

## GOVERNMENT NOTIFICATION.—No. 214.

The following Circular Despatch, accompanying an Order of the Queen in Council of the 7th of March, 1887, is published for general information.

By Command,

FREDERICK STEWART,  
*Acting Colonial Secretary.*

Colonial Secretary's Office, Hongkong, 21st May, 1887.

## CIRCULAR.

DOWNING STREET,  
24th March, 1887.

SIR,—I have the honour to transmit to you, for information and publication in the Colony under your Government, an extract from the *London Gazette*, containing an Order of the Queen in Council of the 7th of March, 1887, for carrying into effect the Treaty for the mutual surrender of fugitive Criminals, signed between Great Britain and Russia on the 24th of November last.

The Treaty came into operation on the 21st of March of this year, in conformity with Article XIX.

I have the honour to be,

Sir,

Your most obedient humble Servant,

H. T. HOLLAND.

*The Officer Administering the Government of*  
HONGKONG.

At the Court at *Windsor*, the 7th day of *March*, 1887.

PRESENT:

The QUEEN'S Most Excellent Majesty.

Lord President.

Lord Chamberlain.

Lord John Manners.

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 twenty-fourth day of November, one thousand eight hundred and eighty-six, between Her Majesty and His Majesty the Emperor of Russia, 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, Empress of India, and His Majesty the Emperor of All the Russias, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within the two countries and their jurisdictions, that persons charged with or convicted of the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up; their said Majesties 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, Empress of India, the Right Honourable Stafford Henry Earl of Iddesleigh, Viscount St. Cyres, a Peer of the United Kingdom, and a Baronet of Great Britain, Knight Grand Cross of the Most Honourable Order of the Bath, a Member of Her Majesty's Most Honourable Privy Council, Her Majesty's Principal Secretary of State for Foreign Affairs, &c., &c.;

“ And His Majesty the Emperor of All the Russias, M. Georges de Staal, Privy Councillor, Grand Cross of several Russian and foreign Orders, his Ambassador Extraordinary and Plenipotentiary to Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, &c., &c.;

“ Who, 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.

“ 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 housebreaking.
- “ 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 contumacium 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.

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

“Done at London, the twenty-fourth day of November, 1886.

(L.S.) IDDESLEIGH.

(L.S.) STAAL.

And whereas the ratifications of the said Treaty were exchanged at London on the second day of February, one thousand eight hundred and eighty-seven.

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 twenty-first day of March, one thousand eight hundred and eighty-seven, the said Acts shall apply in the case of Russia, and of the said Treaty with His Majesty the Emperor of Russia.

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 Russian Empire 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.