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Government of Madras

Judicial

DEPARTMENT

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8TH AUGUST 1890, No. 1317, JUDICIAL.

GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

READ—the following paper:—

Notification of the Government of India, in the Home Department (Judicial), dated Simla, 10th July 1890, No. 942.

The following Memorandum as to Procedure in Extradition cases and cases under the Fugitive Offenders Act, 1881, received from Her Majesty's Secretary of State for India, is published for general information:—

MEMORANDUM.

- I. The return of fugitive criminals escaping from the United Kingdom may be obtained—
(a) from foreign countries with which there are Extradition Treaties;
(b) from British possessions;
(c) from foreign countries in which the Queen has jurisdiction, and to which the Fugitive Offenders Act has been applied by Order in Council as if they were British possessions.

The surrender of fugitives taking refuge in the United Kingdom is granted reciprocally in each of these cases.

The procedure is governed in the first case by the Extradition Acts, 1870 and 1873 (33 & 44 Vict. c. 52, 36 & 37 Vict. c. 80), and by the terms of the Extradition Treaty in force with each country:

In case (b) by the Fugitive Offenders Act, 1881 (44 & 45 Vict. c. 69):

In case (c) by the Fugitive Offenders Act, 1881, and the Orders in Council applying it. In this case only British subjects and persons subject to the Queen's jurisdiction in the foreign country in question can be dealt with.

There have been a few cases in which a foreign country with which Great Britain has no extradition treaty has surrendered a criminal as an act of international comity: but there can be no reciprocal surrender of criminals by Her Majesty's Government in the absence of an extradition treaty.

Where a fugitive criminal charged with a serious crime has escaped to a country with which there is no treaty, Her Majesty's Government will generally be prepared to inquire whether his surrender can be granted, if they are satisfied that the indemnity and evidence required in extradition cases (para. IV) will be furnished, and that, in the event of his surrender, it is intended to proceed with the prosecution.

Extradition.—Fugitives from the United Kingdom.

Cases in which Extradition can be applied for.

II. When a person charged with crime in the United Kingdom is believed to have fled to a foreign country, the questions to be considered before an application for extradition is made are—

- (1) Whether the country to which he has fled is one with which there is an Extradition Treaty.

A list of the Extradition Treaties now in force (31st March 1890) is given in Appendix A.

- (2) Whether the crime with which he is charged is an extradition offence, and one included in the particular treaty.

A list of the extradition offences, showing the treaties in which each is included, is given in Appendix C.

Whether the offender is a subject or citizen of the country to which he has fled.

Most extradition treaties provide that neither of the contracting parties may surrender its subjects. The Treaties with the United States, containing no reference to nationality, extend to subjects of each country equally with other fugitive criminals. The Treaties with Austria, Prussia (as amended by declaration), Russia, Mexico and Colombia allow each Government the right of surrendering at discretion its own subjects. The Treaties with Spain, Switzerland and Luxembourg exclude the surrender of their own subjects by the Governments of Spain, Switzerland and Luxembourg, but stipulate for the surrender of British subjects by Her Majesty's Government. In the Treaty with Ecuador there is no express exclusion from extradition of the subjects or citizens of either contracting party, though it contains a provision to the effect that extradition is not to be a bar to extradition. In all the other Treaties the surrender of subjects of the other party is expressly excluded.

Application for Extradition addressed to Secretary of State.

III. The application for the surrender of a fugitive criminal from a foreign country must be addressed by the prosecutor or the police to the Secretary of State for the Home Department, who will communicate, through the Foreign Office and the proper diplomatic channels, with the authorities of the place where the fugitive is supposed to be.

The chief officers of English police forces may communicate direct with the police of foreign countries for the purpose of giving or obtaining information, but under no circumstances should direct application be made to foreign police for the arrest of a fugitive. Serious difficulties have arisen in cases where this direction has been overlooked.

Where the apprehension of the fugitive is a matter of urgency, the Secretary of State will apply by telegram for his provisional arrest in anticipation of the formal demand for surrender.

Particulars and Documents to accompany application.

IV. The application to the Secretary of State should be made by letter, stating briefly the facts of the case, and giving in detail the information as to the fugitive's supposed whereabouts and the means of tracing and identifying him. It must be accompanied by—

(a) The warrant of arrest or a certified copy of it.

(b) The other documents to be used in support of the demand for extradition (see para. V).

(c) A description of the accused sufficient for purposes of identification, with, if possible, a photograph. (It is usually advisable that the description should form part of the formal evidence.)

(d) An indemnity for expenses (see para. VIII).

The letter should also state whether it is desired that the provisional arrest of the fugitive should be asked for by telegram.

In cases of urgency, if the informations or depositions required to support the demand for extradition have not been completed, it will sometimes be sufficient, in order to obtain the provisional arrest of the fugitive, to furnish in the first instance only a warrant of arrest and the indemnity for expenses, provided an explicit undertaking be given to complete the informations and other documents, and forward them with the least possible delay.

Documents.—Warrant, Informations, &c.

V. A warrant for the arrest of the fugitive on the charge for which his extradition is sought, or a certified copy of it, must in every case form part of the documents to be used in support of the demand. As regards the other documents, the requirements of different treaties vary somewhat. In the case of France and some other countries, it suffices if the warrant is accompanied by an information showing exactly the nature of the offence charged, and by sufficient evidence of the identity of the person arrested. In most cases, however, informations or depositions containing *prima facie* evidence of the commission by the fugitive of the offence charged—such as in this country would justify committal for trial—are required.

The requirements of the various treaties with regard to the documents to be furnished are quoted in Appendix D.

Documents.—Special requirements as to Warrants, Informations, &c.

VI. It is necessary that the utmost care should be taken in extradition cases to secure that the documents—warrant, informations, and depositions—are correct in form, and that the evidence is complete in material points. Several cases have occurred in which, after a fugitive criminal has been apprehended in a foreign country, inaccuracies in the warrant or defects in the evidence have led to his being set at liberty before steps could be taken to remedy the mistakes.

Where the flight of the accused is not known until after the warrant has been issued, and especially where an information is hastily laid in order to obtain his immediate arrest, it is in many cases advisable to issue a fresh warrant, on an amended information, before applying to a foreign country for his surrender.

The offence stated in the warrant should be set forth in the terms of the Treaty. If copies of the informations or depositions are sent instead of the originals (as is usually the more convenient course, fresh copies of these documents being often required when the demand for extradition has to be made to several countries successively), the copies should be authenticated by a magistrate, if possible by the magistrate by whom the originals were issued or taken.

In the case of extradition from the United States special care should be taken to have the evidence complete from the first.

Application for Extradition on several charges.

VII. Where there are several charges against the fugitive, there should be evidence in the informations or depositions with regard to every charge on which it is proposed that he should be tried after his surrender. After his surrender he cannot be tried on any other charge than the charge or charges on which he was extradited, unless he is restored, or an opportunity given him of returning, to the country from which he was surrendered.

Indemnity for Expenses.

