Act which, as applicable to this country, is as much part of the *lex fori* as The Evidence Act itself." *Per* Woodroffe, J., in *In re Rudolf Stallmann*, I. L. R., 39 Cal., 164, at p. 185.

Subject to any special rules of evidence laid down by the Extradition Acts, the evidence must be given in accordance with the law of evidence in force in British India. It is of course necessary that the identity of the person arrested shall be established by legal evidence.

**"and on behalf of the fugitive criminal"**

It is the duty of the Magistrate to hear evidence tendered on behalf of the fugitive criminal. *R. v. Zossenheim*, (1903), 20 T. L. R., 121.

If the Magistrate does not give the fugitive criminal an opportunity of defence this is not a mere irregularity but goes to the jurisdiction of the Magistrate. *In re Rudolf Stallmann*, I. L. R., 39 Cal., 164.

**"of a political character"**

An offence is of a political character if it is one which is incidental to, or forms part of, political disturbances, *In re Castioni*, [1891], 1 Q. B., 149. In this case there was a general rising against the authorities of the Canton of Ticino, and in the course of the disturbances Castioni who had taken a prominent part in organizing them shot one Reni, a member of the State Council. It was held the offence was of a political character. See also the case of *Cazo*, 1887, reported in Snow's cases on International Law, p. 161, which shows that the American view is much the same.

Anarchists, however, are not political offenders, for to constitute an offence of a political character, there must be two parties in the State, each seeking to impose the government of its own choice on the other, whereas anarchists are the enemies of all government—*In re Meunier*, [1894], 2 Q. B., 415.

**"is not an extradition crime"**

There must be an offence against the law of both countries which is substantially the same though it need not be described

in the same terms. "If we find . . . . that such a crime is a crime against the law of both countries and is in substance to be found in each version of the treaty, although under different heads, we are bound to give effect to the claim for extradition." *Per* Lord Russell, C. J., in *In re Arton*, [1896], 1 Q. B., 509, at p. 517.

The Court will not permit it to be argued that the demand for extradition was not made in good faith and in the interests of justice. "This question bears on the political aspect of extradition and it must be determined upon a consideration of matters into which this Court is not competent and has no authority to enter." *Per* Lord Russell, C. J., in *In re Arton*, [1896], 1 Q. B., 108, at p. 115.

**Committal.**

(4) If the Magistrate is of opinion that a *primâ facie* case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the Government of India or the Local Government, as the case may be.

**Bail.**

(5) If the Magistrate is of opinion that a *primâ facie* case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force, the Magistrate may release the fugitive criminal on bail.

"**A primâ facie case**" *cf.* section 10 of the Act of 1870. Such evidence (subject to the special provisions of the Act) as in the case of a fugitive criminal accused of an extradition crime would justify his commitment for trial if the crime had been committed within the local limits of the Magistrate's jurisdiction, or in the case of a fugitive criminal alleged to have been convicted of an extradition crime would amount to proof of such conviction.

When the Magistrate commits the fugitive criminal to prison under sub-section (4), such criminal cannot be surrendered until the expiration of fifteen days from the date of his being committed to prison, see section 3 (4) of The Extradition Act,

1870. A form of warrant is given in Schedule II to The Extradition Act, 1870, which may be used *mutatis mutandis*.

**“bailable under the provisions of the Code of Criminal Procedure.”**

Sections 496 to 502 and Schedule II to the Code of Criminal Procedure, 1898, deal with bail.

(6) The Magistrate shall report the result of his inquiry to the Government of India or the Local Government, as the case may be, and shall forward, together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the Government.

Magistrate's report.

(7) If the Government of India or the Local Government, as the case may be, is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to such High Court as may be named in the order, and the fugitive criminal shall not be surrendered until such question has been decided.

Reference to High Court if Government thinks necessary.

(8) If, upon receipt of such report and statement or upon the decision of any such question, the Government of India or the Local Government, as the case may be, is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

Warrant for surrender.

(9) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance

Lawfulness of custody and re-taking under warrant for surrender.

of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

(6) “**shall report.**” Once the report is submitted, the Magistrate is *functus officio*. *In re Rudolf Stallmann*, I. L. R., 39 Cal., 164.

**Reference to High Court :** Sub-clauses (6) and (7). “The provisions made in these sub-clauses . . . . . are intended as the Indian substitute for the right to apply for a writ of *habeas corpus* given to a fugitive criminal by section 11 of the Statute,” see Report of Select Committee on the Bill, dated 16th of September, 1903.

The Report of a Select Committee cannot be used for ascertaining the meaning of an enactment which must be gathered from the terms of the enactment itself [*Administrator-General of Bengal v. Premlal Mullick*, (1895), I. L. R., 22 Cal., 788], but the above extract shows what the intention of the legislature was. The intention of the legislature does not seem however to have been effected. See *In re Rudolf Stallmann*, I. L. R., 39 Cal., 164, as to the power of the Chartered High Courts to consider whether a person is illegally detained under a warrant in extradition proceedings. Woodroffe, J., in that case laid down the following propositions—

(i) that section 491 of the Code of Criminal Procedure, 1898, clearly gives power to the High Court to inquire into the legality of the detention of a person detained under such a warrant in a Presidency-town (p. 181);

(ii) that the fact that the Indian Act does not expressly refer to *habeas corpus* does not exclude the existence of the right which exists antecedently of the provisions of The Extradition Act, 1870, which merely declared an already existing right and indicated the time when as a matter of procedure that right should be invoked (pp. 182—83);

(iii) section 3 of the Indian Extradition Act, 1903, does not prevent proceedings under section 491 of the Code of Criminal Procedure, 1898, (p. 184).

*Stallmann's* case raises the following further points :—

1. Does the enactment of Chapter II of the Indian Extradition Act, 1903, together with the Order in Council directing that

this Chapter shall have effect in British India as if it were part of The Extradition Act, 1870 (33 & 34 Vict., c. 52), operate as a repeal of those sections of The Extradition Act, 1870, which deal with *habeas corpus*?

Woodroffe, J., and Mookerjee, J., appear to have held in the case referred to, that it did not do so and that the power of reference provided by section 3 (7) of the Act cannot be regarded as a substitute for the right to a writ of *habeas corpus*. They refer to *Crowley's case* (1818), 2 Swans. 1, *Ex parte Besset*, (1844), 6 Q. B., 481, and *Rex v. Holloway Prison (Governor)*; *In re Siletti*, (1902), 71, L. J. (K. B.), 935, in support of the contention that The Extradition Act, 1870, merely declared a right that existed independently of the Statute.

Caspersz and Sharfuddin, JJ., in *Rudolf Stallmann v. Emperor*, I. L. R., 38 Cal., 547, made certain observations which are not altogether in accordance with this view when they said: "This special procedure [*i.e.*, that provided by section 3 (6) and (7) of the Act], it seems, takes the place of that indicated in section 491 of the Code of Criminal Procedure which gives directions of the nature of a *habeas corpus*."

It is perhaps worthy of notice that *Crowley's case* and *Bessett's case* are long anterior to the English statute, and that the immediate result of the latter case was that from the years 1844 to 1864 extradition between England and France became almost impossible—Clarke upon Extradition, pp. 134, 139.

In *In re Siletti*, Bigham, J., made the following remarks: "The accused in this case has the right which all persons committed by a Magistrate have of applying for a *habeas corpus*. The Extradition Act, 1870, does not give him that right. He has it at common law (p. 937)."

2. Independently of section 491 of the Code of Criminal Procedure, 1898, do the Chartered High Courts possess any jurisdiction to issue a writ of *habeas corpus* in the case of a person who is not a European British subject?

The judgment supplies no definite reply to this question which, in view of the finding as to section 491 of the Code of Criminal Procedure, 1898, it was not necessary for the learned judges to answer. Reference may be made in this connection to *In the matter of Ameer Khan*, (1870), 6 B. L. R., 392, and to *In the matter of Ameer Khan*, (1870), 6 B. L. R., 459.



The Indian legislature appears to have adopted the view that the power of issuing a writ of *habeas corpus* vested in the Chartered High Courts is the same as that embodied in section 456 and section 491 of the Code of Criminal Procedure, 1898. That is to say, that as inheritors of the jurisdiction of the Supreme Courts they have complete jurisdiction in the case of the Presidency-towns and jurisdiction over European British subjects elsewhere.

[The foregoing portion of this paragraph relates to the Code of Criminal Procedure, 1898, before it was amended by the Criminal Law Amendment Act, 1923. On the question whether the provisions of Chapter XXXVII of the Code of Criminal Procedure, 1898, comprise all the powers of the Chartered High Courts for the purpose of dealing with applications for a writ of *habeas corpus*, see *Mahomedalli Allabux v. Ismailji Abdulali*, I. L. R., 50 Bom., 616.]

This raises a somewhat curious point, for in *In the matter of John Anderson*. (1861), 30 L. J. (Q. B.), 129, it was held that as the legislation establishing a High Court of Judicature for Canada had not expressly abrogated the jurisdiction in *habeas corpus* possessed by the Courts at Westminster, those Courts were bound to grant the writ in a suitable case. This decision led to the enactment of 25 & 26 Vict., c. 20, The Habeas Corpus Act, 1862, which lays down that no writ of *habeas corpus* shall issue out of any Court in England to any colony or foreign dominion of the Crown in which any Court exists having power to issue and insure the due execution of such writ throughout such colony or dominion. See in this connection *R. v. the Earl of Crewe, Ex parte Sekgome*. [1910], 2 K. B., 576. If therefore the powers of the Chartered High Courts in India as to *habeas corpus* are in any way restricted, then it would appear that the Courts in England might entertain an application for such a writ in regard to extradition proceedings in this country. The practical objection of course would be that the fugitive criminal would have been handed over long before such an application could be made.

It may be noted that the efforts of the German Government to secure the extradition of Rudolf Stallmann which led in this country to the cases of *Rudolf Stallmann v. Emperor*, I. L. R., 38 Cal., 547, and *In re Rudolf Stallmann*, I. L. R., 39 Cal., 164, had a sequel in the English Courts. Stallmann, after his discharge in Calcutta, visited England and was there arrested

and committed by the Bow Street Magistrate for extradition on the same evidence and for the same offence as in the proceedings in India. He obtained a rule *nisi* for the issue of a writ of *habeas corpus*, and the proceedings thereon are reported in *Rex v. Governor of Brixton Prison. Ex parte Stallmann*, [1912], 3 K. B., 424. It was argued that, as he had been discharged in Calcutta, section 6 of The Habeas Corpus Act, 1679, prevented further proceedings. On this point the Court held that section 6 of The Habeas Corpus Act, 1679, only applies when the return to the second writ of *habeas corpus* raises for the opinion of the Court the same question with regard to the validity of the grounds of detention as the first. As to the proceedings before the Calcutta High Court, Lord Alverstone, C. J., said: "Proceedings in the nature of *habeas corpus* took place in India, and I desire to say that I do not draw any distinction between *habeas corpus* proceedings in England and those in the form in which they took place in India. I think in all probability the same law is applicable to them as to *habeas corpus*, at any rate so far as relates to any point we have to consider; but in the view I take of the effect of those proceedings and of the law, it is not material to consider at length whether there is or is not any distinction between them and proceedings in *habeas corpus*." It was further argued on behalf of Stallmann that Article IV of the Extradition Treaty with Germany forbids surrender if the person claimed has been "tried and discharged," but the Court held that a preliminary investigation in extradition proceedings is not included in the term "tried." It was also held that obtaining a bill of exchange for a certain sum of money, by false pretences by cheating at cards was an extradition crime within The Extradition Act, 1870, and the Treaty with Germany. Accordingly, therefore, the rule was discharged.

**Appeal to Privy Council.** An appeal lies to the Judicial Committee of the Privy Council from an order of a Court, discharging a fugitive criminal in extradition proceedings on a *habeas corpus*. For instances of such an appeal, see *Att.-G. for the Colony of Hong Kong v. Kwok-A-Sing*, (1873), L. R., 5 P. C., 179. *R. v. Mount*, (1875), L. R., 6 P. C., 283, an appeal from the Supreme Court of Victoria. *United States of America v. Gaynor*, (1905), A. C., 128, appeal by special leave from the Supreme Court of Lower Canada.

**Sufficiency of evidence in proceedings before magistrate.** The English and the Indian Courts are agreed in their attitude towards the findings of Magistrates in respect of evidence tendered in support of a demand for extradition. The guiding principle is that, if there is evidence and that evidence has been found sufficient by the Magistrate not to justify a conviction but to justify a trial, the Court in a proceeding for *habeas corpus* will not attempt to assess the value of that evidence. In *Servini's case (Rex v. Governor of Brixton Prison, Ex parte Servini, [1914], 1 K. B., 77)*, Ridley, J., quoted with approval the following passage from *R. v. Governor of Holloway Prison, Ex parte Siletti (87 L. T., 332)*: "Then, if he [the accused] applies for a *habeas corpus* and obtains a rule, the question arises what points may be taken upon the argument of the rule. For my part, I think the only question that this Court can entertain is the question of jurisdiction and applying that observation to this particular Act, all the accused person may say is that the crime with which he was charged was not a crime within the meaning of The Extradition Act—that is to say, that it did not come within the class of offences contemplated or that it was an offence of a political character and therefore was outside the Act altogether. He may also say that there was absolutely no evidence upon which the Magistrate could exercise his discretion as to whether he would commit or not. These things he may say; but I am clearly of opinion that there is one thing he cannot say—namely, that there is evidence one way and the other and that this Court ought to enter into the consideration as to whether the Magistrate has exercised his discretion as to it properly. That he cannot say."

"The question for us is not as to the weight of evidence but only whether there was evidence, and speaking for myself I think there was." *Per* Hewart, C. J., in *the King v. Godfrey, [1923], 1 K. B., 24, at p. 27.*

"Where the evidence is such that the Magistrate is entitled to commit, this Court will not review his decision because of evidence adduced since the committal." *Per* Hewart, C. J., in *the King v. Governor of Brixton Prison, Ex parte Perry, [1924], 1 K. B., 455, at pp. 459-60.*

"I have been asked to deal with the evidence upon which the Magistrate has made his report, it being said that the

conclusions he has arrived at are wrong..... I do not think I can question the report he has made. It is within his rights to make such a report as he thinks justified by the evidence taken by him." *Per Chaudhuri, J., in Tops v. Emperor, I. L. R., 46 Cal., 52, at p. 54.*

### "ought to be surrendered"

The general restrictions on surrender of criminals must be borne in mind.

(1) The surrender must be in accordance with the Treaty with the Foreign State as well as with the Extradition Acts, for the Order in Council under section 2 of the Act of 1870 embodies the Treaty in the Act. Thus when there was a provision in a treaty between England and Switzerland that no subject of the United Kingdom should be surrendered to Switzerland, a British subject could not be surrendered though otherwise the conditions required by the Act might have been complied with. *The Queen v. Wilson, (1877), 3 Q. B. D., 42.*

Treaties are drawn in duplicate in the languages of the contracting powers. The version however to be examined by the Court is the English version. "We are, in my opinion, bound to take the English version of the treaty as being the authentic version which the Courts of this country must consider." *Per Darling, J., in The King v. The Governor of Brixton Prison. Ex parte Mehamed Ben Romdan, [1912], 3 K. B., 190, at p. 196.*

(2) No surrender shall be made if the offence is one of a political character or if the Government of India or the Local Government is satisfied that the requisition has been made with a view to try or punish the fugitive for an offence of a political character—section 3(1) of The Extradition Act, 1870, read with Chapter II of the Indian Extradition Act, 1903.

(3) The law of the Foreign State or the treaty must provide that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to His Majesty's dominions, be detained or tried in that Foreign State for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded—section 3(2) of The Extradition Act, 1870.

(4) A person under trial or undergoing sentence in British India is not to be surrendered till the termination of his trial or sentence—section 3(3) of The Extradition Act, 1870.

**Corpus delicti.** Most treaties contain a provision for the return of the *corpus delicti* as well as other articles which may be needed as proof in the Foreign State. An order to this effect should be made before the Magistrate submits his report or he will be *functus officio*. *The Queen v. Lushington, Ex parte Otto*, [1894], 1 Q. B., 420. As to bankruptcy of the fugitive criminal, see *In re Borovsky and Weinbaum. Ex parte Sallaman*, [1902], 2 K. B., 312. In this case it was laid down that when a fugitive criminal, arrested in England on an extradition warrant for offences committed in Belgium, became bankrupt in England pending the hearing of the charge, the property found on him at the time of the arrest vested in his trustee in bankruptcy subject to this—that it might on his committal be ordered to be delivered up with him to be used as evidence of the crime at the trial, and in such case the Secretary of State in making the extradition order should stipulate for the return of the property after the trial in Belgium.

Discharge of fugitive criminals committed to prison after two months.

(10) If such a warrant as is prescribed by sub-section (8) is not issued and executed in the case of any fugitive criminal, who has been committed to prison under sub-section (4), within two months after such committal, the High Court may, upon application made to it on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Government of India or the Local Government, as the case may be, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

Power to Magistrate to issue warrant of arrest in certain cases.

4. (1) Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a Foreign State, he may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and on such evidence

as would, in his opinion, justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

(2) The Magistrate shall forthwith report the issue of a warrant under this section to the Local Government.

Issue of warrant to be reported forthwith.

(3) A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under section 3, sub-section (1).

Person arrested not to be detained unless order received.

(4) In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the crime of which he is accused or has been convicted.

Bail.

The difference in procedure when action is taken under section 3 (1) and sub-section (1) of this section is to be noticed. The ordinary procedure is that prescribed by section 3 (1), but as it is obvious that there must often be delay in presenting the diplomatic requisition for surrender some speedier mode of obtaining the arrest of fugitive criminals is necessary if the Act is to be effective, and this want is provided for by this sub-section.

It is to be noticed that in both cases a requisition is a necessary condition of effective proceedings. Unless an order made on a requisition under section 3 (1) is received within two months, the person arrested under this section must be discharged. All that can be done under this section is to detain the prisoner as a precautionary measure while the proceedings are regularized. The Magistrate can act either on a complaint or a police-report or in the last resort on his own knowledge or

suspicion, but as a rule he would act discreetly if he required a sworn statement of some kind.

The English practice as stated in Biron and Chalmers on Extradition, p. 19, is to require a sworn information showing a reasonable suspicion of the crime and the guilt of the alleged offender. "This information may be based upon a letter or telegram purporting to be from a diplomatic judicial or police authority stating—

- (1) the alleged offence ;
- (2) that a warrant has been granted for the apprehension of the alleged criminal ;
- (3) that his extradition will be demanded."

The Act does not require any special form of application to the Magistrate. In England the Consul or other accredited representative usually lays the information and also produces the documents on which it is founded. This is, for obvious reasons, the most satisfactory course, but in this country it must often be impossible, in which case a complaint made by a police-officer, together with the production of the documents on which it was founded, would seem the best substitute.

The issue of a warrant under this sub-section is a matter for the discretion of the Magistrate. In *The Queen v. Weil*, (1882), 9 Q. B. D., 701. at p. 706, Jessel, M. R., said : "There must be some evidence, but very little will do as it is merely for the purpose of detaining the man."

Power of Government to refuse to issue order under section 3 when crime of political character.

5. (1) If the Government of India or any Local Government is of opinion that the crime of which any fugitive criminal of a Foreign State is accused or alleged to have been convicted is of a political character, it may, if it think fit, refuse to issue any order under section 3, sub-section (1).

Power of Government to discharge any person in custody at any time.

(2) The Government of India or the Local Government may also at any time stay any proceedings taken under this Chapter and direct any warrant issued under this Chapter to be cancelled and the

person for whose arrest such warrant has been issued to be discharged.

This section reproduces *mutatis mutandis* the provisions of the latter part of section 7 of The Extradition Act, 1870. If at any time before the surrender Government is satisfied that the offence is of a political character or that the requisition has in fact been made with a view to try or punish the offender for an offence of a political character then the surrender cannot be made—section 3 (1) of The Extradition Act, 1870.

6. The expressions "the Police Magistrate" and "the Secretary of State" in section 3 of the Extradition Act, 1870, shall be read as referring respectively to the Magistrate directed to inquire into a case under section 3 of this Act, and to the Government of India or the Local Government, as the case may be.

References to  
"Police  
Magistrate"  
and "Secretary of State"  
in section  
3 of The  
Extradition  
Act, 1870.

This special provision must be read as modifying in British India the general rule laid down by section 17 (2) of The Extradition Act, 1870.

33 & 34  
Vict., c.  
52.



### CHAPTER III.

#### SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES.

Issue of  
warrant by  
Political  
Agents in  
certain cases.

7. (1) Where an extradition offence has been committed or is supposed to have been committed by a person, not being a European British subject, in the territories of any State not being a Foreign State, and such person escapes into or is in British India, and the Political Agent in or for such State issues a warrant, addressed to the District Magistrate of any district in which such person is believed to be, <sup>1</sup>[or if such person is believed to be in any Presidency-town to the Chief Presidency Magistrate of such town,] for his arrest and delivery at a place and to a person or authority indicated in the warrant, such Magistrate shall act in pursuance of such warrant and may give directions accordingly.

Execution  
of such  
warrant.

(2) A warrant issued as mentioned in sub-section (1) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall, <sup>1</sup>[be produced before the District Magistrate or Chief Presidency Magistrate, as the case may be, who shall record any statement made by him, such accused person shall then,] unless released in accordance with the provisions of this Act, be forwarded to the place and delivered to the person or authority indicated in the warrant.

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<sup>1</sup> The words included in square brackets were inserted by the Indian Extradition (Amendment) Act, 1913.

(3) The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a District Magistrate [or Chief Presidency Magistrate] under this section as if the warrant had been issued by himself.

Proclamation and attachment in case of persons absconding.

Section 23 of The Extradition Act, 1870, saves the powers of the Crown and of the Governor General in Council to make treaties for the extradition of criminals "with Indian native States or with other Asiatic States conterminous with British India."

If the Government of India (assuming it to possess such power) concluded an extradition treaty with any State other than those mentioned in section 23, it would appear that such treaty would require to be ratified by an Act of Parliament or of the Indian Legislature, in order to make its provisions effective in Municipal Law, see *Att.-G. of Hong Kong v. Kwok-A-Sing*, (1873), L. R., 5 P. C., 179.

For the purposes of this Chapter it is clear that the States to which it applies fall into two classes—

- (1) Those in which there is a Political Agent ;
- (2) Those in which there is no Political Agent.

In the first class two methods are open by which the surrender of a person can be secured—

- (i) By a warrant of a Political Agent under section 7 (1) where the offence is an extradition offence.
- (ii) By a requisition of the State through a Political Agent under section 9 whether the offence is or is not an extradition offence.

In the second class the only course open is by requisition under section 9.

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<sup>1</sup> The words in square brackets were inserted by sub-section (3) of section 2 of the Indian Extradition (Amendment) Act, 1913.

The procedure laid down by this Chapter is also subject to modification according as the State has or has not a treaty. Section 18 provides that nothing in this Chapter is to derogate from the provisions of any treaty and the treaty procedure in such a case is to modify the Act.

**“Extradition Offence.”** See definition in section 2 (b) and the First Schedule.

Among the offences specified in the First Schedule is piracy by the law of nations. This, according to Halsbury, “The Laws of England” Vol. 9, p. 523, “consists in destroying, attacking or taking a ship, or taking any part of its tackle or cargo, from the owners on the high seas, or within the jurisdiction of the Admiralty, by acts of violence or by putting in fear, and by a body of men acting without the authorisation of any State or politically organized society.” For a full discussion of the meaning, see Hall’s International Law (7th edition, 1917), page 267.

If the offence is mentioned in the Schedule but not in the treaty, then there seems no doubt that surrender can be granted. As a matter of comity any party to an extradition treaty may, in the absence of stipulated prohibition, render greater assistance than the treaty requires. On the other hand, if the treaty prohibits extradition for offences not specified therein, such a prohibition overrides the provisions of the Schedule by virtue of section 18.

Where a warrant was received under section 7 (1) from the Resident in Hyderabad alleging the offence of cheating, an offence which is included in the Schedule to this Act but not in the treaty with Hyderabad, it was held that the warrant was validly issued. “. . . . . the offence of cheating is an extradition offence so far as British India is concerned, notwithstanding its omission from Article IV of the treaty. Whether it is an extradition offence so far as the Hyderabad State is concerned, I really do not know, and for the purposes of this case it is quite immaterial to consider.” *Per* Heaton, J., in *In re Murlidhar Bhagandas*, I. L. R., 43 Bom., 310, at p. 320.

The converse case of an offence included in the treaty but not in the Schedule was decided in *Jaipal Bhagat v. King Emperor*, I. L. R., 1 Pat., 57, and is referred to in the notes on section 12.

**“Escapes into or is.”** For a decision on section 9 of the repealed Extradition Act, 1879, see *Empress v. Maganlal*, I. L. R., 6 Bom., 622. The language of the present Act appears to clear the point then argued.

Prior to the amendment made by the Indian Extradition (Amendment) Act, 1913, there was some doubt whether “District Magistrate” included a Chief Presidency Magistrate. In a case which came before the Calcutta High Court (*Balthasar v. Emperor*, I. L. R., 33 Cal., 1032), though the point was not directly raised, no objection was apparently taken to a warrant issued under section 7 to a Chief Presidency Magistrate, but the matter is now made clear.

**“Political Agent”.** Section 3 (40) of the General Clauses Act, 1897, defines “Political Agent” to include—

- “ (a) the principal officer representing the Government in any territory or place beyond the limits of British India, and
- (b) any officer of the Government of India or of any Local Government appointed by the Government of India or the Local Government to exercise all or any of the powers of a Political Agent for any place not forming part of British India under the law for the time being in force relating to foreign jurisdiction and extradition.”

The Magistrate has no discretion in issuing the warrant. He cannot refuse to act on the ground that there is no *prima facie* case against the person to be arrested or on the ground that the Political Agent has exceeded his powers under the section. But after production of the accused before him and after recording his statement he can act as provided in section 8A.

It is to be noticed that European British subjects are excluded from the procedure provided by this section. If a European British subject commits a crime in an Indian native state and escapes into British India he can, subject to the provisions of section 188 of the Code of Criminal Procedure, 1898, be prosecuted in British India, if the offence with which he is charged is an offence against British Indian law, whether the offence is an extradition offence or not.

Release on giving security.

8. (1) Where a Political Agent has directed by endorsement on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place, the Magistrate to whom the warrant is addressed shall on such security being given release such person from custody.

Magistrate to retain bond.

(2) Where security is taken under this section, the Magistrate shall certify the fact to the Political Agent who issued the warrant, and shall retain the bond.

Re-arrest in case of default.

(3) If the person bound by any such bond does not appear at the time and place specified, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and handed over to any person authorized by the Political Agent to take him into custody.

Deposit in lieu of bond, and forfeiture of bonds.

(4) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.

Power to report case for orders of Local Government.

8A. Notwithstanding anything contained in section 7, sub-section (2) or in section 8, when an accused person arrested in accordance with the provisions of section 7 is produced before the District Magistrate or Chief Presidency Magistrate, as the

case may be, and the statement (if any) of such accused person has been recorded, such Magistrate may, if he thinks fit, before proceeding further report the case to the Local Government and, pending the receipt of orders on such report, may detain such accused person in custody or release him on his executing a bond with sufficient sureties for his attendance when required.

This section was inserted by the Indian Extradition (Amendment) Act, 1913. As apparently the only material that the Magistrate would have to act upon would be the statement of the accused, it would seem that this power is not to be exercised save in special circumstances. Prior to the insertion of this section unless a warrant under section 7 was endorsed for bail under section 8, the Magistrate had no power to admit a person arrested thereunder to bail (*Balthasar v. Emperor*, I. L. R., 33 Cal., 1032). He now has power to do so if he reports the case to the Local Government but not otherwise.

Apart from the provisions of sections 8 and 8A the Magistrate has no power to grant bail.

“ Question 4, to put it briefly, is whether the Magistrate has power to admit an arrested person to bail apart from the provisions of sections 8 and 8A of the Act. I think he has no such power. The Act directs that the person, when arrested, shall, ‘ unless released in accordance with the provisions of this Act, ’ be forwarded to the place and delivered to the person or authority indicated in the warrant. Then by clause 1 of the same section it is provided that the Magistrate shall act in pursuance of the warrant. If he does these things it is not open to him to act under section 496 of the Criminal Procedure Code and to admit to bail otherwise than is provided in the Indian Extradition Act, and as the provisions in the Indian Extradition Act are so specific and so clear, there is in my mind no doubt that they override the provisions of section 496 of the Criminal Procedure Code and I would answer question 4 accordingly.” *Per Heaton, J.*, in *In re Murlidhar Bhagwandas*, I. L. R., 43 Bom., 310, at p. 321.

Requisitions  
by States not  
being For-  
eign States.

9. Where a requisition is made to the Government of India or to any Local Government by or on behalf of any State not being a Foreign State, for the surrender of any person accused of having committed an offence in the territories of such State, such requisition shall (except in so far as relates to the taking of evidence to show that the offence is of a political character or is not an extradition crime) be dealt with in accordance with the procedure prescribed by section 3 for requisitions made by the Government of any Foreign State as if it were a requisition made by any such Government under that section :

Provided that, if there is a Political Agent in or for any such State, the requisition shall be made through such Political Agent.

Under section 3 (37) of the General Clauses Act, 1897, " **offence** " means any act or omission made punishable by any law for the time being in force.

By section 2 (e) of this Act, " **offence** " includes any act wheresoever committed which would, if committed in British India, constitute an offence.

It appears, therefore, that the act in respect of which extradition is asked must be an offence by the law of both States. It is to be noticed that this section, unlike section 7, is not confined to extradition offences. The matter is left entirely to the discretion of the Government to decide whether extradition should be granted in respect of an offence. It is further to be noticed that the section applies to " **any person** " and differs from section 7 in not excluding European British subjects. This section is general as regards States not being Foreign States as defined in the Act. In the case of States not being Foreign States where there is a Political Agent it provides an alternative procedure to that provided by section 7. In the case of other non-Foreign States it provides the only method of securing surrender.

If there is a treaty, the treaty provisions must be observed. If there is no treaty, then the question of surrender or non-surrender is purely a question for the Government.

If there are treaty provisions prohibiting surrender, then no surrender can be made [*The Queen v. Wilson*, (1877), 3 Q. B. D., 42], but there is nothing to prevent the surrender of persons in cases not provided for by treaty. "But there is no such prohibition in the Treaty, and therefore section 9 does not in any way derogate from the provisions of the Treaty. The Act practically enhances the power of the Nepal Government to requisition the authorities in British territories to arrest and deliver fugitive offenders of their territory." *Per* Jwala Prasad, J., in *Jaipal Bhagat v. King Emperor* (I. L. R., 1 Pat., 57, at p. 63).

The only thing that the Magistrate can inquire into is whether the offence is an offence if committed within British India and whether there is *prima facie* ground for believing that the person arrested committed the offence.

No limit other than the condition imposed by section 11 is placed on the discretion of Government to surrender, but it is fairly clear that regard would be had to the general principles of extradition law. Thus probably a British subject would not be surrendered to an independent Asiatic power and, in the absence of treaty stipulation, even the surrender of a subject of the requisitioning power would be a matter of great caution.

"**Political offenders.**" As is pointed out in Biron and Chalmers' Law of Extradition, p. 10, the refusal to surrender political offenders has been part of the law of extradition from the earliest times, *cf.* the treaty provision on this subject there cited from the treaty between Egypt and the Hittites, B. C. 1327, and the refusal of Admetus, King of the Molossi, to surrender Themistocles. This restriction certainly seems a limitation which Government might impose on itself in exercising its powers under this section.

10. (1) If it appears to any Magistrate of the first class or any Magistrate empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in any State not

Power to Magistrates to issue warrants of arrest in certain cases.



being a Foreign State and that such person may lawfully be surrendered to such State, or that a warrant may be issued for his arrest under section 7, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Issue of  
warrant to  
be reported  
forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section, if the offence appears or is alleged to have been committed in the territories of a State for which there is a Political Agent, to such Political Agent and in other cases to the Local Government.

Limit of  
time of  
detention  
of person  
arrested.

(3) A person arrested on a warrant issued under this section shall not, without the special sanction of the Local Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with the procedure prescribed by section 9, or a warrant for the arrest of such person under section 7.

Bail.

(4) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the offence with which he is charged.

The following conditions must be satisfied before the Magistrate can act—

- (1) the person must be within the Magistrate's local jurisdiction;

- (2) he must be accused or suspected of having committed an offence in a non-Foreign State ;
- (3) the Magistrate must be of opinion that such person may be lawfully surrendered to such State ; or
- (4) that a warrant may be issued for his arrest under section 7.

The question whether when these conditions are satisfied a warrant should be issued or not is a matter for the discretion of the Magistrate—see notes on section 4 (1) *supra*.

**“Lawfully surrendered.”** These words are not very easy to interpret. It might perhaps be argued that as no surrender under section 9 can be made till a requisition has been received and an order made thereon, no warrant can be issued unless the Magistrate knows that such a requisition has been made, but this appears to be too narrow a view to adopt as it is calculated to defeat the objects of the section. The contrary view moreover is supported by the wording of sub-section (3) of this section which refers to the determination of the detention if an order under section 9 is not received within a specified period. Having regard to the context all that it would appear necessary for the Magistrate to satisfy himself is that the person is one who might be legally surrendered if a requisition for surrender were duly made. A narrower interpretation has however been placed on the not dissimilar language giving powers of arrest to the police under section 54(1), *seventhly*, of the Code of Criminal Procedure, 1898, *Subodh Chandra Roy Chowdhry v. Emperor*, I. L. R., 52 Cal., 319.

**“Warrant under section 7.”**

A warrant may be issued under section 7—

- (1) if there is a Political Agent in or for the State ;
- (2) if the offence is an extradition offence ;
- (3) if the person whose arrest is contemplated is not a European British subject.

And subject to the conditions imposed in this respect by the rules made by the Governor General in Council which are reproduced in the note to section 22, see page 68 *post*.

As to arrest without warrant it was held in *In re Mukund*, I. L. R., 19 Bom., 72, that the arrest without warrant of a person charged with having committed an offence in a Native State was illegal. This case was decided in 1894 before the enactment of

being a Foreign State and that such person may lawfully be surrendered to such State, or that a warrant may be issued for his arrest under section 7, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Issue of  
warrant to  
be reported  
forthwith.

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Limit of  
time of  
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of person  
arrested.

(3) A person arrested on a warrant issued under this section shall not, without the special sanction of the Local Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with the procedure prescribed by section 9, or a warrant for the arrest of such person under section 7.

Bail.

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- (3) the Magistrate must be of opinion that such person may be lawfully surrendered to such State ; or
- (4) that a warrant may be issued for his arrest under section 7.

The question whether when these conditions are satisfied a warrant should be issued or not is a matter for the discretion of the Magistrate—see notes on section 4 (1) *supra*.

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- (2) if the offence is an extradition offence ;
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And subject to the conditions imposed in this respect by the rules made by the Governor General in Council which are reproduced in the note to section 22, see page 68 *post*.

As to arrest without warrant it was held in *In re Mukund*, I. L. R., 19 Bom., 72, that the arrest without warrant of a person charged with having committed an offence in a Native State was illegal. This case was decided in 1894 before the enactment of

section 54, *seventhly*, of the Code of Criminal Procedure, 1898, which specifically provides for such an arrest in the circumstances specified therein, so the case in question is no longer law. See *Emperor v. Huseinally Niazally*, 7 Bombay Law Reporter, 463. In this connection compare the *obiter dictum* of Brett, L. J., in *The Queen v. Weil*, (1882), 9 Q. B. D., 701, at p. 706. "I doubt much whether a policeman is not justified in arresting a man without a warrant on reasonable grounds of suspicion of his having done that which would be a felony if committed in this country."

Surrender of person accused of, or undergoing sentence for, offence in British India.

11. (1) A person accused of an offence committed in British India, not being the offence for which his surrender is asked, or undergoing sentence under any conviction in British India, shall not be surrendered in compliance with a warrant issued by a Political Agent under section 7 or a requisition made by or on behalf of any State not being a Foreign State under section 9, except on the condition that such person be re-surrendered to the Government of India or the Local Government, as the case may be, on the termination of his trial for the offence for which his surrender has been asked :

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

Suspension of sentence on surrender.

