

## GOVERNMENT NOTIFICATION.—No. 327.

The following Circular Despatch, accompanying a copy of a Treaty for the Mutual Extradition of Fugitive Criminals between Great Britain and the Republic of the Equator, is published for general information.

By Command,

FREDERICK STEWART,  
*Acting Colonial Secretary.*

Colonial Secretary's Office, Hongkong, 28th August, 1886.

CIRCULAR.

DOWNING STREET,  
13th July, 1886.

SIR,—I have the honour to transmit to you, for information and publication in the Colony under your Government, a copy of a Treaty for the Mutual Extradition of Fugitive Criminals between Great Britain and the Republic of the Equator, signed on the twentieth day of September, 1880, the ratifications of which were exchanged on the 19th of February last, and which, by Order of Her Majesty in Council of the 26th of June, came into operation on the 2nd instant.

I have the honour to be,

Sir,

Your most obedient humble Servant,

GRANVILLE.

*The Officer Administering the Government of*  
HONGKONG.

At the Court at *Windsor*, the 26th day of *June*, 1886.

PRESENT,

The QUEEN'S Most Excellent Majesty.

Lord President.  
Lord Steward.

Earl of Rosebery.  
Mr. Fowler.

WHEREAS by the "Extradition Acts, 1870 and 1873," 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 that if, by any law made after the passing of the Act of 1870 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 the said Acts in the case of any foreign State, or by any subsequent Order, suspend the operation within any such British possession of the said Acts, or of any part thereof, so far as it relates to such foreign State, and so long as such Law continues in force there and no longer:

And whereas in accordance with section 18 of "The Extradition Act, 1870," the Legislature of the Dominion of Canada has, by laws passed in the years 1877 and 1882, and respectively styled "The Extradition Act, 1877," and "An Act to Amend the Extradition Act, 1877," made provision for carrying into effect within the Dominion the surrender of fugitive criminals who are in, or are suspected of being in, the Dominion:

And whereas a Treaty was concluded on the twentieth day of September, one thousand eight hundred and eighty, between Her Majesty and the President of the Republic of the Equator, 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 Excellency the President of the Republic of Ecuador, having judged it expedient, with a view to the better administration of justice, and to the prevention of crime within their respective territories and jurisdictions,

that persons charged with or convicted of the crimes hereinafter enumerated, and being fugitives in justice, should under certain circumstances be reciprocally delivered up; Her Britannic Majesty and the President of Ecuador have named as their Plenipotentiaries to conclude a Treaty for this purpose that is to say:

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Frederick Doug Hamilton, Esquire, her Minister Resident at Ecuador;

“ And his Excellency the President of Ecuador, General Cornelio E. Vernaza, Minister of Foreign Affairs and of the Interior;

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

#### “ ARTICLE I.

“ It is agreed that Her Britannic Majesty's Government and that of Ecuador shall, on requisition made in their name by their respective Diplomatic Agents, deliver up to each other reciprocally any persons who, being accused or convicted of any of the crimes hereinafter specified, committed within the jurisdiction 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, 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 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 housebreaking.
- “ 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 captain or 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 foreign or colonial possessions of Her 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 Her Britannic Majesty's Principal Secretary of State for Foreign Affairs by some person recognised by the Secretary of State as a Diplomatic Representative of the Republic of Ecuador, accompanied by a warrant or other equivalent judicial document for the arrest of the accused, issued by a Judge or Magistrate duly authorised to take cognizance of the acts charged against him in Ecuador, together with duly authenticated depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the said acts, and 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

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 Ecuador.

“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 recognized Diplomatic Representative, 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. A like proceeding shall be observed towards criminals in prison in Ecuador.

### “ARTICLE III.

“In the Republic of Ecuador 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 Ecuador by the Minister or other Diplomatic Agent of Her Britannic Majesty, accompanied by 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, together with duly authenticated depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the said acts, and a description of the person claimed, and any other particulars which may serve to identify him.

“The said documents shall be transmitted to the Minister Secretary of State for the Interior Department, who shall then, by order under his hand and seal, signify to some Police Magistrate 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 Minister Secretary of State, and on the production of such evidence as would justify the issue of the warrant, if the crime had been committed in Ecuador, 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 authority of the same class. If the evidence to be then produced shall be such as to justify, according to the law of Ecuador, the committal for trial of the prisoner if the crime of which he is accused had been committed in Ecuador, 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 Her 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 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 charged with the investigation of the case shall be such as would, according to the laws of Ecuador, 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 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 he shall be discharged, if within thirty 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 any vessel of either country, which may come into any 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.

"In any case where an individual convicted or accused in Ecuador of any of the crimes described in the present Treaty, and who shall have taken refuge in the United Kingdom, shall have obtained naturalization there, such naturalization shall not prevent the search for, arrest, and surrender of such individual to the Ecuatorian authorities, in conformity with the said Treaty.

"In like manner the surrender shall take place on the part of Ecuador in any case where an individual accused or convicted in England of any of the same crimes who shall have taken refuge in Ecuador shall have obtained naturalization there.

#### "ARTICLE VIII.

"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 whom it is made to be one of a political character, or if 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, 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 IX.

"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 of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

#### "ARTICLE X.

"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 XI.

"If the individual claimed by one of the two 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 territory, his surrender shall, in preference, be granted in compliance with that demand which is earliest in date.

## "ARTICLE XII.

"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 XIII.

"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 XIV.

"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 XV.

"The stipulations of the present Treaty shall be applicable to the foreign or colonial possessions of the two High Contracting Parties.

"The requisition for the surrender of a fugitive criminal who has taken refuge in a foreign or colonial possession of either Party, shall be made to the Governor or chief authority of such possession by the Chief Consular Officer of the other at the seat of Government; or, if the fugitive has escaped from a foreign or colonial possession of the Party on whose behalf the requisition is made, by the Governor or chief authority of such 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 Ecuatorian criminals who may take refuge within such Colony, on the basis, as nearly as may be, of the provisions of the present Treaty.

## "ARTICLE XVI.

"The present Treaty shall come into operation two months after the exchange of the ratifications. Due notice shall in each country be given of the day.

"Either Party may at any time terminate the Treaty on giving to the other six months' notice of its intention.

## "ARTICLE XVII.

"The present Treaty shall be ratified, and the ratifications shall be exchanged at the capital of Ecuador within eight months after the approbation of the Legislative Power according to the laws of each country.

"In witness whereof the respective Plenipotentiaries have signed the same in duplicate, and have affixed thereto the seal of their arms.

"Done at Quito, capital of the Republic of Ecuador, the 20th September, one thousand eight hundred and eighty.

.. (L.S.)      FRE<sup>c</sup>. DOUGLAS HAMILTON.

.. (L.S.)      CORNELIO E. VERNAZA."

And whereas the ratifications of the said Treaty were exchanged at Quito, on the nineteenth day of February, one thousand eight hundred and eighty-six.

Now, therefore, Her Majesty, by and with the advice of the 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 second day of July, one thousand eight hundred and eighty-six, the said Acts shall apply in the case of the Equator, and of the said Treaty with the Republic of the Equator.

Provided always, and it is hereby further ordered that the operation of the said Acts shall be suspended within the Dominion of Canada so far as relates to the Republic of the Equator and to the said Treaty, and so long as the provisions of the Canadian Acts aforesaid continue in force, and no longer.

C. L. PEEL.