VIII. The indemnity for expenses, which is required in all cases except those undertaken by the Director of Public Prosecutions, must be in the form given in Appendix E, and must be signed by the prosecutor. It need not be stamped.

Home Office Circular of 20th June 1881, 6th Nov. 1882.

Home Office Circular of 2nd Feb. 1886.

In the case of most Extradition Treaties (all those now in force, except the Treaties with the United States, Russia, Mexico and Colombia) the foreign Government bears all the expenses which it incurs within its own territories. All expenses not so defrayed by the foreign Government, and not payable as police expenses under the ordinary regulations, must be borne by the prosecutor.

English Police Officers sent abroad in connexion with Extradition cases.

IX. It is sometimes considered desirable, when an application for extradition is made, that an English police officer should be sent out to assist the foreign police in tracing and identifying the accused.

When this is done, the officer should take with him a letter of introduction, which he may present as occasion requires to British ministers or consuls abroad. He should attend for this purpose at the Home Office, with an introduction from the chief officer of his force; or, if it is not convenient that he should attend personally, the chief officer should apply to the Home Office by letter stating the name and rank of the officer about to be sent out. It is also generally advisable that he should be provided with a passport.

He should, where possible, see the warrant and depositions signed, as cases have occurred where his evidence to this effect has removed difficulties.

An officer sent abroad in an extradition case must confine his action strictly to tracing the fugitive, and furnishing the foreign police with information. Under no circumstances may he himself attempt to arrest the fugitive, interfere in any way with his liberty in a foreign country, or endeavour by threats or undue pressure to induce him to return to England without awaiting the formalities of extradition. If a fugitive whose extradition has been demanded should voluntarily consent to return with the officer without formal extradition, the concurrence of the authorities of the foreign country must be obtained before this course is taken.

Further Evidence.

X. After the fugitive has been arrested, further evidence is sometimes required by the Courts of the foreign country, which must be supplied by the prosecutors. Occasionally the attendance of a witness is required to prove the identity of the person arrested.

Conveyance of Prisoners to England.

XI. When the decision of the Government of the foreign country to concede the surrender of the fugitive is notified, the conveyance of the prisoner to England is a matter of arrangement between the police of the two countries, and should be carried out with as little delay as possible. The Metropolitan Police have standing arrangements with the police of most continental countries with regard to the conveyance of extradition prisoners.

In United States cases it is necessary to send out an officer to bring the prisoner, if surrendered, to England; and it is usually convenient that he should be sent out as soon as information is received of the arrest of the fugitive, as the presence of an experienced officer who can furnish the United States courts with information they may require is found in some cases to facilitate proceedings.

In the case of extraditions from Spain an officer is usually sent out when the demand for extradition is made.

United States cases.

XII. Information as to the extradition proceedings in the United States, and as to the particulars required by the United States courts when an arrest on a charge of forgery is applied for by telegram, are given in the papers reprinted in Appendix G.

Extradition.—Fugitives from Foreign Countries in the United Kingdom.

XIII. For the arrest of a foreign criminal in the United Kingdom, two alternative procedures are provided in sub-section (1) and sub-section (2) respectively of section 8 of the Extradition Act, 1870.

Arrest after formal requisition.

XIV. The first—that under sub-section (1)—is adopted in cases where the arrest of the fugitive is not urgent.

A requisition for the surrender of the accused, supported by the warrant of arrest and documentary evidence, is addressed by the representative of the foreign Government to the Secretary of State for Foreign Affairs, and transmitted by him to the Secretary of State for the Home Department, who thereupon makes an order to the Chief Magistrate at Bow Street Police Court, requiring him, if satisfied as to the sufficiency of the evidence, to issue his warrant for the arrest of the fugitive. The Chief Magistrate's warrant is effective without endorsement throughout the United Kingdom (and also in the Channel Islands and the Isle of Man), and is usually executed by an officer of the Metropolitan Police, who brings the prisoner direct to Bow Street, where all the subsequent proceedings take place.

Provisional arrest.

XV. The alternative procedure, under sub-section (2), is adopted in cases where the arrest of the fugitive is a matter of urgency. In this case any police magistrate or justice of the peace

Home Office Circular of 6th Nov. 1883.

Home Office Circular of 25th Oct. 1884.

in the United Kingdom* may issue the warrant for the apprehension of the fugitive "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 in that part of the United Kingdom in which he exercises jurisdiction."

In practice, a sworn information showing a reasonable suspicion of the commission of the crime and of the guilt of the alleged offender is required before the issue of a warrant under sub-section (2). This information may, according to the opinion of the Law Officers of the Crown (Sir Richard Bagge and Sir John Holker, 25th March 1875), and the practice of the Bow Street Police Court,† be based upon a letter or telegram purporting to be from a diplomatic, judicial, or police authority, stating—

- (a) the alleged offence;
- (b) that a warrant has been granted for the apprehension of the alleged criminal;
- (c) that his extradition will be demanded.

The letter or telegram should in every case clearly specify the offence with which the fugitive is charged (which must be one within the Treaty with the country from which he is alleged to have fled), and must state in distinct terms that a formal request for extradition will be preferred.

There is no restriction in the Act as to the person by whom the information is to be laid, and it may, where necessary, be laid by a police officer; but, as a rule, it is desirable that the information should be laid before the magistrate or justice by the consul or other accredited agent of the foreign Government, who should also produce the despatch, letter, or telegram on which the information is founded. A copy of the form of information in use at Bow Street is printed in Appendix F.

On the issue of the warrant of arrest under sub-section (2), the justice forthwith sends to the Secretary of State "a report of the fact of such issue, together with the evidence and information or complaint, or certified copies thereof."

On the arrest of a fugitive by a warrant under sub-section (2), if the warrant was issued at Bow Street, the prisoner is at once brought to that court; if the warrant was issued elsewhere, the prisoner is brought before the justice who issued the warrant, or some other justice having power to issue such warrant, who immediately orders him to be brought before a police magistrate at Bow Street.

The evidence of the officer making the arrest is required in the examination at Bow Street. It is therefore usual, when the arrest has been made elsewhere than in London, that the officer who made the arrest should bring up the prisoner to London and attend with him at Bow Street.

XVI. The arrest of an offender with a view to extradition should not take place without a warrant under section 8 of the Extradition Act, save in the most urgent and exceptional cases, and should then be guided by the ordinary law of arrest. If a person has been arrested without warrant, a warrant under section 8 (2) should be obtained as quickly as possible. *Reg. v. Weil*, 15 Cox, C.C., 193.

Proceedings at Bow Street Police Court.

XVII. After the prisoner is brought to Bow Street, the subsequent proceedings take place in that Court, in accordance with the requirements of the Extradition Acts and of the several Treaties. If the prisoner is committed for surrender, a period of 15 days is allowed him in which he may apply to the High Court for a writ of *Habeas Corpus*. If he makes no application, or if the application is made and refused, the Secretary of State issues his warrant for the surrender of the prisoner, and he is handed over by the Metropolitan Police to the officers of the Government demanding his surrender, either at an English or at a foreign port according to the arrangement in force with the different countries.