(2) On the surrender of a person undergoing sentence under a conviction in British India, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

Compare section 3 (3) of The Extradition Act, 1870, with sub-section (1) of this section and observe the differences between the provisions.

It would seem that a person charged or imprisoned under the security sections of the Code of Criminal Procedure, 1898, would not come within the purview of this section. *Jhoja Singh v. Queen Empress*, I. L. R., 23 Cal., 493.

12. The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in the territories of any State not being a Foreign State, has escaped into or is in British India before his sentence has expired.

Application  
of Chapter to  
convicted  
persons.

The effect of this section is practically the same as that which is secured in The Extradition Act, 1870, by the definition of "fugitive criminal" in that Act, except that in proceedings under section 9 of the Indian Act it is not necessary that the person whose surrender is demanded should have been convicted of an extradition offence. In the case of *Jaipal Bhagat v. King Emperor*, I. L. R., 1 Pat., 57, a warrant was issued by the British Envoy at Nepal for the arrest of a Nepalese subject "accused of absconding from jail." The offence for which the accused had been convicted was the offence of murder. It was held that section 7 applies only to extradition offences and that, as absconding from jail was not mentioned in the Schedule to the Act, the accused could not be extradited on proceedings initiated by a warrant under section 7. It is to be observed that section 12 was not referred to either in the arguments or in the decision, and with due respect it must be stated that it is difficult to reconcile the decision with this section. It would appear, however, that had the proceedings been initiated by a requisition under section 9, no objection would have been entertained as to their validity. It is also of interest on this point to refer to the case of *Ex parte Moser*, [1915], 2 K. B., 698, a case which was not mentioned either in the arguments or in the judgment in *Jaipal Bhagat's* case. In *Moser's* case, it was held that the words "fugitive criminal convicted of an extradition crime" included a person who was convicted of an extradition crime but had escaped from prison. It was argued in this case that the words "convicted of a crime" referred to a person who has been convicted in his absence, as may happen under French law, and that "the

applicant was not a ' fugitive criminal ' but a convict who had escaped and prison breach is not an extraditable offence." Dealing with this argument, Avory, J., said: " Mr. Abinger admits that the applicant was convicted of this crime, that he was sent to prison, and that he broke out and fled to this country, but he contends that the offence of prison breach is not one of the offences specifically mentioned in the Extradition Treaty with France or in The Extradition Act, 1870. The answer to that contention is, first, that the applicant is a ' fugitive criminal ' within the meaning of section 10 of The Extradition Act, 1870. . . . . The case is clearly within section 10."

Abetment  
and attempt.

13. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

This section corresponds to the provision made by section 3 of The Extradition Act, 1873.

By section 3 (1) of the General Clauses Act, 1897, " abet " with its grammatical variations and cognate expressions has the same meaning as in the Indian Penal Code. By this definition therefore the relevant sections of the Indian Penal Code are incorporated by reference.

Lawfulness  
of custody  
and re-taking  
under  
warrant  
issued under  
Chapter:

14. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter, to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

This section reproduces the last paragraph of section 11 of The Extradition Act, 1870, and its language is more in accordance with English law than with that of India.

Any police-officer may arrest without warrant any person who has escaped or attempts to escape from lawful custody, see section 54 (1), *fifthly*, Code of Criminal Procedure, 1898.

15. The Government of India or the Local Government may, by order, stay any proceedings taken under this Chapter, and may direct any warrant issued under this Chapter to be cancelled, and the person for whose arrest such warrant has been issued to be discharged.

Power of Government to stay proceedings and discharge persons in custody.

Compare section 5 (2) of this Act.

It will be observed that there is no power similar to that conferred by section 3 (7) to refer points of law for the decision of the High Court. The question arises, what powers the High Court have in connection with orders made under this Chapter? The point was mentioned but not apparently decided in *Emperor v. Huseinally Niazally*, 7 Bombay Law Reporter, 463, where Russell, J., said that "this section (*i.e.* section 15) ousts the jurisdiction of this Court to inquire into the propriety of the warrant, but leaves open the question of the Court's power to interfere with the Magistrate's action, if it were proved that such action was consequent upon a warrant issued by a Political Agent which was plainly illegal." In the case of *Gulli Sahu v. Emperor*, I. L. R., 41 Cal., 400, the accused was arrested under section 10 on certain information received from the Nepal authorities and the Sub-divisional Magistrate directed his surrender. It was held that on the facts the procedure followed by the Sub-divisional Magistrate was not according to law and the Court said: "It is true that section 15 of the Act ousts the jurisdiction of this Court to inquire into the propriety of a warrant issued under Chapter III but, where the order of the Magistrate is sought to be justified under an authority supposed to be derived from the law but is, in fact, without jurisdiction not being sanctioned by it, we cannot but assume that the Magistrate has acted in his general jurisdiction and, as such, his order is revisable by this Court and liable to be set aside at the instance of the party whose liberty is affected by it." In *Gulli Sahu v. Emperor*, I. L. R., 42 Cal., p. 793, the petitioner was the same as in the case cited above. He had previously been released



as the result of the decision in the above case. After his release a warrant was issued by the Resident in Nepal under section 7 of the Act requesting his arrest and the case was again brought before the High Court in revision. The Court said: "It has not been suggested that we should or could revise what was done by the Political Agent but we have been asked to interfere with the proceedings of the District Magistrate in British India. But the District Magistrate's sole function was to execute the warrant and, notwithstanding his eccentric procedure and pronouncement, this in effect is what he has done and as, in so doing, he performed in accordance with his legal duty an executive act, we have no power to interfere in the exercise of our revisional powers. . . . In cases falling under this Chapter (Chapter III) a simpler procedure is prescribed where proceedings are initiated by a Political Agent. In that case no inquiry is directed and the determination of the Political Agent is regarded as sufficient subject to the Government's power of interference under section 15. . . . An examination of the whole Act and a comparison of its provisions confirm the view that, where a warrant is issued by a Political Agent under section 7, its execution by the District Magistrate in accordance with the Act is an executive act and the Court cannot interfere in revision with such execution." The Court, however, went on to point out that, though it could not interfere in revision, the absence of revisional powers did not affect its powers under section 491 of the Code of Criminal Procedure, 1898. As regards this the Court said: "There is nothing in this view which in any way conflicts with the power of the Court to interfere otherwise than by way of revision. Thus, the power of the Court to interfere under section 491 is untouched by this decision for that is a power not created by the Extradition Act and exercisable by way of revision but vested in Presidency Courts to protect the liberty of the subject in appropriate cases whatever may be the occasion, of the deprivation of which complaint is made. If a fugitive criminal arrested under section 7 of the Indian Extradition Act considers himself aggrieved, he can invoke the action of the Government under section 15. This Court, however, has no power of revision and so the rule must be discharged." In the case of *Jaipal Bhagat v. King Emperor*, I. L. R., 1 Pat., 57, the accused was arrested under warrant issued by the Resident in Nepal for absconding from jail. It was held that the absconding from jail was not an extradition

offence and that the arrest was therefore illegal. As regards section 15, the Court said: "No doubt section 15 of the Act empowers the Government of India and the Local Government to stay any proceedings taken under Chapter III of the Act and to direct any warrant to be cancelled and the person arrested to be discharged, but that does not necessarily oust the jurisdiction of this Court to interfere in a case where the action under the Act has not been taken under a valid warrant." For a further discussion of the powers of any High Court to set aside by writ of *habeas corpus* irregular proceedings purporting to have been taken under the Indian Extradition Act, 1903, reference is invited to the notes below section 3.

It is to be observed that proceedings before a Magistrate under this Chapter are proceedings in the exercise of the special jurisdiction conferred by the Act. They are no doubt "arising out of a criminal cause or matter"—see *Ex parte Alice Woodhall*, (1888), 20 Q. B. D., 832, *R. v. Fletcher*, (1876), 2 Q. B. D., 43, and *The King v. Governor of Brixton Prison, Ex parte Savarkar*, [1910], 2 K. B., 1056. It might, however, following the decision of Lord Mansfield in *Hartley v. Hooker*, (1777), 2 Cowp., 523, be possibly considered that the special jurisdiction set up does not constitute the Magistrate exercising jurisdiction under the Act "an inferior criminal court" for the purposes of the Code of Criminal Procedure, 1898. The point does not appear to have been argued, and in this connection it may be pointed out that in *The Norwich Corporation v. The Norwich Electric Tramways Co.*, [1906], 2 K. B., 119, the Court of Appeal laid down that where statutory provisions are made for determining a particular class of disputes the jurisdiction of the ordinary Courts in regard to such dispute is ousted. A further possible doubt is created by the fact that a High Court acting under section 439 of the Code of Criminal Procedure, 1898, may direct further inquiry, and this, in view of the fact that such Court has no jurisdiction under this Act, might, it is thought, create difficulties. In any event it would appear that a High Court where proceedings in the nature of a *habeas corpus* are available could consider the validity of a warrant, while it is possible that in the case of a Chartered High Court the question of interference under the Letters Patent and Charter Act might require to be considered.

Application  
of Chapter to  
offences  
committed  
before its  
commence-  
ment.

16. The provisions of this Chapter shall apply to an offence or to an extradition offence, as the case may be, committed before the passing of this Act, and to an offence in respect of which a Court of British India has concurrent jurisdiction.

Compare section 6 of The Extradition Act, 1870, and section 2 of the Act of 1873.

**“Before the passing of this Act.”**

This retrospective effect will be defeated by express treaty provisions—see section 18, *infra*, and *cf. In re Ashworth*, (1892), 8 T. L. R., 283.

**“Concurrent Jurisdiction,”** *e.g.*, in cases of piracy by the law of nations, or of the extra-territorial jurisdiction provided for in certain cases by the Indian Legislature in the exercise of its authority derived from special Statutes.

Section 6 of The Extradition Act, 1870, which this provision follows was inserted to defeat the decision in *Tivnan's case*, (1864), 5 B. and S., 645, in which it was held that when there was jurisdiction to try for an offence in both countries extradition could not be demanded. The persons whose surrender was sought in this case were charged with piracy by the law of nations.

In connection with this section, the provisions of section 188 of the Code of Criminal Procedure, 1898, must be borne in mind. This section runs as follows :—

“When a Native Indian subject of Her Majesty commits an offence at any place without and beyond the limits of British India, or when any British subject commits an offence in the territories of any Native Prince or Chief in India, or when a servant of the Queen (whether a British subject or not), commits an offence in the territories of any Native Prince or Chief in India, he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found :

Provided that, notwithstanding anything in any of the preceding sections of this Chapter, no charge as to

any such offence shall be inquired into in British India unless the Political Agent, if there is one for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be inquired into in British India; and, where there is no Political Agent, the sanction of the Local Government shall be required:

Provided, also, that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar to further proceedings against him under the Foreign Jurisdiction and Extradition Act, 1879, in respect of the same offence in any territory beyond the limits of British India."

This section, read with section 4 of the Indian Penal Code, regulates the extra-territorial criminal jurisdiction conferred upon Courts in British India. The power to make laws for "Native Indian subjects" of His Majesty anywhere, and for all subjects of His Majesty and all servants of the Crown within other parts of India is conferred on the Indian Legislature by section 65 of the Government of India Act.

17. (1) In any proceedings under this Chapter, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if duly authenticated, be received as evidence.

Receipt in evidence of exhibits, depositions and other documents.

(2) Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of Justice outside British India, or copies thereof, and certificates of, or judicial documents stating the fact of, conviction

Authentica-  
tion of the  
same.

before any such Court, shall be deemed duly authenticated,—

- (a) if the warrant purports to be signed by a Judge, Magistrate or officer of the State where the same was issued or acting in or for such State :
- (b) if the depositions or statements or copies thereof purport to be certified, under the hand of a Judge, Magistrate or officer of the State where the same were taken, or acting in or for such State, to be the original depositions or statements or to be true copies thereof, as the case may require :
- (c) if the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a Judge, Magistrate or officer of the State where the conviction took place or acting in or for such State :
- (d) if the warrants, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State where the same were respectively issued, taken or given.

Definition of  
“warrant.”

(3) For the purposes of this section, “warrant” includes any judicial document authorizing the arrest of any person accused or convicted of an offence.

**Sub-section (1).** Compare section 14 of The Extradition Act, 1870, and section 4 of The Extradition Act, 1873.

The words in brackets "whether received, etc.," embody the rule laid down in *In re Elise Counhaye*, (1872), L. R., 8 Q. B., 410. For as Blackburn, J., pointed out at p. 416: "In most European states, I believe, it is not the practice to take the depositions in the presence of the accused; at all events, the law is indifferent in the matter. I would add that it is for the Magistrate to give what weight he thinks proper to depositions so taken."

**Sub-section (2).** Compare section 15 of The Extradition Act, 1870, and see the notes to section 3, *supra*.

**Sub-section (3).** Compare the definition of "warrant" in section 26 of The Extradition Act, 1870, which this sub-section reproduces. The definition was considered in *R. v. Ganz*, (1882), 9 Q. B. D., 93, where it was held that a copy, sealed with the seal of the Department of Justice at the Hague, of the record of a certain order of a criminal court setting forth the charges against the accused and authorizing his arrest was a "warrant" within this definition.

18. Nothing in this Chapter shall derogate from the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in any case to which it applies, and the provisions of this Act shall be modified accordingly.

Chapter not  
to derogate  
from  
treaties.

This section saves the provision of any treaties (for a selection of such treaties, see Appendix C) with States with which the Chapter deals and also has the effect of incorporating any procedure which they may prescribe in the municipal law.

The meaning of the words 'derogate from' was considered in the case *In re Murlidhar Bhagwandas*, I. L. R., 43 Bom., 310. In this case the petitioner was arrested in pursuance of a warrant issued under section 7 of the Act by the Resident in Hyderabad. The offence alleged in the warrant was that of cheating which is mentioned in the Schedule to the Extradition Act but not in the Treaty with Hyderabad, and the following question was referred for the decision of the High Court by the Chief Presidency Magistrate:—

"Whether, in view of section 18 of the Indian Extradition Act, the offence of cheating is an extradition offence so far as

British India and Hyderabad State are concerned, notwithstanding its omission from Article IV of the Treaty dated 8th May, 1867, between the British Government and Hyderabad State."

Hayward, J., dealing with this point said: "The provision there [section 18] is that nothing shall be held to derogate from the provisions of the Extradition Treaty, and it has been argued that it would derogate from the Treaty to add to it the offence of cheating. That argument however does not commend itself to me as a reasonable interpretation of the words used. If it had been the intention to exclude the addition of any offence, then the word 'derogate' or 'take away from' could hardly have been used. In its place would have been substituted some such word as "modify." In the case of *Jaipal Bhagat v. King Emperor*, I. L. R., 1 Pat., 57, it was held that the warrant which was issued under section 7 by the Resident in Nepal for the arrest of a person who had absconded from jail was illegal as the offence of escaping from prison was not an extradition offence, but a valid requisition could have issued under section 9. Dealing with the question whether section 18 of the Extradition Act would have had the effect of controlling section 9 in that event, the Court said: "Reliance is placed upon section 18 of the Indian Extradition Act to show that section 9 should be deemed to have been controlled by the Treaty inasmuch as nothing in the Act has been declared to derogate from the provisions of the Treaty for the extradition of offenders. That contention does not appear to be sound. If the Treaty prohibits extradition for offences not specified therein such prohibition overrides the provisions of the Schedule by virtue of section 18; but there is no such prohibition in the Treaty, and therefore section 9 does not in any way derogate from the provisions of the Treaty. The Act practically enhances the power of the Nepal Government to requisition the authorities in British territories to arrest and deliver fugitive offenders of their territory."

In the case of *Rahamat Ali v. Emperor*, I. L. R., 47 Cal., 37, the provisions of section 18 were considered in connection with the Extradition Treaty of 1815 between France and England which relates to their East Indian possessions and the question was mainly whether the words "shall be delivered up" in Article IX of the Extradition Treaty of 1815 prescribed a summary procedure which should be valid instead of the procedure

provided by section 9. Regarding this point Walmsley, J., said : "The ninth section however is general. It directs that a requisition from a non-Foreign State shall be dealt with in the same manner as a requisition from a Foreign State. This direction seems to obliterate the difference between Foreign and non-Foreign States, but section 18 lays down that nothing in this Chapter shall derogate from the provisions of any Treaty for the extradition of offenders and the procedure provided by any such Treaty shall be followed in any case to which it applies and the provisions of this Act shall be modified accordingly. The question then is whether Article IX of the Treaty of 1815 is of such a nature as to exclude the East Indian possessions from the scope of section 9. It is true that the Article has none of the detail to be found in the Treaty of 1876, but that I have no doubt, is to be explained by the fact that the two Governments did not intend the procedure to be elaborate: the words are 'shall be delivered up' on the part of the British Government and 'shall be delivered on demand being made' upon the part of the French Government. I think these words clearly mean that the procedure was to be summary. . . . . In my opinion, therefore, the procedure that has been adopted in the present instance is in accordance with the terms of the Treaty of 1815."

In *In re Celeste Cullington*. I. L. R., 48 Cal., 328, in which Mr. Justice Buckland did not follow the decision in *Rahamat Ali's* case, the point as to what constituted a derogation from the provisions of a Treaty did not arise.

There are a number of extradition treaties with Native States in India, but, in view of the convenient procedure provided by section 7 of the Act, many Native States have by subsequent agreement agreed to abide by that procedure.

The treaty-making power of the Governor General of India in Council is expressly saved by section 23 of The Extradition Act, 1870. That power is possibly confined to treaties with Native States and Asiatic States conterminous with India.

The position of two European States, *viz.*, France and Portugal, which have Asiatic possessions bordering on British India, has been referred to on pages 6—8, *supra*.



## CHAPTER IV.

### RENDITION OF FUGITIVE OFFENDERS IN HIS MAJESTY'S DOMINIONS.

Application  
of The  
Fugitive  
Offenders  
Act, 1881.

19. For the purpose of applying and carrying into effect in British India the provisions of the Fugitive Offenders Act, 1881, the following provisions are hereby made :—

44 & 45  
Vict.,  
c. 69.

(a) the powers conferred on “Governors” of British possessions may be exercised by any Local Government :

(b) the powers conferred on a “Superior Court” may be exercised by any Judge of a High Court :

(c) the powers conferred on a “Magistrate” may be exercised by any Magistrate of the first class or by any Magistrate empowered by the Local Government in that behalf : and

(d) the offences committed in British India to which the Act applies, are piracy, treason and any offence punishable under the Indian Penal Code with rigorous imprisonment for a term of twelve months or more, or with any greater punishment.

XLV of  
1860.

“Fugitive Offenders Act, 1881.” Section 32 of The Fugitive Offenders Act, 1881, provides that if the legislature of a British possession passes any Act or Ordinance for the purpose of carrying into effect its provisions, an Order in Council may be

made declaring that such Act or Ordinance shall be recognized and given effect to throughout His Majesty's Dominions and on the high seas. An Order in Council, dated 7th March, 1904, declares that Chapter IV shall be recognised and be given effect to throughout His Majesty's Dominions and on the high seas as if it were a part of The Fugitive Offenders Act, 1881 (44 & 45 Vict., c. 69).

The Fugitive Offenders Act, 1881 (44 & 45 Vict., c. 69), provides, as regards the different parts of the dominions of the Crown a procedure for obtaining the surrender of fugitive offenders which *mutatis mutandis* closely resembles that provided by the Extradition Acts for the extradition of offenders from one State to another.

Part I of the Act deals with general provisions as to the return of fugitives, while Part II deals with a system of backing of warrants and applies only to "those groups of possessions to which by reason of their contiguity or otherwise, it may be applied by Order in Council under section 12."

**"Groups under The Act of 1881."** As pointed out on page 8 in addition to the powers conferred by section 36 of The Fugitive Offenders Act, 1881, there are other statutory powers enabling the Crown to apply the Act to foreign countries in which the Crown has jurisdiction and to places over which the Crown extends its protection. When the Act has been applied to any place in accordance with the above powers, the places to which it has been applied may, for the purposes of Part II, be grouped with any British possession.

The following Orders in Council group British India with other British possessions or other places for the purpose of Part II of the Act :

(1) Order in Council, 1918 (No. 28, dated 2nd January, 1918, S. R. & O., 1918, Vol. I, p. 425), grouping together British India, Ceylon, Hong Kong, The Straits Settlements, The Federated Malay States, Johore, Kedah and Perlis, Kelantan, Trengannu, Brunei, North Borneo, and Sarawak.

(2) The Bahrein Order in Council, 1913 (No. 891, dated 12th August, 1913, S. R. & O., 1913, p. 247), grouping together British India, Bahrein, Maskat, The Persian Coast and Islands and all other places on the shores of The Persian Gulf or The Gulf of Oman, and Aden.

(3) The Kuwait Order in Council, 1925 (No. 972, dated 17th March, 1925, S. R. & O., 1925, p. 445), grouping British India with Maskat, Bahrein, Kuwait, The Persian Coast and Islands, and all other places on the shores of The Persian Gulf or The Gulf of Oman, and Aden.

(4) The Maskat Order in Council, 1915 (No. 132, dated 3rd February, 1925, S. R. & O., 1915, Vol. I., p. 280), grouping together British India, Bahrein, Maskat, The Persian Coast and Islands and all other places on the shores of The Persian Gulf or The Gulf of Oman, and Aden.

(5) The Somaliland Order in Council, 1899 (No. 758, dated 7th October, 1899, S. R. & O.—Revised—1904, "Foreign Jurisdiction," p. 173), grouping together British India, Somaliland, Aden, Zanzibar and The East Africa and Uganda Protectorates.

(6) The Zanzibar Order in Council, 1924 (No. 1401, dated 8th December, 1924, S. R. & O., 1924, p. 434), grouping together British India, Zanzibar, The Kenya Colony and Protectorate, The Tanganyika Territory, Aden, Mauritius and all British possessions and Protectorates in Africa south of Equator.

The following provision was made by Article 8 (2) of the Irish Free State (Consequential Adaptation of Enactments) Order, 1923: "For the purposes of the Fugitive Offenders Acts, 1881 and 1915, in their application to any part of His Majesty's Dominions outside the British Islands, the Irish Free State and the British Islands exclusive of the Irish Free State shall be treated as if they were separate parts of His Majesty's Dominions."

"**Clause (d).**" As regards offences committed in British India this restricts the operation of section 13 of The Fugitive Offenders Act, 1881, but although it limits the British Indian authorities, it does not limit the offences in respect of which another British possession may demand surrender. The offences may however be limited by a limitation in the Order in Council, under section 12 of the Act, and reference should always be made to this Order.

## CHAPTER V.

### OFFENCES COMMITTED AT SEA.

20. Where the Government of any State outside India makes a requisition for the surrender of a person accused of an offence committed on board any vessel on the high seas which comes into any port of British India, the Local Government and any Magistrate having jurisdiction in such port and authorized by the Local Government in this behalf may exercise the powers conferred by this Act.

Requisition  
for surrender  
in case of  
offence  
committed at  
sea.

## CHAPTER VI.

### EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL COURTS OUTSIDE BRITISH INDIA.

Execution of commissions issued by Criminal Courts outside British India.

21. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in any country or place outside British India in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure for the time being in force with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term "suit" included a criminal proceeding :

Provided that this section shall not apply when the evidence is required for a Court or tribunal in any State outside India other than a British Court and the offence is of a political character.

1. Compare section 24, The Extradition Act, 1870, and notice that the section does not apply to non-British Courts outside India, when the offence is of a political character. "India" means British India together with any territories of any Native Prince or Chief under the Suzerainty of His Majesty exercised through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India [The General Clauses Act, 1897, section 3 (27)].

As to when the offence is of a "political character," see notes to section 3 (3), *supra*.

**"The provisions of the Code of Civil Procedure".** See Part III of the Code of Civil Procedure, 1908, and Order XXVI of Schedule I to that Act.

## CHAPTER VII.

### SUPPLEMENTAL.

22. (1) The Governor General in Council may <sup>Power to</sup> make rules to carry out the purposes of this Act. <sub>make rules.</sub>

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the removal of prisoners accused or in custody under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them ;

(b) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies ;

(c) the pursuit and arrest in British India, by officers of the Government or other persons authorized in this behalf, of persons accused of offences committed elsewhere ; and

(d) the procedure and practice to be observed in extradition proceedings.

(3) Rules made under this section shall be published in the *Gazette of India*, and shall thereupon have effect as if enacted by this Act.

The following rules have been made regulating the procedure of Political Agents for surrender of accused persons to Native States :—

<sup>1</sup> No. 1862-I.A., dated the 13th May, 1904.—In exercise of the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, and by section 22 of the Indian Extradition Act, 1903 (XV of 1903), and in supersession of all previous rules on the same subject, the Governor General in Council is pleased, with effect from the 1st day of June, 1904, to make the following rules, namely :—

1. The Political Agent shall not issue a warrant under section 7 of the Indian Extradition Act, 1903 (hereinafter referred to as “the said Act”), in any case which is provided for by Treaty, if the State concerned has expressly stated that it desires to abide by the procedure of the Treaty, nor in any case in which a requisition for surrender has been made by or on behalf of the State under section 9 of the said Act.

2. The Political Agent shall not issue a warrant under section 7 of the said Act except on a request preferred to him in writing either by or by the authority of the person for the time being administering the Executive Government of the State for which he is a Political Agent, or by any Court within such State which has been specified in this behalf by the Governor General in Council, or by the Governor of Madras or Bombay in Council, as the case may be, by notification in the official Gazette.

3. If the accused person is a British subject, the Political Agent shall, before issuing a warrant under section 7 of the said Act, consider whether he ought not to certify the case as one suitable for trial in British India and he shall, instead of issuing such a warrant, so certify the case, if he is satisfied that the interests of justice and the convenience of witnesses can be better served by the trial being held in British India.

4. The Political Agent shall, in all cases before issuing a warrant under section 7 of the said Act, satisfy himself, by preliminary inquiry or otherwise, that there is a *prima facie* case against the accused person.

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<sup>1</sup> See *Gazette of India*, 1904, Pt. I, p. 364.

5. (1) The Political Agent shall, before issuing a warrant under section 7 of the said Act, decide whether the warrant shall provide for the delivery of the accused persons :—

- (a) to the Political Agent or to a British officer subordinate to the Political Agent with a view to his trial by the Political Agent, or
- (b) to an authority of the State with a view to his trial by the State Courts.

(2) Before coming to a decision, the Political Agent shall take the following matters into consideration :—

- (i) the nature of the offence charged ;
- (ii) the delay and trouble involved in bringing the accused person before himself ;
- (iii) the judicial qualifications of the Courts of the State ;
- (iv) whether the accused person is a British subject or not ; and if he is a British (other than European British) subject, whether the Courts of the State, either by custom or by recognition, try such British subjects surrendered to them ; and
- (v) whether the Courts of the State have, by custom or by recognition, power to inflict the punishment which may be inflicted under the Indian Penal Code for an offence similar to that with which the accused person is charged.

6. Notwithstanding anything in rule 5, the Political Agent shall make the warrant provided for the delivery of the accused persons to himself (or to an officer subordinate to himself), or to an authority of the State concerned, as the case may be, if he is generally or specially instructed by the Governor General in Council to try an accused person himself or to make him over for trial to the proper Court of such State.

7. In the case of an accused person made over for trial to the Court of the State, the Political Agent shall satisfy himself that the accused receives a fair trial, and that the punishment inflicted on conviction is not excessive or barbarous ; and, if he is not so satisfied, he shall demand the restoration of the prisoner to his custody, pending the orders of the Governor General in Council.



8. Accused persons arrested in British India on warrants issued under section 7 or section 9 of the said Act shall be treated, as far as possible, in the same way as persons under trial in British India.

9. A person sentenced to imprisonment by a Political Agent shall, if a British subject, be conveyed to the most convenient prison under British administration, and shall there be dealt with as though he had been sentenced under the local law :

Provided always that this rule shall not be construed so as to give such person any right of appeal other than that allowed by the rules for the time being in force for regulating appeals from the decisions of the Political Agent.

<sup>1</sup> 10. Nothing in these rules shall be held to apply to areas in Native States under British Jurisdiction in which the Code of Criminal Procedure (Act V of 1898) is in force.

[See *Gazette of India*, 1904, Pt. I, p. 364.]

<sup>2</sup> No. 362-I., dated the 20th July, 1925.—In exercise of the powers conferred by section 22 of the Indian Extradition Act, 1903 (XV of 1903), the Governor General in Council is pleased to make the following rule, namely :—

(1) In any proceedings against any person under the provisions of the Indian Extradition Act, 1903, or of any treaty for the extradition of offenders, the Magistrate, acting in such proceedings and any police-officer authorised to arrest such person under the provisions of the said Act or of such treaty, may exercise in any place in British India in respect of any property in the possession of such person or of any other person which appears to such Magistrate or police-officer to have been the subject of or to be required for proof of the offence in respect of which the proceedings are being taken, the powers respectively of a Court and of an officer in charge of a police-station under the Code of Criminal Procedure, 1898, as if such property were property the production of which is necessary for the purposes of any investigation or trial under the said Code by or before such Court or officer ; and the provisions of the said Code, so far as they can be made applicable, shall apply to any summons or warrant issued

<sup>1</sup> Rule 10 was added by notification No. 254-I.B., dated the 26th January, 1912. [See *Gazette of India*, 1912, Pt. I, p. 75.]

<sup>2</sup> See *Gazette of India* 1925, Pt. I, p. 639.

in pursuance of this rule and to any search made under the authority of any warrant so issued and to the disposal of any property seized in any such search.

(2) Such Magistrate may send such property to the State to which such person is surrendered and shall have, in respect of any such property produced before him in such proceedings or returned by the aforesaid State, all the powers of disposal vested in a Court under the Code of Criminal Procedure, 1898, in respect of any property produced before it during an inquiry or trial.

23. Notwithstanding anything in the Code of Criminal Procedure, 1898, any person arrested without an order from a Magistrate and without a warrant in pursuance of the provisions of section 54, clause *seventhly*, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 10.

Detention of persons arrested under section 54, clause *seventhly*, of Act V, 1868.

Section 54, *seventhly*, of the Code of Criminal Procedure, 1898, runs as follows :—

“ Any police-officer may, without an order from a Magistrate, and without a warrant, arrest—

\* \* \* \* \*

*Seventhly*.—Any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of British India, which if committed in British India would have been punishable as an offence, and for which he is under any law relating to extradition or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India.”

“ Even if all the conditions necessary to satisfy the requirements of clause *seventhly* of section 54 of the Code of Criminal

Procedure are made out, and an arrest is validly and lawfully made, the police must forthwith produce the person arrested before a Magistrate . . . . it is clear, to my mind, that when an arrest is made under section 54, clause *seventhly*, on the supposition that the person arrested is liable to apprehension under the provisions of the Indian Extradition Act, he must forthwith be produced before a Magistrate in order that the detention may conform to the provisions of section 23 of the Act. This does not appear to have been done in this case. In my judgment, therefore, the arrest was improper, and the detention unwarranted by law, and Subodh Chandra Roy Chowdhry must at once be released and discharged from his bail." *Per Mookerjee, J.*, in *Subodh Chandra Roy Chowdhry v. Emperor*, I. L. R., 52 Cal., 319, at pp. 334—335.

**Repeals.**

24. [*Repealed by the Repealing and Amending Act, 1914.*]  
1914.

## THE FIRST SCHEDULE

### EXTRADITION OFFENCES.

[See section 2, clause (b), and Chapter III (*Surrender of Fugitive Criminals in case of States other than Foreign States*).]

[The sections referred to are the sections of the Indian Penal Code.]

Frauds upon creditors (section 206).

Resistance to arrest (section 224).

Offences relating to coin and stamps (sections 230 to 263A).

Culpable homicide (sections 299 to 304).

Attempt to murder (section 307).

Thagi (sections 310, 311).

Causing miscarriage and abandonment of child (sections 312 to 317).

Causing hurt (sections 323 to 333).

Wrongful confinement (sections 347, 348).

Kidnapping and slavery (sections 360 to 373).

Rape and unnatural offences (sections 375 to 377).

Theft, extortion, robbery, etc. (sections 378 to 414).

Cheating (sections 415 to 420).

Fraudulent deeds, etc. (sections 421 to 424).

Mischief (sections 425 to 440).

Lurking house-trespass (sections 443, 444).

Forgery, using forged documents, etc. (sections 463 to 477A).

[Desertion from any unit of Indian State Forces declared by the Governor General in Council, by notification in the *Gazette of India*, to be a unit desertion from which is an extradition offence.]

Piracy by law of nations.

Sinking or destroying a vessel at sea or attempting or conspiring to do so.

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<sup>1</sup> Substituted by section 2 of the Indian Extradition (Amendment) Act, 1922

Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Any offence against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the Governor General in Council by notification in the *Gazette of India* either generally for all States or specially for any one or more States.

The following notifications have been issued under the powers conferred by this Schedule :—

<sup>1</sup> No. 4806-I.B., dated the 17th November, 1919.—In exercise of the powers conferred by the First Schedule to the Indian Extradition Act, 1903 (XV of 1903), and in supersession of the Notification of the Government of India in the Foreign Department, No. 3361-I.A., dated 23rd December, 1898, the Governor General in Council is pleased to declare offences under the <sup>2</sup>Criminal Tribes Act, 1911 (III of 1911), to be extradition offences within the meaning of the Indian Extradition Act, 1903 (XV of 1903).

<sup>3</sup> No. 920-I.B., dated the 1st April, 1920.—In exercise of the powers conferred by the First Schedule of the Indian Extradition Act, 1903 (XV of 1903), the Governor General in Council is pleased to declare the offence of enticing or taking away or detaining with criminal intent a married woman, as defined in section 498 of the Indian Penal Code, to be an extradition offence within the meaning of the Indian Extradition Act, 1903, in the case of the Bikaner State.

Notifications No. 749-217-I., dated the 8th May, 1923 (See *Gazette of India*, 1923, Part I, p. 417); No. 1150-217-I., dated the 17th July, 1923 (See *Gazette of India*, 1923, Part I, p. 716); No. 259-I., dated the 26th May, 1924 (See *Gazette of India*, 1924; Part I, p. 407); No. 450-I., dated the 23rd September, 1924, (See *Gazette of India*, 1924, Part I, p. 853); No. 236-I., dated the

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<sup>1</sup> See *Gazette of India*, 1919, Pt. I, p. 2238.

<sup>2</sup> See now the Criminal Tribes Act, 1924 (VI of 1924).

<sup>3</sup> See *Gazette of India*, 1920, Pt. I, p. 590.

25th May, 1925 (See Gazette of India, 1925, Part I, p. 427); No. 343-I, dated the 6th July, 1925 (See Gazette of India, 1925, Part I, p. 595); No. 442-I, dated the 2nd September, 1925 (See Gazette of India, 1925, Part I, p. 795); and No. 520-I, dated the 28th October, 1925 (See Gazette of India, 1925, Part I, p. 1057) contain declarations in respect of units of the Indian State Forces desertion from which is declared to be an extradition offence.

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THE SECOND SCHEDULE.

*[Repealed by the Repealing and Amending Act, 1914.]*

X of 1914.

## PART III.

### EXTRADITION TO BRITISH INDIA.

IT will be necessary in the first instance to consider to what place the offender has fled from British India, and it will be convenient in this connection to follow the general classification which was adopted when dealing with extradition from British India.

Foreign  
States.

**2. Foreign States**—that is, States to which the Extradition Acts of 1870 and 1873 apply. In the case of these States, the first thing is to consider the terms of the treaty, which must be strictly followed. The offence must be an offence within the Extradition Acts as modified in this country and one also within the particular treaty with the country to which the offender has fled. In most cases it will be necessary to consider if the offender is a subject of the State in which he has taken refuge, as many countries decline to surrender their own subjects—*cf. The Queen v. Wilson, (1877), 3 Q. B. D., 42*, in which, there being an article in the treaty between Switzerland and the United Kingdom providing that the subjects of neither Power should be delivered up, it was held that no order could be made for the extradition of an English subject to Switzerland. A selection of the treaties with the more important countries is given in Appendix C, but it may be noticed that in two cases only of “Foreign States”

do both contracting parties engage to surrender their own subjects, *viz.*, in the treaties with Ecuador and the United States of America.

