

No. 46.

GOVERNMENT NOTIFICATION.

The following copy of a Treaty between Her Majesty and the King of Spain for the mutual surrender of Fugitive Criminals, together with a copy of the Order in Council accompanying it, is published for general information.

By Command,

C. MAY,
Acting Colonial Secretary.

Colonial Secretary's Office, Hongkong 20th February, 1879.

At the Court at *Windsor*, the 27th day of *November*, 1878.

PRESENT,

The QUEEN's Most Excellent Majesty in Council.

WHEREAS by an Act of Parliament made and passed in the Session of Parliament holden in the thirty-third and thirty-fourth years of the reign of Her present Majesty, intituled "An Act for amending the Law relating to the Extradition of Criminals," and also by an Act of Parliament made and passed in the Session of Parliament holden in the thirty-sixth and thirty-seventh years of the reign of Her present Majesty, intituled "An Act to amend the Extradition Act 1870," 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, Her Majesty may, by Order in Council, direct that the said Acts shall apply in the case of such foreign State; and that 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:

And whereas a Treaty was concluded on the fourth day of June, one thousand eight hundred and seventy-eight, between Her Majesty and the King of Spain, for the Mutual Extradition of Fugitive Criminals, which Treaty is in the terms following:—

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of Spain, having judged it expedient, with a view to the better administration of justice and the prevention of crime, that persons charged with, or convicted of the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude the present Treaty, and have appointed as their Plenipotentiaries, namely:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Robert Arthur Talbot Gascoyne Cecil, Marquis and Earl of Salisbury, Viscount Cranborne, Dorset, and Baron Cecil of Essendine, a Peer of the United Kingdom, a Member of Her Majesty's Most Honourable Privy Council, Her Principal Secretary of State for Foreign Affairs:—

And His Majesty the King of Spain, Don Manuel Rancés y Villanueva, Marquis of Casa-Laiglesia, a Senator of the Kingdom, Knight Grand Cross of the Royal and Distinguished Order of Charles III, and Knight of the First Class of the Civil Order of Beneficence of Spain; Knight Grand Cross of the Papal Order of Gregory the Great; Knight of the First Class of the Royal Order of the Red Eagle of Prussia; Knight Grand Cross of the Royal Orders of the Crown of Italy, of Frederick of Wurtemberg, and of Albert the Valorous of Saxony; of the Grand Ducal Orders of Philip the Magnanimous of Hesse-Darmstadt, of the White Hawk of Saxe-Weimar, of the Crown of Vandalia of Mecklen-

Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda, y Su Majestad el Rey de España, habiendo juzgado conveniente, á fin de contribuir á la mejor administracion de la justicia y á la prevencion del crimen, que las personas acusadas ó sentenciadas por los crímenes ó delitos mas abajo enumerados, y fugitivas de la justicia, sean recíprocamente entregadas en determinadas circunstancias, han resuelto estipular el presente Tratado y nombrado por sus Plenipotenciarios, á saber:—

Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda, al Muy Honorable Roberto Arturo Talbot Gascoyne Cecil, Marqués y Conde de Salisbury, Vizconde Cranborne, Dorset, y Baron Cecil de Essendine, Par del Reino Unido, Miembro del Muy Honorable Consejo Privado de Su Majestad, y Su Principal Secretario de Estado para los Negocios Extranjeros;

Su Majestad el Rey de España á Don Manuel Rancés y Villanueva, Marqués de Casa Laiglesia, Senador del Reino, Caballero Gran Cruz de Su Real y Distinguida Orden de Carlos III, y Caballero de Primera Clase de la Orden Civil de la Beneficencia de España, Caballero Gran Cruz de la Orden Pontificia de San Gregorio el Magno, Caballero de Primera Clase de la Real Orden del Aguila Roja de Prusia, Gran Cruz de las Reales Ordenes de la Corona de Italia, de Federico de Wurtemberg, y de Alberto el Valeroso de Sajonia, de las Gran Ducales de Felipe el Magnánimo de Hesse-Darmstadt, del Halcon Blanco de Sajonia Weimar, y de la Corona de Vandalia de Mecklenburgo Schwerin, y de la Ducal de Adolfo de

burgh-Schwerin, and of the Ducal Order of Adolphus of Nassau; Knight Grand Cross of the Lion and the Sun of Persia, &c., His Envoy Extraordinary and Minister Plenipotentiary to Her Majesty the Queen of the United Kingdom of Great Britain and Ireland;

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

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 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 housebreaking, 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.