Extradition of Convicted Offenders.

XVIII. The proceedings for the arrest of an offender convicted in a foreign country and escaping to England are the same as those in the case of an accused person. The only difference is as to the nature of the evidence required in the hearing of the case at Bow Street.

Crimes committed at Sea.

XIX. In cases of crimes committed on foreign vessels on the high seas, when the vessel comes into a British port, and the surrender of the criminal is sought, the stipendiary magistrate† having jurisdiction in, or in the place nearest to, the port, exercises the powers which in other cases are exercised by the Chief Magistrate at Bow Street. The Secretary of State directs to him the order made under section 7; the accused, if provisionally arrested, is brought before him. He hears the case with the same powers as the chief magistrate, and commits the prisoner for extradition. His warrant, however, is not effective without endorsement beyond his ordinary jurisdiction.

* In Scotland, any sheriff, sheriff's substitute, or magistrate.
† See also the remarks of James, J.R., in *Reg. v. Weil*, 15 Cox, C.C. 193. "All that the Act requires is that the evidence should be sufficient 'in the opinion of the person issuing the warrant.' That is a matter of judicial discretion. There must be some evidence, but very little will do, for it is merely for the purpose of detaining the man."
‡ In Scotland, the sheriff or sheriff-substitute.

Expenses.

XX. The Governments of the United States, Russia, Mexico and Colombia, under the terms of the treaties with these countries, defray all expenses incurred in connexion with cases in which they demand the extradition of fugitives. In the case of all other countries, expenses incurred within the United Kingdom are defrayed by the English Government; those incurred outside the British territories are borne by the foreign Government.

The accounts for the expense incurred in each extradition case are submitted by the Metropolitan Police to the Secretary of State, who claims from the Treasury and foreign Government the sums payable by each respectively. Where a person whose extradition is claimed is arrested by provincial police, the expenses incurred in connexion with the arrest, including the conveyance of the prisoner to London, and the attendance of the officer at Bow Street, should be reclaimed from the Metropolitan Police, who will include them in the accounts submitted to the Secretary of State.

Fugitive Offenders Act, 1881.—Fugitives from the United Kingdom.

XXI. When a person who has committed a crime in the United Kingdom has fled to any British possession (i.e., to any part of Her Majesty's dominions exclusive of the United Kingdom, the Channel Islands, and the Isle of Man), his surrender can be obtained, if the offence he has committed be treason or piracy, or any offence for the time being punishable in the United Kingdom, by imprisonment with hard labor for a term of 12 months or more, or by any greater punishment.

No question of nationality arises in this case.

Application for Surrender.

XXII. The application for the surrender of a fugitive from a British possession should be addressed by the prosecutor or the police to the Secretary of State for the Home Department, who will communicate through the Colonial Office with the Governor of the British possession where the fugitive is supposed to be.

The Fugitive Offenders Act does not exclude direct applications by the prosecutor to the authorities of the British possession. The arrest of a fugitive (section 3) may be made on a warrant endorsed by a judge of a Superior Court or by the Governor of the British possession; and, by section 4, in cases of urgency, a magistrate in the place to which the offender is supposed to have fled, may issue a warrant for his apprehension, "on such information and under such circumstances as would in his opinion justify the issue of a warrant if the offence of which the fugitive is accused had been committed within his jurisdiction." Direct applications by the prosecutors or the police are, however, found to be attended with difficulties, as the Colonial authorities usually refuse to take proceedings on applications from private persons, especially in the case of telegrams where they have no guarantee as to their genuineness, and no assurance that the expenses they may incur will be repaid. The practice is therefore that all applications are made through the Home Office and Colonial Office, and in cases of urgency a telegram asking for the provisional arrest of the fugitive is sent by the Colonial Office at the request of the Secretary of State for the Home Department.

Particulars and Documents to accompany Application.

XXIII. The application to the Secretary of State should be made by letter, stating briefly the facts of the case, and giving in detail the information as to the fugitive's supposed whereabouts, and the means of tracing and identifying him. It must be accompanied by—

- (a) the warrant of arrest in duplicate;
- (b) the documents (depositions, &c.) containing the evidence on which the surrender of the fugitive is claimed, with certified copies of the same (see para. XXIV);
- (c) a description of the accused sufficient for purposes of identification, with, if possible, a photograph;
- (It is usually advisable that the description should form part of the formal evidence).
- (d) an indemnity for expenses (see para. XXVII).

The letter should also state whether it is desired that the provisional arrest of the fugitive should be asked for by telegram.

In cases of urgency, if the depositions, &c., required to support the demand for extradition have not been completed, it will usually be sufficient, in order to obtain the provisional arrest of the fugitive, to furnish in the first instance a warrant of arrest and the indemnity for expenses, an explicit undertaking being given to complete the depositions and other documents and forward them with the least possible delay.

Documents sent in duplicate.

XXIV. The warrant, informations, and depositions are sent to the Home Office in duplicate, in order that two complete sets of documents may be authenticated with the Secretary of State's seal. One set (including the original depositions) is then returned, in order that, if a police officer is sent out in connexion with the application, he may take them with him; the other set

(which includes the copies) is despatched to the Governor, through the Colonial Office, to support the official request for the surrender.

Requirements as to Warrant, Informations, and Depositions.

XXV. It is necessary that the utmost care should be taken in cases under the Fugitive Offenders Act to secure that the documents—warrant, informations, and depositions—are correct in form, and that the evidence is complete in material points. Cases have occurred in which, after a fugitive criminal has been apprehended, inaccuracies in the warrant or defects in the evidence have led to his being set at liberty before steps could be taken to remedy the mistakes.

(a) The evidence supporting the demand for the surrender of a fugitive must be such as, according to law ordinarily administered by the magistrate, before whom he is brought, "raises a strong or probable presumption that the fugitive committed the offence mentioned in the warrant," that is, generally speaking, there must be informations or depositions containing such *prima facie* evidence of the commission of the offence charged as in this country would justify committal for trial.

(b) Evidence necessary for the identification of the fugitive as the person named in the depositions must be furnished.

(c) There should be a distinct allegation in the evidence, and, if possible, the warrant should also show on the face of it that the offence is one punishable in the United Kingdom, either on indictment or information, by imprisonment with hard labor for a term of 12 months or more, or by some greater punishment.

Where the flight of the accused is not known until after the warrant has been issued, and especially where an information is hastily laid in order to obtain his immediate arrest, it is in many cases advisable to issue a fresh warrant, on an amended information, before applying for his surrender from a British possession.

Depositions may, for the purpose of the Fugitive Offenders Act, be taken in the absence of the accused.

The copies of informations or depositions should, if possible, be authenticated by the magistrate by whom the originals were taken.

Application for surrender on several charges.

XXVI. Where there are several charges against the fugitive, there should be evidence in the informations or depositions with regard to every charge on which it is proposed that he should be tried after his surrender.