3. Application for extradition must be made to **Procedure.** Government who will, if they consider the case should be proceeded with, enter on diplomatic action with the object of procuring surrender. The application must be supported by the following documents :—

- (1) The warrant of arrest or certified copy of it, stating the offence in the terms of the treaty ;
- (2) In the case of an offender who has escaped after conviction, a certified copy of the record of the trial ; and
- (3) The other documents to support the demand for extradition. These will vary with the particular treaty which must be consulted in every case ; but they should always include formal evidence of identification, and, if possible, a photograph of the offender.

It may be noticed in this connection that the requirements laid down in Articles 8 and 10 of the Anglo-German treaty are much the same as those which are specified by the treaties with the following countries :—The Argentine Republic, Bolivia, Chili, Columbia, Guatemala, Hayti, Italy, Liberia, Mexico, Monaco, the Netherlands, Portugal, Roumania, Russia and Sweden and Norway.



It is important that all documents forwarded with the application for extradition should be prepared with great care and should be correct in form. If copies are sent, they should be authenticated by the Magistrate by whom the original record was made.

Non-Foreign  
States;  
Native States.

4. As regards non-Foreign States, it will be convenient first of all to consider the case which is most usual in this country, *viz.*, where the offender has fled into an Indian native State. In the term "Indian native State" are included the territories of any Native Prince or Chief under the suzerainty of His Majesty exercised through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India," [section 3 (27) of the General Clauses Act, 1897.] Here again if a treaty exists, its provisions must be followed. But it is to be remembered that there is nothing to prevent the State concerned doing more than the treaty requires, and the question of extradition from an Indian native State in this respect cannot be treated on quite the same footing as extradition from a Foreign State owing to the position of the Government of India, as the paramount power exercising political control over these States. A selection of extradition treaties with Indian native States will be found in Appendix D. In the absence of any treaty or other arrangement, the demand for the surrender of the fugitive who has taken refuge in an Indian native State is a matter for the discretion of Government; whether Government will make the demand, or, if made, ensure its compliance, rests

on considerations with which this book has little concern, but it may be assumed that certain general principles will be observed.

5. The correct procedure would appear to be Procedure. to make an application to the District or Chief Presidency Magistrate stating the facts of the case and furnishing such evidence as would establish a *primâ facie* case that the fugitive had committed the offence. Where a treaty exists limiting the class of offences for which extradition is granted, it should be made clear that the offence alleged to have been committed by the fugitive falls within the treaty and is described in such a way that it corresponds to the offence as described in the treaty.

6. As regards non-Foreign States not being Non-Foreign States. Indian native States the position as regards the French and Portuguese possessions has already been sufficiently described in the Chapter on Extradition from British India. As regards States which have treaties, the procedure will be regulated by treaty; and if there is no treaty the surrender can only be obtained on the ground of international comity. There have been a few cases, notably the case of the forger, Bidwell, surrendered by Spain in 1874, in which a foreign country with which England had no extradition treaty at the time has surrendered criminals as an act of international comity.

7. The general law dealing with the surrender Fugitive offenders in British possessions. of fugitive offenders between different parts of the British dominions is, as has been said before, The Fugitive Offenders Act, 1881. As regards India this

Act is supplemented by section 19 of The Indian Extradition Act, 1903.

Two methods  
of procedure.

8. In considering the question of the surrender to British India of persons charged with the commission of an offence in that country who have escaped to other parts of the British dominions, the first question for consideration is whether proceedings should be taken under Part I of the Act or under Part II. Part II, which provides for a grouping of British possessions and a simpler system of procedure by means of the inter-colonial backing of warrants, can only be adopted if the offender is in a place with which India has been grouped by an Order in Council under section 12 of the Act.

Procedure  
under Part  
I of the Act.

9. If the case is one to which Part I applies a charge should be preferred before a Magistrate of the class specified in section 19(c) of The Indian Extradition Act, 1903, *i.e.*, before a first class Magistrate or some Magistrate specially empowered in that behalf. Evidence should be adduced and carefully recorded under section 512 of the Code of Criminal Procedure, 1898, and in exercise of the power conferred by section 29 of the Fugitive Offenders Act, 1881, and should establish a *primâ facie* case that the offence has been committed by the accused. The offence must be one of those specified in section 19(d) of the Indian Act. It is most important to remember that what has to be established in the case of fugitive offenders, as distinguished from that of persons whose extradition is sought, is not that the facts establish a crime in the possession from which

rendition is sought but that the facts constitute in British India an offence of the kind specified. The Magistrate must therefore record evidence showing that the facts constitute an offence according to the law of British India, and that such offence falls within section 19(d) of the Indian Extradition Act, 1903. The rule as to proof of foreign law applies to Acts of the Indian legislature, and the proper mode of proving that the facts constitute an offence in British India is not by the production of the Act relied on but by skilled evidence: see *The King v. The Governor of Brixton Prison. Ex parte Percival*, [1907], 1 K. B., 696. The deposition of a judge, advocate, barrister or some official holding a post from which a knowledge of law may be presumed should be recorded. Where a police-officer is to be sent to identify the fugitive, it is very desirable that the evidence should be taken in his presence so that he may be able to give evidence as to the correctness of the documents.

10. If the Magistrate is satisfied—

- (1) that the offence with which the fugitive is charged falls within section 19(d) of the Indian Extradition Act, 1903;
- (2) that the fugitive has actually fled from, or is not in, British India;
- (3) that there is *primâ facie* evidence for believing that the offence in question was committed by the fugitive;

Issue of  
warrant by  
Magistrate.

he should issue a warrant in the form prescribed by section 75 of the Code of Criminal Procedure, 1898.

It should be directed to the police-officer who is to serve it. Copies of the complete record should be made and duly authenticated by the Magistrate and, if possible, the police-officer should be present when the Magistrate signs the certificates that the copies are true copies. If the police-officer is not so present, the copies must be sealed as required by the latter part of section 29 of The Fugitive Offenders Act, 1881. It is the practice in England to require a complainant other than the Public Prosecutor to enter into an indemnity-bond to the Secretary in the Home Department for the expenses incurred in obtaining the surrender, and this course should probably be followed in India also. The warrant and other papers are transmitted to the authority with which it rests to take further action.

Application  
of Part II of  
the Act to  
British India.

11. The procedure provided by Part II of the Act applies to groups composed of British possessions and territories in which His Majesty for one reason or another exercises foreign jurisdiction. A list of the groups in which British India is included has been given in the notes on section 19. In cases where this Part applies, the procedure is much simplified as regards the possession in which the warrant is to be served; otherwise it is much the same as regards British India. The application is made to a Magistrate of the first class or a Magistrate specially empowered in this behalf *vide* section 19(c) of the Indian Extradition Act, 1903. The Magistrate records evidence to establish a *prima facie* case as in the procedure under Part I. It is to be noticed that though The Fugitive Offenders Act, 1881,

provides in section 13 that the procedure of Part II shall be applicable to any offence, yet section 19(d) of the Indian Extradition Act, 1903, effects a local modification of that provision and an offence must be of the class described in section 19(d) whether action is taken under Part I or Part II of the Act. The warrant should, when issued, be in the same form as under Part I. This warrant is then produced to a Magistrate in the possession into which the offender has fled, who, if satisfied that the provisions of section 13 of the Fugitive Offenders Act, 1881, have been complied with, endorses the warrant as provided by that Act, and then the warrant can be served within the jurisdiction of the endorsing Magistrate. In connection with this procedure, the following points are important—

- (i) the warrant must show on its face that it has been issued by a Magistrate having authority to issue the same ;
- (ii) the officer taking the warrant or some person accompanying him must be able to identify the offender and speak to the signature and seal on the warrant ;
- (iii) in view of section 19 of The Fugitive Offenders Act, 1881, in cases where there is likely to be any question, enough documentary evidence should be in possession of the person taking the warrant to enable a *primâ facie* case to be established.

12. In cases where time is of the greatest importance, the procedure provided by section 4

Provisional  
arrest.

or section 16 of The Fugitive Offenders Act, 1881, can be employed, but it should be borne in mind that the formal proceedings must follow as quickly as possible.

Trial of a  
fugitive  
offender  
brought back  
to British  
India.

13. The trial of the fugitive offender who is brought back to British India is conducted like any other criminal trial, *i.e.*, in accordance with the provisions of the Code of Criminal Procedure, 1898. It seems that a prisoner may be tried even if the name under which he is surrendered is not his true name—*Reg. v. Finkelstein and Truscovitch*, (1886), 16 Cox, C. C., 107. In that case Truscovitch was received into custody from the Swedish police at Stockholm where he was in prison, having been arrested under the name of Dubois, under which name he was extradited. It was argued that the extradition warrant having been issued against a person who was named Dubois who was proved to be in existence, and it having been proved that Truscovitch was not that person, he was not properly arrested and the Court had no jurisdiction; but the Common Sergeant overruled the objection.

## APPENDIX "A."

### THE EXTRADITION ACT, 1870.

(33 & 34 VICT., c. 52.)

*An Act for amending the Law relating to the Extradition of  
Criminals.*

[9th August, 1870.]

[*Preamble and enacting words : Repealed as to the United Kingdom* 56 & 57 Vict.,  
*by the Statute Law Revision Act, 1893.* c. 54.]

#### *Preliminary.*

1. This Act may be cited as "The Extradition Act, 1870." Short title.

2. Where an arrangement has been made with any foreign state with respect to the surrender to such state of any fugitive criminals, Her Majesty may, by Order in Council, direct that this Act shall apply in the case of such foreign state.

Where  
arrangement  
for surrender  
of criminals  
made, Order  
in Council  
to apply Act.

Her 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 Her Majesty's dominions specified in the order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient.

Every such order shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

Every such order shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then next meeting of Parliament, and shall also be published in the London Gazette.



Restrictions  
on surrender  
of criminals.

3. The following restrictions shall be observed with respect to the surrender of fugitive criminals :—

- (1) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the police magistrate or the court before whom he is brought on *habeas corpus*, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character :
- (2) A fugitive criminal shall not be surrendered to a foreign state unless provision is made by the law of that state or by arrangement that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in that foreign state for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded :
- (3) A fugitive criminal who has been accused of some offence within English jurisdiction not being the offence for which his surrender is asked, or is undergoing sentence under any conviction in the United Kingdom, shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise :
- (4) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

Provisions of  
arrangement  
for surrend-  
er.

4. An Order in Council for applying this Act in the case of any foreign state shall not be made unless the arrangement—

- (1) provides for the determination of it by either party to it after the expiration of a notice not exceeding one year ; and
- (2) is in conformity with the provisions of this Act, and in particular with the restrictions on the surrender of fugitive criminals contained in this Act.

5. When an order applying this Act in the case of any foreign state has been published in the London Gazette, this Act, after the date specified in the order, or if no date is specified, after the date of the publication shall, so long as the order remains in force, but subject to the limitations, restrictions, conditions, exceptions, and qualifications, if any, contained in the order, apply in the case of such foreign state. An Order in Council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this Act, and that this Act applies in the case of the foreign state mentioned in the order, and the validity of such order shall not be questioned in any legal proceedings whatever.

Publication  
and effect of  
order.

6. Where this Act applies in the case of any foreign state, every fugitive criminal of that state who is in or suspected of being in any part of Her Majesty's dominions, or that part which is specified in the order applying this Act, (as the case may be), shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty's dominions over that crime.

Liability of  
criminal to  
surrender.

7. A requisition for the surrender of a fugitive criminal of any foreign state, who is in or suspected of being in the United Kingdom, shall be made to a Secretary of State by some person recognised by the Secretary of State as a diplomatic representative of that foreign state. A Secretary of State may, by order under his hand and seal, signify to a police magistrate that such requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal.

Order of  
Secretary of  
State for  
issue of  
warrant in  
United  
Kingdom if  
crime is not  
of a political  
character.

If the Secretary of State is of opinion that the offence is one of a political character, he may, if he think fit, refuse to send any such order, and may also at any time order a fugitive criminal accused or convicted of such offence to be discharged from custody.

8. A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in or suspected of being in the United Kingdom, may be issued—

Issue of  
warrant by  
police  
magistrate,  
justice, etc.

- (1) by a police magistrate on the receipt of the said order of the Secretary of State, and on such

evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in England ; and

- (2) by a police magistrate or any justice of the peace in any part of the United Kingdom, on such information or complaint and such evidence or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction.

Any person issuing a warrant under this section without an order from a Secretary of State, shall forthwith send a report of the fact of such issue together with the evidence and information or complaint, or certified copies thereof, to a Secretary of State, who may if he think fit order the warrant to be cancelled, and the person who has been apprehended on the warrant to be discharged.

A fugitive criminal, when apprehended on a warrant issued without the order of a Secretary of State, shall be brought before some person having power to issue a warrant under this section, who shall by warrant order him to be brought and the prisoner shall accordingly be brought before a police magistrate.

A fugitive criminal apprehended on a warrant issued without the order of a Secretary of State shall be discharged by the police magistrate, unless the police magistrate, within such reasonable time as, with reference to the circumstances of the case, he may fix, receives from a Secretary of State an order signifying that a requisition has been made for the surrender of such criminal.

Hearing of  
case and  
evidence of  
political  
character of  
crime.

9. When a fugitive criminal is brought before the police magistrate, the police magistrate shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner were brought before him charged with an indictable offence committed in England.

The police magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

10. In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, justify the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged.

Committal or discharge of prisoner.

In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, prove that the prisoner was convicted of such crime, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged.

If he commits such criminal to prison, he shall commit him to the Middlesex House of Detention, or to some other prison in Middlesex, there to await the warrant of a Secretary of State for his surrender, and shall forthwith send to a Secretary of State a certificate of the committal, and such report upon the case as he may think fit.

11. If the police magistrate commits a fugitive criminal to prison, he shall inform such criminal that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *habeas corpus*.

Surrender of fugitive to foreign state by warrant of Secretary of State.

Upon the expiration of the said fifteen days, or, if a writ of *habeas corpus* is issued, after the decision of the court upon the return to the writ, as the case may be, or after such further period as may be allowed in either case by a Secretary of State, it shall be lawful for a Secretary of State, by warrant under his hand and seal, to order the fugitive criminal, if not delivered on the decision of the court, to be surrendered to such person as may in his opinion be duly authorized to receive the fugitive criminal by the foreign state from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly.

It shall be lawful for any person to whom such warrant is directed and for the person so authorized as aforesaid to receive; hold in custody, and convey within the jurisdiction of such foreign state the criminal mentioned in the warrant;

and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of that part of Her Majesty's dominions to which he escapes may be retaken upon an escape.

Discharge of persons apprehended if not conveyed out of United Kingdom within two months.

12. If the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the United Kingdom within two months after such committal, or, if a writ of *habeas corpus* is issued, after the decision of the court upon the return to the writ, it shall be lawful for any judge of one of Her Majesty's Superior Courts at Westminster, upon application made to him by or on behalf of the criminal, and upon proof that reasonable notice of the intention to make such application has been given to a Secretary of State, to order the criminal to be discharged out of custody, unless sufficient cause is shown to the contrary.

Execution of warrant of police magistrate.

13. The warrant of the police magistrate issued in pursuance of this Act may be executed in any part of the United Kingdom in the same manner as if the same had been originally issued or subsequently indorsed by a justice of the peace having jurisdiction in the place where the same is executed.

Depositions to be evidence.

14. Depositions or statements on oath, taken in a foreign state, and copies of such original depositions or statements, and foreign certificates of or judicial documents stating the fact of conviction, may, if duly authenticated, be received in evidence in proceedings under this Act.

Authentication of depositions and warrants.

15. Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of, or judicial documents stating the fact of, a conviction, shall be deemed duly authenticated for the purposes of this Act if authenticated in manner provided for the time being by law or authenticated as follows :

- (1) If the warrant purports to be signed by a judge, magistrate, or officer of the foreign state where the same was issued ;
- (2) If the depositions or statements or the copies thereof purport to be certified under the hand of a judge,

magistrate, or officer of the foreign state where the same were taken to be the original depositions or statements, or to be true copies thereof, as the case may require ; and

- (3) If the certificate of, or judicial document stating the fact of, conviction purports to be certified by a judge, magistrate, or officer of the foreign state where the conviction took place ; and

if in every case the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be) are authenticated by the oath of some witness or by being sealed with the official seal of the minister of justice, or some other minister of state : And all courts of justice, justices, and magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof.

*Crimes committed at Sea.*

16. Where the crime in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel on the high seas which comes into any port of the United Kingdom, the following provisions shall have effect :

Jurisdiction  
as to crimes  
committed  
at sea.

1. This Act shall be construed as if any stipendiary magistrate in England or Ireland, and any sheriff or sheriff substitute in Scotland, were substituted for the police magistrate throughout this Act, except the part relating to the execution of the warrant of the police magistrate :
2. The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime :
3. If the fugitive criminal is apprehended on a warrant issued without the order of a Secretary of State, he shall be brought before the stipendiary magistrate, sheriff or sheriff substitute who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port.

*Fugitive Criminals in British Possessions.*

Proceedings  
as to fugitive  
criminals  
in British  
possessions.

17. This Act, when applied by Order in Council, shall, unless it is otherwise provided by such order, extend to every British possession in the same manner as if throughout this Act the British possession were substituted for the United Kingdom or England, as the case may require, but with the following modifications, namely :

- (1) The requisition for the surrender of a fugitive criminal who is in or suspected of being in a British possession may be made to the governor of that British possession by any person recognised by that governor as a consul-general, consul, or vice-consul, or (if the fugitive criminal has escaped from a colony or dependency of the foreign state on behalf of which the requisition is made) as the governor of such colony or dependency :
- (2) No warrant of a Secretary of State shall be required, and all powers vested in, or acts authorized or required to be done under this Act by, the police magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the governor of the British possession alone :
- (3) Any prison in the British possession may be substituted for a prison in Middlesex :
- (4) A judge of any court exercising in the British possession the like powers as the Court of Queen's Bench exercises in England may exercise the power of discharging a criminal when not conveyed within two months out of such British possession.

Saving of  
law of  
British pos-  
sessions.

18. If by any law or ordinance, made before or after the passing of this Act by the legislature of any British possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such British possession, Her Majesty may, by the Order in Council applying this Act in the case of any foreign state, or by any subsequent order, either—

suspend the operation within any such British possession of this Act, or of any part thereof, so far as it

relates to such foreign state, and so long as such law or ordinance continues in force there, and no longer ;

or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of this Act.

### *General Provisions.*

19. Where, in pursuance of any arrangement with a foreign state, any person accused or convicted of any crime which, if committed in England, would be one of the crimes described in the first schedule to this Act is surrendered by that foreign state, such person shall not, until he has been restored or had an opportunity of returning to such foreign state, be triable or tried for any offence committed prior to the surrender in any part of Her Majesty's dominions other than such of the said crimes as may be proved by the facts on which the surrender is grounded.

Criminal surrendered by foreign state not triable for previous crime.

20. The forms set forth in the second schedule to this Act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and in the case of a British possession may be so used, *mutatis mutandis*, and when used shall be deemed to be valid and sufficient in law.

As to use of forms in second schedule.

21. Her Majesty may, by Order in Council, revoke or alter, subject to the restrictions of this Act, any Order in Council made in pursuance of this Act, and all the provisions of this Act with respect to the original order shall (so far as applicable) apply, *mutatis mutandis*, to any such new order.

Revocation, etc., of Order in Council.

22. This Act (except so far as relates to the execution of warrants in the Channel Islands) shall extend to the Channel Islands and Isle of Man in the same manner as if they were part of the United Kingdom ; and the royal courts of the Channel Islands are hereby respectively authorised and required to register this Act.

Application of Act in Channel Islands and Isle of Man.

23. Nothing in this Act shall affect the lawful powers of Her Majesty or of the Governor General of India in Council to make treaties for the extradition of criminals with Indian native states, or with other Asiatic states conterminous with

Saving for Indian treaties.



British India, or to carry into execution the provisions of any such treaties made either before or after the passing of this Act.

Power of foreign state to obtain evidence in United Kingdom.

24. The testimony of any witness may be obtained in relation to any criminal matter pending in any court or tribunal in a foreign state in like manner as it may be obtained in relation to any civil matter under the Foreign Tribunals Evidence Act, 1856 ;

19 & 20  
Vict.,  
c. 113.

and all the provisions of that Act shall be construed as if the term "civil matter" included a criminal matter, and the term "cause" included a proceeding against a criminal : Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

Foreign state includes dependencies.

25. For the purposes of this Act, every colony, dependency and constituent part of a foreign state, and every vessel of that state, shall (except where expressly mentioned as distinct in this Act) be deemed to be within the jurisdiction of, and to be part of, such foreign state.

Definition of terms.

26. In this Act, unless the context otherwise requires,—

"British possession:"

The term "British possession" means any colony, plantation, island, territory, or settlement within Her Majesty's dominions, and not within the United Kingdom, the Channel Islands, and Isle of Man ; and all colonies, plantations, islands, territories, and settlements under one legislature, as hereinafter defined, are deemed to be one British possession :

"Legislature:"

The term "legislature" means any person or persons who can exercise legislative authority in a British possession, and where there are local legislatures as well as a central legislature, means the central legislature only :

"Governor:"

The term "governor" means any person or persons administering the government of a British possession, and includes the governor of any part of India :

"Extradition crime:"

The term "extradition crime" means a crime which, if committed in England or within English jurisdiction, would be one of the crimes described in the first schedule to this Act :

The terms "conviction" and "convicted" do not include "Conviction:" or refer to a conviction which under foreign law is a conviction for contumacy, but the term "accused person" includes a person so convicted for contumacy :

The term "fugitive criminal" means any person accused "Fugitive criminal:" or convicted of an extradition crime committed "Fugitive criminal of a foreign state:" within the jurisdiction of any foreign state who is in or is suspected of being in some part of Her Majesty's dominions; and the term "fugitive criminal of a foreign state" means a fugitive criminal accused or convicted of an extradition crime committed within the jurisdiction of that state :

The term "Secretary of State" means one of Her "Secretary of State:" Majesty's principal Secretaries of State :

The term "police magistrate" means a chief magistrate "Police magistrate:" of the metropolitan police courts, or one of the other magistrates of the metropolitan police court in Bow Street :

The term "justice of the peace" includes in Scotland "Justice of the peace:" any sheriff, sheriff substitute, or magistrate :

The term "warrant," in the case of any foreign state, "Warrant." includes any judicial document authorizing the arrest of a person accused or convicted of crime.

### *Repeal of Acts.*

27. The Acts specified in the third schedule to this Act "Repeal of Acts in third schedule." are hereby repealed as to the whole of Her Majesty's dominions; and this Act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the Acts so repealed) shall apply (as regards crimes committed either before or after the passing of this Act), in the case of the foreign states with which those treaties are made, in the same manner as if an Order in Council referring to such treaties had been made in pursuance of this Act, and as if such order had directed

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<sup>1</sup> This definition was repealed as to the United Kingdom by The Statute Law Revision Act, 1893.

that every law and ordinance which is in force in any British possession with respect to such treaties should have effect as part of this Act.

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## SCHEDULES.

### FIRST SCHEDULE.<sup>2</sup>

#### *List of Crimes.*

The following list of crimes is to be construed according to the law existing in England, or in a British possession (as the case may be) at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act :—

Murder, and attempt and conspiracy to murder.

Manslaughter.

Counterfeiting and altering money and uttering counterfeit or altered money.

Forgery, counterfeiting, and altering, and uttering what is forged or counterfeited or altered.

Embezzlement and larceny.

Obtaining money or goods by false pretences.

Crimes by bankrupts against bankruptcy law.

Fraud by a bailee, banker, agent, factor, trustee, or director or member, or public officer of any company made criminal by any Act for the time being in force.

Rape.

Abduction.

Child stealing.

Burglary and house-breaking.

Arson.

Robbery with violence.

Threats by letter or otherwise with intent to extort.

Piracy by law of nations.

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<sup>1</sup> The proviso to this section was repealed by The Statute Law Revision Act, 1883.

<sup>2</sup> The offence of bribery is deemed to be included in the Schedule by section 1 of The Extradition Act, 1906.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

#### SECOND SCHEDULE.

##### *Form of Order of Secretary of State to the Police Magistrate.*

To the chief magistrate of the metropolitan police courts or other magistrate of the metropolitan police court in Bow Street [or the stipendiary magistrate at .]

WHEREAS, in pursuance of an arrangement with , referred to in an Order of Her Majesty in Council, dated the day of , a requisition has been made to me, , one of Her Majesty's Principal Secretaries of State, by , the diplomatic representative of , for the surrender of , late of , accused [or convicted] of the commission

of the crime of within the jurisdiction of :  
Now I hereby, by this my order under my hand and seal, signify to you that such requisition has been made, and require you to issue your warrant for the apprehension of such fugitive, provided that the conditions of the Extradition Act, 1870, relating to the issue of such warrant, are in your judgment complied with.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this day of 18 .

##### *Form of Warrant of Apprehension by Order of Secretary of State.*

To all and each of the constables of the metropolitan Metropolitan police force [or of the county or borough of police district, [or county or borough of ] to wit

WHEREAS the Right Honourable one of Her Majesty's Principal Secretaries of State, by order

under his hand and seal, hath signified to me that requisition hath been duly made to him for the surrender of  
 , late of , accused

[*or convicted*] of the commission of the crime of  
 within the jurisdiction of : This is therefore to command you in Her Majesty's name forthwith to apprehend the said  
 pursuant to the Extradition Act, 1870, wherever he may be found in the United Kingdom, or Isle of Man, and bring him before me or some other [*\*magistrate sitting in this court*], to show cause why he should not be surrendered in pursuance of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at [*\*Bow Street, one of the police courts of the metropolis*] this  
 day of 18 .

J. P.

*Form of Warrant of Apprehension without Order of Secretary of State.*

Metropolitan  
 police dis-  
 trict, [*or*  
 county *or*  
 borough of  
 ] to wit.

To all and each of the constables of the metropolitan police force [*or of the county or borough of* ] .

WHEREAS it has been shown to the undersigned, one of Her Majesty's justices of the peace in and for the metropolitan police district [*or the said county or borough of* ] that  
 , late of  
 , is accused [*or convicted*] of the commission of the crime of  
 within the jurisdiction of

: This is therefore to command you in Her Majesty's name forthwith to apprehend the said , and to bring him before me or some other magistrate sitting at this court [*or one of Her Majesty's justices of the peace in and for the county [or borough] of* ] to be further dealt with according to law, for which this shall be your warrant.

Given under my hand and seal at Bow Street, one of the police courts of the metropolis, [*or* ] in

the county or borough aforesaid] this day  
of 18 .  
J. P.

*Form of Warrant for bringing Prisoner before the Police  
Magistrate.*

To \_\_\_\_\_, constable of the police force County [or  
of \_\_\_\_\_ and to all other peace borough]  
officers in the said county [or borough]. of to wit.

WHEREAS \_\_\_\_\_ late of \_\_\_\_\_ accused [or  
alleged to be convicted] of the commission of the crime of \_\_\_\_\_  
within the jurisdiction of \_\_\_\_\_ has been  
apprehended and brought before the undersigned, one of Her  
Majesty's justices of the peace in and for the said county  
[or borough] of \_\_\_\_\_; And whereas by The  
Extradition Act, 1870, he is required to be brought before the  
chief magistrate of the metropolitan police court, or one of the  
police magistrates of the metropolis sitting at Bow Street,  
within the metropolitan police district [or the stipendiary  
magistrate for \_\_\_\_\_]: This is therefore  
to command you the said constable in Her Majesty's name  
forthwith to take and convey the said  
to the metropolitan police district [or the said  
\_\_\_\_\_] and there carry him before the said  
chief magistrate or one of the police magistrates of the metropolis  
sitting at Bow Street within the said district [or before a  
stipendiary magistrate sitting in the said \_\_\_\_\_] to show cause  
why he should not be surrendered in pursuance of The Extradition  
Act, 1870, and otherwise to be dealt with in accordance  
with law, for which this shall be your warrant.

Given under my hand and seal at \_\_\_\_\_ in  
the county [or borough] aforesaid, this  
day of \_\_\_\_\_ 18

J. P.

*Form of Warrant of Committal.*

To \_\_\_\_\_ one of the constables of the metro- Metropolitan  
politan force, [or of the police force of the county police  
or borough of \_\_\_\_\_] district, [or  
the keeper of the \_\_\_\_\_] and to the county  
of \_\_\_\_\_ to wit.



the said \_\_\_\_\_ into your custody, and to convey him within the jurisdiction of the said \_\_\_\_\_, and there place him in the custody of any person or persons appointed by the said \_\_\_\_\_ to receive him, for which this shall be your warrant.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this  
day of \_\_\_\_\_ 18 \_\_\_\_\_.

## THIRD SCHEDULE.

Year and Chapter.	Title.
<sup>1</sup> [6 & 7 Vict., c. 75 ..	<i>An Act for giving effect to a convention between Her Majesty and the King of the French for the apprehension of certain offenders.]</i>
6 & 7 Vict., c. 76 ..	<i>An Act for giving effect to a treaty between Her Majesty and the United States of America for the apprehension of certain offenders.</i>
8 & 9 Vict., c. 120 ..	<i>An Act for facilitating execution of the treaties with France and the United States of America for the apprehension of certain offenders.</i>
<sup>1</sup> [25 & 26 Vict., c. 70 ..	<i>An Act for giving effect to a convention between Her Majesty and the King of Denmark for the mutual surrender of criminals.]</i>
29 & 30 Vict., c. 121 ..	<i>An Act for the amendment of the law relating to treaties of extradition.</i>

## THE EXTRADITION ACT, 1873.

(36 &amp; 37 VICT., c. 60.)

*An Act to amend the Extradition Act, 1870.*

[5th August, 1873.]

[Preamble and enacting words : Repealed as to the United Kingdom by the Statute Law Revision Act, 1893.] 56 & 57 Vict.,  
c. 54.

1. This Act shall be construed as one with the Extradition Act, 1870 (in this Act referred to as the principal Act), and the principal Act and this Act may be cited together as the Construction  
of Act and  
short title.  
33 & 34 Vict.,  
c. 52.

<sup>1</sup> These entries were repealed as to the United Kingdom by The Statute Law Revision Act, 1893.



Extradition Acts, 1870 and 1873, and this Act may be cited alone as the Extradition Act, 1873.

Explanation  
of sec. 6 of  
33 & 34 Vict.,  
c. 52.

2. Whereas by section 6 of the principal Act it is enacted as follows :

“Where this Act applies in the case of any foreign state, every fugitive criminal of that state who is in or suspected of being in any part of Her Majesty’s dominions, or that part which is specified in the order applying this Act (as the case may be), shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty’s dominions over that crime.”

And whereas doubts have arisen as to the application of the said section to crimes committed before the passing of the principal Act, and it is expedient to remove such doubts, it is therefore hereby declared that—

a crime committed before the date of the order includes in the said section a crime committed before the passing of the principal Act, and the principal Act and this Act shall be construed accordingly.

3. [*Recital repealed as to the United Kingdom by the Statute Law Revision Act, 1893.*]

56 & 57  
Vict.,  
c. 54.

Every person who is accused or convicted of having counselled, procured, commanded, aided, or abetted the commission of any extradition crime, or of being accessory before or after the fact to any extradition crime, shall be deemed for the purposes of the principal Act and this Act to be accused or convicted of having committed such crime, and shall be liable to be apprehended and surrendered accordingly.

Explanation  
of sec. 14  
of 33 & 34  
Vict., c. 52,  
as to state-  
ments on  
oath includ-  
ing affirma-  
tions.

14. [Be it declared, that] the provisions of the principal Act relating to depositions and statements on oath taken in a foreign state, and copies of such original depositions and statements, do and shall extend to affirmations taken in a foreign state, and copies of such affirmations.

<sup>1</sup> The words in square brackets were repealed as to the United Kingdom by The Statute Law Revision Act, 1893.

5. A Secretary of State may, by order under his hand and seal, require a police magistrate or a justice of the peace to take evidence for the purposes of any criminal matter pending in any court or tribunal in any foreign state; and the police magistrate or justice of the peace, upon the receipt of such order, shall take the evidence of every witness appearing before him for the purpose in like manner as if such witness appeared on a charge against some defendant for an indictable offence, and shall certify at the foot of the depositions so taken that such evidence was taken before him, and shall transmit the same to the Secretary of State; such evidence may be taken in the presence or absence of the person charged, if any, and the fact of such presence or absence shall be stated in such deposition.

Power of taking evidence in United Kingdom for foreign criminal matters.

Any person may, after payment or tender to him of a reasonable sum for his costs and expenses in this behalf, be compelled, for the purposes of this section, to attend and give evidence and answer questions and produce documents, in like manner and subject to the like conditions as he may in the case of a charge preferred for an indictable offence.

<sup>1</sup>[Every person who wilfully gives false evidence before a police magistrate or justice of the peace under this section shall be guilty of perjury:]

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

6. The jurisdiction conferred by section sixteen of the principal Act on a stipendiary magistrate, and a sheriff or sheriff substitute, shall be deemed to be in addition to, and not in derogation or exclusion of, the jurisdiction of the police magistrate.

Explanation of sec. 16 of 33 & 34 Vict., c. 52.

7. For the purposes of the principal Act and this Act a diplomatic representative of a foreign state shall be deemed to include any person recognized by the Secretary of State as a consul-general of that state, and a consul or vice-consul shall be deemed to include any person recognized by the governor of a British possession as a consular officer of a foreign state.

Explanation of diplomatic representative and consul.

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<sup>1</sup>The words in square brackets were repealed as to the United Kingdom by The Perjury Act, 1911.

Addition to  
list of crimes  
in schedule.

8. The principal Act shall be construed as if there were included in the first schedule to that Act the list of crimes contained in the schedule to this Act.

## SCHEDULE.

### LIST OF CRIMES.

The following list of crimes is to be construed according to the law existing in England or in a British possession (as the case may be) at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act :

Kidnapping and false imprisonment.

Perjury, and subornation of perjury, whether under common or statute law.

24 & 25  
Vict., c. 96,  
&c.

Any indictable offence under the Larceny Act, 1861, or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-seven, "To consolidate and amend the statute law of England and Ireland relating to malicious injuries to property," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-eight, "to consolidate and amend the statute law of England and Ireland, relating to indictable offences by forgery," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-nine, "to consolidate and amend the statute law of the United Kingdom against offences relating to the coin," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present

Majesty, chapter one hundred, "to consolidate and amend the statute law of England and Ireland relating to offences against the person," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the laws for the time being in force in relation to bankruptcy which is not included in the first schedule to the principal Act.

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### THE EXTRADITION ACT, 1895.

(58 & 59 VICT., c. 33.)

*An Act to amend the Extradition Acts, 1870 and 1873, so far as respects the Magistrate by whom and the place in which the case may be heard and the Criminal held in Custody.*

[6th July, 1895.]

Be it enacted as follows—

1. (1) Where a fugitive criminal has been apprehended in pursuance of a warrant under section eight of the Extradition Act,<sup>33</sup> 1870, and a Secretary of State on representation made by or on behalf of the criminal is of opinion that his removal for the purpose of his case being heard at Bow Street will be dangerous to his life or prejudicial to his health, the Secretary of State, if it appears to him consistent with the Order in Council under the Extradition Act, 1870, applicable to the case, may, in his discretion by order, stating the reasons for such opinion, direct the case to be heard before such magistrate as is named in the order, and at the place in the United Kingdom at which the criminal was apprehended, or for the time being is.

Hearing case elsewhere than at Bow Street.  
33 & 34 Vict., c. 52.

(2) The Magistrate may be, if the place is in England, a Metropolitan police magistrate or a stipendiary magistrate, and if it is in Scotland, a sheriff or sheriff substitute, and if it is in Ireland, any stipendiary magistrate, and the magistrate hearing the case in pursuance of the order shall for that purpose be deemed to be a police magistrate within the meaning of the Extradition Act, 1870, and also shall have the same jurisdiction, duties, and powers, as near as may be, and may commit to the same prison as if he were a magistrate for the county, borough, or place in which the hearing takes place.

33 & 34  
Vict., c. 52.  
36 & 37  
Vict., c. 60.

Short title  
and con-  
struction.

(3) Provided that, when the fugitive criminal is committed to prison to await his surrender, the committing magistrate, if of opinion that it will be dangerous to the life or prejudicial to the health of the prisoner to remove him to the prison, may order him to be held in custody at the place in which he for the time being is, or any other place named in the order to which the magistrate thinks he can be removed without danger to his life or prejudice to his health, and while so held he shall be deemed to be in legal custody, and the Extradition Acts, 1870 and 1873, shall apply to him as if he were in the prison to which he is committed, and the forms of warrant used under the said Acts may be varied accordingly.

