

No. 595.

CIRCULAR.

DOWNING STREET,

2nd June, 1906.

SIR,—I have the honour to transmit to you, for publication in the Colony under your Government, a copy of an Order of His Majesty the King in Council, dated the 11th of May, 1906, for giving effect to the Treaty between the United Kingdom and the Republic of Nicaragua for the mutual surrender of fugitive criminals, which was signed at Managua on the 19th of April, 1905.

I have, etc..

ELGIN.

The Officer Administering the Government of
HONGKONG.

AT THE COURT AT BUCKINGHAM PALACE,

THE 11TH DAY OF MAY, 1906.

PRESENT,

THE KING'S MOST EXCELLENT MAJESTY.

LORD PRESIDENT.

LORD RIBBLESDALE.

LORD CHAMBERLAIN.

MR. L. HARCOURT.

WHEREAS by the Extradition Acts, 1870 to 1895, it was amongst other things enacted that, where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, His Majesty may, by Order in Council, direct that the said Acts shall apply in the case of such foreign State; and that His 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 His Majesty's dominions specified in the Order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient;

And whereas a Treaty was concluded on the nineteenth day of April, one thousand nine hundred and five, between His Majesty and the President of the Republic of Nicaragua, for the mutual extradition of fugitive criminals, which Treaty is in the terms following:—

Treaty between the United Kingdom and the Republic of Nicaragua, for the Mutual Surrender of Fugitive Criminals.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Excellency the President of the Republic of Nicaragua, having determined, by common consent, to conclude a Treaty for the extradition of criminals, have accordingly named as their Plenipotentiaries:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; Herbert William Broadley Harrison, Esquire, Companion of the Most Distinguished Order of Saint Michael and Saint George, His Majesty's Chargé d'Affaires in the Republic of Nicaragua; and His Excellency the President of Nicaragua; Doctor Adolfo Altamirano, Minister of Foreign Affairs; who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles:—

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 circumstances and conditions stated in the present Treaty.

ARTICLE II.

Extradition shall be reciprocally granted for the following crimes and offences:—

1. Murder, or attempt or conspiracy to murder.
2. Manslaughter.
3. Administering drugs or using instruments with intent to procure the miscarriage of women.
4. Rape.
5. 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.
6. Indecent assault.
7. Kidnapping and false imprisonment.
8. Abandoning, exposing, or detaining children.
9. Abduction.
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.
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 unlawfully obtained.
19. (a.) Counterfeiting or altering money or bringing into circulation counterfeited or altered money.
- (b.) Knowingly making without lawful authority any instrument, tool, or engine adapted or intended for the counterfeiting of the coin of the realm.
20. Forgery, or uttering what is forged.
21. Crimes against bankruptcy law.
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 offences.
25. Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

Extradition shall also 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 laws of both the Contracting Parties for the time being in force, the grant can be made.

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.

Extradition shall not be granted if, according to the laws of either country, the maximum punishment for the offence charged is imprisonment for less than one year.

ARTICLE III.

No Nicaraguan shall be delivered up by the Government of Nicaragua to the Government of the United Kingdom, and no subject of the United Kingdom shall be delivered up by the Government thereof to the Government of Nicaragua.

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 Nicaragua, has already been tried and discharged or punished, or is still under trial in the territory of Nicaragua 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 Nicaragua, should be under examination for any crime in the territory of Nicaragua 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 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, or duly recognised Consuls-General 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 a 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.

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 has 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 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 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 Colony or possession by the chief Consular officer of Nicaragua 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.

His Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Nicaraguan 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 His 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 by a notice not exceeding one year, and not less than six months.

It shall be ratified, and the ratifications shall be exchanged in London within the period of six months from the date of signature.

In witness whereof the respective Plenipotentiaries have signed the same, and affixed thereto their respective seals.

Done in duplicate at Managua, the nineteenth day of April, one thousand nine hundred and five.

(L.S.) HERBERT HARRISON.

(L.S.) ADOLFO ALTAMIRANO.

And whereas the ratifications of the said Treaty were exchanged at London on the thirteenth day of February, one thousand nine hundred and six:

Now, therefore, His Majesty, by and with the advice of His Privy Council, and in virtue of the authority committed to Him by the said recited Acts, doth order, and it is hereby ordered, that from and after the 25th day of May one thousand nine hundred and six, the said Acts shall apply in the case of the Republic of Nicaragua, under and in accordance with the said Treaty.

Provided always that the operation of the said Acts shall be and remain suspended within the Dominion of Canada so long as an Act of the Parliament of Canada passed in 1886, and entitled "An Act respecting the Extradition of Fugitive Criminals," shall continue in force there, and no longer.

A. W. FITZROY.

APPOINTMENTS, &c.

No. 596.—His Majesty the KING has been pleased to approve of the appointment of the Honourable Mr. EDBERT ANSGAR HEWETT to be an Unofficial Member of the Legislative Council of Hongkong, *vice* ROBERT GORDON SHEWAN, resigned.

11th July, 1906.

No. 597.—His Excellency the Governor has been pleased to recognize Mr. S. J. FULLER as Vice and Deputy Consul-General of the United States of America in Hongkong.

12th July, 1906.

No. 598.—It is hereby notified that His Excellency the Governor-in-Council has been pleased, under the provisions of the Census Ordinance, 1881, (Ordinance No. 2 of 1881), to authorize and direct that a Census be taken of the inhabitants of the Colony on Tuesday, the 20th day of November next, and to appoint PHILIP PEVERIL JOHN WODEHOUSE as Census Officer for the purpose of taking such Census.

13th July, 1906.