Indemnity for Expenses.

XXVII. The indemnity for expenses which is required in all cases, except those undertaken by the Director of Public Prosecutions, must be in the form in Appendix E, and must be signed by the prosecutor. It need not be stamped.

The whole of the expenses incurred, including the cost of telegrams and the expense of sending out an officer to bring home the prisoner, must be borne by the prosecutor.

English Police Officers sent out to British Possessions.

XXVIII. It is sometimes considered desirable when an application is made under the Fugitive Offenders Act that an English police officer should be sent out to assist in tracing and identifying the accused.

When this course is taken the Home Office should be informed of the name of the officer, and of the date of his intended departure, in order that the Colonial authorities may be informed officially through the Colonial Office.

The officer sent out should, if possible, see the warrant and depositions signed, as his evidence to this effect sometimes removes difficulties. In any case he will take with him the warrant and original depositions as mentioned in para. XXIV.

Further Evidence.

XXIX. After the fugitive has been arrested, further evidence is sometimes required by the courts of the British possession, which must be supplied by the prosecutors.

Occasionally the attendance of a witness is required to prove the identity of the person arrested. If the evidence of identity can be given by a police officer, his services will also be available for the purpose of bringing home the prisoner (para. XXX).

Conveyance of Prisoner to England.

XXX. When the decision of the courts of the British possession to concede the surrender of the fugitive is notified, the conveyance of the prisoner to England is matter of arrangement between the police of the two countries. In practice the prisoner is almost invariably brought home by an English officer. If an officer has not already been sent out to trace the fugitive, one is usually sent as soon as the arrest is notified by telegram, as his evidence (see para. XXVIII and XXIX) sometimes facilitates the proceedings in the courts, and his presence in the British possession prevents delay in bringing back the prisoner if his surrender is granted. The prisoner can claim his release if not removed from the British possession within one month after his committal, unless sufficient cause can be shown to the contrary.

44 & 45 Vict. c. 69,
s. 2.

Home Office Circular
of 14th Dec. 1883.

Home Office Circular
of 2nd Feb. 1888.
44 & 45 Vict. c. 69,
s. 29.

44 & 45 Vict. c. 69,
s. 7.

Fugitive Offenders Act, 1881.—Fugitives from British Possessions in the United Kingdom.

XXXI. For the arrest of a fugitive from a British possession in the United Kingdom, two alternative procedures are provided:

(a) Apprehension under an endorsed warrant (section 3).

(b) Apprehension under a provisional warrant (section 4).

Apprehension on Endorsed Warrant.

XXXII. The first course, apprehension under an endorsed warrant, is adopted in cases where the arrest of the fugitive is not urgent.

The warrant may be endorsed in the United Kingdom, either by the Secretary of State, by a judge of a Superior Court (High Court or Court of Appeal), or by a police magistrate at Bow Street, provided the person endorsing is "satisfied that the warrant was issued by some person having lawful authority to issue the same." In ordinary practice applications for arrest under this section are addressed by the Colonial Governments to the Secretary of State for the Colonies, and are forwarded by the Colonial Office to the Secretary of State for the Home Department. An endorsed warrant may be executed either by any of the persons named in the endorsement, or by any of the persons to whom it was originally directed, or by any constable in any part of the United Kingdom, in the Channel Islands, and the Isle of Man; and the prisoner when arrested may be brought either before a police magistrate at Bow Street Police Court, or before any justice of the peace, who will then order him to be brought before such police magistrate.

Apprehension on Provisional Warrant.

XXXIII. The process of apprehension on provisional warrant is intended for cases of urgency, and most cases from the colonies fall under this head. A provisional warrant may be issued (section 4) by any justice of the peace for the apprehension of any fugitive who is or is suspected of being in or on his way to the United Kingdom, "on such information and under such circumstances as would, in his opinion, justify the issue of the warrant if the offence of which the fugitive is accused had been committed within his jurisdiction."

In practice a sworn information, showing a reasonable suspicion that a crime has been committed, and that the alleged offender is the guilty party, is required before the issue of the provisional warrant. This information may be based upon a letter or telegram purporting to be from the government or from any judicial or police authority of a British possession, stating—

(a) the alleged offence;

(b) that a warrant has been granted for the apprehension of the alleged criminal;

(c) that further proceedings in accordance with the Fugitive Offenders Act will be taken.

There is no restriction in the Act as to the persons by whom the information is to be laid, and in practice it is usually made by a police officer.

A provisional warrant may, if necessary, be backed for execution.

The justice issuing a provisional warrant forthwith sends a report of the issue, together with the information, or a certified copy thereof, to a Secretary of State, who may, if he thinks fit, discharge the fugitive.

The magistrate before whom the fugitive offender who has been apprehended under a provisional warrant is brought orders him to be brought before one of the police magistrates of the Bow Street Police Court.

The evidence of the officer making the arrest is required in the examination at Bow Street. It is therefore usual, when the arrest has been made elsewhere than in London, that the officer who made the arrest should bring up the prisoner to London and attend with him at Bow Street.

Remand of Prisoner.

XXXIV. The magistrate at Bow Street, before whom a prisoner arrested on a provisional warrant is brought, remands him for such reasonable time, not exceeding seven days at one time as under the circumstances seems to him requisite for the production of the endorsed warrant.

After the production of the endorsed warrant, the proceedings are the same as if the arrest had been, in the first instance, on an endorsed warrant.

Proceedings at Bow Street.

XXXV. When the prisoner has been brought before the police magistrate, and the endorsed warrant produced, the magistrate proceeds to hear the case, in accordance with the provisions of the Fugitive Offenders Act, 1881, and subject to these provisions in the same manner and with the same jurisdiction and powers as if the prisoner were charged with an offence committed within his jurisdiction. If he is satisfied that the evidence produced raises, according to English law, a strong or probable presumption that the fugitive committed the offence mentioned in the warrant, he commits him for surrender. A period of 15 days is then allowed him in which he may apply to the High Court for a writ of *habeas corpus*. If he makes no application, or if the application is made and refused, the Secretary of State issues his warrant for the surrender of the prisoner, and he is either handed over to an officer deputed for that purpose by the Governor of the British possession, or is taken out to the British possession by an English officer, according to the arrangement that may be made in each case.

45 & 46 Vict. c. 69,
s. 3.

Id. s. 25.

Id. s. 30.

45 & 46 Vict. c. 69,
s. 4.

Id. s. 30.

Id. s. 5, and s.

Id. s. 69, s. 6.

Id. s. 7.

The prisoner must be removed within one month of his final committal to await his surrender; otherwise a Superior Court, on application by the prisoner, will, unless sufficient cause is shown to the contrary, order him to be discharged.

Surrender of convicted Offender.

XXXVI. The proceedings for the arrest of an offender convicted in a British possession and escaping to England are the same as those in the case of an accused person. The only difference is as to the nature of the evidence required in the hearing of the case at Bow Street.

Scotland and Ireland.