2. This Act may be cited as the Extradition Act, 1895, and shall be construed together with the Extradition Acts, 1870 and 1873; and those Acts and this Act may be cited collectively as the Extradition Acts, 1870 to 1895.

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## THE EXTRADITION ACT, 1906.

(6 Edw. VII, c. 15.)

*An Act to include Bribery amongst Extradition Crimes.*

[4th August, 1906.]

WHEREAS a Convention has been concluded between His Majesty and the President of the United States for including in the list of crimes on account of which extradition may be granted certain offences, and amongst others bribery :

And whereas it is provided by the said Convention that it shall come into force within ten days after publication in conformity with the laws of the high contracting parties :

33 & 34  
Vict., c. 52.

And whereas bribery is not at present included in the list of crimes in the First Schedule to the Extradition Act, 1870, and the said Convention cannot be published in conformity with the laws of the United Kingdom until bribery is so included :

Be it therefore enacted as follows :—

Addition of  
bribery to  
list of extra-  
diction  
crimes.

1. The Extradition Act, 1870, shall be construed as if bribery were included in the list of crimes in the First Schedule to that Act.

2. This Act may be cited as the Extradition Act, 1906; Short title. and the Extradition Acts, 1870 to 1895, and this Act may be cited together as the Extradition Acts, 1870 to 1906.

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### THE SLAVE TRADE ACT, 1873.

(36 & 37 VICT., c. 88, s. 27.)

27. Offences committed against this Act or the enactments with which this Act is to be construed as one or otherwise in connection with the slave trade, whether committed on the high seas or on land, or partly on the high seas or partly on land, shall be deemed to be inserted in the first schedule to the Extradition Act, 1870, and that Act, and any Act amending the same, shall be construed accordingly.

Extension of  
33 & 34  
Vict., c. 52,  
to slave trade  
offences.

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### THE FUGITIVE OFFENDERS ACT, 1881.

(44 & 45 VICT., c. 69.)

*An Act to amend the Law with respect to Fugitive Offenders in Her Majesty's Dominions, and for other Purposes connected with the Trial of Offenders.*

[27th August, 1881.]

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

1. This Act may be cited as the Fugitive Offenders Act, 1881. Short title.

### PART I.

#### RETURN OF FUGITIVES.

2. Where a person accused of having committed an offence (to which this part of this Act applies) in one part of Her Majesty's dominions has left that part, such person (in this Act referred to as a fugitive from that part) if found in another part of Her Majesty's dominions, shall be liable to be

Liability of  
fugitive to be  
apprehended  
and returned.

apprehended and returned in manner provided by this Act to the part from which he is a fugitive.

A fugitive may be so apprehended under an endorsed warrant or a provisional warrant.

**Endorsing of  
warrant for  
apprehen-  
sion of  
fugitive.**

3. Where a warrant has been issued in one part of Her Majesty's dominions for the apprehension of a fugitive from that part, any of the following authorities in another part of Her Majesty's dominions in or on the way to which the fugitive is or is suspected to be; (that is to say),

- (1) a judge of a superior court in such part; and
- (2) in the United Kingdom a Secretary of State and one of the magistrates of the metropolitan police court in Bow Street; and
- (3) in a British possession the governor of that possession,

if satisfied that the warrant was issued by some person having lawful authority to issue the same, may endorse such warrant in manner provided by this Act, and the warrant so endorsed shall be a sufficient authority to apprehend the fugitive in the part of Her Majesty's dominions in which it is endorsed, and bring him before a magistrate.

**Provisional  
warrant for  
apprehension  
of fugitive.**

4. A magistrate of any part of Her Majesty's dominions may issue a provisional warrant for the apprehension of a fugitive who is or is suspected of being in or on his way to that part on such information, and under such circumstances, as would in his opinion justify the issue of a warrant if the offence of which the fugitive is accused had been committed within his jurisdiction, and such warrant may be backed and executed accordingly.

A magistrate issuing a provisional warrant shall forthwith send a report of the issue, together with the information or a certified copy thereof, if he is in the United Kingdom, to a Secretary of State, and if he is in a British possession, to the governor of that possession, and the Secretary of State or governor may, if he think fit, discharge the person apprehended under such warrant.

**Dealing with  
fugitive  
when  
apprehended.**

5. A fugitive when apprehended shall be brought before a magistrate, who (subject to the provisions of this Act) shall hear the case in the same manner and have the same jurisdiction and powers, as near as may be (including the power to remand

and admit to bail), as if the fugitive were charged with an offence committed within his jurisdiction.

If the endorsed warrant for the apprehension of the fugitive is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) according to the law ordinarily administered by the magistrate, raises a strong or probable presumption that the fugitive committed the offence mentioned in the warrant, and that the offence is one to which this part of this Act applies, the magistrate shall commit the fugitive to prison to await his return, and shall forthwith send a certificate of the committal and such report of the case as he may think fit, if in the United Kingdom to a Secretary of State, and if in a British possession to the governor of that possession.

Where the magistrate commits the fugitive to prison he shall inform the fugitive that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *habeas corpus*, or other like process.

A fugitive apprehended on a provisional warrant may be from time to time remanded for such reasonable time not exceeding seven days at any one time, as under the circumstances seems requisite for the production of an endorsed warrant.

6. Upon the expiration of fifteen days after a fugitive has been committed to prison to await his return, or if a writ of *habeas corpus* or other like process is issued with reference to such fugitive by a superior court, after the final decision of the court in the case, Return of  
fugitive by  
warrant.

- (1) if the fugitive is so committed in the United Kingdom, a Secretary of State; and
- (2) if the fugitive is so committed in a British possession, the governor of that possession,

may, if he thinks it just, by warrant under his hand, order that fugitive to be returned to the part of Her Majesty's dominions from which he is a fugitive, and for that purpose to be delivered into the custody of the persons to whom the warrant is addressed, or some one or more of them, and to be held in custody, and conveyed by sea or otherwise to the said part of Her Majesty's dominions, to be dealt with there in due course of law as if he



had been there apprehended, and such warrant shall be forthwith executed according to the tenor thereof.

The governor or other chief officer of any prison, on request of any person having the custody of a fugitive under any such warrant, and on payment or tender of a reasonable amount for expenses, shall receive such fugitive and detain him for such reasonable time as may be requested by the said person for the purpose of the proper execution of the warrant.

Discharge of person apprehended if not returned within one month.

7. If a fugitive who, in pursuance of this part of this Act, has been committed to prison in any part of Her Majesty's dominions to await his return, is not conveyed out of that part within one month after such committal, a superior court, upon application by or on behalf of the fugitive, and upon proof that reasonable notice of the intention to make such application has been given, if the said part is the United Kingdom to a Secretary of State, and if the said part is a British possession to the governor of the possession, may, unless sufficient cause is shown to the contrary, order the fugitive to be discharged out of custody.

Sending back of persons apprehended if not prosecuted within six months or acquitted.

8. Where a person accused of an offence and returned in pursuance of this part of this Act to any part of Her Majesty's dominions, either is not prosecuted for the said offence within six months after his arrival in that part, or is acquitted of the said offence, then if that part is the United Kingdom a Secretary of State, and if that part is a British possession the governor of that possession, may, if he think fit, on the request of such person, cause him to be sent back free of cost and with as little delay as possible to the part of Her Majesty's dominions in or on his way to which he was apprehended.

Offences to which this part of this Act applies.

9. This part of this Act shall apply to the following offences, namely, to treason and piracy, and to every offence, whether called felony, misdemeanor, crime, or by any other name, which is for the time being punishable in the part of Her Majesty's dominions in which it was committed, either on indictment or information, by imprisonment with hard labour for a term of twelve months or more, or by any greater punishment; and for the purposes of this section, rigorous imprisonment, and any confinement in a prison combined with labour, by whatever name it is called, shall be deemed to be imprisonment with hard labour.

This part of this Act shall apply to an offence notwithstanding that by the law of the part of Her Majesty's dominions in or on his way to which the fugitive is or is suspected of being it is not an offence, or not an offence to which this part of this Act applies; and all the provisions of this part of this Act, including those relating to a provisional warrant and to a committal to prison, shall be construed as if the offence were in such last-mentioned part of Her Majesty's dominions an offence to which this part of this Act applies.

10. Where it is made to appear to a superior court that by reason of the trivial nature of the case, or by reason of the application for the return of a fugitive not being made in good faith in the interests of justice or otherwise, it would, having regard to the distance, to the facilities for communication, and to all the circumstances of the case, be unjust or oppressive or too severe a punishment to return the fugitive either at all or until the expiration of a certain period, such court may discharge the fugitive, either absolutely or on bail, or order that he shall not be returned until after the expiration of the period named in the order, or may make such other order in the premises as to the court seems just.

Powers of superior court to discharge fugitive when case frivolous or return unjust.

11. In Ireland the Lord Lieutenant <sup>1</sup>[or Lords Justices or other chief governor or governors of Ireland,] also the chief secretary <sup>1</sup>[of such Lord Lieutenant] may, as well as a Secretary of State, execute any portion of the powers by this part of this Act vested in a Secretary of State.

Power of Lord Lieutenant in Ireland.

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## PART II.

### INTER-COLONIAL BACKING OF WARRANTS, AND OFFENCES.

#### *Application of Part of Act.*

12. This part of this Act shall apply only to those groups of British possessions to which, by reason of their contiguity or otherwise, it may seem expedient to Her Majesty to apply the same.

Application of part of Act to group of British possessions.

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<sup>1</sup> The words in square brackets were repealed as to the United Kingdom by The Statute Law Revision Act, 1894.

It shall be lawful for Her Majesty from time to time by Order in Council to direct that this part of this Act shall apply to the group of British possessions mentioned in the Order, and by the same or any subsequent Order to except certain offences from the application of this part of this Act, and to limit the application of this part of this Act by such conditions, exceptions, and qualifications as may be deemed expedient.

*Backing of Warrants.*

Backing in one British possession of warrant issued in another of same group.

13. Where in a British possession of a group to which this part of this Act applies a warrant has been issued for the apprehension of a person accused of an offence punishable by law in that possession, and such person is or is suspected of being in or on the way to another British possession of the same group, a magistrate in the last-mentioned possession, if satisfied that the warrant was issued by a person having lawful authority to issue the same, may endorse such warrant in manner provided by this Act, and the warrant so endorsed shall be a sufficient authority to apprehend, within the jurisdiction of the endorsing magistrate, the person named in the warrant, and bring him before the endorsing magistrate or some other magistrate in the same British possession.

Return of prisoner apprehended under backed warrant.

14. The magistrate before whom a person so apprehended is brought, if he is satisfied that the warrant is duly authenticated as directed by this Act and was issued by a person having lawful authority to issue the same, and is satisfied on oath that the prisoner is the person named or otherwise described in the warrant, may order such prisoner to be returned to the British possession in which the warrant was issued, and for that purpose to be delivered into the custody of the persons to whom the warrant is addressed, or any one or more of them, and to be held in custody and conveyed by sea or otherwise into the British possession in which the warrant was issued, there to be dealt with according to law as if he had been there apprehended. Such order for return may be made by warrant under the hand of the magistrate making it, and may be executed according to the tenor thereof.

A magistrate shall, so far as is requisite for the exercise of the powers of this section, have the same power, including

the power to remand and admit to bail a prisoner, as he has in the case of a person apprehended under a warrant issued by him.

15. Where a person required to give evidence on behalf of the prosecutor or defendant on a charge for an offence punishable by law in a British possession of a group to which this part of this Act applies, is or is suspected of being in or on his way to any other British possession of the same group, a judge, magistrate, or other officer who would have lawful authority to issue a summons, requiring the attendance of such witness, if the witness were within his jurisdiction, may issue a summons for the attendance of such witness, and a magistrate in any other British possession of the same group, if satisfied that the summons was issued by some judge, magistrate, or officer having lawful authority as aforesaid, may endorse the summons with his name; and the witness, on service in that possession of the summons, so endorsed, and on payment or tender of a reasonable amount for his expenses, shall obey the summons, and in default shall be liable to be tried and punished either in the possession in which he is served or in the possession in which the summons was issued, and shall be liable to the punishment imposed by the law of the possession in which he is tried for the failure of a witness to obey such a summons. The expression "summons" in this section includes any subpoena or other process for requiring the attendance of a witness.

Backing in one British possession of summons, &c., of witness issued in another possession of same group.

16. A magistrate in a British possession of a group to which this part of this Act applies, before the endorsement in pursuance of this part of this Act of a warrant for the apprehension of any person, may issue a provisional warrant for the apprehension of that person, on such information and under such circumstances as would in his opinion justify the issue of a warrant if the offence of which such person is accused were an offence punishable by the law of the said possession, and had been committed within his jurisdiction, and such warrant may be backed and executed accordingly: provided that a person arrested under such provisional warrant shall be discharged unless the original warrant is produced and endorsed within such reasonable time as may under the circumstances seem requisite.

Provisional warrant in group of British possessions.

Discharge of prisoner not returned within one month to British possession of same group.

17. If a prisoner in a British possession whose return is authorised in pursuance of this part of this Act is not conveyed out of that possession within one month after the date of the warrant ordering his return, a magistrate or a superior court, upon application by or on behalf of the prisoner, and upon proof that reasonable notice of the intention to make such application has been given to the person holding the warrant and to the chief officer of the police of such possession or of the province or town where the prisoner is in custody, may, unless sufficient cause is shown to the contrary, order such prisoner to be discharged out of custody.

Any order or refusal to make an order of discharge by a magistrate under this section shall be subject to appeal to a superior court.

Sending back of prisoner not prosecuted or acquitted to British possession of same group.

18. Where a prisoner accused of an offence is returned in pursuance of this part of this Act to a British possession, and either is not prosecuted for the said offence within six months after his arrival in that possession or is acquitted of the said offence, the governor of that possession, if he thinks fit, may, on the requisition of such person, cause him to be sent back, free of cost, and with as little delay as possible, to the British possession in or on his way to which he was apprehended.

Refusal to return prisoner where offence too trivial.

19. Where the return of a prisoner is sought or ordered under this part of this Act, and it is made to appear to a magistrate or to a superior court that by reason of the trivial nature of the case, or by reason of the application for the return of such prisoner not being made in good faith in the interests of justice or otherwise, it would, having regard to the distance, to the facilities of communication, and to all the circumstances of the case, be unjust or oppressive, or too severe a punishment, to return the prisoner either at all or until the expiration of a certain period, the court or magistrate may discharge the prisoner either absolutely or on bail, or order that he shall not be returned until after the expiration of the period named in the order, or may make such other order in the premises as to the magistrate or court seems just.

Any order or refusal to make an order of discharge by a magistrate under this section shall be subject to an appeal to a superior court.

## PART III.

## TRIAL, &amp;C., OF OFFENCES.

20. Where two British possessions adjoin, a person accused of an offence committed on or within the distance of five hundred yards from the common boundary of such possessions may be apprehended, tried, and punished in either of such possessions.

Offences committed on boundary of two adjoining British possessions.

21. Where an offence is committed on any person or in respect of any property in or upon any carriage, cart, or vehicle whatsoever employed in a journey, or on board any vessel whatsoever employed in a navigable river, lake, canal, or inland navigation, the person accused of such offence may be tried in any British possession through a part of which such carriage, cart, vehicle, or vessel passed in the course of the journey or voyage during which the offence was committed; and where the side, bank, centre, or other part of the road, river, lake, canal, or inland navigation along which the carriage, cart, vehicle, or vessel passed in the course of such journey or voyage is the boundary of any British possession, a person may be tried for such offence in any British possession of which it is the boundary:

Offences committed on journey between two British possessions.

Provided that nothing in this section shall authorise the trial for such offence of a person who is not a British subject, where it is not shown that the offence was committed in a British possession.

22. A person accused of the offence (under whatever name it is known) of swearing or making any false deposition, or of giving or fabricating any false evidence, for the purposes of this Act, may be tried either in the part of Her Majesty's dominions in which such deposition or evidence is used, or in the part in which the same was sworn, made, given, or fabricated, as the justice of the case may require.

Trial of offence of false swearing or giving false evidence.

23. Where any part of this Act provides for the place of trial of a person accused of an offence, that offence shall, for all purposes of and incidental to the apprehension, trial, and punishment of such person, and of and incidental to any proceedings and matters preliminary, incidental to, or consequential thereon, and of and incidental to the jurisdiction of any court, constable, or officer with reference to such offence, and to any person accused of such offence, be deemed to have

Supplemental provision as to trial of person in any place.

been committed in any place in which the person accused of the offence can be tried for it; and such person may be punished in accordance with the Courts (Colonial) Jurisdiction Act, 1874.

37 & 38  
Vict.,  
c. 27.

Issue of  
search-  
warrant.

24. Where a warrant for the apprehension of a person accused of an offence has been endorsed in pursuance of any part of this Act in any part of Her Majesty's dominions, or where any part of the Act provides for the place of trial of a person accused of an offence, every court and magistrate of the part in which the warrant is endorsed or the person accused of the offence can be tried, shall have the same power of issuing a warrant to search for any property alleged to be stolen or to be otherwise unlawfully taken or obtained by such person, or otherwise to be the subject of such offence, as that court or magistrate would have if the property had been stolen or otherwise unlawfully taken or obtained, or the offence had been committed wholly within the jurisdiction of such court or magistrate.

Removal of  
prisoner by  
sea from one  
place to  
another.

25. Where a person is in legal custody in a British possession either in pursuance of this Act or otherwise, and such person is required to be removed in custody to another place in or belonging to the same British possession, such person, if removed by sea in a vessel belonging to Her Majesty or any of Her Majesty's subjects, shall be deemed to continue in legal custody until he reaches the place to which he is required to be removed; and the provisions of this Act with respect to the retaking of a prisoner who has escaped, and with respect to the trial and punishment of a person guilty of the offence of escaping or attempting to escape, or aiding or attempting to aid a prisoner to escape, shall apply to the case of a prisoner escaping while being lawfully removed as aforesaid, in like manner as if he were being removed in pursuance of a warrant endorsed in pursuance of this Act.

#### PART IV.

##### SUPPLEMENTAL.

##### *Warrants and Escape.*

Endorsement  
of warrant.

26. An endorsement of a warrant in pursuance of this Act shall be signed by the authority endorsing the same, and

shall authorise all or any of the persons named in the endorsement, and of the persons to whom the warrant was originally directed, and also every constable, to execute the warrant within the part of Her Majesty's dominions or place within which such endorsement is by this Act made a sufficient authority, by apprehending the person named in it, and bringing him before some magistrate in the said part or place, whether the magistrate named in the endorsement or some other.

For the purposes of this Act every warrant, summons, subpoena, and process, and every endorsement made in pursuance of this Act thereon, shall remain in force, notwithstanding that the person signing the warrant or such endorsement dies or ceases to hold office.

27. Where a fugitive or prisoner is authorised to be returned to any part of Her Majesty's dominions in pursuance of Part One or Part Two of this Act, such fugitive or prisoner may be sent thither in any ship belonging to Her Majesty or to any of her subjects.

Conveyance  
of fugitives  
and witnesses.

For the purpose aforesaid, the authority signing the warrant for the return may order the master of any ship belonging to any subject of Her Majesty bound to the said part of Her Majesty's dominions to receive and afford a passage and subsistence during the voyage to such fugitive or prisoner, and to the person having him in custody, and to the witnesses, so that such master be not required to receive more than one fugitive or prisoner for every hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of such tonnage.

The said authority shall endorse or cause to be endorsed upon the agreement of the ship such particulars with respect to any fugitive prisoner or witness sent in her as the Board of Trade from time to time require.

Every such master shall, on his ship's arrival in the said part of Her Majesty's dominions, cause such fugitive or prisoner, if he is not in the custody of any person, to be given into the custody of some constable, there to be dealt with according to law.

Every master who fails, on payment or tender of a reasonable amount for expenses, to comply with an order made in pursuance of this section, or to cause a fugitive or prisoner committed



to his charge to be given into custody as required by this section, shall be liable on summary conviction to a fine not exceeding fifty pounds, which may be recovered in any part of Her Majesty's dominions in like manner as a penalty of the same amount under the Merchant Shipping Act, 1854,<sup>1</sup> and the Acts amending the same.

17 & 18  
Vict.,  
c. 104.

Escape of  
prisoner  
from  
custody.

28. If a prisoner escape, by breach of prison or otherwise, out of the custody of a person acting under a warrant issued or endorsed in pursuance of this Act, he may be retaken in the same manner as a person accused of a crime against the law of that part of Her Majesty's dominions to which he escapes may be retaken upon an escape.

A person guilty of the offence of escaping or of attempting to escape, or of aiding or attempting to aid a prisoner to escape, by breach of prison or otherwise, from custody under any warrant issued or endorsed in pursuance of this Act, may be tried in any of the following parts of Her Majesty's dominions, namely, the part to which and the part from which the prisoner is being removed, and the part in which the prisoner escapes, and the part in which the offender is found.

#### *Evidence.*

Depositions  
to be  
evidence and  
authenticat-  
ion of  
depositions  
and  
warrants.

29. A magistrate may take depositions for the purposes of this Act in the absence of a person accused of an offence in like manner as he might take the same if such person were present and accused of the offence before him.

Depositions (whether taken in the absence of the fugitive or otherwise) and copies thereof, and official certificates of or judicial documents stating facts, may, if duly authenticated, be received in evidence in proceedings under this Act:

Provided that nothing in this Act shall authorise the reception of any such depositions, copies, certificates, or documents in evidence against a person upon his trial for an offence.

Warrants and depositions, and copies thereof, and official certificates of or judicial documents stating facts, shall be deemed duly authenticated for the purposes of this Act if they are authenticated in manner provided for the time being by law, or if they purport to be signed by or authenticated by

<sup>1</sup> See now 57 & 58 Vict., c. 60.

the signature of a judge, magistrate, or officer of the part of Her Majesty's dominions in which the same are issued, taken, or made, and are authenticated either by the oath of some witness, or by being sealed with the official seal of a Secretary of State, or with the public seal of a British possession, or with the official seal of a governor of a British possession, or of a colonial secretary, or of some secretary or minister administering a department of the government of a British possession.

And all courts and magistrates shall take judicial notice of every such seal as is in this section mentioned, and shall admit in evidence without further proof the documents authenticated by it.

*Miscellaneous.*

30. The jurisdiction under Part One of this Act to hear a case and commit a fugitive to prison to await his return shall be exercised,—

Provision as to exercise of jurisdiction by magistrates.

- (1) In England, by a chief magistrate of the metropolitan police courts or one of the other magistrates of the metropolitan police court at Bow Street; and
- (2) In Scotland, by the sheriff or sheriff substitute of the county of Edinburgh; and
- (3) In Ireland, by one of the police magistrates of the Dublin metropolitan police district; and
- (4) In a British possession, by any judge, justice of the peace, or other officer having the like jurisdiction as one of the magistrates of the metropolitan police court in Bow Street, or by such other court, judge, or magistrate as may be from time to time provided by an Act or ordinance passed by the legislature of that possession.

If a fugitive is apprehended and brought before a magistrate who has no power to exercise the jurisdiction under this Act in respect of that fugitive, that magistrate shall order the fugitive to be brought before some magistrate having that jurisdiction, and such order shall be obeyed.

31. It shall be lawful for Her Majesty in Council from time to time to make Orders for the purposes of this Act, and to revoke and vary any Order so made; and every Order so made shall while it is in force have the same effect as if it were enacted in this Act.

Power as to making and revocation of Orders in Council.

An Order in Council made for the purpose of this Act shall be laid before Parliament as soon as may be after it is made if Parliament is then in session, or if not, as soon as may be after the commencement of the then next session of Parliament.

Power of legislature of British possession to pass laws for carrying into effect this Act.

32. If the legislature of a British possession pass any Act or ordinance—

- (1) For defining the offences committed in that possession to which this Act or any part thereof is to apply ; or
- (2) For determining the court, judge, magistrate, officer, or person by whom and the manner in which any jurisdiction or power under this Act is to be exercised ; or
- (3) For payment of the costs incurred in returning a fugitive or a prisoner, or in sending him back if not prosecuted or if acquitted, or otherwise in the execution of this Act ; or
- (4) In any manner for the carrying of this Act or any part thereof into effect in that possession,

it shall be lawful for Her Majesty by Order in Council to direct, if it seems to Her Majesty in Council necessary or proper for carrying into effect the objects of this Act, that such Act or ordinance, or any part thereof, shall with or without modification or alteration be recognised and given effect to throughout Her Majesty's dominions and on the high seas as if it were part of this Act.

*Application of Act.*

33. Where a person accused of an offence can, by reason of the nature of the offence, or of the place in which it was committed, or otherwise, be under this Act or otherwise, tried for or in respect of the offence in more than one part of Her Majesty's dominions, a warrant for the apprehension of such person may be issued in any part of Her Majesty's dominions in which he can, if he happens to be there, be tried ; and each part of this Act shall apply as if the offence had been committed in the part of Her Majesty's dominions where such warrant is issued, and such person may be apprehended and returned in pursuance of this Act, notwithstanding that in the place in which he is apprehended a court has jurisdiction to try him :

Application of Act to offences at sea or triable in several parts of Her Majesty's dominions.

Provided that, if such person is apprehended in the United Kingdom, a Secretary of State, and if he is apprehended in a British possession, the governor of such possession, may, if satisfied that, having regard to the place where the witnesses for the prosecution and for the defence are to be found, and to all the circumstances of the case, it would be conducive to the interests of justice so to do, order such person to be tried in the part of Her Majesty's dominions in which he is apprehended, and in such case any warrant previously issued for his return shall not be executed.

34. Where a person, convicted by a court in any part of Her Majesty's dominions of an offence committed either in Her Majesty's dominions or elsewhere, is unlawfully at large before the expiration of his sentence, each part of this Act shall apply to such person, so far as is consistent with the tenor thereof, in like manner as it applies to a person accused of the like offence committed in the part of Her Majesty's dominions in which such person was convicted.

Application  
of Act to  
convicts.

35. Where a person accused of an offence is in custody in some part of Her Majesty's dominions, and the offence is one for or in respect of which, by reason of the nature thereof or of the place in which it was committed or otherwise, a person may under this Act or otherwise be tried in some other part of Her Majesty's dominions, in such case a superior court, and also if such person is in the United Kingdom a Secretary of State, and if he is in a British possession the governor of that possession, if satisfied that, having regard to the place where the witnesses for the prosecution and for the defence are to be found, and to all the circumstances of the case, it would be conducive to the interests of justice so to do, may by warrant direct the removal of such offender to some other part of Her Majesty's dominions in which he can be tried, and the offender may be returned, and, if not prosecuted or acquitted, sent back free of cost in like manner as if he were a fugitive returned in pursuance of Part One of this Act, and the warrant were a warrant for the return of such fugitive, and the provisions of this Act shall apply accordingly.

Application  
of Act to  
removal of  
person  
triable in  
more than  
one part  
of Her  
Majesty's  
dominions.

36. It shall be lawful for Her Majesty from time to time by Order in Council to direct that this Act shall apply as if, subject to the conditions, exceptions, and qualifications (if any)

Application  
of Act to  
foreign  
jurisdiction.

contained in the Order, any place out of Her Majesty's dominions in which Her Majesty has jurisdiction, and which is named in the Order, were a British possession, and to provide for carrying into effect such application.

Application of Act to, and execution of warrant in, United Kingdom, Channel Islands, and Isle of Man.

37. This Act shall extend to the Channel Islands and Isle of Man as if they were part of England and of the United Kingdom, and the United Kingdom and those islands shall be deemed for the purpose of this Act to be one part of Her Majesty's dominions; and a warrant endorsed in pursuance of Part One of this Act may be executed in every place in the United Kingdom and the said islands accordingly.

Application of Act to past offences.

38. This Act shall apply where an offence is committed before the commencement of this Act, or, in the case of Part Two of this Act, before the application of that part to a British possession or to the offence, in like manner as if such offence had been committed after such commencement or application.

#### *Definitions and Repeal.*

Definition of terms.

39. In this Act, unless the context otherwise requires,—

“Secretary of State.”

<sup>1</sup>[The expression “Secretary of State” means one of Her Majesty's Principal Secretaries of State:]

“British possession.”

The expression “British possession” means any part of Her Majesty's dominions, exclusive of the United Kingdom, the Channel Islands, and Isle of Man; all territories and places within Her Majesty's dominions which are under one legislature shall be deemed to be one British possession and one part of Her Majesty's dominions:

“Legislature.”

The expression “legislature,” where there are local legislatures as well as a central legislature, means the central legislature only:

“Governor.”

The expression “governor” means any person or persons administering the government of a British possession, and includes the governor and lieutenant-governor of any part of India:

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<sup>1</sup> The words in square brackets were repealed as to the United Kingdom by The Statute Law Revision Act, 1894.

The expression "constable" means, out of England, any "Constable." policeman or officer having the like powers and duties as a constable in England :

The expression "magistrate" means, except in Scotland, "Magistrate." any justice of the peace, and in Scotland means a sheriff or sheriff substitute, and in the Channel Islands, Isle of Man, and a British possession means any person having authority to issue a warrant for the apprehension of persons accused of offences and to commit such persons for trial :

The expression "offence punishable on indictment" means, as regards India, an offence punishable on a charge or otherwise : "Offence punishable on indictment."

The expression "oath" includes affirmation or declaration in the case of persons allowed by law to affirm or declare instead of swearing, and the expression "swear" and other words relating to an oath or swearing shall be construed accordingly : "Oath."

The expression "deposition" includes any affidavit, affirmation, or statement made upon oath as above defined : "Deposition."

The expression "superior court" means : "Superior court."

- (1) In England, Her Majesty's Court of Appeal and High Court of Justice ; and
- (2) In Scotland, the High Court of Judiciary ; and
- (3) In Ireland, Her Majesty's Court of Appeal and Her Majesty's High Court of Justice at Dublin ; and
- (4) In a British possession, any court having in that possession the like criminal jurisdiction to that which is vested in the High Court of Justice in England, or such court or judge as may be determined by any Act or ordinance of that possession.

40.<sup>2</sup> This Act shall come into operation on the first day of January, one thousand eight hundred and eighty-two, which date is in this Act referred to as the commencement of this Act. Commencement of Act.

<sup>1</sup> The words "of Justice" were repealed as to the United Kingdom by The Statute Law Revision Act, 1893.

<sup>2</sup> Section 40 was repealed as to the United Kingdom by The Statute Law Revision Act, 1898.

Repeal of  
Act in  
schedule.

41.<sup>1</sup> The Act specified in the schedule to this Act is here by repealed as from the commencement of this Act :

Provided that this repeal shall not affect—

- (a) Any warrant duly endorsed or issued, nor anything duly done or suffered before the commencement of this Act ; nor
- (b) Any obligation or liability incurred under an enactment hereby repealed ; nor
- (c) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed ; nor
- (d) Any legal proceeding or remedy in respect of any such warrant, obligation, liability, penalty, forfeiture, or punishment as aforesaid ; and any such warrant may be endorsed and executed, and any such legal proceeding and remedy may be carried on, as if this Act had not passed.

#### SCHEDULE.<sup>2</sup>

Year and Chapter.	Title.
6 & 7 Vict., c. 34. ..	An Act for the better apprehension of certain offenders.

#### THE FUGITIVE OFFENDERS (PROTECTED STATES) ACT, 1915.

(5 & 6 GEO. V, C. 39.)

*An Act to enable the Fugitive Offenders Act, 1881, to be extended to Protected States.*

[19th May, 1915.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and

<sup>1</sup>Section 41 was repealed as to the United Kingdom by The Statute Law Revision Act, 1894.

<sup>2</sup>The Schedule was repealed as to the United Kingdom by The Statute Law Revision Act, 1894.

Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. It shall be lawful for His Majesty by Order in Council to direct that the Fugitive Offenders Act, 1881, shall apply as if, subject to the conditions, exceptions, and qualifications (if any) contained in the Order, any place or group of places over which His Majesty extends his protection, and which is named in the Order, were a British possession, and to provide for the carrying into effect of such application.

Application  
of 44 & 45  
Vict., c. 69  
to protected  
states.

2. This Act may be cited as the Fugitive Offenders (Protected States) Act, 1915, and shall be construed as one with the Fugitive Offenders Act, 1881, and that Act and this Act shall be cited together as the Fugitive Offenders Acts, 1881 and 1915.

Short title  
and con-  
struction.



## APPENDIX "B."

*List of "Foreign States," i.e., Countries which have concluded Extradition Treaties and to which the Extradition Acts have been applied by Order in Council.*

Foreign State.	Date of treaty.	Date of Order in Council.
Argentine Republic ..	22 May 1889 ..	29 January 1894.
Austria ..	3 December 1873 ..	17 March 1874.
Do. ..	26 June 1901 ..	15 September 1902.
Belgium ..	29 October 1901 ..	6 March 1902.
Do. ..	5 March 1907 ..	6 July 1907.
Do. ..	3 March 1911 ..	8 August 1911.
Do. <sup>1</sup> ..	8 August 1923 ..	16 January 1924
Bolivia ..	22 February 1892 ..	20 October 1898.
Brazil ..	13 November 1872 ..	20 November 1873.
Chile Republic ..	26 January 1897 ..	9 August 1898.
Colombia ..	27 October 1888 ..	28 November 1889.
Cuba ..	3 October 1904 ..	10 May 1905.
Denmark ..	31 March 1873 ..	26 June 1873.
Ecuador ..	20 September 1880 ..	26 June 1886.
Estonia <sup>1</sup> ..	18 November 1925 ..	28 June 1926.
Finland ..	30 May 1924 ..	2 May 1925.
France ..	14 August 1876 ..	16 May 1878.
Do. [Declaration as to Tunis]	31 December 1889 ..	1 May 1890.
Do. Convention ..	13 February 1896 ..	22 February 1896.
Do. do. ..	17 October 1908 ..	2 December 1909.
Do. [Declaration as to Tunis.]	29 July 1909 ..	2 December 1909.
Germany ..	14 May 1872 ..	25 June 1872.
Do. Dependencies ..	5 May 1894 ..	2 February 1895.
Greece ..	11-24 September 1910 ..	13 February 1912.
Guatemala ..	4 July 1885 ..	26 November 1886.
Hayti ..	7 December 1874 ..	5 February 1876.
Hungary ..	3 December 1873 ..	17 March 1874.
Italy ..	5 February 1873 ..	24 March 1873.
Do. Declaration ..	7 May 1873 ..	.....
Latvia ..	16 July 1924 ..	12 October 1925.
Liberia ..	16 December 1892 ..	10 March 1894.
Luxemburg ..	24 November 1880 ..	2 March 1881.
Mexico ..	7 September 1886 ..	6 April 1889.
Monaco ..	17 December 1891 ..	9 May 1892.
Netherlands ..	26 September 1898 ..	2 February 1899.
Nicaragua ..	19 April 1905 ..	11 May 1906.
Norway ..	26 June 1873 ..	30 September 1873.

<sup>1</sup> Notice has not yet been given on behalf of India that this treaty is applicable to her.

Foreign State.	Date of treaty.	Date of Order in Council.
Norway .. ..	18 February 1907	6 July 1907.
Panama .. ..	25 August 1906 ..	12 August 1907.
Paraguay .. ..	12 September 1908	5 July 1911
Peru .. ..	26 January 1904 ..	7 May 1907.
Portugal .. ..	17 October 1892 ..	3 March 1894.
Protocol. [Treaty not to apply to Indian possessional]	30 November 1892	....
Roumania .. ..	21 March 1893 ..	30 April 1894.
Russia .. ..	24 November 1886 ..	7 March 1887.
Salvador .. ..	23 June 1881 ..	16 December 1882.
San Marino .. ..	16 October 1899 ..	3 March 1900.
Servia .. ..	6 December 1900 ..	15 June 1901.
Siam .. ..	4 March 1911 ..	10 November 1911.
Spain .. ..	4 June 1878 ..	27 November 1878.
Do. Declaration ..	19 February 1889 ..	28 May 1889.
Sweden .. ..	26 June 1873 ..	30 September 1873.
Do. .. ..	2 July 1907 ..	12 August 1907.
Switzerland .. ..	26 November 1880 ..	18 May 1881.
Do. .. ..	29 June 1904 ..	29 May 1905.
Tonga .. ..	29 November 1879	30 November 1882.
Do. Protocol ..	3 July 1882	
United States ..	9 August 1842 ..	No Order in Council, application provided for by Extradition Act, 1870, sec. 27.
Do. Convention ..	12 July 1889 ..	21 March 1890.
Do. .. ..	13 December 1900 ..	26 June 1901.
Do. .. ..	12 April 1905 ..	11 February 1907.
Uruguay .. ..	26 March 1884 ..	5 March 1885.
Do. Protocol ..	20 March 1891 ..	24 November 1891.