Nassau, Gran Cruz del Leon y el Sol de Persia, &c., Su Enviado Extraordinario y Ministro Plenipotenciario cerca de Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda;

Quienes, despues de haberse comunicado sus plenos poderes respectivos, y de hallarlos en buena y debida forma, han convenido en los Artículos siguientes:—

ARTICULO I.

Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda se obliga á entregar en las circunstancias y con las condiciones estipuladas en el presente Tratado, todas las personas, y Su Majestad el Rey de España se obliga á entregar en las mismas circunstancias y con las mismas condiciones todas las personas con excepcion de sus propios súbditos, que habiendo sido encausadas ó sentenciadas por los Tribunales de Una de las dos Altas Partes Contratantes por los crímenes ó delitos enumerados en el Artículo II, y cometidos en Su Territorio, sean halladas en el territorio de la Otra.

ARTICULO II.

Se concederá recíprocamente la extradicion por los siguientes crímenes ó delitos:—

1. Asesinato, parricidio, infanticidio, envenenamiento, ó tentativa de asesinato.
2. Homicidio.
3. Aborto.
4. Violacion.
5. Atentado contra el pudor consumado ó intentado sobre persona de uno ú otro sexo, menor de 12 años.
6. Secuestro, robo, abandono, exposicion, ó retencion ilegal de niños.
7. Sustraccion de menores.
8. Bigamia.
9. Heridas ó lesiones corporales graves.
10. Desacato ó violencia contra autoridades, magistrados ó funcionarios publicos.
11. Amenazas verbales ó escritas con intencion de robar dinero ó valores.
12. Falso testimonio y soborno de testigos, peritos, ó intérpretes.
13. Incendio voluntario.
14. Hurto y robo.
15. Abuso de confianza ó defraudacion por un banquero, comisionista, administrador, tutor, curador, liquidador, síndico, funcionario público, director, miembro ó empleado de una sociedad, ó por cualquiera otra persona.
16. Estafa, ocultacion fraudulenta de dinero, valores ú objetos muebles, y adquisicion de los mismos con conocimiento de que han sido ilegalmente obtenidos.

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

17. (a.) Fabricacion y expencion de moneda falsa ó alterada.

(b.) Falsificacion de documentos ó empleo de los mismos; falsificacion de los sellos del Estado, punzones, timbres ó papel sellado, ó empleo de sellos, punzones, ó timbres falsificados.

(c.) Fabricacion ilegal de instrumentos para la falsificacion del cuño de la moneda.

18. Quiebra fraudulenta.

19. Actos cometidos con intencion de poner en peligro la vida de los viajeros en un tren de camino de hierro.

20. Destruccion ó deterioro de cualquiera propiedad mueble ó inmueble penado por la ley.

21. Crímenes que se cometan en la mar:—

(a.) Pirateria.

(b.) Destruccion ó pérdida de un buque causada intencionalmente, ó tentativa y conspiracion para dicho objeto.

(c.) Rebelion ó conspiracion por dos ó mas personas para rebelarse á bordo de un buque contra la autoridad del capitan á bordo de un buque en alta mar.

(d.) Actos cometidos con intencion de matar ó de causar daño material á personas á bordo de un buque en alta mar.

22. Trata de esclavos, con arreglo á las leyes de cada uno de ambos Estados respectivamente.

La extradicion tendrá tambien lugar por complicidad en cualquiera de los crímenes y delitos enumerados en este Artículo, con tal de que sea punible por las leyes de Ambas Partes Contratantes.

ARTICULO III.

El presente Tratado será aplicable á los crímenes y delitos cometidos anteriormente á su celebracion; pero en ningun caso podrá la persona que haya sido entregada en virtud de sus estipulaciones ser encausada por ningun otro crimen ó delito cometido en el país que la reclama, que aquel por el cual se concedió la extradicion.

ARTÍCULO IV.

No se hará la entrega de persona alguna si el delito por que se pide su extradicion es de carácter político, ó si dicha persona prueba á satisfaccion de la Autoridad competente del Estado donde se halla qua la demanda de entrega ha sido hecha en realidad con objeto de perseguirla ó castigarla por un delito de carácter político.

ARTICULO V.