XXXVII. In Scotland the powers exercised in England by a police magistrate at Bow Street, of hearing a case and committing a prisoner to await his return, are exercised by the sheriff or sheriff-substitute of the county of Edinburgh; those of a justice of the peace (to issue a provisional warrant, &c.) are exercised by any sheriff or sheriff-substitute; and those of a Superior Court by the High Court of Justiciary.

In Ireland the powers of the police magistrate are exercised by one of the police magistrates of the Dublin Metropolitan Police District, and those of a Superior Court by the Court of Appeal and High Court of Justice at Dublin. The power of the Secretary of State may be exercised as regards Ireland not only by the Secretary of State, but also by the Lord Lieutenant, Lords Justices, or Chief Secretary.

Expenses.

XXXVIII. The expenses of arresting and surrendering a fugitive under the Fugitive Offenders Act are to be borne by the Government or the individual applying for his surrender, and cannot be charged either to imperial or police funds.

The police should, therefore, as a rule incur no expenditure, and take no steps,—as by causing an application to be made either for a provisional warrant or for an endorsement of a warrant, or by directing the execution of an endorsed warrant,—unless they are either acting under instructions from the Secretary of State, or have obtained an adequate indemnity or prepayment from the persons seeking the surrender. If, without such indemnity or prepayment, the Metropolitan Police should receive from any private person, or directly from the Colonial police, a request to take any of such steps, they should, wherever time admits, apply for instructions to the Secretary of State, who, where necessary, will cause inquiry to be made at the Colonial Office. Only in the event of emergency, where the loss of a few hours would be irretrievable, will they be justified in taking such action as may be imperatively required; but in that case the matter should, as soon as possible afterwards, be reported to the Secretary of State.

In the case of provincial police forces it is advisable that the same rule should be observed, so far as circumstances admit.

Application of Fugitive Offenders Act, 1831, to Foreign Countries.

XXXIX. By section 36 of the Fugitive Offenders Act, Her Majesty may, by Order in Council, direct that the Act shall apply to any place named in the Order out of Her Majesty's dominions, but in which Her Majesty has jurisdiction, as if such place were a British possession. The Order may provide for carrying out the application of the Act, which may be made subject to conditions, exceptions, and qualifications.

Under this section the Fugitive Offenders Act has been applied to various countries in which Her Majesty's Consular Courts have jurisdiction under the Foreign Jurisdiction Acts.

A list of these countries, with the section of the Order in Council applying the Fugitive Offenders Act in each case, is given in Appendix B.

The preliminary steps to obtain the surrender of a fugitive who has fled from England to any of these countries will be the same as in the case of a British possession: as will also the steps for the arrest within the United Kingdom of a fugitive from any of these countries. Only persons subject to the Queen's jurisdiction in the foreign countries can be dealt with under these Orders, and in most of them the application of the Fugitive Offenders Act is expressly restricted to British subjects.

HOME OFFICE, WHITEHALL,
31st March 1890.

APPENDIX A.

LIST OF EXTRADITION TREATIES.

Countries.	Dates.	
	Treaties.	Orders in Council.
Austria	3 December 1873 ..	17 March 1874.
Belgium	20 May 1876 ..	21 July 1876.
Do. Declaration	23 July 1877 ..	13 August 1877.
Do. do.	21 April 1887 ..	13 May 1887.
Brazil	13 November 1872 ..	20 November 1873.
Colombia	27 October 1888 ..	28 November 1889.
Denmark	31 March 1873 ..	26 June 1873.
Ecuador	28 September 1880 ..	26 June 1886.
France	14 August 1876 ..	16 May 1878.
[Do. Declaration as to Tunis	31 December 1889.] ..	
Germany	14 May 1872 ..	25 June 1872.
Guatemala	4 July 1885 ..	26 November 1886.
Haiti	7 December 1874 ..	5 February 1876.
Italy	5 February 1873 ..	24 March 1873.
Do. Declaration	7 May 1873 ..	
Luxemburg	24 November 1880 ..	2 March 1881.
Mexico	7 September 1888 ..	6 April 1889.
Netherlands	19 June 1874 ..	6 August 1874.
Russia	24 November 1886 ..	7 March 1887.
Salvador	23 June 1881 ..	16 December 1882.
Spain	4 June 1878 ..	27 November 1878.
Do. Declaration	19 February 1889 ..	28 May 1889.
Sweden and Norway	26 June 1873 ..	30 September 1873.
Switzerland	26 November 1880 ..	18 May 1881.
Tonga	29 November 1879 ..	30 November 1882.
United States	9 August 1842 ..	No Order in Council. See Extradition Act, 1870, sec. 27.
Do. Convention *	12 July 1889 ..	21 March 1890.
Uruguay	26 March 1884 ..	5 March 1885.

*Note.—The Orders in Council, which in every case contain the full text of the Treaty, are published in the *London Gazette*.

The English text of all the Treaties to which the Extradition Acts had been applied up to the end of 1888, is given in Sir Edward Clarke's "Law of Extradition," Third Edition (Stevens and Haynes). The English text of the Extradition Treaties to 1897 is also given in a collection "Orders in Council and Treaties," edited by A. de Mornay Bidoulac (Stevens and Sons).

APPENDIX B.

ORDERS IN COUNCIL APPLYING THE FUGITIVE OFFENDERS ACT, 1831.

Country.	Order in Council.
Cyprus	The Cyprus Extradition Order in Council, 1881, section 42: The Fugitive Offenders Act, 1843, or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same, are hereby extended to Cyprus with the following adaptations, namely: (a) In sections 2 and 6 of the Fugitive Offenders Act, 1843, the High Court of Justice, acting by the Judicial Commissioner, shall be deemed to be substituted for a judge of a superior court in a colony. (b) In sections 3, 5 and 6 of the same Act, the High Commissioner shall be deemed to be substituted for the Governor of a colony. (<i>London Gazette</i> , 26th July 1881.)

* This Convention comes into force on 4th April 1890; it does not apply to crimes committed prior to that date.