The first edition of this work was published after the outbreak of the Great War, and the author in his preface referred to the point whether extradition treaties were abrogated or merely suspended during the continuance of hostilities. The view which he supported was confirmed by the Treaties. Article 289 of the Treaty of Versailles runs as follows :—

“ Each of the Allied or Associated Powers being guided by the general principles or special provisions of the present Treaty shall notify to Germany the bilateral treaties or conventions which such Allied or Associated Power wishes to revive with Germany.”

\* \* \* \* \*

“ Only those bilateral treaties and conventions which have been the subject of such a notification shall be revived between the Allied and Associated Powers and Germany ; all the others

are and shall remain abrogated." There are corresponding provisions in the Treaties of Saint-Germain-en-Laye (Austria) and Trianon (Hungary). In pursuance of these provisions notifications have been issued reviving separately with Austria and with Hungary the provisions of the Treaty of the 3rd December 1873 and the Declaration of the 26th June 1901, and reviving with Germany the provisions of the Treaties of the 14th May 1872 and the 7th August 1911.

The position with regard to the new States established on the shores of the Baltic as a result of the war, namely, Finland, Esthonia, Latvia and Lithuania is that treaties of extradition have already been negotiated between the United Kingdom and Finland, Esthonia and Latvia (for the treaty with Finland see Appendix C, p. 154). A novel provision in these treaties is that the Dominions and India are not bound by them until they signify their intention to that effect. The relevant clause in the treaty with Finland is as follows:—"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 hereinafter 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 at Helsingfors, 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." The intention of India to be bound in pursuance of that provision has been published in respect of the Treaties with Finland and Latvia.

The position resulting from the creation of the State of Czecho-Slovakia out of territories formerly belonging to the Empires of Germany and Austria-Hungary is that the earlier treaties between the United Kingdom and those Empires do not apply and cannot be revived between the United Kingdom and the new State. It will accordingly be necessary to negotiate

a fresh treaty before Czecho-Slovakia can become a Foreign State within the meaning of the definition in section 2 of the Indian Extradition Act, 1903.

The position as regards the Serb-Croat-Slovene State, which represents the original State of Serbia enlarged by additions at the expense of surrounding enemies, is that the provisions of the extradition treaty between the United Kingdom and Serbia, dated the 6th December 1900, are extended to the newly acquired territories.

## APPENDIX "C."

### SELECTED TREATIES WITH "FOREIGN" STATES.

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#### AUSTRIA-HUNGARY.

1. **Date of Treaty, December 3rd, 1873.**  
**Date of Order in Council, March 17th, 1874.**
2. **Amending Declaration, June 26th, 1901.**  
**(reproduced *in loco*).**  
**Date of Order in Council, September 15th, 1902.**

#### *Article I.*

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime committed in the territory of the one Party, shall be found within the territory of the other Party under the circumstances and conditions stated in the present Treaty.

#### *Article II.*

The crimes for which the extradition is to be granted are the following :—

1. Murder, or attempt to murder.
2. Manslaughter.
3. Counterfeiting or altering money, uttering or bringing into circulation counterfeit or altered money.
4. Forgery or counterfeiting, or altering or uttering what is forged or counterfeited or altered : comprehending the crimes designated in the Austrian Penal Laws or in the Hungarian Penal Laws and Customs as counterfeiting or falsification of paper money, bank notes, or other securities, forgery or falsification of other public or private documents, likewise the uttering or bringing into circulation, or wilfully using such counterfeited, forged, or falsified papers.

The definition is to be determined accordingly with the Austrian Penal Laws if the extradition shall take place from

Austria, and accordingly with the Hungarian Penal Laws and Customs if the extradition shall take place from Hungary.

5. Embezzlement or larceny.

6. Obtaining money or goods by false pretences.

7. Crimes against bankruptcy law: comprehending the crimes considered as frauds committed by the bankrupt in connection with the bankruptcy, according with the Austrian Penal Laws if the extradition shall take place from Austria, and with the Hungarian Penal Laws if the extradition shall take place from Hungary.

8. Fraud by a bailee, banker, agent, factor, trustee, or director or member or public officer of any company, made criminal by any law for the time being in force.

9. Rape.

10. Abduction.

11. Child stealing, kidnapping, and false imprisonment.

12. Burglary or house-breaking.

13. Arson.

14. Robbery with violence or with menaces.

15. Threats by letter or otherwise with intent to extort.

16. Sinking or destroying a vessel at sea, or attempting to do so.

17. Assaults on board a ship on the high seas, with intent to destroy life, or to do grievous bodily harm.

18. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master.

19. Perjury or subornation of perjury.

20. Malicious injury to property if the offence be indictable.

The extradition is also to take place for participation in any of the aforesaid crimes, as accessory either before or after the fact, provided such participation be punishable by the laws of both the Contracting Parties.

In all these cases the extradition will only take place from the Austro-Hungarian States when the crimes, if committed in Austria, would, according to Austrian law, constitute a "Verbrechen," or, if committed in Hungary, would, according to the laws and customs being in force in Hungary, constitute a

crime ("buntett"); the extradition from Great Britain only when the crimes, if committed in England, or within English jurisdiction, would constitute an extradition crime, as described in the Extradition Acts of 1870 and 1873.

*Article III.*

In no case and on no grounds whatever shall the High Contracting Parties be held to concede the extradition of their own subjects.

*Article IV.*

The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of the Government of Austria-Hungary, has already been tried and discharged or punished, or is still under trial, in the Austro-Hungarian dominions, or in the United Kingdom respectively, for the crime for which his extradition is demanded.

If the person claimed on the part of the Government of the United Kingdom, or if the person claimed on the part of the Government of Austria-Hungary, should be under examination for any other crime in the Austro-Hungarian dominions, or in the United Kingdom respectively, his extradition shall be deferred until the conclusion of the trial, and the full execution of any punishment awarded to him.

Should an individual whose extradition is demanded be at litigation, or be detained in the country on account of private obligations, his surrender shall nevertheless be made, the injured party retaining the right to prosecute his claims before the competent authority.

*Article V.*

The extradition shall not take place if, with respect to the crime for which it is demanded, and according to the laws of the country applied to, criminal prosecution and punishment has lapsed.

*Article VI.*

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has,

in fact, been made with a view to try or punish him for an offence of a political character.

*Article VII.*

If an individual whose extradition is demanded by either of the High Contracting Parties, in accordance with the terms of this Treaty, be also claimed by one or several other Powers on account of other crimes committed on their territory, he shall be surrendered to the Government in whose territory his gravest crime was committed; and if his crimes are all of the same gravity, or a doubt exists as to which is the gravest, to the Government which first made application for his surrender.

*Article VIII.*

A surrendered person shall in no case be kept in arrest or subjected to examination in the State to which he has been surrendered on account of another previous crime, or any other grounds than those of his surrender, unless such person has, after his surrender had an opportunity of returning to the country whence he was surrendered, and has not made use of this opportunity, or unless he, after having returned there, re-appears in the country to which he has already been surrendered.

This stipulation does not refer to crimes committed after surrender.

*Article IX.*

Requisitions for surrender shall be made by the Diplomatic Agents of the High Contracting Parties.

To the requisition for the surrender of an accused person there must be attached a warrant issued by the competent authorities of the State which demands extradition, and such proofs as would, according to the laws of the place where the accused was found, justify his arrest if the crime had been committed there.

If the requisition refers to a person already convicted, the sentence passed by the competent Tribunal of State demanding his surrender must be produced.

No requisition for surrender can be based on a conviction *in contumaciam*.



*Article X.*

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.

The prisoner is then to be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the same country.

*Article XI.*

A fugitive criminal may, however, in urgent cases be arrested under a warrant of a Police Magistrate, Judge of the Peace, or of any other competent authority in either country, on such information or complaint, or such evidence as would, in the opinion of the person issuing the warrant, justify the issue of a warrant if the crime had been committed or the prisoner convicted in the district in which the authority happens to be ; provided, however, that he shall be discharged if, within the shortest time possible, and at the utmost within one month,\* a requisition for his surrender in accordance with the terms of Article IX of this Treaty is not made by the Diplomatic Agent of the State which demands his extradition.

*Article XII.*

The extradition shall not take place before the expiration of fifteen days from the apprehension, and then 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 had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition.

*Article XIII.*

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the sworn depositions or statements of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued

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\* As altered by declaration of June 26th, 1901.

therein, provided such documents are signed or certified by a Judge, Magistrate, or officer of such State, and are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

*Article XIV.*

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, he shall be set at liberty.

*Article XV.*

All articles seized, which were in the possession of the person to be surrendered at the time of his apprehension, shall, if the competent authority of the State applied to for extradition has ordered the delivery thereof, be given up when the extradition takes place; and this delivery shall extend not only to property of the accused, and to the stolen articles, but also to everything which may serve as a proof of the crime. If the extradition cannot be carried out in consequence of the flight or death of the individual who is claimed, the delivery of the above-mentioned objects shall take place nevertheless.

*Article XVI.*

Each of the Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons to be surrendered, in pursuance of this Treaty.

*Article XVII.*

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty.

The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions shall be made to the Governor or chief authority of such Colony or possession by the chief Consular Officer of Austria-Hungary in such Colony or possession.

Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the said

Governor or chief authority, who, however, shall be at liberty either to grant the surrender, or to refer the matter to his Government.

Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Austro-Hungarian criminals who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, of the provisions of the present Treaty.

The requisition for the surrender of a fugitive criminal from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

#### *Article XVIII.*

The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties, but shall remain in force for six months after notice has been given for its termination.

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#### BELGIUM.

- 1. Date of Treaty, October 19th, 1901.  
Date of Order in Council, March 6th, 1902.**
- 2. Supplementary Convention, dated March 5th, 1907.  
Date of Order in Council, July 6th, 1907.**
- 3. Further Convention, dated March 3rd, 1911.  
Date of Order in Council, August 8th, 1911.**

#### *Article I.*

It is agreed that His Britannic Majesty and His Majesty the King of the Belgians shall, on requisition made in their name by their respective Diplomatic Agents, deliver up to each other reciprocally, under the circumstances and conditions stated in the present Treaty, any persons who, being accused or convicted, as principals or accessories, of any of the crimes hereinafter specified, committed within the territories of the

requiring party, shall be found within the territories of the other party :—

1. Murder (including assassination, parricide, infanticide, poisoning), or attempt or conspiracy to murder, in cases jointly provided for by the laws of the two countries.

2. Administering drugs or using instruments with intent to procure the miscarriage of women.

3. Manslaughter.

4. Bigamy.

5. (a) Counterfeiting or altering money, or uttering counterfeit or altered money.

(b) Knowingly making, without lawful authority, any instrument, tool, or engine adapted and intended for the counterfeiting of the coin of the Realm.

6. Abandoning children, exposing or unlawfully detaining them.

7. Forgery, counterfeiting, or altering or uttering what is forged, or counterfeited or altered.

8. Any malicious act done with intent to endanger persons in a railway train.

9. Embezzlement or larceny.

10. Receiving any chattel, money, valuable security or other property, knowing the same to have been embezzled, stolen, or feloniously obtained.

11. Obtaining money, goods, or valuable securities by false pretences.

12. Crimes by bankrupts against bankruptcy law.

13. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any Company, made criminal by any law for the time being in force.

14. Rape.

Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 16 years of age, so far as such acts are punishable by the law of the State upon which the demand is made.

Indecent assault. Indecent assault without violence upon children of either sex under 13 years of age.

15. Abduction.
16. Child-stealing.
17. Kidnapping and false imprisonment.
18. Burglary or house-breaking.
19. Arson.
20. Robbery with violence (including intimidation).
21. Threats by letter or otherwise, with intent to extort.
22. Piracy by law of nations.
23. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
24. Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.
25. Revolt or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.
26. Perjury and subornation of perjury.
27. Malicious injury to property, if the offence be indictable.
28. Assault occasioning actual bodily harm. Malicious wounding or inflicting grievous bodily harm.
29. Offences in connection with the Slave Trade punishable by the laws of both States :

Provided that the surrender shall be made only when, in the case of a person accused, the commission of the crime shall be so established as that the laws of the country where the fugitive or person accused shall be found would justify his apprehension and commitment for trial if the crime had been there committed, and in the case of a person alleged to have been convicted, on such evidence as, according to the laws of the country where he is found, would prove that he had been convicted.

In no case can the surrender be made unless the crime shall be punishable according to the laws in force in both countries with regard to extradition.

In no case, nor on any consideration whatever, shall the High Contracting Parties be bound to surrender their own subjects, whether by birth or naturalization.

*Article II.*

In the dominions of His Britannic Majesty, other than the Colonies or foreign possessions of His Majesty, the manner of proceeding shall be as follows:—

(1) In the case of a person accused—

The requisition for the surrender shall be made to His Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Minister or other Diplomatic Agent of His Majesty the King of the Belgians, accompanied by a warrant of arrest or other equivalent judicial document issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against the accused in Belgium, together with duly authenticated depositions or statements taken on oath or upon solemn affirmation before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed and any particulars which may serve to identify him.

The said Secretary of State shall transmit such documents to His Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive.

On the receipt of such order from the Secretary of State and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

When the fugitive shall have been apprehended, he shall be brought before a competent Magistrate. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner, if the crime of which he is accused had been committed in England, the Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender, sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

After the expiration of a period from the committal of the prisoner, which shall never be less than 15 days, the Secretary of State shall, by order under his hand and seal, order the

fugitive criminal to be surrendered to such person as may be duly authorized to receive him on the part of the Government of His Majesty the King of the Belgians.

(2) In the case of a person convicted—

The course of proceeding shall be the same as in the case of a person accused, except that the warrant to be transmitted by the Minister or other Diplomatic Agent in support of his requisition shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced before the Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.

After the Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*; if he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant.

### *Article III.*

In the dominions of His Majesty the King of the Belgians, other than the Colonies or foreign possessions of his said Majesty, the manner of proceeding shall be as follows :—

(1) In the case of a person accused—

The requisition for the surrender shall be made to the Minister for Foreign Affairs of His Majesty the King of the Belgians by the Minister or other Diplomatic Agent of His Britannic Majesty, accompanied by a warrant of arrest or other equivalent judicial document issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against the accused in Great Britain, together with duly authenticated depositions or statements taken on oath or upon solemn affirmation before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any other particulars which may serve to identify him.

The Minister for Foreign Affairs shall transmit the warrant of arrest, with the documents thereto annexed to the Minister

of Justice, who shall forward the same to the proper judicial authority, in order that the warrant of arrest may be put in course of execution by the Chamber of the Council (*Chambre du Conseil*) of the Court of First Instance of the place of residence of the accused, or of the place where he may be found.

The foreigner may claim to be provisionally set at liberty in any case in which a Belgian enjoys that right, and under the same conditions.

The application shall be submitted to the Chamber of the Council (*Chambre du Conseil*).

The Government will take the opinion of the Chamber of Indictments or Investigation (*Chambre des Mises en Accusation*) of the Court of Appeal within whose jurisdiction the foreigner shall have been arrested.

The hearing of the case shall be public, unless the foreigner should demand that it should be with closed doors.

The public authorities and the foreigner shall be heard. The latter may obtain the assistance of counsel.

Within a fortnight from the receipt of the documents they shall be returned with a reasoned opinion, to the Minister of Justice, who shall decide and may order that the accused be delivered to the person duly authorised on the part of the Government of His Britannic Majesty.

(2) In the case of a person convicted—

The course of proceeding shall be the same as in the case of a person accused, except that the conviction or sentence of condemnation issued in original, or in an authenticated copy, to be transmitted by the Minister or other Diplomatic Agent in support of his requisition, shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced shall be such as would, according to the Belgian laws, prove that the prisoner was convicted of the crime charged.

#### *Article IV.*

A fugitive criminal may, however, be apprehended under a warrant signed by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such



proceedings as would, in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the prisoner convicted in that part of the dominions of the two Contracting Parties in which he exercises jurisdiction: Provided, however, that, in the United Kingdom, the accused shall, in such case, be sent as speedily as possible before a competent Magistrate. He shall be discharged, as well in the United Kingdom as in Belgium, if within fourteen days a requisition shall not have been made for his surrender by the Diplomatic Agent of the requiring State in the manner directed by Articles II and III of this Treaty.

The same rule shall apply to the cases of persons accused or convicted of any of the crimes specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

*Article V.*

If within two months, counting from the date of arrest, sufficient evidence for the extradition shall not have been presented, the person arrested shall be set at liberty. He shall likewise be set at liberty if, within two months of the day on which he was placed at the disposal of the Diplomatic Agent, he shall not have been sent off to the reclaiming country.

*Article VI.*

When any person shall have been surrendered by either of the High Contracting Parties to the other, such person shall not, until he has been restored, or had an opportunity of returning to the country from whence he was surrendered, be triable or tried for any offence committed in the other country prior to the surrender, other than the particular offence on account of which he was surrendered.

*Article VII.*

No accused or convicted person shall be surrendered if the offence in respect of which his surrender is demanded shall be deemed by the party upon which it is made to be a political offence, or to be an act connected with (*connexe à*) such an offence, or if he prove to the satisfaction of the Magistrate, or of the Court before which he is brought on *habeas corpus*, or

to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or to punish him for an offence of a political character.

*Article VIII.*

Warrants, depositions, or statements on oath issued or taken in the dominions of either of the two High Contracting Parties and copies thereof, and certificates of or judicial documents stating the fact of conviction shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge, Magistrate or officer of the country where they were issued or taken :

Provided such warrants, depositions, statements, copies, certificates, and judicial documents are authenticated by the oath or solemn affirmation of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

*Article IX.*

The surrender shall not take place if, since the commission of the acts charged, the accusation, or the conviction, exemption from prosecution or punishment, has been acquired by lapse of time, according to the laws of the country where the accused shall have taken refuge.

*Article X.*

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes committed upon their respective territories, his surrender shall be granted to that State whose demand is earliest in date ; unless any other arrangement should be made between the Governments which have claimed him, either on account of the gravity of the crimes committed, or for any other reasons.

*Article XI.*

If the individual claimed should be under process, or condemned by the Courts of the country where he has taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

In case he should be proceeded against or detained in such country on account of obligations contracted towards private individuals, his surrender shall, nevertheless, take place, the injured party retaining his right to prosecute his claims before the competent authority.

*Article XII.*

Every article found in the possession of the individual claimed at the time of his arrest shall, if the competent authority so decide, be seized, in order to be delivered up with his person at the time when the surrender shall be made. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as proof of the crime. It shall take place even when the surrender, after having been ordered, shall be prevented from taking place by reason of the escape or death of the individual claimed.

The rights of third parties with regard to the said property or articles are, nevertheless, reserved.

*Article XIII.*

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 consent to surrender in pursuance of the present Treaty.

*Article XIV.*

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of the two High Contracting Parties.

The requisition for the surrender of a fugitive criminal who has taken refuge in a Colony or foreign possession of either party shall be made to the Governor or chief authority of such Colony or possession by the chief Consular Officer of the other in such Colony or possession; or, if the fugitive has escaped from a Colony or foreign possession of the Party on whose behalf the requisition is made, by the Governor or chief authority of such Colony or possession.

Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the respective Governors or chief authorities, who, however, shall be at liberty either to grant the surrender or to refer the matter to their Government.

His Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Belgian criminals who may there take refuge, on the basis, as nearly as may be, of the provisions of the present Treaty.

*Article XV.*

The present Treaty shall come into operation ten days after its publication, in conformity with the laws of the respective countries.

From the day when the present Treaty shall come into force, the Treaty of Extradition between the two countries of the 20th May, 1876, the Declaration between the British and Belgian Governments, dated the 23rd July, 1877, extending the Treaty of the 20th May, 1876, to certain additional crimes; the further Declaration of the 21st April, 1887, amending Article I of the Treaty of the 20th May, 1876; and the Convention of the 27th August, 1896, further amending the Treaty of the 20th May, 1876, shall all cease to have effect; but the present Treaty shall apply to all crimes within the Treaty, whether committed before or after the day when it comes into force.

Either Party may at any time terminate the Treaty on giving to the other six months' notice of its intention.

*Article XVI.*

The present Treaty shall be ratified, and the ratifications shall be exchanged at Brussels as soon as may be within six weeks from the date of signature.

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(BELGIUM II.)

*Article I.*

In the relations of each of the High Contracting Parties with the extra-European Colonies and foreign possessions of the

other, the periods fixed by Articles IV, paragraph 1, and V of the Treaty of the 29th October 1901, shall be extended as follows :—

1. A fugitive criminal arrested under the terms of Article IV shall be discharged in the dominions of His Britannic Majesty, if, within the period of two months from the date of his arrest, a request for his extradition shall not have been made by the Government of the requisitioning State.

The fugitive criminal may be discharged in the dominions of His Majesty the King of the Belgians if within the same period a request for his extradition has not been made by the Government of the requisitioning State ; he shall be released if within seven days following the expiration of this period the warrant issued by the competent authority shall not have been communicated to the fugitive criminal.

2. The person arrested shall be set at liberty, if, within the three months, counting from the date of arrest, sufficient evidence in support of the demand for extradition shall not have been produced.

#### *Article II.*

The present Convention shall be ratified and the ratifications shall be exchanged at London as soon as possible. It shall come into force ten days after its publication, in conformity with the laws of the High Contracting Parties, and it shall have the same force and duration as the Treaty of Extradition, to which it relates.

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#### (BELGIUM III.)

#### *Article I.*

The following article is substituted for article 6 of the Extradition Treaty of the 29th October, 1901.

When a person shall have been extradited by one of the High Contracting Parties, that person, until he has returned to the country from which he had been extradited, or until he has had an opportunity of returning to it, shall not be detained or brought to justice in the State to which he has been handed over for any crime or on any other charge whatever prior to the extradition, except those in respect of which the extradition has been accorded.

Neither shall that person, until he has had an opportunity of returning to the country from which he has been extradited, be handed over to a third State.

*Article II.*

The present Convention shall be ratified, and the ratification shall be exchanged at London, as soon as possible.

It shall come into force ten days after its publication in the manner prescribed by law in the respective countries, and shall have the same force and duration as the Treaty to which it relates.

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DENMARK.

**Date of Treaty, March 31st, 1873.**

**Date of Order in Council, June 26th, 1873.**

*Article I.*

It is agreed that Her Britannic Majesty and His Majesty the King of Denmark shall, on requisition made in their name by their respective Diplomatic Agents, deliver up to each other reciprocally, any persons, except native born or naturalized subjects of the Party upon whom the requisition may be made, who, being accused or convicted of any of the crimes hereinafter specified, committed within the territories of the requiring Party, shall be found within the territories of the other Party :—

1. Murder, or attempt or conspiracy to murder.
2. Manslaughter.
3. Counterfeiting, or altering money, or uttering counterfeit or altered money.
4. Forgery, or counterfeiting, or altering, or uttering what is forged or counterfeited or altered.
5. Embezzlement or larceny.
6. Obtaining money or goods by false pretences.
7. Crimes by bankrupts against bankruptcy law.
8. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company made criminal by any law for the time being in force.
9. Rape.

10. Abduction.
11. Child-stealing.
12. Burglary or house-breaking.
13. Arson.
14. Robbery with violence.
15. Threats by letter or otherwise with intent to extort.
16. Piracy by law of nations.
17. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
18. Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.
19. Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Provided that the surrender shall be made only when, in the case of a person accused, the commission of the crime shall be so established as that the laws of the country where the fugitive or person so accused shall be found would justify his apprehension and commitment for trial if the crime had been there committed; and, in the case of a person alleged to have been convicted, on such evidence as, according to the laws of the country where he is found, would prove that he had been convicted.

### *Article II.*

In the dominions of Her Britannic Majesty, other than the Colonies or foreign possessions of Her Majesty, the manner of proceeding shall be as follows :—

#### I. In the case of a person accused—

The requisition for the surrender shall be made to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Minister or other Diplomatic Agent of His Majesty the King of Denmark at London, accompanied by (1) a warrant or other equivalent judicial document for the arrest of the accused, issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against him in Denmark, (2) duly authenticated depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the acts on account of which the fugitive is demanded; and (3) a description

of the person claimed, and any other particulars which may serve to identify him. The said Secretary of State shall transmit such documents to Her Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive.

On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

When the fugitive shall have been apprehended in virtue of such warrant, he shall be brought before the Police Magistrate who issued it, or some other Police Magistrate in London. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the Police Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender; sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorized to receive him on the part of the Government of His Majesty the King of Denmark.

## II. In the case of a person convicted—

The course of proceeding shall be the same as in the preceding case of a person accused, except that the document to be produced by the Minister or other Diplomatic Agent of His Danish Majesty in support of his requisition, shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced before the Police Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.



After the Police Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*. If he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant. In the latter case the Court may at once order his delivery to the person authorized to receive him, without the order of a Secretary of State for his surrender, or commit him to prison to await such order.

### *Article III.*

In the dominions of His Majesty the King of Denmark other than the Colonies or foreign possessions of His said Majesty, the manner of proceeding shall be as follows :—

#### I. In the case of a person accused—

The requisition for the surrender shall be made to the Minister for Foreign Affairs of His Majesty the King of Denmark by the Minister or other Diplomatic Agent of Her Britannic Majesty at Copenhagen accompanied by (1) a warrant for the arrest of the accused, issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against him in Great Britain; (2) duly authenticated depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the acts on account of which the fugitive is demanded; and (3) a description of the person claimed, and any other particulars which may serve to identify him.

The Minister for Foreign Affairs of His Majesty the King of Denmark shall transmit such requisition for surrender to the Minister of Justice of His Majesty the King of Denmark, who, after having ascertained that the crime therein specified is one of those enumerated in the present Treaty, and satisfied himself that the evidence produced is such as, according to Danish law, would justify the committal for trial of the individual demanded, if the crime had been committed in Denmark, shall take the necessary measures for causing the fugitive to be delivered to the person charged to receive him by the Government of Her Britannic Majesty.

## II. In the case of a person convicted—

The course of proceeding shall be the same as in the preceding case of a person accused, except that the warrant to be transmitted by the Minister or other Diplomatic Agent of Her Britannic Majesty in support of his requisition, shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced shall be such as would, according to the laws of Denmark, prove that the prisoner was convicted of the crime charged.

### *Article IV.*

A fugitive criminal may, however, be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the person issuing the warrant, justify the issue of a warrant, if the crime had been committed, or the prisoner convicted, in that part of the dominions of the two Contracting Parties in which he exercises jurisdiction : Provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London ; and that in the dominions of His Majesty the King of Denmark, the case shall be immediately submitted to the Minister of Justice of His Majesty the King of Denmark ; and provided, also, that the individual arrested shall in either country be discharged, if within fifteen days a requisition shall not have been made for his surrender by the Diplomatic Agent of his country, in the manner directed by Articles II and III of this Treaty.

The same rule shall apply to the cases of persons accused or convicted of any of the crimes specified in this Treaty, committed on the high seas, on board a vessel of either country, which may come into a port of the other.

### *Article V.*

If the fugitive criminal who has been committed to prison be not surrendered and conveyed away within two months after such committal (or within two months after the decision of the Court, upon the return to a writ of *habeas corpus* in the United

Kingdom), he shall be discharged from custody, unless sufficient cause be shown to the contrary.

*Article VI.*

When any person shall have been surrendered by either of the High Contracting Parties to the other, such person shall not, until he has been restored or had an opportunity of returning to the country from whence he was surrendered, be triable or tried for any offence committed in the other country prior to the surrender, other than the particular offence on account of which he was surrendered.

*Article VII.*

No accused or convicted person shall be surrendered, if the offence in respect of which his surrender is demanded shall be deemed by the Government upon which it is made to be one of a political character, or if in the United Kingdom he prove to the satisfaction of the Police Magistrate, or of the Court before which he is brought on *habeas corpus*, or to the Secretary of State, or in Denmark, to the satisfaction of the Minister of Justice of His Majesty the King of Denmark, that the requisition for his surrender has in fact been made with a view to try or to punish him for an offence of a political character.

*Article VIII.*

Warrants, depositions, or statements on oath, issued or taken in the dominions of either of the two High Contracting Parties, and copies thereof, and certificates of or judicial documents stating the fact of conviction, shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge, Magistrate, or officer of the country where they were issued or taken, and provided they are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

*Article IX.*

The surrender shall not take place if, since the commission of the acts charged, the accusation, or the conviction, exemption from prosecution or punishment has been acquired by

lapse of time, according to the laws of the country where the accused or convicted person shall have taken refuge.

*Article X.*

If the individual claimed should be under prosecution, or in custody, for a crime or offence committed in the country where he may have taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

In case he should be proceeded against or detained in such country on account of obligations contracted towards private individuals, his surrender shall nevertheless take place, the injured party retaining his right to prosecute his claims before the competent authority.

*Article XI.*

Every article found in the possession of the individual claimed at the time of his arrest shall be seized, in order to be delivered up with his person at the time when the surrender shall be made. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as proof of the crime. It shall take place even when the surrender, after having been ordered, shall be prevented from taking place by reason of the escape or death of the individual claimed.

*Article XII.*

Each of the two 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 consent to surrender in pursuance of the present Treaty.

*Article XIII.*

The stipulations of the present Treaty shall be applicable to the Colonies or foreign possessions of the two High Contracting Parties, in the following manner :—

The requisition for the surrender of a fugitive criminal who has taken refuge in a Colony or foreign possession of either of the two Contracting Parties shall be made to the Governor or Chief Authority of such Colony or Possession by the Chief

Consular Officer of the other Party in such Colony or Possession ; or, if the fugitive has escaped from a Colony or foreign possession of the Party on whose behalf the requisition is made, by the Governor or Chief Authority of such Colony or Possession.

Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the respective Governors or Chief Authorities, who, however, shall be at liberty either to grant the surrender, or to refer the matter to their Government.

Her Britannic Majesty and His Majesty the King of Denmark shall, however, be at liberty to make special arrangements in their Colonies and Foreign Possessions for the surrender of criminals who may take refuge therein, on the basis, as nearly as may be, of the provisions of the present Treaty.

*Article XIV.*

The present Treaty shall come into operation ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties.

After the Treaty shall so have been brought into operation, the Convention concluded between the High Contracting Parties on the 15th April, 1862, shall be considered as cancelled, except as to any proceeding that may have already been taken or commenced in virtue thereof.

Either Party may at any time terminate the Treaty on giving to the other six months' notice of its intention.

*Article XV.*

The present Treaty shall be ratified, and the ratifications shall be exchanged at Copenhagen as soon as may be within four weeks from the date of signature.

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FINLAND.

**Date of Treaty, May 30th, 1924.**

**Date of Order in Council, May 2nd, 1925.**

*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 accused 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.

*Article II.*

Extradition shall be reciprocally granted for the following crimes or offences :

1. Murder (including assassination, parricide, infanticide, poisoning), or attempt to murder.
2. Manslaughter.
3. Administering drugs or using instruments with intent to procure the miscarriage of women.
4. Rape.
5. Unlawful carnal knowledge, or any attempt to have unlawful carnal knowledge, of a girl under 15 years of age.
6. Kidnapping and false imprisonment.
7. Child-stealing, including abandoning, exposing or unlawfully detaining.
8. Abduction.
9. Procuration.
10. Bigamy.
11. Maliciously wounding or inflicting grievous bodily harm.
12. Assault occasioning actual bodily harm.
13. Threats, by letter or otherwise, with intent to extort money or other things of value.
14. Perjury, or subornation of perjury.
15. Arson.
16. Burglary or house-breaking, robbery with violence, larceny or embezzlement.
17. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any company, or fraudulent conversion, if such crimes or offences, according to the laws of the High Contracting Parties, are extradition crimes or offences.
18. 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 feloniously obtained, if such crimes or offences, according to the laws of the High Contracting Parties, are extradition crimes or offences.

19. Counterfeiting or altering money, or bringing into circulation counterfeited or altered money.

20. Forgery, or uttering what is forged.

21. Crimes against bankruptcy law, which, according to the laws of the High Contracting Parties, are extradition crimes.

22. Any malicious act done with intent to endanger the safety of any persons travelling or being upon a railway.

23. Malicious injury to property, if such offence be indictable.

24. Piracy and other crimes or offences committed at sea against persons or things which, according to the laws of the High Contracting Parties, are extradition crimes or offences.

25. Dealing in slaves in such manner as to constitute a crime or offence against the laws of both States.

The extradition is also to be granted for participation in any of the aforesaid crimes or offences, provided 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 laws of both the Contracting Parties for the time being in force, the grant can be made.

### *Article III.*

In no case nor on any consideration whatever shall the High Contracting Parties be bound to surrender their own subjects, whether by birth or naturalisation.

### *Article IV.*

The extradition shall not take place if the person claimed has already been tried and discharged or punished, or is still under 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 and the full execution of any punishment awarded to him

*Article V.*

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

*Article VI.*

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

*Article VII.*

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 restored, or 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 VIII.*

The requisition for extradition shall be made through the diplomatic agents of the High Contracting Parties respectively.

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

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent court of the State that makes the requisition for extradition, provided that



a sentence passed *in contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

*Article IX.*

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 X.*

A criminal fugitive may be apprehended under a warrant issued by any police magistrate, justice of the peace, or other competent authority in either State on such information or complaint and such evidence, or after such proceedings, as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime or offence had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the magistrate, justice of the peace, or other competent authority, exercises jurisdiction. He shall, in accordance with this article, be discharged, if within the term of thirty days a requisition for extradition shall not have been made by the diplomatic agent of the State claiming his extradition in accordance with the stipulations of this treaty. The same rule shall apply to the cases of persons accused 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 XI.*

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 in respect of which extradition could, at the time of such conviction, have been granted by the State applied to; and no criminal shall be surrendered until after the expiration of fifteen days

from the date of his committal to prison to await the warrant for his surrender.

*Article XII.*

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, or copies thereof, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows:—

1. A warrant, or copy thereof, must purport to be signed by a judge, magistrate, or officer of the other State, or purport to be certified under the hand of a judge, magistrate or officer of the other State to be a true copy thereof, as the case may require.

2. Depositions or affirmations, or the copies thereof, must purport to be certified, under the hand of a judge, magistrate, or officer of the other State, to be the original depositions or affirmations, or to be true copies thereof, as the case may require.

3. A certificate of, or judicial document stating the fact of, a conviction must purport to be certified by a judge, magistrate, or officer of the other State.

In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated, either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of the other State, or by any other mode of authentication for the time being permitted by the law of the State to which the application for extradition is made.

*Article XIII.*

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.

*Article XIV.*

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper tribunal thereof, shall direct, the fugitive shall be set at liberty.

*Article XV.*

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, and any articles that may serve as a proof of the crime or offence shall be given up when the extradition takes place, in so far as this may be permitted by the law of the State granting the extradition.

*Article XVI.*

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.

*Article XVII.*

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 hereinafter 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 at Helsingfors, 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 XVIII.*

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 Finland 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 XIX.*

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 XX*

The present treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. 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.

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 FRANCE.

1. { **Date of Treaty, August 14th, 1876.**  
 { **Order in Council, May 16th, 1878.**
2. { **Convention Amending Treaty of 1876, dated**  
 { **February 13th, 1896.**  
 { **Order in Council, dated February 22nd, 1896.**
3. **Arrangement regarding Tunis, dated December 31st, 1889.**

*Article I.*

The High Contracting Parties engage to deliver up to each other those persons who are being proceeded against or who have been convicted of a crime committed in the territory of the one Party, and who shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

*Article II.<sup>1</sup>*

Native-born or naturalized subjects of either country are excepted from extradition. In the case, however, of a person who, since the commission of the crime or offence of which he is accused, or for which he has been convicted, has become naturalized in the country whence the surrender is sought, such naturalization shall not prevent the pursuit, arrest, and extradition of such person, in conformity with the stipulations of the present Treaty.