En los Estados de Su Majestad el Rey de España, con excepcion de las Provincias ó Posesiones de Ultramar, el procedimiento para pedir y obtener la extradicion sera el siguiente:—

El Representante Diplomático de la Gran Bretaña dirigirá al Ministro de Estado, con la demanda de extradicion, una copia auténtica y legalizada de la sentencia ó del auto de prision contra la persona acusada, estableciendo claramente el crimen ó delito por el cual se procede contra el

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

fugitivo. A este documento judicial se acompañarán, si es posible, las señas de la persona reclamada y cualesquiera otras noticias ó datos que puedan ser útiles para identificarla.

Estos documentos serán comunicados por el Ministro de Estado al de Gracia y Justicia, por cuyo Ministerio, despues de examinarlos y de reconocerse que hay lugar á la extradicion, se expedirá una Real Orden concediéndola y ordenando el arresto de la persona reclamada y su entrega á las Autoridades Británicas.

En virtud de dicha Real Orden, el Ministro de la Gobernacion adoptará las medidas oportunas para el arresto del fugitivo, y, verificado que sea, será este puesto á disposicion del Representante Diplomático que pidió su extradicion y conducido hasta el punto de la frontera, ó hasta el puerto de mar, donde, para hacerse cargo de él, se halle el comisionado al efecto por el Gobierno de Su Majestad Británica.

En el caso de que los documentos suministrados por este Gobierno para la identificacion de la persona reclamada, ó de que los datos obtenidos por las Autoridades Españolas con el mismo fin se considerasen insuficientes, se dará inmediato aviso de ello al Representante Diplomático de la Gran Bretaña, quedando detenida la persona arrestada hasta que el Gobierno Británico haya suministrado nuevas pruebas para establecer la identidad de aquella ó para esclarecer cualquiera otra dificultad relativa al examen y resolucion del asunto.

ARTICULO VI.

En los Estados de Su Majestad Británica con excepcion de las Colonias ó Posesiones extranjeras, el procedimiento para pedir y obtener la extradicion será el siguiente:—

(a.) En el caso de una persona acusada, la demanda será dirigida al Principal Secretario de Estado de Su Majestad Británica para los Negocios Extranjeros por el Representante Diplomático de España. A dicha demanda acompañará un auto de prision ú otro documento judicial equivalente expedido por un Juez ó Magistrado competentemente autorizado para conocer en la causa formada al acusado en España, y las declaraciones hechas con arreglo á las leyes ante dicho Juez ó Magistrado, manifestando claramente el crimen ó delito de que se le acusa; y por último, si es posible, las señas de la persona reclamada, y cualesquiera otros datos que puedan ser útiles para establecer su identidad.

Dicho Principal Secretario de Estado transmitirá los documentos enunciados al Principal Secretario de Estado de Su Majestad Británica para los Negocios Interiores (Home Department), quien, por una orden de su puño y provista de su sello,

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 *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.

someterá la demanda de extradición á un Magistrado de Policía de Londres, requiriéndole que expida, si ha lugar, un mandato de prisión contra la persona reclamada. Este Magistrado expedirá el mandato requerido si las pruebas presentadas fuessen en su opinión bastantes á justificar igual medida en el supuesto de haberse cometido el crimen ó delito en el Reino Unido.

Verificada la aprehensión de la persona reclamada, se la conducirá ante el Magistrado que dictó el auto de prisión ó ante cualquier otro Magistrado de Policía de Londres. Si las pruebas presentadas justificasen con arreglo á la ley de Inglaterra la formación de causa al detenido, en el caso de que el acto por el cual se le acusa hubiese sido cometido en el Reino Unido, el Magistrado de Policía ordenará su prisión, hasta que el Secretario de Estado expida la orden para que la extradición se verifique, y dirigirá inmediatamente á este certificación de que así lo ha hecho, juntamente con un informe sobre el asunto.

A la terminación de un plazo que no podrá exceder de quince días desde que se ordenó la prisión y sujeción á juicio del preso, el Secretario de Estado mandará, por medio de una orden de su puño y provista de su sello, que sea aquel entregado al Comisionado autorizado para recibirlo por el Gobierno Español.

(b.) En el caso de una persona condenada, el procedimiento será el mismo que queda indicado, salvo que el auto ó mandato que haya de ser presentado por el Representante Diplomático de España en apoyo de la demanda de extradición expresará claramente el crimen ó delito por el que la persona reclamada haya sido condenada, mencionando al mismo tiempo el lugar y la fecha de la sentencia.