Country.	Order in Council.
Turkey; Egypt	Ottoman Order in Council, 1882, section 10: "The Fugitive Offenders Act, 1881," except Part II thereof, or so much thereof, except that part, as is for the time being in force, and any enactment for the time being in force, amending or substituted for the same, are hereby extended to the Ottoman dominions, with the adaptations following (namely): (i) Her Majesty's Ambassador is hereby substituted for the Governor of a British possession. (ii) The Supreme Court, or the Court for Egypt (or the Court for Tunis) (as the case requires), is hereby substituted for a Superior Court in a British possession. (iii) Each Court under the Ottoman Order, in Council, 1873, according to its jurisdiction, is substituted for a magistrate of any part of Her Majesty's dominions. (London Gazette, 12th May 1882.) Revoked as regards Tunis by the Order in Council of 31st December 1883.
China; Japan; Korea	China, Japan, and Korea Order in Council, 1884, section 8: "The Fugitive Offenders Act, 1881," shall apply, in relation to British subjects, to China, Japan, and Korea, respectively, as if such countries were British possessions, and for the purposes of Part II of the said Act and of this article, China, Japan and Korea shall be deemed to be one group of British possessions, and Her Majesty's Minister for China, Japan, or Korea (as the case may be) shall have the powers of a Governor or Superior Court of a British possession. (London Gazette, 1st July 1884.)
Zanzibar	Zanzibar Order in Council, 1884, section 13: "The Fugitive Offenders Act, 1881," shall apply to Zanzibar in the same manner as if it were a British possession, and for the purposes of Part II of the said Act, and of this article, Zanzibar, British India, Natal and the Cape of Good Hope shall be deemed to be one group of British possessions, and the Consul-General shall, as regards any place within his jurisdiction, have the powers of a Governor or Superior Court of a British possession. (London Gazette, 6th December 1884.)
Africa The following "local jurisdictions" constituted under the Africa Order in Council, 1889: 1. Oil River Protectorate. 2. Congo Free State. 3. Territory outside Zanzibar under the authority of the British East Africa Company. 4. Nyassa Districts. 5. Madagascar.	The Africa Order in Council, 1889, section 79: "The Fugitive Offenders Act, 1881," shall apply to each local jurisdiction constituted under this order as if such local jurisdictions were a British possession subject to the conditions, exceptions, and qualifications following: (1) The said Act shall apply only in the case of British subjects. (2) The principal British consular officer for the time being in the jurisdiction, or person acting as such by authority of a Secretary of State, is for the purposes of the said Act substituted for the Governor of a British possession, and for a superior court, or a judge thereof, in a British possession, and for a magistrate or justice of the peace in a British possession. (3) So much of the 4th and 5th sections of the said Act as relates to the sending a report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a magistrate to a fugitive, shall be excepted. (4) So much of the 6th section of the said Act as relates to <i>Arrest corpus</i> , and as requires the expiration of fifteen days before issue of a warrant, shall be excepted. (5) The said consular officer shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the governor of that possession. (London Gazette, 22nd October 1889.)
Morocco	The Morocco Order in Council, 1889, section 33: "The Fugitive Offenders Act, 1881," and "The Colonial Prisoners Removal Act, 1884," shall apply to all places to which this order applies, as if such places were British possessions and part of Her

Country.	Order in Council.
Siam	Majesty's dominions, and to all persons (but those only) to whom this order applies and the consul-general shall, as regards any place within his jurisdiction, have, for the purposes of either of the said Acts, the powers of a governor or superior court of a British possession. (London Gazette, 13th December 1889.) The Siam Order in Council, 1889, section 57: "The Fugitive Offenders Act, 1881," shall apply to Siam as if Siam were a British possession, subject to the conditions, exceptions, and qualifications following: (i) The said Act shall apply only in the case of British subjects. (ii) The consul-general is for the purposes of the said Act substituted for the governor of a British possession, and for a superior court, or a judge thereof, in a British possession, and for a magistrate or justice of the peace in a British possession. (iii) So much of the 4th and 5th sections of the said Act as relates to the sending a report of the issue of a warrant, together with the information or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a magistrate to a fugitive, shall be excepted. (iv) So much of the 6th section of the said Act as relates to <i>Arrest corpus</i> , and as requires the expiration of fifteen days before issue of a warrant, shall be excepted. (v) The said consul-general shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the governor of that possession. (London Gazette, 13th December 1889.)
Inland Persia	Persia Order in Council, 1889, section 287: "The Fugitive Offenders Act, 1881," shall apply to Persia as if Persia were a British possession, subject to the conditions, exceptions, and qualifications following: (1) The said Act shall apply only in the case of British subjects. (2) The consul-general is for the purposes of the said Act substituted for the governor of a British possession, and for a superior court, or a judge thereof, in a British possession, and for a magistrate or justice of the peace in a British possession. (3) So much of the 4th and 5th sections of the said Act as relates to the sending a report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a magistrate to a fugitive, shall be excepted. (4) So much of the 6th section of the said Act as relates to <i>Arrest corpus</i> , and as requires the expiration of fifteen days before issue of a warrant, shall be excepted. (5) The consul-general shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the governor of that possession. (London Gazette, 24th December 1889.)
Persian Coast and Islands	Persian Coast and Islands Order in Council, 1889, section 14: "The Fugitive Offenders Act, 1881," shall apply to the Persian Coast and Islands as if the same were a British possession, subject, so far as regards matters to be done in the Persian Coast and Islands, to the conditions, exceptions, and qualifications following: (i) The said Act shall apply only in the case of British subjects. (ii) The consul-general is for the purposes of the said Act substituted for the governor of a British possession, and for a superior court, or a judge thereof, in a British possession, and for a magistrate or justice of the peace in a British possession. (iii) So much of the 4th and 5th sections of the said Act as relates to the sending a report of the issue of a warrant,

Country.	Order in Council.
Somali	together with the information, or a copy thereof, or to the sending of a certificate of committal and report of the case, or to the information to be given by a magistrate to a fugitive, shall be excepted. (iv) So much of the 6th section of the said Act as relates to <i>habeas corpus</i>, and as requires the expiration of fifteen days before issue of a warrant, shall be excepted. (v) The said consul-general shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the governor of that possession. (<i>London Gazette</i>, 21th December 1889.) The Persian Coast and Islands Order in Council of 1889 is applied to Somali by the Somali Order in Council, 1889. (<i>London Gazette</i>, 24th December 1889.)

APPENDIX C.

EXTRADITION CRIMES.

Extradition Crimes.	Treaties in which each Crime is comprised.
Extradition Act, 1870.	
Murder, and attempt and conspiracy to murder.	Murder.—All Treaties. "Murder (including assassination, parricide, infanticide, poisoning)." Belgium, Colombia, France, Guatemala, Hayti, Luxemburg, Mexico, Netherlands, Salvador, Spain, Uruguay. "Murder (child murder and poisoning included)." Sweden. "Murder (including infanticide)." Switzerland. Attempt to murder.—All Treaties. United States.—"Assault with intent to commit murder." Conspiracy to murder.—Colombia, Denmark, Ecuador, Italy,† Mexico, Russia.
Manslaughter ...	All Treaties. Italy.† United States.—"Manslaughter when voluntary."
Counterfeiting and altering money, and uttering counterfeit or altered money.	All Treaties. Some of them add, or substitute for "uttering," the words "bringing into circulation."
Forgery, counterfeiting, and altering and uttering what is forged or counterfeited, or altered.	All Treaties. United States.—"Forgery and utterance of forged paper." Brazil.—"Forgery or imitation, counterfeiting or falsification of any document or paper (&c.), as well as the intentional use or bringing into circulation of any papers imitated, counterfeited, or falsified." Netherlands.—"Forgery, counterfeiting, or altering of public or private documents, including forgery, counterfeiting or altering of paper money, bank notes, or other public securities." Austria,† Germany,† Sweden,† Switzerland.†
Embezzlement and larceny.	All Treaties. Brazil.—"The purloining or embezzlement of moneys or effects, public or private, by abuse of confidence." Italy.—"Larceny or unlawful abstraction or appropriation." Netherlands.—"Embezzlement or larceny, comprehending any larceny that by the Netherlands penal law is not considered as 'vol simple.'"