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<sup>1</sup> For the first sentence of this Article the Convention of 1908 substituted the following sentence, namely:—"Each of the two High Contracting Parties shall be at liberty to refuse to the other the extradition of its own nationals."

*Article III.*

The crimes for which the extradition is to be granted are the following :—

1. Counterfeiting or altering money, and uttering counterfeit or altered money.
2. Forgery, counterfeiting or altering and uttering what is forged, counterfeited or altered.
3. Murder (including assassination, parricide, infanticide and poisoning) or attempt to murder.
4. Manslaughter.
5. Abortion.
3. Rape.
7. Indecent assault, acts of indecency even without violence upon the person of a girl under 12 years of age.
8. Child-stealing, including abandoning, exposing or unlawfully detaining.
9. Abduction.
10. Kidnapping and false imprisonment.
11. Bigamy.
12. Wounding or inflicting grievous bodily harm.
13. Assaulting a Magistrate, or peace or public officer.
14. Threats by letter or otherwise with intent to extort.
15. Perjury or subornation of perjury.
16. Arson.
17. Burglary or house-breaking, robbery with violence.
18. Fraud by a bailee, banker, agent, factor, trustee, or director, or member, or public officer of any Company made criminal by any Act for the time being in force.
19. Obtaining money, valuable security, or goods by false pretences, including receiving any chattel, money, valuable security, or other property, knowing the same to have been unlawfully obtained.
20. Embezzlement or larceny, including receiving any chattel, money, valuable security, or other property, knowing the same to have been embezzled or stolen.
21. Crimes against Bankruptcy Law.

22. Any malicious act done with intent to endanger persons in a railway train.

23. Malicious injury to property, if the offence is indictable.

24. Crimes committed at sea :—

(a) Any act of depredation or violence by the crew of a British or French vessel, against another British or French vessel, or by the crew of a foreign vessel not provided with a regular commission, against British or French vessels, their crews or their cargoes.

(b) The fact by any person being or not one of the crew of a vessel of giving her over to pirates.

(c) The fact by any person being or not one of the crew of a vessel of taking possession of such vessel by fraud or violence.

(d) Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

(e) Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

25. Dealing in slaves in such manner as to constitute an offence against the laws of both countries.

The extradition is also to take place for participation, either as principals or accessories, in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

#### *Article IV.*

The present Treaty shall apply to crimes and offences committed prior to the signature of the Treaty; but a person surrendered shall not be tried for any crime or offence committed in the other country before the extradition, other than the crime for which his surrender has been granted.

#### *Article V.*

No accused or convicted person shall be surrendered, if the offence in respect of which his surrender is demanded shall be deemed by the Party upon which it is made to be a political offence or to be an act connected with (*connexe á*) such an offence, or if he prove to the satisfaction of the police magistrate or of

the Court before which he is brought on *habeas corpus*, or of the Secretary of State, that the requisition for his surrender has, in fact, been made with a view to try or to punish him for an offence of a political character.

*Article VI.*

On the part of the French Government, the extradition shall take place in the following manner in France :—

The Ambassador or other Diplomatic Agent of Her Britannic Majesty in France shall send to the Minister for Foreign Affairs, in support of each demand for extradition, an authenticated and duly legalised copy either of a certificate of conviction, or of a warrant of arrest against a person accused, clearly setting forth the nature of the crime or offence on account of which the fugitive is being proceeded against. The judicial document thus produced, shall be accompanied by a description of the person claimed, and by any other information which may serve to identify him.

These documents shall be communicated by the Minister for Foreign Affairs to the Keeper of the Seals, Minister of Justice, who, after examining the claim for surrender, and the documents in support thereof, shall report thereon immediately to the President of the Republic ; and, if there is reason for it, a Decree of the President will grant the extradition of the person claimed and will order him to be arrested and delivered to the British authorities.

In consequence of this Decree, the Minister of the Interior shall give orders that search be made for the fugitive criminal, and in case of his arrest, that he be conducted to the French frontier, to be delivered to the person authorized by Her Britannic Majesty's Government to receive him.

Should it so happen that the documents furnished by the British Government, with the view of establishing the identity of the fugitive criminal, and that the particulars collected by the agents of the French Police with the same view, be considered insufficient, notice shall be immediately given to the Ambassador or other Diplomatic Agent of Her Britannic Majesty in France and the fugitive person, if he has been arrested, shall remain in custody until the British Government has been able to furnish



further evidence in order to establish his identity, or to throw light on other difficulties in the examination.

*Article VII.*

In the dominions of Her Britannic Majesty, other than the Colonies or Foreign Possessions of Her Majesty, the manner of proceeding shall be as follows:—

(A) In the case of a person accused:—The requisition for the surrender shall be made to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Ambassador or other Diplomatic Agent of the President of the French Republic, accompanied by a warrant of arrest or other equivalent judicial document, issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against the accused in France, together with duly authenticated depositions or statements taken on oath before such Judge or Magistrate clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him. The said Secretary of State shall transmit such documents to Her Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive.

On the receipt of such order from the Secretary of State and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

When the fugitive shall have been apprehended, he shall be brought before the Police Magistrate who issued the warrant or some other Police Magistrate in London. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner, if the crime of which he is accused had been committed in England, the Police Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender, sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorized to receive him on the part of the President of the French Republic.

(B) In the case of a person convicted :—The course of proceeding shall be the same as in the case of a person accused, except that the warrant to be transmitted by the Ambassador or other Diplomatic Agent in support of his requisition shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place and date of his conviction. The evidence to be produced before the Police Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.

(C) Persons convicted by judgment in default or *arrêt de contumace*, shall be in the matter of extradition considered as persons accused, and as such, be surrendered.

(D) After the Police Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus* ; if he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant. In the latter case the Court may at once order his delivery to the person authorized to receive him, without the order of a Secretary of State for his surrender, or commit him to prison to await such order.

#### *Article VIII.*

Warrants, depositions, or statements on oath, issued or taken in the dominions of either of the two High Contracting Parties, and copies thereof, and certificates of or judicial documents stating the facts of conviction, shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge, Magistrate or officer of the country where they were issued, or taken, provided such warrants, depositions, statements, copies, certificates and judicial documents are authenticated by the oath of some

witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

*Article IX.*

A fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the person issuing the warrant, justify the issue of a warrant, if the crime had been committed or the prisoner convicted in that part of the dominions of the two Contracting Parties in which the Magistrate exercises jurisdiction : Provided, however, that, in the United Kingdom, the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London. He shall be discharged, as well in the United Kingdom as in France, if within fourteen days a requisition shall not have been made for his surrender by the Diplomatic Agent of his country in the manner directed by Articles II and IV of this Treaty.

The same rule shall apply to the cases of persons accused or convicted of any of the crimes specified in this Treaty committed on the high seas on board any vessel of either country which may come into a port of the other.

*Article X.*

If the fugitive criminal who has been committed to prison be not surrendered and conveyed away within two months after such committal, or within two months after the decision of the Court upon the return to a writ of *habeas corpus* in the United Kingdom, he shall be discharged from custody, unless sufficient cause be shown to the contrary.

*Article XI.*

The claim for extradition shall not be complied with if the individual claimed has been already tried for the same offence in the country whence the extradition is demanded, or if, since the commission of the acts charged, the accusation or the conviction, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of that country.

*Article XII.*

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes committed upon their respective territories, his surrender shall be granted to that State whose demand is earliest in date, unless any other arrangement should be made between the Governments which have claimed him, either on account of the gravity of the crimes committed, or for any other reasons.

*Article XIII.*

If the individual claimed should be under prosecution, or condemned for a crime or offence committed in the country where he may have taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

In case he should be proceeded against or detained in such country on account of obligations contracted towards private individuals, his surrender shall nevertheless take place.

*Article XIV.*

Every article found in the possession of the individual claimed at the time of his arrest shall, if the competent authority so decide, be seized, in order to be delivered up with his person at the time when the surrender shall be made. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to every thing that may serve as proof of the crime, and shall take place even when the surrender, after having been ordered, shall be prevented from taking place by reason of the escape or death of the individual claimed.

The rights of third parties with regard to the said property or articles are nevertheless reserved.

*Article XV.*

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.

*Article XVI.*

In the Colonies and Foreign Possessions of the two High Contracting Parties the manner of proceeding shall be as follows :—

The requisition for the surrender of a fugitive criminal, who has taken refuge in a Colony or Foreign Possession of either Party, shall be made to the Governor or chief authority of such Colony or Possession by the chief Consular Officer of the other in such Colony or Possession ; or, if the fugitive has escaped from a Colony or Foreign Possession of the Party on whose behalf the requisition is made, by the Governor or chief authority of such Colony or Possession.

Such requisitions may be disposed of, subject always as nearly as may be, to the provisions of this Treaty, by the respective Governors or chief authorities who, however, shall be at liberty either to grant the surrender or to refer the matter to their Government.

The foregoing stipulations shall not in any way affect the arrangements established in the East Indian Possessions of the two countries by the IXth Article of the Treaty of the 7th March, 1815.

*Article XVII.*

The present Treaty shall be ratified and the ratifications shall be exchanged at Paris as soon as possible.

It shall come into operation ten days after its publication, in conformity with the laws of the respective countries.

Either Party may at any time terminate the Treaty on giving to the other six months' notice of its intention.

## 2. CONVENTION OF FEBRUARY 13TH, 1896.

ARTICLE I.—The text of Article VII of the Extradition Treaty of the 14th August, 1876, is amended by the substitution of the words “ a Magistrate ” for the words “ the Police Magistrate who issued the warrant, or some other Police Magistrate in London,” in the first sentence of the third paragraph of section (A), and by the omission of the word “ police ” in the second sentence of the said paragraph, and in the sections (B) and (D).

ARTICLE II.—The text of Article IX of the aforesaid Treaty is amended by the substitution of the words “a Magistrate” for the words “a Police Magistrate in London.”

ARTICLE III.—The present Convention shall be ratified, and the ratifications shall be exchanged at Paris as soon as possible.

It shall come into force ten days after its publication in the manner prescribed by law in the respective countries, and shall have the same force and duration as the Treaty to which it relates.

### 3. ARRANGEMENT REGARDING TUNIS, DATED DECEMBER 31ST, 1889.

The provisions of the Anglo-French Convention of the 14th August, 1876, are extended to Tunis, except that the period of fourteen days, stipulated by Article IX of the said Convention, is prolonged to two months.

The present arrangement shall have the same duration as the Convention of Extradition to which it relates.

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#### GERMANY.

**Date of Treaty, May 14th, 1872.**

**Date of Order in Council, June 25th, 1872.**

#### *Article I.*

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

#### *Article II.*

The crimes for which the extradition is to be granted are the following:—

1. Murder, or attempt to murder.
2. Manslaughter.
3. Counterfeiting or altering money, uttering or bringing into circulation counterfeit or altered money.

4. Forgery or counterfeiting or altering or uttering what is forged or counterfeited or altered ; comprehending the crimes designated in the German Penal Code as counterfeiting or falsification of paper-money, bank-notes, or other securities, forgery or falsification of other public or private documents, likewise the uttering or bringing into circulation, or wilfully using such counterfeited, forged, or falsified papers.

5. Embezzlement or larceny.

6. Obtaining money or goods by false pretences.

7. Crimes by bankrupts against bankruptcy law ; comprehending the crimes designated in the German Penal Code as bankruptcy liable to prosecution.

8. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company, made criminal by any law for the time being in force.

9. Rape.

10. Abduction.

11. Child-stealing.

12. Burglary or house-breaking.

13. Arson.

14. Robbery with violence.

15. Threats by letter, or otherwise, with intent to extort.

16. Sinking or destroying a vessel at sea, or attempting to do so.

17. Assaults on board a ship on the high seas, with intent to destroy life, or to do grievous bodily harm.

18. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master.

The extradition is also to take place for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

### *Article III.*

No German shall be delivered up by any of the Governments of the Empire to the Government of the United Kingdom ; and no subject of the United Kingdom shall be delivered up by the Government thereof to any German Government.

*Article IV.*

The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of any of the Governments of the German Empire, has already been tried and discharged or punished, or still under trial, in one of the States of the German Empire, or in the United Kingdom, respectively, for the crime for which his extradition is demanded.

If the person claimed on the part of the Government of the United Kingdom, or if the person claimed on the part of any of the Governments of the German Empire, should be under examination for any other crime in one of the States of the German Empire, or in the United Kingdom, respectively, his extradition shall be deferred until the conclusion of the trial, and the full execution of any punishment awarded to him.

*Article V.*

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

*Article VI.*

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

*Article VII.*

A person surrendered can in no case be kept in prison, or be brought to trial in the State to which the surrender has been made, for any other crime or on account of any other matters than those for which the extradition shall have taken place.

This stipulation does not apply to crimes committed after the extradition.



*Article VIII.*

The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties, respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

A requisition for extradition cannot be founded on sentences passed *in contumaciam*.

*Article IX.*

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.

The prisoner is then to be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the same country.

*Article X.*

The extradition shall not take place before the expiration of fifteen days from the apprehension, and then 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 had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition.

*Article XI.*

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the sworn depositions or statements of witnesses taken in the other State,

or copies thereof, and likewise the warrants and sentences issued therein, provided such documents are signed or certified by a Judge, Magistrate, or Officer of such State, and are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

*Article XII.*

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, he shall be set at liberty.

*Article XIII.*

All articles seized, which were in the possession of the person to be surrendered at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

*Article XIV.*

The High Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered, and his conveyance till placed on board ship; they reciprocally agree to bear such expenses themselves.

*Article XV.*

The stipulations of the present Treaty shall be applicable to the Colonies and Foreign Possessions of Her Britannic Majesty.

The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or Foreign Possessions shall be made to the Governor or Chief Authority of such Colony or Possession by the Chief Consular Officer of the German Empire in such Colony or Possession.

Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the said Governor or Chief Authority, who, however, shall be at liberty

either to grant the surrender or to refer the matter to his Government.

Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and Foreign Possessions for the surrender of German criminals, who may take refuge within such Colonies and Foreign Possessions, on the basis, as nearly as may be, of the provisions of the present Treaty.

The requisition for the surrender of a fugitive criminal from any Colony or Foreign Possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

*Article XVI.*

The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties, but shall remain in force for six months after notice has been given for its termination.

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GREECE.

**Date of Treaty, September 11-24th, 1910.**

**Date of Order in Council, February 13th, 1912.**

*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 accused or convicted of any of the crimes or offences enumerated in Article II, committed in the territory of the one Party, shall be found within the territory of the other Party.

*Article II.*

Extradition shall be granted for the following crimes or offences when provided for by the laws of the requisitioning State and of the State applied to:—

1. Murder (including parricide, infanticide, poisoning), or attempt or conspiracy to murder, manslaughter.
2. Kidnapping and false imprisonment.

3. Abandoning or exposing children below the age of 7 years.
4. Abortion.
5. Abduction of persons under age.
6. Bigamy.
7. Malicious wounding or inflicting grievous bodily harm with premeditation, when such acts cause death (without the intention of killing) or disease or incapacity for personal labour lasting for more than three months, or serious mutilation, or the loss or disablement of a member or organ, or other permanent infirmity.
8. Threats by letter or otherwise with intent to extort.
9. Perjury.
10. Arson.
11. Burglary, house-breaking, larceny, embezzlement, fraudulent misappropriation of property, obtaining property by false pretences.
12. Fraud and embezzlement by public officials; bribery of public officials.
13. Receiving any chattel, money, valuable security, or other property, knowing the same to have been embezzled, stolen, or feloniously obtained.
14. Counterfeiting or altering money, or knowingly bringing into circulation counterfeited or altered money.
15. Knowingly making without lawful authority any instrument, tool, or engine adapted and intended for the counterfeiting of the coin of the realm.
16. Forgery by writing, or uttering what is forged.
17. Fraudulent bankruptcy.
18. Malicious injury to any house or building calculated to cause danger to life or property.
19. Rape.

Participation in the aforesaid crimes is also included, provided that such participation is punishable by the laws of the demanding State and of the State applied to.

### *Article III.*

No Greek subject shall be surrendered by the Government of His Majesty the King of the Hellenes to the Government of

His Britannic Majesty, and no British subject shall be surrendered by his Government to the Government of His Majesty the King of the Hellenes.

*Article IV.*

Extradition shall not take place if the person claimed on the part of His Britannic Majesty's Government, or of the Government of His Majesty the King of the Hellenes, has already been tried, discharged, or punished, or is awaiting trial in the territory of the United Kingdom or in Greece, respectively, for the crime or offence for which his extradition is demanded.

If the person claimed on the part of the Government of His Majesty the King of the Hellenes, or of His Britannic Majesty's Government, should be awaiting trial or undergoing sentence for any other crime or offence in the territory of Greece or in the United Kingdom, respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal or on expiration of sentence.

*Article V.*

Extradition shall not be granted if exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

Neither shall it be granted in the case of persons convicted by default, or otherwise, unless the sentence inflicted be at least one year's imprisonment.

*Article VI.*

The person claimed shall not be surrendered if the crime in respect of which extradition is applied for be deemed by the party to whom application is made to be a political offence, or connected with such an offence, or if the person claimed proves that the application for extradition has in fact been made with a view to try or to punish him for any offence of this character.

*Article VII.*

A person whose surrender has been granted shall in no case be detained or tried in the State to which the surrender has been

made for any other crime, or on account of any other matters than those for which the extradition shall have taken place.

This stipulation does not apply to crimes committed after the extradition.

The person who has been claimed, and whose extradition shall have been granted, shall not be tried or punished for any political offence committed prior to his extradition, nor for any matter connected with such an offence, nor for any crimes or offences not provided for in the present Treaty.

#### *Article VIII.*

The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent judicial authority setting forth clearly the nature of the crime or offence with which the person claimed is charged. The said warrant shall also be accompanied by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

If the requisition relates to a person already convicted, it must be accompanied by a copy of the judgment passed on the convicted person by the competent Court of the State that makes the requisition for extradition.

A sentence passed *in contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

In the event of any doubt arising as to whether the crime or offence, in respect of which the prosecution has been instituted, comes within the stipulations of the present Treaty, the Government applied to shall be at liberty to require all such further information as it may consider necessary or of assistance in order to form an opinion, after which it shall decide what action shall be taken on the demand for extradition.

The requisitioning Government, in furnishing such further information to the Government applied to, shall, at the same time, place at the disposal of the latter all such documents as may be necessary or useful in enabling it to form an opinion.

*Article IX.*

In cases of urgency provisional arrest may be effected upon notice being given, by post or telegraph, through the diplomatic channel that one of the documents enumerated in Article 8 has been issued, provided, however, that such notice shall always be given to the Ministry for Foreign Affairs of the State applied to.

Provisional arrest shall be effected in the manner and in accordance with the rules laid down by the laws of the State applied to. It shall not be maintained if, within a period of one month from the date on which it has been effected, the State applied to has not been furnished with one of the documents specified in Article 8 of the present Treaty.

*Article X.*

All papers and documents issued by the authorities of the Contracting States which may be produced in virtue of Articles 8 and 13 of the present Treaty must be accompanied by an authenticated translation in the French language.

*Article XI.*

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 has been committed in the territory of the same State or if, extradition is claimed in respect of an offence of which the fugitive has been already convicted, to prove that the prisoner is the person convicted, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to.

*Article XII.*

Extradition shall be granted in accordance with the rules laid down by the law of the State applied to.

*Article XIII.*

Warrants, depositions, and affirmations, issued or taken in the dominions of one of the High Contracting Parties, and copies of such documents as well as certificates or judicial documents

stating the fact of a conviction shall be admitted as valid evidence in the proceedings taken in the dominions of the other party, if they bear the signature or are accompanied by the certificate of a Judge, Magistrate, or officer of the State in which they have been issued or taken, provided that such warrants, depositions, affirmations, copies, certificates, or judicial documents are authenticated, either by the oath of some witness, or by being sealed with the seal of the Minister of Justice, or some other Minister of State.

*Article XIV.*

If the accused or sentenced person be not a subject of one of the Contracting Parties, the Government to whom application for extradition is made shall be at liberty to take such action in respect of the application, as it may think fit, and to surrender the person claimed to be tried in the State in which the crime or offence has been committed.

Nevertheless, the Government of His Majesty the King of the Hellenes reserves to itself the option of surrendering the person claimed to the State to which he belongs, instead of surrendering him to the State in which the crime or offence has been committed.

*Article XV.*

If a fugitive criminal who has been arrested has not been surrendered and conveyed away within three months after his arrest, or within three months after the decision of the Court upon the return to a writ of *habeas corpus* in the United Kingdom, he shall be set at liberty.

*Article XVI.*

When extradition is granted all articles connected with the crime or offence, or which may serve as proofs of the crime which are found in the possession of the person claimed at the time of his arrest, or which may be afterwards discovered, shall, if the competent authority of the State applied to so direct, be seized and restored to the requisitioning State.

Such restoration shall be carried out, even if extradition be not carried out owing to the escape or death of the person claimed.



The rights, however, which third persons, not involved in the prosecution, may have acquired over the said articles are reserved, and the latter shall, should the case arise, be restored to them, free of charge, at the termination of the proceedings.

*Article XVII.*

All expenses arising out of an application for extradition, also the costs of the arrest, maintenance, and transport of the person whose extradition shall have been granted, as well as of the despatch and forwarding of the articles which, by the provisions of Article 16, are to be returned or restored, shall be borne by the requisitioning State and by the State applied to within the limits of their respective territories.

The cost of transport or other expenses outside the territory of the State applied to shall be borne by the demanding State.

*Article XVIII.*

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of His Britannic Majesty.

The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions shall be made to the Governor or chief authority of such Colonies or possession by the chief consular officer of Greece in such Colony or possession.

Such requisition may be disposed of subject always, as nearly as may be, to the provisions of this Treaty, by the said Governor or chief authority. He shall, however, be at liberty either to grant the surrender or to refer the matter to his Government.

His Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of criminals from Greece who may take refuge within such Colonies and foreign possessions, on the basis of the provisions of the present Treaty.

Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of His Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

*Article XIX.*

The present Treaty shall come into operation ten days after its publication in conformity with the laws of the respective countries.

Crimes committed prior to the coming into force of the Treaty shall not form the subject of an application for extradition except in cases in which the persons claimed shall have taken refuge in the territory of the State applied to after the exchange of ratifications.

Each of the Contracting Parties shall be at liberty at any time to denounce the present Treaty upon giving six months' notice to the other Party of its intention to do so.

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ITALY.

**Date of Treaty, February 5th, 1873.**

**Amendment inserted *in loco*.**

**Date of Order in Council, March 24th, 1873.**

*Article I.*

The High Contracting Parties engage to deliver up to each other reciprocally any persons, who, being accused or convicted of any of the crimes specified in the Article following, committed within the territory of either of the said Parties, shall be found within the territory of the other, in the manner and under the conditions determined in the present Treaty.

*Article II.*

The crimes for which the extradition is agreed to are the following :—

1. Murder, or attempt or conspiracy to murder, comprising the crimes designated by the Italian Penal Code as the association of criminals for the commission of such offences.

2. Manslaughter, comprising the crimes designated by the Italian Penal Code as wounds and blows wilfully inflicted which cause death.

3. Counterfeiting or altering money, and uttering or bringing into circulation counterfeit or altered money.
  4. Forgery, counterfeiting or altering, or uttering of the thing or document that is forged or counterfeited or altered.
  5. Larceny, or unlawful abstraction or appropriation.
  6. Obtaining money or goods by false pretences (cheating or fraud).
  7. Fraudulent bankruptcy.
  8. Fraud, abstraction, or unlawful appropriation, by a bailee, banker, agent, factor, trustee, director, or member, or officer of any public or private company or house of commerce.
  9. Rape.
  10. Abduction.
  11. Child-stealing.
  12. Burglary and house-breaking, comprising the crimes designated by the Italian Penal Code as entry by night, or even by day, with fracture or escalade, or by means of false key or other instrument, into the dwelling of another person with intent to commit a crime.
  13. Arson.
  14. Robbery with violence.
  15. Threats by letter or otherwise, with intent to extort money or anything else.
  16. Piracy, according to international law, when the pirate, a subject of neither of the High Contracting Parties, has committed depredations on the coasts, or on the high seas, to the injury of citizens of the requiring party, or when being a citizen of the requiring party and having committed acts of piracy, to the injury of a third State, he may be within the territory of the other party, without being subjected to trial.
  17. Sinking or destroying, or attempting to sink or destroy, a vessel at sea.
  18. Assaults on board a ship on the high seas with intent to kill or to do grievous bodily harm.
  19. Revolt or conspiracy by two or more persons on board a ship on the high seas, against the authority of the master.
- Accomplices before the fact in any of these crimes shall, moreover, also be delivered up, provided their complicity be punishable by the laws of both the Contracting Parties.

*Article III.*

The Italian Government shall not deliver up any Italian to the United Kingdom; and no subject of the United Kingdom shall be delivered up by it to the Italian Government.

*Article IV.*

In any case where an individual convicted or accused shall have obtained naturalization in either of the two Contracting States after the commission of the crime, such naturalization shall not prevent the search for, arrest, and delivery of the individual. The extradition may, however, be refused if five years have elapsed from the concession of naturalization, and the individual has been domiciled from the concession thereof in the State to which the application is made.

*Article V.*

No accused or convicted person shall be given up if the offence for which he is claimed is political; or if he proves that the demand for his surrender has been made with the intention of trying and punishing him for a political offence.

*Article VI.*

The extradition shall not be granted if, since the commission of the crime, the commencement of proceedings, or the conviction, such a length of time has elapsed as to bar the penal prosecution or the punishment, according to the laws of the State to which application is made.

*Article VII.*

The accused or convicted person who has been given up shall not, until he has been liberated, or had an opportunity of returning to the country in which he was living, be imprisoned or subjected to trial in the State to which he has been given up, for any crime or on any charge other than that on account of which the extradition took place.

This does not apply to offences committed after the extradition.

*Article VIII.*

If the individual claimed is under prosecution or in custody for a crime committed in the country where he has taken refuge, his surrender may be deferred until the law has taken its course.

In case he should be proceeded against or detained in such country on account of obligations contracted with private individuals, or any other civil claim, his surrender shall nevertheless take place, the injured party retaining his right to prosecute his claims against him before the competent authority.

*Article IX.*

The requisitions for extradition shall be made, respectively, by means of the Diplomatic Agents of the High Contracting Parties.

The demand for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State applying for the extradition, and by such proof as, according to the law of the place where the fugitive is found, would justify his arrest if the crime had been committed there.

If the requisition relates to a person convicted, it must be accompanied by the sentence of condemnation of the competent Court of the State applying for the extradition.

The demand for extradition must not be founded upon a sentence *in contumaciam*.

*Article X.*

If the demand for extradition be made according to the foregoing stipulations, the competent authorities of the State to which the requisition is made shall proceed to arrest the fugitive.

The prisoner shall be taken before the competent Magistrate, who shall examine him, and make the preliminary investigations of the affair, in the same manner as if the arrest had taken place for a crime committed in the same country.

*Article XI.*

In the examinations to be made in conformity with the preceding stipulations, the authorities of the State to which the demand is addressed shall admit, as entirely valid evidence, the documents and depositions taken on oath in the other State, or copies of them, and likewise the warrants and sentences issued there: provided that such documents are signed or certified by a Judge, Magistrate, or officer of such State, and are authenticated by the oath of some witness or stamped with the official seal of the Department of Justice or some other Department of State.

*Article XII.*

If within two months from the arrest of the accused sufficient evidence be not produced for his extradition, he shall be liberated.

*Article XIII.*

The extradition shall not take place until the expiration of fifteen days after the arrest, and then only if the evidence has been found sufficient, according to the laws of the State to which the demand is addressed, to justify the committal of the prisoner for trial in case the crime had been committed in the territory of that State; or to show that the prisoner is the identical person condemned by the Tribunals of the State which demands him.

*Article XIV.*

If the prisoner be not given up and taken away within two months from his apprehension, or from the decision of the Court upon the demand for a writ of *habeas corpus* in the United Kingdom, he shall be set at liberty, unless sufficient cause be shown for the delay.

*Article XV.*

If the individual claimed by one of the two Contracting Parties, in conformity with the present Treaty, should be also claimed by another or by other States on account of crimes committed in their territories, his surrender shall, in preference,

be granted according to priority of demand, unless an agreement be made between the Governments which make the requisition, either on account of the gravity of the crimes committed, or for any other reason.

*Article XVI.*

Every article found in the possession of the prisoner at the time of his arrest shall be seized, in order to be delivered up with him. Such delivery shall not be limited to the property or articles obtained by the robbery or fraudulent bankruptcy, but shall include everything that may serve as evidence of the crime ; and it shall take place even when the extradition, after having been ordered, cannot take effect, either on account of the escape or the death of the delinquent.

*Article XVII.*

The High Contracting Parties renounce all claim for repayment of the expenses incurred for the arrest and maintenance of the person to be given up, and for his conveyance on board a ship ; such expenses shall be borne by themselves respectively.

*Article XVIII.*

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of the two High Contracting Parties.

The requisition for the surrender of a person accused or condemned, who has taken refuge in any such Colony or possession of either party, shall be made to the Governor or chief authority of such Colony or possession by the Chief Consular officer of the other residing in such Colony or possession ; or, if the accused or condemned person has escaped from a Colony or foreign possession of the party on whose behalf the requisition is made, the requisition shall be made by the Governor or chief authority of such Colony or possession.

Such requisitions may be disposed of, in accordance, as far as possible, with the stipulations of this Treaty, by the respective Governors or chief authorities, who however shall be at liberty either to grant the extradition or to refer the matter to their own Government.

Her Britannic Majesty shall nevertheless be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender to His Italian Majesty of criminals who may have taken refuge in such Colonies or possessions always in conformity, so far as possible, with the provisions of the present Treaty.

Finally, it is agreed that this stipulation does not apply to the Island of Malta, the Ordinance of the Maltese Government of the 21st of February, 1863, remaining in full force.

*Article XIX.*

The High Contracting Parties declare that the present stipulations apply as well to persons accused or convicted whose crimes, on account of which the extradition is demanded, may have been committed previously, as to those whose crimes may be committed subsequently to the date of this Treaty.

*Article XX.*

The present Treaty shall come into operation ten days after its publication according to the forms prescribed by the laws of High Contracting Parties.

Either party may at any time put an end to this Treaty, which, however, shall remain in force for six months after the notice for its termination.

This Treaty shall be ratified, and the ratifications shall be exchanged at Rome within six weeks, or sooner, if possible.

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NETHERLANDS.

**Date of Treaty, September 26th, 1898.**

**Date of Order in Council, February 2nd, 1899.**

*Article I.*

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.



*Article 11.*

The crimes or offences for which the extradition is to be granted are the following :—

1. Murder, including infanticide, or attempt, or conspiracy to murder, including such crimes when directed against the Sovereign, his heir, or any other person whomsoever, provided that the crime is not of a political character.

2. Manslaughter, including the manslaughter of a child.

3. Assault occasioning actual bodily harm.

4. Maliciously wounding or inflicting grievous bodily harm.

5. Counterfeiting or altering money, or uttering counterfeit or altered money.

6. Forgery, counterfeiting or altering, or uttering what is forged, counterfeited or altered.

7. Embezzlement ; fraud by a bailee, banker, agent, factor, trustee, or director or member or public officer of any Company, made criminal by any law for the time being in force ; or larceny.

8. Malicious injury to property if the offence be indictable.

9. Obtaining money, goods, or valuable securities by false pretences.

10. Crimes against bankruptcy law.

11. Perjury, or subornation of perjury.

12. Rape.

13. Carnal knowledge or any attempt to have carnal knowledge of a girl under 16 years of age.

14. Indecent assault.

15. Administering drugs or using instruments with intent to procure the miscarriage of a woman.

16. Abduction.

17. Child-stealing.

18. Kidnapping of minors and their false imprisonment.

19. Burglary or house-breaking.

20. Arson.

21. Robbery with violence.

22. Any malicious act done with intent to endanger the safety of a railway train.

23. Threats by letter or otherwise, with intent to extort.

24. Piracy by law of nations.

25. Sinking or destroying a vessel at sea, or attempting to do so.

26. Assaults on board a ship on the high seas, with intent to destroy life, or do grievous bodily harm.

27. Revolt by two or more persons on board a ship on the high seas, against the authority of the master.

28. Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

Extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be an extradition crime by the laws of the State applied to.

In the foregoing cases extradition shall take place only when the crime, if committed within the jurisdiction of the country on which the claim for surrender is made, would constitute an extradition crime by the laws of that country.

Extradition may also be granted at the discretion of the State applied to in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force the grant can be made.

### *Article III.*

Either Government may, in its absolute discretion, refuse to surrender its own subjects to the other Government.

### *Article IV.*

The extradition shall not take place if the person claimed on the part of the British Government, or the person claimed on the part of the Netherland Government, has already been tried and discharged or punished, or is actually upon his trial, within the territory of the other of the two High Contracting Parties, for the crime for which his extradition is demanded.

If the person claimed on the part of the British Government, or if the person claimed on the part of the Netherland Government, should be under examination or is undergoing sentence under a conviction, for any other crime within the territories of the two High Contracting Parties respectively, his extradition shall be deferred until after he has been discharged whether by acquittal, or on expiration of his sentence, or otherwise.

*Article V.*

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

*Article VI.*

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

*Article VII*

A person surrendered may in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or had an opportunity during one month of returning, to the State by which he has been surrendered.

This stipulation does not apply to crimes committed after the extradition.

*Article VIII.*

The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

A sentence passed *in contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

*Article IX.*

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 X.*

Pending the presentation of the demand for extradition through the Diplomatic channel, a fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings, as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace, or other competent authority exercises jurisdiction; provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Magistrate. He shall, in accordance with this Article, be discharged as well in the Netherlands as in the United Kingdom, if within the term of twenty days a requisition for extradition shall not have been made by the Diplomatic Agent of the demanding country in accordance with the stipulations of this Treaty. The same rule shall apply to the cases of persons accused 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 country which may come into a port of the other.

*Article XI.*

If the fugitive have been arrested in the British dominions he shall forthwith be brought before a competent Magistrate, who is to examine him, and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the British dominions.

In the examination which they have to make in accordance with the foregoing stipulations, the authorities of the British dominions shall admit as valid evidence depositions or statements on oath or the affirmations of witnesses taken in the Netherlands, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction provided the same are authenticated as follows :—

1. A warrant must purport to be signed by a Judge, Magistrate, or Officer of the Netherlands.

2. Depositions, or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate, or Officer of the Netherlands, to be the original depositions or affirmations, or to be the true copies thereof, as the case may require.

3. A certificate of, or judicial document stating the fact of, a conviction must purport to be certified by a Judge, Magistrate, or Officer of the Netherlands.

4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State of the Netherlands ; but any other mode of authentication for the time being permitted by the law in that part of the British dominions where the examination is taken may be substituted for the foregoing.

#### *Article XII.*

If the fugitive have been arrested in the dominions of the Netherlands the officer of justice shall prefer a requisition within three days after the arrest, or, if the arrest have not taken place, or if it have taken place prior to the application for extradition, then within three days after the receipt of authority for that purpose from the Netherland Government in order that the person claimed may be interrogated by the Court, and that it may express its opinion as to the grant or refusal of extradition.

Within fourteen days after the interrogatory the Court shall forward its opinion and its decision, with the papers in the case, to the Minister of Justice.

The extradition shall only be granted on the production, either in original or in authenticated copy,—

1. Of a conviction ; or,

2. (a) Of a warrant of arrest (which, by the law of the British dominions, is the only document which is granted when it is adjudged upon evidence taken on oath that the accused ought to be taken into custody), issued in the form prescribed by British law, and indicating the offence in question sufficiently to enable the Netherland Government to decide whether it constitutes, in contemplation of Netherland law, a case provided for by the present Treaty ; and

(b) Of the evidence.

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the Netherland dominions shall admit as valid evidence depositions or statements on oath, or the affirmations of witnesses taken in the British dominions, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows :—

1. A warrant must purport to be signed by a Judge, Magistrate or Officer of the British dominions.

2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate, or Officer of the British dominions, to be original depositions or affirmations or to be true copies thereof, as the case may require.

3. A certificate of, or judicial document stating the fact of, a conviction, must purport to be certified by a Judge, Magistrate, or Officer of the British dominions.