La prueba que en ese caso deberá ser presentada al Magistrado de Policía ha de ser de naturaleza que establezca que segun la Ley de Inglaterra el detenido ha sido condenado por la infracción de que se le acusó.

(c.) Los sentenciados en rebeldía ó *in contumaciam* se considerarán para los efectos de la extradición como acusados, y serán entregados en este concepto.

(d.) Despues de verificada por mandato del Magistrado de Policía la prisión de la persona acusada ó condenada, hasta que el Secretario de Estado expida la orden de extradición, dicha persona tendrá el derecho de reclamar un mandato de *Habeas Corpus*. Si hiciese uso de este derecho, la extradición se diferirá hasta que el Tribunal falle sobre el incidente, y no podrá llevarse á cabo sino cuando el fallo sea adverso al reclamante.

En este caso el Tribunal podrá mandar, sin la orden de un Secretario de Estado, la inmediata entrega del acusado al Comisionado autorizado para hacerse cargo de él, ó mantenerle en prisión hasta que dicha orden del Secretario de Estado sea expedida.

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 or 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 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

ARTICULO VII.

Los autos, mandatos, declaraciones juradas, expedidos ó tomadas en los Estados de una de las Altas Partes Contratantes, las cópias de esos documentos, así como las certificaciones ó documentos judiciales en que se funde la condena, serán recibidos como pruebas en el procedimiento de los Estados de la otra, si estan provistos de la firma ó de la certificacion de un Juez, de un Magistrado ó de un funcionario del paiz en que hayan sido expedidos ó tomadas, y siempre que dichos autos, mandatos, declaraciones, cópias, certificaciones y documentos judiciales sean certificados por el juramento de un testigo ó por el sello oficial del Ministro de Gracia y Justicia ó algun otro Ministro de la Corona.

ARTICULO VIII.

Todo criminal fugitivo podrá ser detenido por mandato de cualquier Magistrado de Policia, Juez de Paz, ó Municipal ú otra Autoridad competente en cada uno de los dos Estados, expedido en virtud de informe, demanda, prueba ó todo otro acto de procedimiento que en opinion de la Autoridad que expidiere el mandato fuese bastante á justificar este, si el crimen ó delito hubiese sido cometido ó la persona hubiese sido condenada en la parte de los Estados de ambos Contratantes en que el Magistrado, Juez de Paz ú otra Autoridad competente ejercen jurisdiccion: á condicion sin embargo en el Reino Unido de que se haga comparecer al acusado tan pronto como sea posible ante un Magistrado de Policia de Londres. Así en España como en el Reino Unido, el detenido, con arreglo á este Artículo, será puesto en libertad si en un término de treinta dias no ha sido formulada demanda de extradicion por el Representante Diplomático de su pais, con arreglo á las estipulaciones de este Tratado.

La misma regla se aplicará á los casos de personas acusadas ó condenadas por cualquiera de los crímenes ó delitos especificados en este Tratado, y cometidos en alta mar á bordo de un buque de uno de los dos países que llegase á un puerto del otro.

ARTICULO IX.

Si el criminal fugitivo constituido en prision no ha sido entregada cuando hayan trascurrido dos meses despues de haber sido expedida la órden de su prision, ó dos meses despues del fallo del Tribunal negativo de su reclamacion de un mandato de *Habeas Corpus*, en el Reino Unido, será puesto aquel en libertad, á menos que haya causa suficiente para lo contrario.

ARTICULO X.

En las Provincias de Ultramar, Colonias y demás Posesiones de las dos Altas Partes Contratantes el procedimiento será el siguiente:—

La demanda de extradicion del criminal fugitivo que se hubiese refugiado en una Provincia Ultramarina, Colonia, ó Posesion de una de las dos

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 Governments shall be represented at the English Courts by the Law Officers of the Crown, and the English Government in the Spanish Court 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 required 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 at 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.

Partes Contratantes, se dirigirá al Gobernador ó á la Autoridad Superior de dicha Provincia, Colonia ó Posesion por el Agente Consular de mayor categoría del otro Estado en dicha Provincia, Colonia ó Posesion; ó si el criminal se ha fugado de una Provincia Ultramarina, Colonia ó Posesion del Estado en cuyo nombre se pide la extradicion, por el Gobernador ó Autoridad Superior de esta Provincia, Colonia ó Posesion.