* The Treaty with Tonga is not included in this table. It comprises only the crimes of murder, attempt to murder, embezzlement, larceny, fraudulent bankruptcy, and forgery, and applies only to subjects of Tonga escaped to British territory.

† In Treaties marked thus †, there is in the English text an *inclusive* reference to the definition of the crime in the foreign code.

Extradition Crimes.	Treaties in which each Crime is comprised.
Obtaining money or goods by false pretences.	All Treaties, except United States. Brazil.—"Frauds or false or fraudulent practices to obtain money or effects from another." Italy.—"Obtaining money or goods by false pretences (cheat or fraud)." Netherlands.—"Obtaining money or goods by false pretences, including the crimes designated in the Netherlands penal laws as speculation, abstraction, or misapplication by bailies or public accountants." Sweden.—"Obtaining money or goods by false pretences, except, as regards Norway, cases in which the crime is not accompanied by aggravating circumstances according to the law of that country." Uruguay.—Add, "the quantity or value of which shall be greater in amount than 200<i>l.</i> sterling."
Crimes by bankrupts against bankruptcy law.	All Treaties, except United States. "Bankruptcies subject to criminal prosecution according to the laws applicable thereunto." Brazil. "Fraudulent bankruptcy." Italy. "Crimes against bankruptcy law which by the Netherlands penal law are considered as fraudulent bankruptcy." Netherlands. "Crimes by bankrupts against bankruptcy law." Belgium, Denmark, Germany, * Sweden. "Crimes against bankruptcy law." Austria, * Colombia, Ecuador, France, Guatemala, Hayti, Luxemburg, Mexico, Russia, Salvador, Spain, Switzerland, Uruguay.
Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company made criminal by any Act (<i>law</i>) for the time being in force.	All Treaties, except Netherlands. Brazil.—"Malversation or fraud committed, &c." Italy.—"Fraud, abstraction, or unlawful appropriation by a bailee, banker, agent, factor, trustee, director, or member, or officer of any public or private company or house of commerce." As regards the Netherlands, see the definition of "obtaining by false pretences" above. United States.—"Made criminal by the laws of both countries."
Rape	All Treaties. Brazil.—"Rape by force or threats."
Abduction	All Treaties, except Netherlands. "Abduction of <i>minors</i>" in Guatemala, Luxemburg, Salvador, Spain, Switzerland, Uruguay. In all others.—"Abduction."
Child-stealing ..	All Treaties, except Netherlands.
Burglary and housebreaking.	All Treaties, except Brazil and Netherlands. Brazil.—"Housebreaking with intent to steal or to commit other crimes." Italy. As regards the Netherlands, see definition of larceny above. United States.—"Burglary, housebreaking, or shopbreaking."
Arson	All Treaties. Brazil.—"Crimes resulting from the act of wilfully setting fire to a house or to buildings connected therewith, to the prejudice of another."
Robbery with violence ..	All Treaties, except Netherlands. Austria.—"Robbery with violence, or with menaces." Belgium.—"Robbery with violence (including intimidation)." United States.—"Robbery." As regards the Netherlands, see the definition of larceny above.
Threats by letter or otherwise with intent to extort.	All Treaties, except Brazil, Netherlands, United States, and Uruguay. Sweden.—"Threats by letter or otherwise with intent to extort, except, as regards Norway, cases in which this crime is not punishable by the laws of that country."

* In Treaties marked thus * there is in the English text an *inclusive* reference to the definition of the crime in the foreign code.

Extradition Crimes.	Treaties in which each Crime is comprised.
Crimes committed at sea : (a) Piracy by the law of nations.	(a) All Treaties, except Austria, Germany, Luxemburg, Netherlands, Sweden and Switzerland. France.—“(a) Any act of depredation or violence by the crew of a British or French vessel against another British or French vessel, or by the crew of a foreign vessel, not provided with a regular commission, against British or French vessels, their crews or their cargoes. “(b) The fact by any person, being or not one of the crew of a vessel, of giving her over to pirates. “(c) The fact by any person, being or not one of the crew of a vessel, of taking possession of such vessel by fraud or violence.” Italy.—“Piracy according to international law, when the pirate, a subject of neither of the High Contracting Parties, has committed depredations on the coasts, or on the high seas, to the injury of citizens of the requiring party, or when, being a citizen of the requiring party, and having committed acts of piracy to the injury of a third State, he may be within the territory of the other party, without being subjected to trial.” Piracy.—United States.
(b) Sinking or destroying a vessel at sea, or attempting or conspiring to do so.	(b) All Treaties, except Luxemburg, Netherlands and Switzerland. Austria, Brazil, Germany, Italy, and Sweden omit “or conspiring.” United States.—“Wrongfully sinking or destroying a vessel at sea, or attempting to do so.”
(c) Assault on board a ship on the high seas, with intent to destroy life or to do grievous bodily harm.	(c) All Treaties, except France, Luxemburg, Netherlands, and Switzerland. United States.—Omit “to destroy life or.”
(d) Revolt, or conspiring to revolt, by two or more persons on board a ship on the high seas against authority of the master.	(d) All Treaties, except Luxemburg, Netherlands and Switzerland. Brazil omits “or conspiring to revolt.” Sweden.—Add “except, as regards Norway, conspiracy to revolt.”
Extradition Act, 1873.	
Kidnapping and false imprisonment.	Austria, Colombia, France, Guatemala, Luxemburg, Mexico, Russia, Salvador, Spain, Uruguay. Belgium, Switzerland, and United States.— <i>Kidnapping only.</i> Hayti.— <i>False imprisonment only.</i>
Perjury and subornation of perjury, whether under common or statute law.	<i>Perjury and Subornation of Perjury.</i> —Austria, Belgium, Colombia, France, Guatemala, Hayti, Luxemburg, Mexico, Russia, Salvador, Spain, Switzerland, United States. <i>Perjury.</i> —Netherlands.
Indictable offences under the Larceny Act, 1861 (24 & 25 Vict., c. 86), and amending or substituted Acts.	<i>Obtaining valuable securities by false pretences.</i> —Colombia, France, Guatemala, Luxemburg, Mexico, Salvador, Spain, Uruguay. Uruguay.—At “the quantity or value of which shall not exceed 200 <i>l.</i> sterling.” <i>Receiving any money, valuable security, or other property, knowing the same to have been stolen.</i> †—Belgium, Colombia, France, Guatemala, Mexico, Salvador, United States, Uruguay. <i>Ditto, embezzled.</i> —Belgium, France, United States. <i>Ditto, unlawfully obtained.</i> —Colombia, France, Guatemala, Luxemburg, Mexico, Salvador, Spain, Uruguay. Uruguay.—“Receiving any money, valuable security, or other property, knowing the same to have been feloniously stolen or unlawfully obtained, the quantity or value of which shall not exceed 200 <i>l.</i> sterling.” <i>Ditto, fraudulently obtained.</i> —United States.