4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of one of the Principal Secretaries of State, or some other Minister of State of the British dominions, but any other mode of authentication for the time being permitted by law in that part of the dominions of the Netherlands where the examination is taken may be substituted for the foregoing.

*Article XIII.*

The extradition shall not take place unless the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, if the crime had been committed in the territory of the said 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 of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to. The fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

*Article XIV.*

If the individual claimed by one of the two 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 upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

*Article XV.*

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

*Article XVI.*

The respective Governments mutually renounce all claim for the repayment of expenses incurred by them in the arrest and maintenance and transport of the person to be surrendered, and all other expenses which may be incurred within the limits of their respective territories until the person to be surrendered is placed on boardship, together with the expenses of giving up and returning all seized articles and of sending and returning the papers containing proof of the crime, or other documents, and they reciprocally agree to bear all such expenses themselves

The above stipulations, however, shall not apply to extradition to and from Canada, as regards which Colony all the expenses shall be borne by the demanding State.

The person to be extradited shall be sent to the port which the Diplomatic or Consular Agent of the demanding State shall indicate.

*Article XVII.*

If in any criminal matter pending in any Court or Tribunal of one of the two countries it is thought desirable to take the evidence of any witness in the other, such evidence may be taken by the judicial authorities in accordance with the laws in force on this subject in the country where the witness may be; and any expenses incurred in taking such evidence shall be defrayed by the country in which it is taken.

*Article XVIII.*

The stipulations of the present Treaty shall apply to the Colonies and foreign possessions of the two High Contracting Parties, but being based upon the legislation of the mother country, shall only be observed on either side so far as they may be compatible with the laws in force in those Colonies or possessions.

The demand for the extradition of an offender who has taken refuge in a Colony or foreign possession of either Contracting Party may also be made directly to the Governor or principal functionary of that Colony or possession by the Governor or principal functionary of a Colony or possession of the other Contracting Party when the two Colonies or foreign possessions are situated in Asia, Australia (including New Zealand and Tasmania), the Pacific and Indian Oceans or South or East Africa.

The same rule shall be followed if the two Colonies or foreign possessions are situated in America (including the West India Islands).

The said Governors or principal functionaries shall have the power either of granting the extradition or of referring the question to their Government.

In all other cases, the demand for extradition shall be made through the Diplomatic channel.



The period of provisional arrest provided for in Article X shall, for the purposes of this Article, be extended to sixty days.

*Article XIX.*

From the day when the present Treaty shall come into force the Treaty of Extradition between the two countries of the 19th June, 1874, shall cease to have effect; but the present Treaty shall apply to all crimes within the Treaty, whether committed before or after the day when it comes into force.

*Article XX.*

The present Treaty shall be ratified, and the ratifications shall be exchanged as soon as possible.

The Treaty shall come into force three months after the exchange of the ratifications. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

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PORTUGAL

**Date of Treaty, October 17th, 1892.**

**Date of Order in Council, March 3rd, 1894.**

*Article I.*

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

*Article II.*

The crimes or offences for which the extradition is to be granted are the following:—

1. Murder (including assassination, infanticide, and poisoning), or attempt or conspiracy to murder.
2. Manslaughter.
3. Maliciously wounding or inflicting grievous bodily harm.

4. Assault occasioning actual bodily harm.
5. Counterfeiting or altering money, either metallic or of any other kind representing the first named, or uttering counterfeit or altered money of any of those kinds.
6. Knowingly making any instrument, tool, or engine adapted and intended for counterfeiting coin.
7. Forgery, counterfeiting or altering, or uttering what is forged or counterfeited or altered.
8. Embezzlement or larceny.
9. Malicious injury to property, if the offence be indictable.
10. Obtaining money, goods or valuable securities by false pretences.
11. Receiving money, valuable security, or other property, knowing the same to have been stolen, embezzled, or unlawfully obtained.
12. Crimes against bankruptcy law.
13. Fraud by a bailee, banker, agent, factor, trustee, or director or member, or public officer, of any company made criminal by any law for the time being in force.
14. Perjury, or subornation of perjury.
15. Rape.
16. Carnal knowledge, or any attempt to have carnal knowledge of a girl under 16 years of age.
17. Indecent assault.
18. Administering drugs or using instruments with intent to procure the miscarriage of a woman.
19. Abduction.
20. Bigamy.
21. Child-stealing.
22. Abandoning children, exposing or unlawfully detaining them.
23. Kidnapping and false imprisonment.
24. Burglary or house-breaking.
25. Arson.
26. Robbery with violence.
27. Any malicious act done with intent to endanger the safety of any person in a railway train.
28. Threats by letter or otherwise, with intent to extort.
29. Piracy by law of nations.

30. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

31. Assaults on board a ship on the high seas, with intent to destroy life or to do grievous bodily harm.

32. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

33. Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

Extradition is also to be granted for participation in any one of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

Extradition may also be granted, at the discretion of the State applied to, in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force, the grant can be made.

The Portuguese Government will not deliver up any person either guilty or accused of any crime punishable with death.

#### *Article III.*

The Portuguese Government will not grant the extradition of any Portuguese subject, and Her Britannic Majesty's Government will not grant the extradition of any British subject; but in the case of a naturalised subject, this Article shall only be applicable if the naturalization was obtained previous to the commission of the crime giving rise to the application for extradition.

#### *Article IV.*

The extradition shall not take place if the person claimed on the part of the British Government, or the person claimed on the part of the Portuguese Government, has already been tried and discharged or punished, or is still under trial within the territories of the two High Contracting Parties respectively, for the crime for which his extradition is demanded.

If the person claimed on the part of the British Government or if the person claimed on the part of the Portuguese Government, should be under examination, or is undergoing

sentence under a conviction for any other crime within the territories of the two High Contracting Parties respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal, or on expiration of his sentence, or otherwise.

*Article V.*

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

*Article VI.*

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

*Article VII.*

A person surrendered can in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or had an opportunity of returning, to the State by which he has been surrendered. This stipulation does not apply to crimes committed after the extradition.

*Article VIII.*

The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as according to the laws of the place where the accused is found would justify his arrest if the crime had been committed there.

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed

against the convicted person by the competent Court of the State that makes the requisition for extradition.

A sentence passed *in contumaciam* is not to be deemed a conviction, but circumstances may cause a person so sentenced *in contumaciam* to be dealt with as an accused person.

#### *Article IX.*

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 X.*

If the fugitive has been arrested in the British dominions, he shall forthwith be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the British dominions.

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the British dominions shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in the dominions of Portugal, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows :—

1. A warrant must purport to be signed by a Portuguese Judge, Magistrate, or Officer.

2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a Portuguese Judge, Magistrate, or Officer to be the original depositions or affirmations, or to be the true copies thereof, as the case may require.

3. A certificate of a judicial document stating the fact of a conviction must purport to be certified by a Portuguese Judge, Magistrate, or Officer.

4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Portuguese

Minister; but any other mode of authentication for the time being permitted by the law in that part of the British dominions where the examination is taken may be substituted for the foregoing.

*Article XI.*

If the fugitive has been arrested in the dominions of Portugal, his surrender shall be granted if upon examination by a competent authority it appears that the documents furnished by the British Government contain sufficient *primâ facie* evidence to justify the extradition.

The Portuguese authorities shall admit as valid evidence records drawn up by the British authorities of the depositions of witnesses, or copies thereof, and records of conviction, or other judicial documents, or copies thereof: Provided that the said documents be signed or authenticated by an authority whose competence shall be certified by the seal of a Minister of State of Her Britannic Majesty.

*Article XII.*

The extradition shall not take place unless 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 had been committed in the territory of the said 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 of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to. In Her Britannic Majesty's dominions the fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

*Article XIII.*

If the individual claimed by one of the two 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 upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

*Article XIV.*

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof shall direct, the fugitive shall be set at liberty.

*Article XV.*

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

*Article XVI.*

All expenses connected with extradition shall be borne by the demanding State.

*Article XVII.*

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of both of the High Contracting Parties, so far as the laws for the time being in force in such Colonies and foreign possessions respectively will allow.

The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions may be made to the Governor or chief authority of such Colony or possession by the chief Consular authority of the other State in such Colony or possession.

Such requisitions may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender, or to refer the matter to his Government.

The High Contracting Parties shall, however, be at liberty to make special arrangements in their respective Colonies and foreign possessions for the surrender of criminals who may take

refuge therein, on the basis, as nearly as may be, and so far as the law of such Colony, or foreign possession will allow, of the provisions of the present Treaty.

Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of either of the High Contracting Parties shall be governed by the rules laid down in the preceding Articles of the present Treaty.

*Article XVIII.*

The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

The Treaty shall be ratified, and the ratifications shall be exchanged at Lisbon as soon as possible.

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RUSSIA.

**Date of Treaty, November 24th, 1886.**

**Date of Order in Council, March 7th, 1887.**

*Article I.*

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

*Article II.*

The crimes or offences for which the extradition is to be granted are the following :—

1. Murder or attempt or conspiracy to murder.
2. Manslaughter.
3. Counterfeiting or altering money, or uttering counterfeit or altered money.
4. Forgery, counterfeiting or altering or uttering what is forged, or counterfeited, or altered.



5. Embezzlement or larceny.
6. Malicious injury to property if the offence be indictable.
7. Obtaining money or goods by false pretences.
8. Crimes against bankruptcy law.
9. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company, made criminal by any law for the time being in force.
10. Perjury, or subornation of perjury.
11. Rape.
12. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 16 years of age.
13. Indecent assault.
14. Administering drugs or using instruments with intent to procure the miscarriage of a woman.
15. Abduction.
16. Child-stealing.
17. Kidnapping and false imprisonment.
18. Burglary or house-breaking.
19. Arson.
20. Robbery with violence.
21. Maliciously wounding or inflicting grievous bodily harm.
22. Threats by letter, or otherwise, with intent to extort.
23. Piracy by law of nations.
24. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
25. Assaults on board a ship on the high seas, with intent to destroy life, or to do grievous bodily harm.
26. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.
27. Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

Extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

Extradition may also be granted, at the discretion of the State applied to, in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force, the grant can be made.

*Article III.*

Either Government may, in its absolute discretion, refuse to deliver up its own subjects to the other Government.

*Article IV.*

The extradition shall not take place if the person claimed on the part of the British Government, or the person claimed on the part of the Russian Government has already been tried and discharged or punished, or is still under trial, within the Russian or British dominions respectively, for the crime for which his extradition is demanded.

If the person claimed on the part of the British Government, or if the person claimed on the part of the Russian Government should be under examination, or is undergoing sentence under a conviction, for any other crime within the Russian or British dominions respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal or on expiration of his sentence, or otherwise.

*Article V.*

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

*Article VI.*

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

*Article VII.*

A person surrendered can in no case be kept in prison, or be brought to trial in the State to which the surrender has been made, for any other crime or on account of any other matters than those for which the extradition shall have taken place, until he has been restored or had an opportunity of returning to the State by which he has been surrendered.

This stipulation does not apply to crimes committed after the extradition.

*Article VIII.*

The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

A sentence passed *in contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

*Article IX.*

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 X.*

If the fugitive has been arrested in the British dominions he shall forthwith be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the British dominions.

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the British dominions shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in Russia, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows:—

1. A warrant must purport to be signed by a Judge, Magistrate, or Officer of the Russian State.

2. Depositions or affirmations or the copies thereof must purport to be certified under the hand of a Judge, Magistrate, or Officer of the Russian State, to be the original depositions or affirmations, or to be true copies thereof, as the case may require.

3. A certificate of or judicial document stating the fact of a conviction must purport to be certified by a Judge, Magistrate, or Officer of the Russian State.

4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of the Russian State; but any other mode of authentication for the time being permitted by the law of the British dominion, where the examination is taken, may be substituted for the foregoing.

#### *Article XI.*

If the fugitive has been arrested in Russia his surrender shall be granted if upon examination by a competent authority it appears that the documents furnished by the British Government furnish sufficient *prima facie* evidence to justify the extradition.

The Russian authorities shall admit as valid evidence records drawn up by the British authorities of the depositions of witnesses, or copies thereof, and records of conviction or other judicial documents or copies thereof: Provided that the said documents be signed or authenticated by an authority whose competence shall be certified by the seal of a Minister of State of Her Britannic Majesty.

#### *Article XII.*

The extradition shall not take place unless 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 had been committed in the territory of the said 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 of which he has been convicted is one in respect of which extradition could, at the time of such conviction,

have been granted by the State applied to. And the fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

*Article XIII.*

If the individual claimed by one of the two 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 upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

*Article XIV.*

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof shall direct, the fugitive shall be set at liberty.

*Article XV.*

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

*Article XVI.*

All expenses connected with extradition shall be borne by the demanding State.

*Article XVII.*

When, for the purposes of a criminal matter, not being of a political character, pending in any of its Courts or Tribunals, either Government shall desire to obtain the evidence of witnesses residing in the other State, a "*Commission Rogatoire*" to that end shall be sent through the diplomatic channel, and which shall be executed in conformity with the law of the State where the evidence is to be taken.

The Government which sends the "*Commission Rogatoire*" will, however, take all necessary steps and pay all expenses for finding and procuring the attendance before the Magistrate of the witnesses named for examination in such Commission.

*Article XVIII.*

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty, so far as the laws for the time being in force in such Colonies and foreign possessions respectively will allow.

The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions may be made to the Governor or chief authority of such Colony or possession by the Chief Consular Officer of the Russian Empire in such Colony or possession.

Such requisitions may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender, or to refer the matter to his Government.

Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Russian criminals who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, of the provisions of the present Treaty.

Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

*Article XIX.*

The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

The Treaty shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

## SIAM.

**Date of Treaty, March 4th, 1911.**

**Date of Order in Council, November 10th, 1911.**

*Article I.*

The High Contracting Parties engage to deliver up to each other persons over whom they respectively exercise jurisdiction who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

*Article II.*

The crimes or offences for which the extradition is to be granted are the following :—

1. Murder, or attempt, or conspiracy to murder.
2. Manslaughter.
3. Assault occasioning actual bodily harm. Malicious wounding or inflicting grievous bodily harm.
4. Counterfeiting or altering money or uttering counterfeit or altered money.
5. Knowingly making any instrument, tool, or engine adapted or intended for counterfeiting coin.
6. Forgery, counterfeiting, or altering or uttering what is forged or counterfeited or altered.
7. Embezzlement or larceny.
8. Malicious injury to property, by explosives or otherwise, if the offence be indictable.
9. Obtaining money, goods, or valuable securities by false pretences.
10. Receiving money, valuable security, or other property knowing the same to have been stolen, embezzled, or unlawfully obtained.
11. Crimes against bankruptcy law.
12. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company made criminal by any law for the time being in force.
13. Perjury, or subornation of perjury.

14. Rape.
15. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under the age of puberty, according to the laws of the respective countries.
16. Indecent assault.
17. Procuring miscarriage, administering drugs, or using instruments with intent to procure the miscarriage of a woman.
18. Abduction.
19. Child-stealing.
20. Abandoning children, exposing or unlawfully detaining them.
21. Kidnapping and false imprisonment.
22. Burglary or house-breaking.
23. Arson.
24. Robbery with violence.
25. Any malicious act done with intent to endanger the safety of any person in a railway train.
26. Threats by letter or otherwise, with intent to extort.
27. Piracy by law of nations.
28. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
29. Assaults on board a ship on the high seas, with intent to destroy life, or do grievous bodily harm.
30. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.
31. Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

Extradition is to be granted for participation in any of the aforesaid crimes, provided 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 for which according to the law of both of the Contracting Parties for the time being in force, the grant can be made.

### *Article III.*

Either Government may, at its absolute discretion, refuse to deliver up its own subjects to the other Government.



*Article IV.*

The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of the Government of Siam, has already been tried and discharged or punished, or is still under trial in the territory of Siam or in the United Kingdom respectively for the crime for which his extradition is demanded.

If the person claimed on the part of the Government of the United Kingdom, or if the person claimed on the part of the Government of Siam, should be under examination for any crime in the territory of Siam or in the United Kingdom respectively, his extradition shall be deferred until the conclusion of the trial and the full execution of any punishment awarded to him.

*Article V.*

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is deemed by the Party on whom the demand is made to be one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

*Article VI.*

A person surrendered can in no case be detained or tried in the State to which the surrender has been made, for any other crime or on account of any other matters than those for which the extradition shall have taken place, until he has been restored or had an opportunity of returning to the State by which he has been surrendered.

This stipulation does not apply to crimes committed after the extradition.

*Article VII.*

The requisition for extradition shall be made through the diplomatic agents of the High Contracting Parties respectively.

The requisition for the extradition of the accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and

by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime has been committed there.

If the requisition for extradition relates to a person already convicted, it must be accompanied by a copy of the judgment passed on the convicted person by the competent Court of the State that makes the requisition.

A sentence passed *in contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

#### *Article VIII.*

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. The prisoner is then to be brought before a competent Magistrate, who is to examine him and conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the same country.

#### *Article IX.*

When either of the Contracting Parties considers the case urgent it may apply for the provisional arrest of the criminal and the safe keeping of any objects relating to the offence.

Such request will be granted, provided the existence of a sentence or warrant of arrest is proved, and the nature of the offence of which the fugitive is accused is clearly stated.

The warrant of arrest to which this Article refers should be issued by the competent authorities of the country applying for extradition. The accused shall on arrest be sent as speedily as possible before a competent Magistrate.

#### *Article X.*

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of or judicial documents stating the fact

of a conviction, provided the same are authenticated as follows:—

1. A warrant must purport to be signed by a Judge, Magistrate, or officer of the other State.

2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate, or officer of the other State, to be the original depositions or affirmations, or to be the true copies thereof, as the case may require.

3. A certificate of, or judicial document stating the fact of, a conviction must purport to be certified by a Judge, Magistrate, or officer of the other State.

4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice or some other Minister of the other State; but any other mode of authentication for the time being permitted by the law of the country where the examination is taken may be substituted for the foregoing.

#### *Article XI.*

The extradition shall not take place unless 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 had been committed in the territory of the said 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 of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to. A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

#### *Article XII.*

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, his extradition shall be granted to that State whose demand is earliest in date.

*Article XIII.*

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof shall direct, the fugitive shall be set at liberty.

*Article XIV.*

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, shall, if the competent authority of the State applied to for extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

*Article XV.*

The High Contracting Parties renounce any claim for the re-imbursment of the expenses incurred by them in the arrest and maintenance of the person to be surrendered and his conveyance till placed on board the ship; they reciprocally agree to bear such expenses themselves.

*Article XVI.*

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of His Britannic Majesty, so far as the laws for the time being in force in such Colonies and foreign possessions, respectively, will allow.

The requisition for the surrender of a fugitive criminal who has taken refuge in any such Colony or foreign possession may be made to the Governor or chief authority of such Colony or possession by any person authorised to act in such Colony or possession as a consular officer of Siam.

Such requisitions may be disposed of, subject always, as nearly as may be, and so far as the laws of such Colonies or foreign possessions will allow, to the provisions of this Treaty, by the said Governors or chief authorities, who, however, shall be at liberty either to grant the surrender or to refer the matter to His Britannic Majesty's Government.

His Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of criminals from Siam who may take refuge within such Colonies, and foreign possessions on the basis, as nearly as may be, and so far as the laws of such Colonies or foreign possessions will allow, of the provisions of the present Treaty.

Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of His Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

*Article XVII.*

The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

The Treaty shall be ratified, and the ratifications shall be exchanged at London, as soon as possible.

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SPAIN.

**Date of Treaty, 1.—June 4th, 1878 ; 2.—February 19th, 1889.**

**Date of Order in Council, 1.—November 27th, 1878; 2.—May 28th, 1889.**

*Article I.*

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland engages to deliver up, under the circumstances and on the conditions stipulated in the present Treaty, all persons and His Majesty the King of Spain engages to deliver up, under the like circumstances and conditions, all persons, excepting his own subjects, who, having been charged with, or convicted by the Tribunals of one of the two High Contracting Parties of the crimes or offences enumerated in Article II, committed in the territory of the one party, and who shall be found within the territory of the other.

*Article II.*

The extradition shall be reciprocally granted for the following crimes or offences :—

1. Murder (including assassination, parricide, infanticide, poisoning) or attempt to murder.

2. Manslaughter.

3. Administering drugs or using instruments with intent to procure the miscarriage of women.

4. Rape.

5. Aggravated or indecent assault. Carnal knowledge of a girl under the age of 10 years ; carnal knowledge of a girl above the age of 10 years and under the age of 12 years ; indecent assault upon any female, or any attempt to have carnal knowledge of a girl under 12 years of age.

6. Kidnapping and false imprisonment, child-stealing, abandoning, exposing, or unlawfully detaining children.

7. Abduction of minors.

8. Bigamy.

9. Wounding, or inflicting grievous bodily harm.

10. Assaulting a Magistrate, or peace or public officer.

11. Threats by letter or otherwise with intent to extort money or other things of value.

12. Perjury, or subornation of perjury.

13. Arson.

14. Burglary or house-breaking, robbery with violence, larceny or embezzlement.

15. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any company, made criminal by any law for the time being in force.

16. Obtaining money, valuable security, or goods by false pretences ; receiving any money, valuable security, or other property, knowing the same to have been unlawfully obtained.

17. (a) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money ;

(b) Forgery, or counterfeiting or altering, or uttering what is forged, counterfeited or altered ;

(c) Knowingly making without lawful authority any instrument, tool, or engine adapted and intended for the counterfeiting of coin of the realm.

18. Crimes against Bankruptcy Law.

19. Any malicious act done with intent to endanger persons in a railway train.

20. Malicious injury to property, if such offence be indictable.

21. Crimes committed at sea—

(a) Piracy by the law of nations.

(b) Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

(c) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

(d) Assault on board a ship on the high seas with intent to destroy life, or to do grievous bodily harm.

22. Dealing in slaves in such manner as to constitute an offence against the laws of both countries.

The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by the laws of both Contracting Parties.

### *Article III.*

The present Treaty shall apply to crimes and offences committed prior to the signature of the Treaty; but a person surrendered shall not be tried for any crime or offence committed in the other country before the extradition, other than the crime for which his surrender has been granted.

### *Article IV.*

No person shall be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the competent authority of the State in which he is that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

### *Article V.*

In the States of His Majesty the King of Spain, excepting the provinces or possessions beyond sea, the proceedings for demanding and obtaining the extradition shall be as follows:—

The Diplomatic Representative of Great Britain shall send to the Minister for Foreign Affairs (*Ministro de Estado*) with

the demand for extradition, an authenticated and legalized copy of the sentence or of the warrant of arrest against the person accused, clearly showing the crime or offence for which proceedings are taken against the fugitive. This judicial document shall be accompanied, if possible, by a description of the person claimed, and any other information or particulars that may serve to identify him.

These documents shall be communicated by the Minister for Foreign Affairs to the Minister of Grace and Justice, by whose Department, after examining the documents and finding that there is reason for the extradition, a Royal Order will be issued granting it, and directing the arrest of the person claimed and his delivery to the British authorities.

In virtue of the said Royal Order the Minister of the Interior (Ministro de la Gobernacion) will adopt the fitting measures for the arrest of the fugitive, and when this has taken place, the person claimed shall be placed at the disposal of the Diplomatic Representative who has demanded his extradition, and he shall be taken to the part of the frontier or to the seaport where the Agent appointed for the purpose by Her Britannic Majesty's Government is ready to take charge of him.

In case the documents furnished by the said Government for the identification of the person claimed, or the information obtained by the Spanish authorities for the same purpose, should be considered insufficient, immediate notice thereof shall be given to the Diplomatic Representative of Great Britain, and the person under arrest shall be detained until the British Government shall have furnished fresh evidence to prove his identity or to clear up any other difficulty relative to the examination and decision of the affair.

#### *Article VI.*

In the dominions of Her Britannic Majesty, other than the Colonies or Foreign Possessions of Her Majesty, the manner of proceeding, in order to demand and obtain extradition, shall be as follows :—

(a) In the case of a person accused—The requisition for the surrender shall be made to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Diplomatic



Representative of His Majesty the King of Spain. The said demand shall be accompanied by a warrant of arrest or other equivalent judicial document, issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against the accused in Spain, and duly authenticated depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him.

The said Principal Secretary of State shall transmit such documents to Her Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive. On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

When the person claimed shall have been apprehended, he shall be brought before the Magistrate who issued the warrant, or some other Police Magistrate in London. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner, if the crime of which he is accused had been committed in the United Kingdom, the Police Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender; sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorized to receive him on the part of the Spanish Government.

(b) In the case of a person convicted—The course of proceeding shall be the same as above indicated, except that the warrant to be transmitted by the Diplomatic Representative of Spain in support of his requisition shall clearly set forth the

crime or offence of which the person claimed has been convicted, and state the place and date of his conviction.

The evidence to be produced before the Police Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.

(c) Persons convicted by judgment in default or *arret de contumace*, shall be, in the matter of extradition, considered as persons accused, and, as such, be surrendered.

(d) After the Police Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*; if he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant. In the latter case the Court may at once order his delivery to the person authorized to receive him, without the order of a Secretary of State for his surrender, or commit him to prison to await such order.

#### *Article VII.*

Warrants, depositions, or statements on oath, issued or taken in the dominions of either of the two High Contracting Parties, and copies thereof, and certificates of or judicial documents stating the facts of conviction, shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge, Magistrate, or officer of the country where they were issued or taken, provided such warrants, depositions, statements, copies, certificates, and judicial documents are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

#### *Article VIII.*

A fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting

*Article XV.*

Every article found in the possession of the individual claimed at the time of his arrest shall, if the competent authority so decide, be seized, in order to be delivered up with his person at the time when the extradition takes place. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as proof of the crime or offence, and shall take place even when the extradition, after having been granted, cannot be carried out by reason of the escape or death of the individual claimed.

The rights of third parties with regard to the said property or articles are nevertheless reserved.

*Article XVI.*

The High Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered, and his conveyance as far as the frontier; they reciprocally agree to bear such expenses themselves.

*Article XVII.*

The present Treaty shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

It shall come into operation ten days after its publication, in conformity with the laws of the respective countries, and each of the Contracting Parties may at any time terminate the Treaty on giving to the other six months' notice of its intention to do so.

## 2. DECLARATION OF FEBRUARY 19TH, 1889

*Article I.*—The English and Spanish texts of paragraph 5, Article II, of the Extradition Treaty of the 4th June, 1878, are cancelled, and the following text is substituted therefor:—

“Unlawful carnal knowledge, or any attempt to have unlawful carnal knowledge, of a girl under sixteen years of age. Indecent assault.”

*Article II.*—The Spanish text of paragraph 5, Article VI, of the aforesaid Treaty is amended by the substitution of the words “no menor” for the words “que no podra exceder,” so that the Spanish text shall run, “A la terminacion de un plazo no menor de quince dias desde que se ordenóla prision y sujecion ájuicio del preso,” etc.

*Article III.*—The present Declaration shall come into force ten days after its publication in the manner prescribed by law in the respective countries.

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SWEDEN AND NORWAY.

1. **Date of Treaty, June 26th, 1873.**  
**Date of Order in Council, September 30th, 1873.**

SWEDEN.

2. **Date of Treaty, July 2nd, 1907.**  
**Date of Order in Council, August 12th, 1907.**

NORWAY.

3. **Date of Treaty, February 18th, 1907.**  
**Date of Order in Council, July 6th, 1907.**

TREATY OF 1873.

*Article I.*

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

*Article II.*

The crimes for which the extradition is to be granted are the following :—

1. Murder (child murder and poisoning included) or attempt to murder.
2. Manslaughter.
3. Counterfeiting or altering money, uttering or bringing into circulation knowingly counterfeit or altered money.

Parties in which the Magistrate, Justice of the Peace, or other competent authority exercises jurisdiction : provided, however, that, in the United Kingdom, the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London. He shall in accordance with this Article be discharged, as well in Spain as in the United Kingdom, if within the term of thirty days a requisition for extradition shall not have been made by the Diplomatic Agent of his country, in accordance with the stipulations of this Treaty.

The same rule shall apply to the cases of persons accused 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 country which may come into a port of the other.

#### *Article IX.*

If the fugitive criminal who has been committed to prison be not surrendered and conveyed away within two months after such committal, or within two months after the adverse decision of the Court upon the return to a writ of *habeas corpus* in the United Kingdom, he shall be discharged from custody, unless sufficient cause be shown to the contrary.

#### *Article X.*

In the Provinces beyond sea, Colonies and other Possessions beyond sea of the two High Contracting Parties, the manner of proceeding shall be as follows :—

The requisition for extradition of the fugitive criminal who has taken refuge in an over-sea Province, Colony, or Possession of either of the two Contracting Parties, shall be made to the Governor or chief authority of such Province, Colony, or Possession by the Chief Consular Officer of the other State in such Province, Colony or Possession ; or, if the fugitive has escaped from an over-sea Province, Colony, or Possession, of the State on whose behalf the extradition is demanded, by the Governor or chief authority of such Province, Colony, or Possession.

In these cases the provisions of this Treaty shall be observed as far as possible by the respective Governors or chief authorities, who, however, shall be at liberty either to grant the extradition or to refer the decision of the matter to the Governments of their respective countries.

*Article XI.*

In cases where it may be necessary, the Spanish Government shall be represented at the English Courts by the Law Officers of the Crown, and the English Government in the Spanish Courts by the Public Prosecutor (*Ministerio Fiscal*).

The respective Governments will give assistance to the Diplomatic Representatives who claim their intervention for the custody and security of the persons subject to extradition.

*Article XII.*

The claim for extradition shall not be complied with if the individual claimed has been already tried for the same offence in the country whence the extradition is demanded, or if, since the commission of the acts charged, the accusation or the conviction, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of that country.

*Article XIII.*

If the individual claimed by one of the two 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 upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date; unless any other arrangement should exist between the different Governments to determine the preference, either on account of the gravity of the crime or offence, or for any other reason.

*Article XIV.*

If the individual claimed should be under prosecution, or have been condemned for a crime or offence committed in the country where he may have taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

In case he should be proceeded against or detained in such country, on account of obligations contracted towards private individuals, the extradition shall nevertheless take place.

4. Forgery or counterfeiting or altering or uttering what is forged, or counterfeited, or altered, comprehending the crimes designated in the Swedish and Norwegian penal codes as counterfeiting or falsification of paper money, bank notes or other securities, forgery or falsification of other public or private documents, likewise the uttering or bringing into circulation or wilfully using such counterfeited, forged, or falsified papers.

5. Embezzlement or larceny.

6. Obtaining money or goods by false pretences, except as regards Norway, cases in which the crime is not accompanied by aggravating circumstances according to the law of that country.

7. Crimes by bankrupts against bankruptcy law.

8. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company, made criminal by any law for the time being in force.

9. Rape.

10. Abduction.

11. Child-stealing.

12. Burglary or house-breaking.

13. Arson.

14. Robbery with violence.

15. Threats by letter or otherwise with intent to extort, except as regards Norway, cases in which this crime is not punishable by the laws of that country.

16. Sinking or destroying a vessel at sea, or attempting to do so.

17. Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

18. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master; except, as regards Norway, conspiracy to revolt.

The extradition is also to take place for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

### *Article III.*

No Swedish or Norwegian subject shall be delivered up to the Government of the United Kingdom; and no subject of the United Kingdom shall be delivered up to the Swedish or Norwegian Government.

*Article IV.*

The extradition shall not take place if the person claimed has already been tried and discharged or punished, or is still under trial in the country where he has taken refuge for the crime for which his extradition is demanded.

If the person claimed should be under examination for any other crime in the country where he has taken refuge, his extradition shall be deferred until the conclusion of the trial, and the full execution of any punishment awarded to him.

*Article V.*

The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the country where the criminal has taken refuge.

*Article VI.*

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded, is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

*Article VII.*

A person surrendered by either of the High Contracting Parties to the other cannot, until he has been restored or had an opportunity of returning to the country from whence he was surrendered, be triable or tried for any crime committed in the other country other than that on account of which the extradition shall have taken place.

This stipulation does not apply to crimes committed after the extradition.

*Article VIII.*

The requisitions for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent



authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

The requisition ought, as far as possible, to be accompanied by a description of the person accused or convicted, in order to identify him.

A requisition for extradition cannot be founded on sentences passed *in contumaciam*.

#### *Article IX.*

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.

The prisoner is then to be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the same country.

The extradition shall not take place before the expiration of fifteen days from the apprehension, and then 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, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition.

#### *Article X.*

In the examinations which they have to make, in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the sworn depositions or statements of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, provided such documents are signed or certified by a Judge, Magistrate, or Officer of such State, and are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

*Article XI.*

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, he shall be set at liberty.

*Article XII.*

All articles seized, which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place ; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

*Article XIII.*

Each of the High Contracting Parties shall defray and bear expenses incurred by it in the arrest, maintenance and conveyance of the individual to be surrendered till placed on board ship, as well as in keeping and conveying the articles which are to be delivered up in conformity with the stipulations of the preceding Article.

The individual to be surrendered shall be conveyed to the port specified by the applying Government, at whose expense he shall be taken on board the ship to convey him away.

If it be necessary to convey the individual claimed through the territories of another State, the expenses incurred thereby shall be defrayed by the applying State.

*Article XIV.*

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of the two High Contracting Parties.

The requisition for the surrender of a fugitive criminal who has taken refuge in a Colony or Foreign Possession of either Party, shall be made to the Governor or Chief Authority of such Colony or Possession by the Chief Consular Officer of the other in such Colony or Possession ; or, if the fugitive has escaped

from a Colony or Foreign Possession of the Party on whose behalf the requisition is made, by the Governor or Chief Authority of such Colony or Possession.

Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the respective Governors or Chief Authorities, who, however, shall be at liberty either to grant the surrender, or to refer the matter to their Government.

Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and Foreign Possessions for the surrender of Swedish and Norwegian criminals who may there take refuge, on the basis, as nearly as may be, of the provisions of the present Treaty.

#### *Article XV.*

The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties, but shall remain in force for six months after notice has been given for its termination.

#### *Article XVI.*

The present Treaty shall be ratified, and the ratifications shall be exchanged at Stockholm, as soon as may be possible.

### 2. SWEDEN (ADDITIONAL).

The British and Swedish Governments, who agree that the Treaty signed at Stockholm on the 26th of June, 1873, between the United Kingdom of Great Britain and Ireland and the Kingdoms of Sweden and Norway for the mutual surrender of fugitive criminals shall remain in force between the United Kingdom of Great Britain and Ireland and the Kingdom of Sweden, in so far as its provisions apply to the Kingdom of Sweden alone, and who deem it desirable to make certain additions to the said Treaty, have authorized the Undersigned to declare that the following additions should be made to the offences set out in Article II of the said Treaty for which, under

the circumstances and conditions stated in the said Treaty, extradition is to be granted :—

19. Perjury and subornation of perjury.
20. Receiving any money, valuable security, or other property, knowing the same to have been stolen or embezzled.
21. Malicious wounding or inflicting grievous bodily harm.
22. Unlawful carnal knowledge of a girl under the age of 15 years.
23. Bigamy.
24. Indecent assault.
25. Administering drugs or using instruments apt to procure the miscarriage of women, with intent to procure such miscarriage.
26. Any malicious act done with intent to endanger the safety of any person travelling or being upon a railway.
27. Knowingly making, without lawful authority, any instrument, tool, or engine adapted and intended for the counterfeiting of the coin of the realm.
28. Malicious injury to property, if such offence be indictable.

### 3. NORWAY (SUPPLEMENTAL).

The British and Norwegian Governments, who agree that the Treaty signed at Stockholm on the 26th June, 1873, between the United Kingdom of Great Britain and Ireland and the Kingdoms of Sweden and Norway for the mutual surrender of fugitive criminals shall remain in force between the United Kingdom of Great Britain and Ireland and the Kingdom of Norway in so far as its provisions apply to the Kingdom of Norway alone, and who deem it desirable to make certain additions to the said Treaty, have authorized the Undersigned to declare that the following additions should be made to the offences set out in Article II of the said Treaty for which, under the circumstances and conditions stated in the said Treaty, extradition is to be granted :—

19. Perjury and subornation of perjury.
20. Receiving any money, valuable security, or other property, knowing the same to have been stolen or embezzled.
21. Maliciously wounding or inflicting grievous bodily harm.