En estos casos, observarán en cuanto sea posible las disposiciones del presente Tratado por los respectivos Gobernadores ó Autoridades Superiores, pero se reserva á estos la facultad de conceder la extradicion ó de someter la resolucion del caso á los Gobiernos de sus respectivos paises.

ARTICULO XI.

En los casos en que fuere necesario, el Gobierno Español será representado ante los Tribunales Británicos por los Oficiales Legales de la Corona, y el Gobierno Británico ante los Tribunales Españoles por el Ministerio Fiscal.

Los Gobiernos respectivos prestarán asistencia á los Representantes Diplomáticos que la reclamen para la custodia y seguridad de las personas sujetas á extradicion.

ARTICULO XII.

No se dará curso á la demanda de extradicion cuando la persona reclamada hubiese sido juzgada por el mismo crimen ó delito en el Estado al cual aquella demanda se dirija; ni tampoco cuando despues de los actos que constituyen el crimen ó delito de que se le acuse, despues de la acusacion ó despues de la condena, tenga derecho al beneficio de la prescripcion, segun las leyes de dicho Estado.

ARTICULO XIII.

Cuando la persona reclamada por una de las Altas Partes Contratantes, en virtud del presente Tratado, fuese reclamada asimismo por uno ó varios otros Estados á causa de crímenes ó delitos cometidos en sus territorios respectivos, su extradicion será concedida al Estado cuya demanda sea de fecha anterior; á menos que no exista entre los diferentes Gobiernos un arreglo para determinar la preferencia, ya por la gravedad del crimen ó delito, ya por cualquier otro motivo.

ARTICULO XIV.

Cuando la persona reclamada estuviese encausada, ó hubiese sido condenada por un crimen ó delito cometido en el Estado en que se hubiese refugiado, su extradicion podrá diferirse hasta que haya sido puesta en libertad con arreglo á las leyes.

En el caso de que dicha persona reclamada se hallase acusada ó detenida en el pais en que se hubiese refugiado por obligaciones contraídas respecto de personas particulares, la extradicion se llevará sin embargo á cabo.

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 every thing 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.

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

Done at London, the fourth day of June, in the year of our Lord one thousand eight hundred and seventy-eight.

(L.S.) SALISBURY.
(L.S.) MARQUES DE CASA
LAIGLESIA.

ARTICULO XV.

Si la autoridad competente lo dispusiese así, los objetos hallados en poder de la persona reclamada serán aprehendidos para ser entregados con ella cuando la extradición se verifique. Compréndense en esta disposición no solo los objetos robados ó procedentes de quiebra fraudulenta, sino tambien cualesquiera otros que pudiesen servir para la comprobación del crimen ó delito.

Dichos objetos serán igualmente entregados despues de ser acordada la extradición, si no se pudiera llevar esta á cabo por la fuga ó la muerte de la persona reclamada.

Lo dispuesto en le presente Artículo se entiende sin perjuicio del derecho de terceros.

ARTICULO XVI.

Las Altas Partes Contratantes renuncian al reembolso de los gastos ocasionados por ellas para la detención, manutención, y conducción hasta su frontera de las personas entregadas, conviniendo en sufragar cada una dichos gastos en sus territorios respectivos.

ARTICULO XVII.

El presente Tratado será ratificado, y las ratificaciones se cangearan en Londres, tan pronto como sea posible.

Empezará á regir diez dias despues de verificada su publicación con arreglo á las leyes de los Estados respectivos, y cada una de las Partes Contratantes podrá en cualquier tiempo darlo por terminado, participando á la otra su intencion de hacerlo así con seis meses de anticipación.

En fé de lo cual los respectivos Plenipotenciarios lo han firmado y sellado con el sello de sus armas.

Fecho en Londres, á cuatro de Junio de mil ochocientos setenta y ocho.

(L.S.) SALISBURY.
(L.S.) MARQUES DE CASA
LAIGLESIA.

And whereas the ratifications of the said Treaty were exchanged at London on the twenty-first instant:

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the ninth day of December, one thousand eight hundred and seventy-eight, the said Acts shall apply in the case of the said Treaty with the King of Spain.

C. L. PEEL.

No. 50.

GOVERNMENT NOTIFICATION.

It is hereby notified, that His Excellency the Governor has been pleased to recognize Colonel JOHN S. MOSBY as Acting Consul for Peru, provisionally and until Her Majesty's pleasure may be known.

By Command,

W. H. MARSH,
Colonial Secretary.

Colonial Secretary's Office, Hongkong, 24th February, 1879.