22. Unlawful carnal knowledge, or any attempt to have unlawful carnal knowledge, of a girl under the age of sixteen years.

Any offence which, by the laws of both countries, is for the time being an extradition offence.

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SWITZERLAND.

1. **Date of Treaty, November 26th, 1880.**  
**Date of Order in Council, May 18th, 1881.**
2. **Supplementary Convention, dated June 29th, 1904.**  
**Date of Order in Council, May 29th, 1905.**  
**(Reproduced *in loco*.)**

*Article I.*

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland engages to deliver up, under the circumstances and on the conditions stipulated in the present Treaty, all persons, and the Swiss Federal Council engages to deliver up, under the like circumstances and conditions, all persons, excepting Swiss citizens, who having been charged with, or convicted by the Tribunals of one of the two High Contracting Parties of the crimes or offences enumerated in Article II, committed in the territory of the one party, shall be found within the territory of the other.

In the event of the Federal Council being unable, by reason of his Swiss nationality, to grant the extradition of an individual, who after having committed in the United Kingdom one of the crimes or offences enumerated in Article II, should have taken refuge in Switzerland, the Federal Council engages to give legal effect to and prosecute the charge against him according to the laws of the Canton of his origin; and the Government of the United Kingdom engages to communicate to the Federal Council all documents, depositions and proofs relating to the case, and to cause the commissions of examination directed by the Swiss Judge, and transmitted through the proper Diplomatic channel to be executed gratuitously.

*Article II.*

The crimes for which the extradition is to be granted are the following :—

1. Murder (including infanticide) and attempt to murder.
2. Manslaughter.
3. Counterfeiting or altering money, uttering or bringing into circulation counterfeit or altered money.
4. Forgery, or counterfeiting or altering, or uttering what is forged or counterfeited or altered ; comprehending the crimes designated in the Penal Codes of both States, as counterfeiting or falsification of paper money, bank-notes, or other securities, forgery or falsification of other public or private documents, likewise the uttering or bringing into circulation, or wilfully using such counterfeited, forged, or falsified papers.
5. Embezzlement or larceny.
6. Obtaining money or goods by false pretences.
7. Crimes against bankruptey law.
8. Fraud committed by a bailee, banker, agent, factor, trustee or director, or member or public officer of any Company made criminal by any law for the time being in force.
9. Rape.
10. Abduction of minors.
11. Child-stealing or kidnapping.
12. Burglary, or house-breaking, with criminal intent.
13. Arson.
14. Robbery with violence.
15. Threats by letter or otherwise with intent to extort.
16. Perjury or subornation of perjury.
17. Malicious injury to property, if the offence be indictable.

The extradition is also to take place for participation in any of the aforesaid crimes, as an accessory before or after the fact, provided such participation be punishable by the laws of both Contracting Parties.

*Article III.*

A fugitive criminal may be apprehended in either country under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority, on such information or complaint, and such evidence, or after such proceedings as would,

in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace, or other competent authority exercises jurisdiction ; provided, however, that, in the United Kingdom, the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London.

Requisitions for provisional arrest may be addressed by post or by telegraph, provided they purport to be sent by some judicial or other competent authority. Such requisition must contain a description in general terms of the crime or offence, and a statement that a warrant has been granted for the arrest of the criminal, and that his extradition will be demanded.

He shall in accordance with this Article be discharged, as well in the United Kingdom as in Switzerland, if within the term of thirty days a requisition for extradition shall not have been made by the Diplomatic Agent of the country claiming his surrender in accordance with the stipulations of this Treaty.

#### *Article IV.*

The requisition for extradition must always be made by the way of diplomacy, and to wit, in Switzerland by the British Minister to the President of the Confederation, and in the United Kingdom to the Secretary of State for Foreign Affairs by the Swiss Consul-General in London, who, for the purposes of this Treaty, is hereby recognised by Her Majesty as a Diplomatic Representative of Switzerland.

#### *Article V.*

In the dominions of Her Britannic Majesty, other than the Colonies or foreign possessions of Her Majesty, the manner of proceeding shall be as follows :—

(a) In the case of a person accused—

The requisition for the surrender shall be made to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Diplomatic Representative of the Swiss Confederation. The said demand shall be accompanied by a warrant of arrest, or other equivalent judicial document, issued by a Judge

or Magistrate duly authorised to take cognizance of the acts charged against the accused in Switzerland, and duly authenticated depositions or statements taken on oath, or solemnly declared to be true, before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him.

The said Principal Secretary of State shall transmit such documents to Her Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive. On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

When the person claimed shall have been apprehended, he shall be brought before the Magistrate who issued the warrant, or some other Police Magistrate in London. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner, if the crime of which he is accused had been committed in the United Kingdom, the Police Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender; sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be sent to such seaport town as shall, in each special case, be selected for his delivery to the Swiss Government.

(b) In the case of a person convicted—

The course of proceeding shall be the same as in the case of a person accused, except that the warrant to be transmitted by the Diplomatic Representative of Switzerland in support of his requisition shall clearly set forth the crime or offence of which the



person claimed has been convicted, and state the place and date of his conviction.

The evidence to be produced shall consist of the penal sentence passed against the convicted person by the competent Court of the State claiming his extradition.

(c) Persons convicted by judgment in default or *arrêt de contumace* shall be, in the matter of extradition, considered as persons accused, and may as such be surrendered.

(d) After the Police Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*; if he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant. In the latter case the Court may at once order his delivery to the person authorized to receive him, without waiting for the order of a Secretary of State for his surrender, or commit him to prison to await such order.

#### *Article VI.*

In Switzerland the manner of proceeding shall be as follows :—

The requisition for the extradition of an accused person must be accompanied by an authentic copy of the warrant of arrest, issued by a competent official or Magistrate, clearly setting forth the crime or offence of which he is accused, together with a properly legalized information setting forth the facts and evidence upon which the warrant was granted.

If the requisition relates to a person already convicted, it must be accompanied by an authentic copy of the sentence or conviction, setting forth the crime or offence of which he has been convicted.

The requisition must also be accompanied by a description of the person claimed, and, if it be possible, by other information and particulars which may serve to identify him.

After having examined these documents, the Swiss Federal Council shall communicate them to the Cantonal Government in whose territory the person charged is found, in order that he

may be examined by a judicial or police officer on the subject of their contents.

The Cantonal Government will transmit the *procès-verbal* of the examination, together with all the documents, accompanied, if there be one, by a more detailed report to the Federal Council, who, after having examined them, and there be no opposition on either side, will grant the extradition, and will communicate its decision both to the British Legation and to the Cantonal Government in question, to the latter in order that it may send the person to be surrendered to such place on the frontier, and deliver him to such foreign police authority as the British Legation may name in each special case.

Should the documents furnished with a view of proving the facts or of establishing the identity of the accused, or the particulars collected by the Swiss authorities, appear insufficient, notice shall be immediately given to the Diplomatic Representative of Great Britain, in order that he may furnish further evidence. If such further evidence be not furnished within fifteen days, the person arrested shall be set at liberty.

In the event of the application of this Treaty being contested, the Swiss Federal Council will transmit the documents ("dossier") to the Swiss Federal Tribunal, whose duty it is to decide definitely the question whether extradition should be granted or refused.

The Federal Council will communicate the judgment of the Federal Tribunal to the British Legation. If this judgment grants the extradition, the Federal Council will order its execution, as in the case when the Federal Council itself grants the extradition. If, on the other hand, the Federal Tribunal refuses the extradition, the Federal Council will immediately order the person accused to be set at liberty.

#### *Article VII.*

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the depositions or statements of witnesses, either sworn or solemnly declared to be true, taken in the other State, or copies thereof, and likewise the warrants and sentences issued thereip, or copies thereof,

provided such documents purport to be signed or certified by a Judge, Magistrate, or officer of such State, and are authenticated by the official seal of a British Secretary of State, or of the Chancellor of the Swiss Confederation, being affixed thereto.

The personal attendance of witnesses can be required only to establish the identity of the person who is being proceeded against with that of the person arrested.

*Article VIII.*

If proof sufficient to warrant the extradition be not furnished within two months from the day of the apprehension, the person arrested shall be discharged from custody.

*Article IX.*

In cases where it may be necessary, the Swiss Government shall be represented at the English Courts by the Law Officers of the Crown, and the English Government in the Swiss Courts by the competent Swiss authorities.

The respective Governments will give the necessary assistance within their territories to the Representatives of the other State who claim their intervention for the custody and security of the persons subject to extradition.

No claim for the repayment of expenses for the assistance mentioned in this Article shall be made by either of the Contracting Parties.

*Article X.*

The present Treaty shall apply to crimes and offences committed prior to the signature of the Treaty; but a person surrendered shall not be tried for any crime or offence committed in the other country before the extradition other than the crime for which his surrender has been granted.

*Article XI.*

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has,

in fact, been made with a view to try and punish him for an offence of a political character.

*Article XII.*

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

*Article XIII.*

The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of the Swiss Government, has already been tried and discharged or punished, or is still under trial, in one of the Swiss Cantons or in the United Kingdom respectively, for the crime for which his extradition is demanded.

*Article XIV.*

If the person claimed on the part of the Government of the United Kingdom, or if the person claimed on the part of the Swiss Government, should be under examination, or have been condemned for any other crime, in one of the Swiss Cantons or in the United Kingdom, respectively, his extradition may be deferred until he shall have been set at liberty in due course of law.

In case such individual should be proceeded against in the country in which he has taken refuge, on account of obligations contracted towards private individuals, his extradition shall, nevertheless, take place; the injured party retaining his right to prosecute his claims before the competent authority.

*Article XV.*

If the individual claimed by one of the two 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 upon their respective territories, his

extradition shall be granted to that State whose demand is earliest in date.

*Article XVI.*

All articles seized, which were in the possession of the person to be surrendered at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof to the crime.

This delivery shall take place even when the extradition, after having been granted, cannot be carried out by reason of the escape or death of the individual claimed, unless the claims of third parties with regard to the above-mentioned articles render such delivery inexpedient.

*Article XVII.*

The Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered, and his conveyance to the frontiers of the State to which the requisition is made; they reciprocally agree to bear such expenses themselves.

*Article XVIII.*

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty.

The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions, shall be made to the Governor or to the supreme authority of such Colony or possession through the Swiss Consul residing there, or, in case there should be no Swiss Consul, through the recognized Consular Agent of another State charged with the Swiss interests in the Colony or possession in question.

<sup>1</sup>“ Nevertheless so far as regards the relations of Switzerland with these Colonies and foreign possessions, the period of

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<sup>1</sup> Added by the Supplementary Convention of 29th June, 1894.

time fixed by Article III, paragraph 3, within which the requisition for extradition is to be made through the diplomatic channel shall be six weeks and that provided by Article VIII for the production of proof sufficient to warrant extradition shall be three calendar months."

The Governor or supreme authority above-mentioned shall decide with regard to such requisitions as nearly as possible in accordance with the provisions of the present Treaty. He will, however, be at liberty either to consent to the extradition or report the case to his Government.

Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of such individuals as shall have committed in Switzerland any of the crimes hereinbefore mentioned, who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, of the provisions of the present Treaty.

The requisition for the surrender of a fugitive criminal from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

#### *Article XIX.*

The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties.

After the Treaty shall have come into force, the Treaty concluded between the High Contracting Parties on the 31st of March, 1874, shall be considered as cancelled, except as to any proceedings that may have been already taken or commenced in virtue thereof.

It may be terminated by either of the High Contracting Parties, on giving to the other Party six months' notice of its intention to terminate the same, but no such notice shall exceed the period of one year.

The Treaty shall be ratified, and the ratifications shall be exchanged at Berne as soon as possible.

## UNITED STATES.

1. **Treaty of August 9th, 1842, Article X.**
2. **Convention dated July 12th, 1889.**  
**Date of Order in Council, March 21st, 1890.**
3. **Convention dated December 13th, 1900.**  
**Date of Order in Council, June 26th, 1901.**
4. **Convention dated April 12th, 1905.**  
**Date of Order in Council, February 11th, 1907.**

## 1. UNITED STATES.

1. Treaty among other things for the giving up of Criminal Fugitives from Justice, in certain cases. Signed at Washington, 9th August, 1842.

*Article X.*

It is agreed that Her Britannic Majesty and the United States shall, upon mutual requisitions by them or their ministers, officers, or authorities, respectively made, deliver up to justice all persons who being charged with the crime of murder, or assault, with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of either, shall seek an asylum, or shall 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 apprehension and commitment for trial, if the crime or offence had there been committed; and the respective Judges and other Magistrates of the two Governments shall have power, jurisdiction and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive, or person so charged, that he may be brought before such Judges or other Magistrates, respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining Judge or Magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension

and delivery shall be borne and defrayed by the party who makes the requisition and receives the fugitive.

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## 2. UNITED STATES.

### *Article I.*

The provisions of the said Xth Article are hereby made applicable to the following additional crimes :—

1. Manslaughter when voluntary.
2. Counterfeiting or altering money; uttering or bringing into circulation counterfeit or altered money.
3. Embezzlement, larceny, receiving any money, valuable security or other property, knowing the same to have been embezzled, stolen, or fraudulently obtained.
4. Fraud by a bailee, banker, agent, factor, trustee, or director or member or officer of any company, made criminal by the laws of both countries.
5. Perjury, or subornation of perjury.
6. Rape, abduction, child-stealing, kidnapping.
7. Burglary, house-breaking or shop-breaking.
8. Piracy by the law of nations.
9. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master, wrongfully sinking or destroying a vessel at sea, or attempting to do so; assault on board a ship on the high seas, with intent to do grievous bodily harm.
10. Crimes and offences against the laws of both countries for the suppression of slavery and slave-trading.

Extradition is also to take place for participation in any of the crimes mentioned in this Convention or in the aforesaid Xth Article, provided such participation be punishable by the laws of both countries.

### *Article II.*

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



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 offence, or for any act connected therewith committed previously to his extradition.

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 in whose jurisdiction the fugitive shall be at the time shall be final.

### *Article III.*

No person surrendered by or to either of the High Contracting Parties shall be triable or be tried for any crime or offence committed prior to his extradition, other than the offence for which he was surrendered, until he shall have had an opportunity of returning to the country from which he was surrendered.

### *Article IV.*

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, whether being the proceeds of the crime or offence charged, or being material as evidence in making proof of the crime or offence, shall, so far as practicable, and if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place. Nevertheless, the rights of third parties with regard to the articles aforesaid shall be duly respected.

### *Article V.*

If the individual claimed by one of the two High Contracting Parties, in pursuance of the present Convention, should also be claimed by one or several other Powers on account of crimes or offences committed within their respective jurisdictions, his extradition shall be granted to that State whose demand is first received.

The provisions of this Article, and also of Articles II to IV inclusive, of the present Convention, shall apply to surrender for offences specified in the aforesaid Xth Article, as well as to surrender for offences specified in this Convention.

*Article VI.*

The extradition of fugitives under the provisions of this Convention and of the said Xth Article shall be carried out in Her Majesty's dominions and in the United States, respectively, in conformity with the laws regulating extradition for the time being in force in the surrendering State.

*Article VII.*

The provisions of the said Xth Article and of this Convention shall apply to persons convicted of the crimes therein respectively named and specified, whose sentence therefor shall not have been executed.

In case of a fugitive criminal alleged to have been convicted of the crime for which his surrender is asked, a copy of the record of the conviction, and of the sentence of the Court before which such conviction took place, duly authenticated, shall be produced, together with the evidence proving that the prisoner is the person to whom such sentence refers.

*Article VIII.*

The present Convention shall not apply to any of the crimes herein specified which shall have been committed, or to any conviction which shall have been pronounced, prior to the date at which the Convention shall come into force.

*Article IX.*

This Convention shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

It shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties, and shall continue in force until one or the other of the High Contracting Parties shall signify its wish to terminate it, and no longer.

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### 3. UNITED STATES.

*Article I.*

The following crimes are added to the list of crimes numbered 1 to 10 in the first Article of the said Convention of July 12,

1889, on account of which extradition may be granted, that is to say :—

11. Obtaining money, valuable securities, or other property by false pretences.

12. Wilful and unlawful destruction or obstruction of railroads which endangers human life.

13. Procuring abortion.

#### *Article II.*

The present Convention shall be considered as an integral part of the said Extradition Convention of July 12, 1889, and the first Article of the last-mentioned Convention shall be read as if the list of crimes therein contained had originally comprised the additional crimes specified, and numbered 11 to 13 in the first Article of the present Convention.

The present Convention shall be ratified, and the ratifications shall be exchanged either at London or Washington as soon as possible.

It shall come into force ten days after its publication, in conformity with the Laws of the High Contracting Parties, and it shall continue and terminate in the same manner as the said Convention of July 12, 1889.

#### 4. UNITED STATES.

##### *Article I.*

The following crimes are added to the list of crimes numbered 1 to 10 in the 1st Article of the said Convention of the 12th July, 1889, and to the list of crimes numbered 11 to 13 in Article I of the Supplementary Convention concluded between the United States and Great Britain on the 13th December, 1900, that is to say :—

14. Bribery, defined to be the offering, giving, or receiving of bribes made criminal by the laws of both countries.

15. Offences, if made criminal by the laws of both countries against bankruptcy law.

*Article II.*

The present Convention shall be considered as an integral part of the said Extradition Conventions of the 12th July, 1889, and the 13th December, 1900, and the 1st Article of the said Convention of the 12th July, 1889, shall be read as if the lists of crimes therein contained had originally comprised the additional crimes specified and numbered 14 and 15 in the 1st Article of the present Convention.

The present Convention shall be ratified, and the ratifications shall be exchanged either at Washington or London as soon as possible.

It shall come into force ten days after its publication in conformity with the laws of the High Contracting Parties, and it shall continue and terminate in the same manner as the said Convention of the 12th July, 1889.

## APPENDIX D.

### TREATIES WITH STATES TO WHICH THE EXTRADITION ACTS DO NOT APPLY.

#### I. NEPAL.

- I. Extradition Treaty, dated the 10th February, 1855.
- II. Supplemental memorandum to above treaty, dated the 23rd of July, 1866.
- III. Further supplemental memorandum to above treaty, dated the 24th of June, 1881.
- IV. Treaty of Friendship, dated the 21st December, 1923.

#### 2. HYDERABAD.

- I. Extradition Treaty, dated 8th May, 1867.
- II. Agreement modifying provisions of above treaty, dated 21st July, 1887.

#### 3. RAJPUTANA STATES.

- I. Extradition Treaty with Ulwur, dated 12th of October, 1867.
- II. List of States possessing identical treaties.
- III. Agreement with Ulwur modifying above treaty.
- IV. Description of States with identical modifying agreements.

#### 1. NEPAL.

##### I.

TREATY BETWEEN THE HONOURABLE EAST INDIA COMPANY AND  
HIS HIGHNESS MAHARAJA DHERAJ SOORINDER VIKRAM SAH  
BAHADOOR, RAJA OF NEPAL, 10TH FEBRUARY, 1855.

##### *Article I.*

The two Governments hereby agree to act upon a system of strict reciprocity as hereinafter mentioned.

*Article II.*

Neither Government shall be bound in any case to surrender any person not being a subject of the Government making the requisition.

*Article III.*

Neither Government shall be bound to deliver up debtors, or civil offenders or any person charged with any offence not specified in Article 4.

*Article IV.*

Subjectt to the above limitations, any person who shall be charged with having committed, within the territories of the Government making the requisition, any of the under-mentioned offences, and who shall be found within the territories of the other, shall be surrendered; the offences are murder, attempt to murder, rape, maiming, thuggee, dacoity, high-way robbery, poisoning, burglary, and arson.

*Article V.*

In no case shall either Government be bound to surrender any person accused of an offence, except upon requisition duly made by, or by the authority of, the Government within whose territories the offence shall be charged to have been committed, and also upon such evidence of criminality, as according to the laws of the country in which the person accused shall be found, would justify his apprehension, and sustain the charge if the offence had been there committed.

*Article VI.*

If any person attached to the British Residency, or living within the Residency boundaries, not being a subject of the Nepalese Government, commit in any part of the Nepalese territories, beyond the Residency boundaries, an offence which would render him liable to punishment by the Nepalese courts, he shall be apprehended and made over to the British Resident for trial and punishment, but subjects of the Nepal State under similar circumstances are not to be given up by the Nepalese Government for punishment. Should any Hindustanee Merchants or other subjects of the Honourable Company, not

attached to the British Residency, who may be living within the Nepal territories, commit any crimes beyond the Residency boundaries, whereby they may render themselves liable to punishment by the Nepalese Courts, and take refuge within the limits of the Residency, they shall not be allowed an asylum but will be given up to the Nepal Government for trial and punishment.

*Article VII.*

The expenses of any apprehension, detention, or surrender made in virtue of the foregoing stipulations, shall be borne and defrayed by the Government making the requisition.

*Article VIII.*

The above Treaty shall continue in force until either one or the other of the High Contracting Parties shall give notice to the other of its wish to terminate it, and no longer.

*Article IX.*

Nothing herein contained shall be deemed to affect any Treaty now existing between the High Contracting Parties, except so far as any such Treaty may be repugnant hereto.

II.

*Memorandum, dated the 23rd of July, 1866, supplemental to the Treaty with the State of Nepal of the 10th of February 1855.*

That, subject to all the other conditions of the Treaty which was executed at Khatmandoo by the same parties on the tenth day of February one thousand eight hundred and fifty-five, corresponding to the eighth day of *Fagoon*, *sumbut* nineteen hundred and eleven, and with the view to the prevention of frontier disputes, and the more speedy and effectual repression of crime upon the border, the offences of cattle-stealing, of embezzlement by public officers, and of serious theft, that is to say, cases of theft in which the amount stolen may be considerable, or personal violence may have been used, shall be included in the list of crimes for which surrenders shall be demanded by either Government. In fact, they are hereby formally added to the list of crimes specified in the 4th Article of the said Treaty.

## III.

*Memorandum, dated the 24th of June, 1881, supplemental to the Treaty with the State of Nepal, dated the 10th February, 1855, A.D.*

That the offence of escaping from custody whilst undergoing punishment after conviction of any of the offences specified in the fourth Article of the aforesaid Treaty, or in the aforesaid Memorandum, shall be deemed to be added to the list of offences specified in the fourth Article of the aforesaid Treaty.

NOTE.—The full text of these Treaties with Nepal is printed in Aitchison's *Treaties*, vol. II, pp. 118-122.

## IV.

*Extract from Treaty of Friendship of 1923.*

All previous Treaties, Agreements and Engagements since and including the treaty of Segowlie of 1815, which have been concluded between the two Governments are hereby confirmed, except so far as they may be altered by the present Treaty.

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 2. HYDERABAD.

## I.

EXTRADITION TREATY, DATED 8TH MAY, 1867.

*Article I.*

The two Governments hereby agree to act upon a system of strict reciprocity, as hereinafter mentioned.

*Article II.*

Neither Government shall be bound in any case to surrender any person not being a subject of the Government making the requisition. If the person claimed should be of doubtful nationality, he shall, with a view to promote the ends of justice, be surrendered to the Government making the requisition.

*Article III.*

Neither Government shall be bound to deliver up debtors, or civil offenders, or any person charged with any offence not specified in Article IV.



*Article IV.*

Subject to the above limitations, any person who shall be charged with having committed within the territories belonging to or administered by the Government making the requisition, any of the undermentioned offences, and who shall be found within the territories of the other, shall be surrendered; the offences are :—

- (1) Mutiny.
- (2) Rebellion.
- (3) Murder.
- (4) Attempting to murder.
- (5) Rape.
- (6) Great personal violence.
- (7) Maiming.
- (8) Dacoity.
- (9) Thuggee.
- (10) Robbery.
- (11) Burglary.
- (12) Knowingly receiving property obtained by dacoity, robbery or burglary.
- (13) Thefts of property exceeding 100 rupees in value.
- (14) Cattle-stealing.
- (15) Breaking and entering a dwelling-house and stealing therein.
- (16) Setting fire to a village, house, or town.
- (17) Forgery or uttering forged documents.
- (18) Counterfeiting current coin.
- (19) Knowingly uttering base or counterfeit coin.
- (20) Embezzlement, whether by public officers or other persons.
- \* (21) Kidnapping.
- \* (22) Abduction.
- (23) Being an accessory to any of the above-mentioned offences.

*Article V.*

In no case shall either Government be bound to surrender any person accused of any offence except upon requisition duly

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\* These offences were added to this list subsequently in correspondence with H. E. H. the Nizam's Government.

made by, or by the authority of, the Government within whose territories the offence shall be charged to have been committed, and also upon such evidence of criminality as, according to the laws of the country in which the person accused shall be found, would justify his apprehension and sustain the charge, if the offence had been there committed.

*Article VI.*

The above Treaty shall continue in force until either one or the other of the High Contracting Parties shall give notice to the other of its wish to terminate it, and no longer.

*Article VII.*

All existing engagements and agreements shall continue in full force.

II.

*Agreement made between His Highness the Nizam and the Government of India, modifying the provisions of the treaty of 1867.*

WHEREAS a Treaty relating to the extradition of offenders was concluded on the 25th May 1867 between the British Government and the Hyderabad State; AND WHEREAS the procedure prescribed by the Treaty for the extradition of offenders from British India to the Hyderabad State has been found by experience to be less simple and effective than the procedure prescribed by the law as to the extradition of offenders in force in British India: It is hereby agreed between the British Government and the Hyderabad State that the provisions of the Treaty prescribing a procedure for the extradition of offenders shall no longer apply to cases of extradition from British India to the Hyderabad State, but that the procedure prescribed by the law as to the extradition of offenders for the time being in force in British India shall be followed in every such case.

Signed at Hyderabad Deccan, on the twenty-first day of July one thousand eight hundred and eighty-seven.

### 3. RAJPUTANA STATES.

#### I.

##### ULWUR.

*Extradition Treaty, dated 12th of October, 1867.*

##### *Article I.*

That any person, whether a British or a foreign subject, committing a heinous offence in British territory, and seeking shelter within the limits of the Ulwur State, shall be apprehended and delivered up by the latter Government to the former on requisition in the usual manner.

##### *Article II.*

That any person, being a subject of Ulwur, committing a heinous offence within the limits of the Ulwur State, and seeking asylum in British territory, will be apprehended and delivered up by the latter Government to the former on requisition in the usual manner.

##### *Article III.*

That any person, other than an Ulwur subject, committing a heinous offence within the limits of the Ulwur State, and seeking asylum in British territory, will be apprehended, and the case investigated by such Court as the British Government may direct. As a general rule, such cases will be tried by the Court of the Political Officer, in whom the political supervision of Ulwur may at the time be vested.

##### *Article IV.*

That in no case shall either Government be bound to surrender any person accused of a heinous offence, except upon requisition duly made by, or by the authority of, the Government within whose territories the offence shall be charged to have been committed, and also upon such evidence of criminality as, according to the laws of the country in which the person accused shall be found, would justify his apprehension, and sustain the charge if the offence had been there committed.

*Article V.*

That the following offences be deemed as coming within the category of heinous offences :—

- |   |   |
|---|---|
| 1.—Murder.  | 11.—Robbery.                                    |
| 2.—Attempt to murder.                                 | 12.—Burglary.                                   |
| 3.—Culpable homicide under aggravating circumstances. | 13.—Cattle-theft.                               |
| 4.—Thuggee.   | 14.—Arson.                                      |
| 5.—Poisoning.   | 15.—Forgery.                                    |
| 6.—Rape.  | 16.—Counterfeiting coin, or uttering base coin. |
| 7.—Causing grievous hurt.                             | 17.—Criminal breach of trust.                   |
| 8.—Child-stealing.                                    | 18.—Criminal misappropriation of property.      |
| 9.—Selling females.                                   | 19.—Abetting the above offences.                |
| 10.—Dacoity.  |   |

*Article VI.*

The expenses of any apprehension, detention, or surrender made in virtue of the foregoing stipulations shall be borne and defrayed by the Government making the requisition.

*Article VII.*

The above Treaty shall continue in force until either of the High Contracting Parties shall give notice to the other of its wish to terminate it.

*Article VIII.*

Nothing herein contained shall be deemed to affect any Treaty now existing between the High Contracting Parties, except so far as any Treaty may be repugnant thereto.

## II.

Exactly similar treaties were entered into by the following States and the dates specified against each :—Banswara, 24th December 1868 ; Bharatpur, 24th December 1867 ; Bikaner, 3rd February 1869 ; Bundi, 1st February 1869 ; Dholpur, 14th January 1868 ; Dungarpur, 7th March 1869 ; Jaipur, 13th July 1868 ; Jaisalmere, 10th March 1870 ; Jhalawar, 28th March

1868 ; Jodhpur, 6th August 1868 ; Kasauli, 27th November 1868 ; Kishangarh, 27th November 1868 ; Koba, 6th February 1869 ; Partabgarh, 22nd December 1868 ; Sirohi, 9th October 1867 ; Tonk, 28th January 1869 ; Udaipur, 16th December 1868  
See Aitchison's *Treaties*, vol. III.

### III.

#### AGREEMENT SUPPLEMENTARY TO THE TREATY OF 1867 REGARDING EXTRADITION.—1887.

Whereas a Treaty relating to the extradition of offenders was concluded on the 29th October, 1867, between the British Government and the Ulwur State : And whereas the procedure prescribed by the Treaty for the extradition of offenders from British India to the Ulwur State has been found by experience to be less simple and effective than the procedure prescribed by the law as to the extradition of offenders in force in British India : It is hereby agreed between the British Government and the Ulwur State that the provisions of the Treaty prescribing a procedure for the extradition of offenders shall no longer apply to cases of extradition from British India to the Ulwur State ; but that the procedure prescribed by the law as to the extradition of offenders for the time being in force in British India shall be followed in every such case.

### IV.

Similar supplementary agreements have been entered into by all the States specified in Part II of this Appendix.

# INDEX.

## A

### ACCESSORIES—

liability of, to extradition, 24.

### ACCUSED—

definition of, 23.

does not include persons dealt with under security sections of Criminal Procedure Code, 51.

evidence on behalf of, must be heard, 27.

includes person condemned for contumacy, 23.

### AMERICA—See UNITED STATES.

### ANARCHIST—

not a political offender, 27.

### ARREST—

warrants of, intercolonial backing, 8.

warrant of, provisional, 9, 83.

without warrant, 49.

### AUSTRIA—

treaty with, text of, 130.

## B

### BAIL—

power to admit to, 28, 45.

### BELGIUM—

supplementary conventions with, 145, 146.

treaty with, text of, 136.

### BRITISH POSSESSION—

application of Extradition Act to, 2, 23.

definition of, 94.

surrender of fugitive offenders between, 8, 9, 10, 79, *et seq.*

## C

### CANADA—

law of extradition in, 1.

### COLONIES—

Fugitive Offenders Act, 79.

grouping of India with, under Fugitive Offenders Act, 9, 63, 82.

### COMMITTAL—

warrant of, 28, 99.

**CONCURRENT—**

jurisdiction, 56.

**CONTUMACY—**

person convicted of, may be extradited, 23, 95.

**CONVICTION—**

definition of, 23, 95.

**CORPUS DELICTI—**

return of, 36.

**CRIME—**

committed on high seas, 65.

extradition crime, meaning of, 20, 23.

may be subject of concurrent jurisdiction, 56.

**D****DENMARK—**

treaty with, text of, 147.

**DEPOSITIONS—**

power of Magistrate to take, in absence of accused, 80.

**DESERTERS—**

from foreign ships, 13.

**EUROPEAN BRITISH SUBJECT—**

definition of, 20.

**EVIDENCE—**

admissible, 26, 27.

sufficiency of, before magistrate, 34.

to be produced, 26.

**EXTRADITION—**

to British India, Part III, 76.

**EXTRADITION ACT, 1870, 1, 85.**

application to British India, 2.

text of, 85.

**EXTRADITION ACT, 1873—**

text of, 101.

**EXTRADITION ACT, 1895—**

text of, 105.

**EXTRADITION ACT, 1906—**

text of, 106.

**EXTRADITION CRIME—**

meaning of, 20, 23.

## EXTRADITION OFFENCE—

meaning of, 20.

EXTRADITION to British India, Part III, 76.

## EXTRADITION TREATIES—

list of, 126, 127.

text of selected, with non-foreign States, 250—258.

—————foreign States, 130—249.

## F

## FINLAND—

treaty with, text of, 154.

## FOREIGN JURISDICTION ACT—

Order in Council, 10.

## FOREIGN SHIPS—

deserters from, 13.

## “FOREIGN” STATES—

list of, Appendix B, 126.

meaning of, 5, 20.

## FORMS—

to be used under Extradition Acts, 24, 97—101.

## FRANCE—

supplementary arrangements, text of, 170, 171.

treaty with, text of, 162.

## FRENCH POSSESSIONS—

convention of 1815, text of, 7.

extradition procedure, 6, 61.

in India, 6.

## “FUGITIVE CRIMINAL”—

meaning of, 23.

FUGITIVE OFFENDERS. *etc.*, 1, 2.

bankruptcy of, 36.

surrender from British India, 8, 9.

————— to British India, 80, *et seq.*

trial of, 84.

## FUGITIVE OFFENDERS ACT, 1881, 2, 8, 62, 107.

application to British India, 2, 62.

Orders in Council applying to places outside dominions of the  
Crown, 19, 23.

————— grouping possession for purpose of, 62.

text of, 107.



FUGITIVE OFFENDERS (PROTECTED STATES) ACT—  
 groups, 63.  
 Orders in Council under, 13.

### G

GERMANY—  
 treaty with, text of, 171.  
 construction of Article IV of, 33.

GOVERNMENT—  
 to whom may direct order, 24.  
 what, may issue order, 24.

GREECE—  
 treaty with, text of, 176.

GROUPS (see FUGITIVE OFFENDERS ACT).

### H

HABEAS CORPUS, 30, *et seq.*, 43.

HIGH COURT—  
 meaning of, 20.  
 powers of, 30, 31, 32.  
 reference to, 30.

HIGH SEAS—  
 crime committed on, 65.

HOLLAND—  
 treaty with, text of, 189.

HYDERABAD—  
 treaty with, text of, 253.  
 agreement modifying, 255.

### I

INDIA—  
 meaning of, 66.

INDIAN EVIDENCE ACT—  
 not exhaustive, 27.

INDIAN EXTRADITION ACT, 1903, 3.  
 annotated text of, Part II, 14, *et seq.*  
 effect of section 15 of, 53, 54, 55.  
 not exclusive but supplementary, 3.  
 rules under, 68.

INTERCOLONIAL—  
 backing of warrants, 8.

## ITALY—

treaty with, text of, 183.

## L

## "LAWFULLY SURRENDERED"—

meaning of, 49.

## LOCAL GOVERNMENT—

meaning of, 23.

## M

## MAGISTRATE—

must hear evidence of accused, 27.

when may issue warrant, 36, 37.

who has submitted report *functus officio*, 30.

who may apply to, 37, 38.

## N

## NEPAL—

treaty with, text of, 250.

## NETHERLANDS—

treaty with, text of, 189.

## "NON-FOREIGN"—

treaty states, 6.

## NORWAY—

treaty (supplemental), text of, 233.

## NORWAY &amp; SWEDEN—

treaty with, text of, 227.

## O

## "OFFENCE"—

committed at sea, 65.

meaning of, 46.

## ORDERS IN COUNCIL—

applying Fugitive Offenders Act, 10.

grouping possession under, for purpose of Fugitive Offenders Act, 63, 82.

list of, under Extradition Act, 126.

## P

PIRACY by law of nations, 42, 56.

## "POLICE MAGISTRATE"—

meaning of, 39.

## INDEX.

### SPAIN—

- treaty with, text of, 218.
- modification of, 226.

### SUBJECTS—

- surrender of, 78.

### SWEDEN—

- treaty (additional) with, text of, 232.

### SWEDEN & NORWAY—

- treaty with, text of, 227.

### SWITZERLAND—

- treaty with, text of, 234.

## T

### TREATIES—

- effect on, of European War, 127.
- list of, with "Foreign States," Appendix B, 126.
- text of, selected into Non-Foreign States, Appendix D, 250.
- text of, selected with Foreign States, Appendix C, 130.

### TREATY—

- provisions, saving of, 59.

## U

### UNITED STATES—

- treaties with, text of, 244, 245, 247, 248.

## W

### WARRANT—

- definition of, 58.