* “Piracy” in the Treaty of 1842 with the United States was held (*In re Tivnan*, 9 Cox, C.O. 522) to mean acts of piracy so constituted by municipal law, not piracy by the law of nations. “Piracy by the law of nations” is included in the new Convention with the United States.

† In most of the Treaties in which “receiving” is not included in the list of offences, the extradition of persons guilty of this offence might be obtained on the charge of being accessories to larceny, &c., after the fact.

Extradition Crimes.	Treaties in which each Crime is comprised.
Indictable offences under 24 & 25 Vict., c. 97, and amending or substituted Acts.	<i>Malicious injury to property if such offence be indictable.</i> —Austria, Belgium, Colombia, France, Guatemala, Hayti, Luxemburg, Mexico, Russia, Salvador, Spain, Switzerland, Uruguay. Uruguay.—“Malicious injury to property, if such offence be indictable and punishable with one year’s imprisonment or more.”
Indictable offences under 24 & 25 Vict., c. 98, and amending or substituted Acts.	
Indictable offences under 24 & 25 Vict., c. 94, and amending or substituted Acts.	<i>Knowingly making without lawful authority any instrument, tool, or engine adapted and intended for the counterfeiting of coin of the realm.</i> —Colombia, Guatemala, Luxemburg, Mexico, Salvador, Spain, Uruguay.
Indictable offences under 24 & 25 Vict., c. 100, and amending or substituted Acts.	<i>Abandoning children; exposing or unlawfully detaining them.</i> —Belgium, France, Guatemala, Luxemburg, Salvador, Spain, Uruguay. <i>Any malicious act done with intent to endanger the safety of any person in a railway train.</i> —Belgium, Colombia, France, Guatemala, Luxemburg, Mexico, Salvador, Spain, Uruguay. Colombia, Mexico.—“Any person travelling or being upon a railway.” <i>Wounding or inflicting grievous bodily harm.</i> —Colombia, France, Guatemala, Luxemburg, Mexico, Russia, Salvador, Spain, Uruguay. Colombia, Mexico and Russia.—“Malicious wounding or inflicting grievous bodily harm.” Uruguay.—Add “When such acts cause permanent disease or incapacity for personal labor, or the absolute loss or privation of a member or organ.” <i>Assault occasioning actual bodily harm.</i> —Colombia, Mexico. <i>Assaulting a magistrate or peace or public officer.</i> —France, Guatemala, Luxemburg, Salvador, Spain. <i>Aggravated or indecent assault.</i> —Belgium, Guatemala, Luxemburg, Salvador, Spain, Uruguay. <i>Indecent assault.</i> —Colombia, Mexico, Russia, Spain. <i>Indecent assault, acts of indecency, even without violence, upon the person of a girl under 12 years of age.</i> —France. <i>Carnal knowledge of a girl under the age of 10 years.</i> —Carnal knowledge of a girl above the age of 10 years and under the age of 12 years. <i>Indecent assault upon any female, or any attempt to have carnal knowledge of a girl under the age of 12 years.</i> —Belgium, Guatemala, Luxemburg, Salvador, Uruguay. <i>Unlawful carnal knowledge, or any attempt to have unlawful carnal knowledge, of a girl under the age of 16.</i> —Colombia, Mexico, Russia, Spain. Mexico and Russia.—Omit “unlawful.” Colombia and Mexico.—Add “If the evidence produced justifies committal for those crimes according to the laws of both the contracting parties.” <i>Bigamy.</i> —Belgium, Colombia, France, Guatemala, Luxemburg, Mexico, Salvador, Spain, Uruguay. <i>Administering drugs or using instruments with intent to procure the miscarriage of women.</i> —Belgium, Colombia, Guatemala, Luxemburg, Mexico, Russia, Salvador, Spain, Uruguay. <i>Abortion.</i> —France. Above, under the head “Crimes by bankrupts against bankruptcy law,” it will be seen that 13 of the Treaties extend to all “crimes against bankruptcy law” (whether committed by a bankrupt or not).
Any indictable offence under the laws for the time being in force in relation to bankruptcy. 36 & 37 Vict., c. 88, s. 27.	
Offences against the Slave Trade Act, 1873, and enactments with which that Act is construed as one, or otherwise in connexion with the Slave Trade.	<i>Dealing in slaves in such manner as to constitute a criminal offence against the laws of both States.</i> —Colombia, France, Guatemala, Mexico, Russia, Salvador, Spain, Uruguay. <i>Crimes and offences against the laws of both countries for the suppression of slavery and slave trading.</i> —United States.

Treaties having a clause including participation in any of the crimes in the list, provided such participation be punishable by the laws of both parties.	All Treaties, except Denmark and Ecuador. In Italy it is limited to "accomplices before the fact."
Treaties having a clause expressly restricting surrender to crimes punishable by the law of both parties;	Belgium.
or by the laws of the surrendering party	Austria. Denmark. Ecuador.
Treaties having a clause providing for optional surrender in the case of any other crime for which by the laws of both parties extradition can be granted.	Colombia. Mexico. Russia.

APPENDIX D.

PROVISIONS OF THE EXTRADITION TREATIES AS TO THE DOCUMENTS TO BE SENT IN SUPPORT OF A DEMAND BY THE ENGLISH GOVERNMENT FOR THE EXTRADITION OF AN ACCUSED PERSON.

Austria	Article IX. To the requisition for the surrender of an accused person there must be attached a warrant issued by the competent authorities of the State which demands extradition, and such proofs as would, according to the laws of the place where the accused was found, justify his arrest if the crime had been committed there. Article XII. The extradition shall take place . . . only if the evidence be found sufficient, according to the laws of the State applied to, to justify the committal of the prisoner for trial in case the crime had been committed in the territory of the said State.
Belgium	Article III. The requisition for the surrender 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 Great Britain, together with duly authenticated depositions or statements taken on oath or upon solemn affirmation before such judge or magistrate, clearly setting forth the said acts and containing a description of the person claimed and any other particulars which may serve to identify him.
Brazil	Article IX. A requisition for extradition . . . must be accompanied by the warrant of arrest issued by the competent authority of the State applying for it, and by such evidence as, according to the laws of the place where the accused is found, would justify the arrest if the crime was there committed. Article XI. The extradition shall . . . only be carried out when the evidence has been found sufficient, according to the laws of the country applied to, for subjecting the prisoner to trial if the crime had been there committed.
Colombia	Articles VIII and IX. Same terms as in German Treaty (below).
Denmark	Article III. The requisition for the surrender shall be . . . accompanied by (1) a warrant for the arrest of the accused, issued by a judge or magistrate duly authorized to take cognizance of the acts charged against him in Great Britain; (2) duly authenticated depositions or statements taken on oath before such judge or magistrate, clearly setting forth the acts on account of which the fugitive is demanded; and (3) a description of the person claimed, and any other particulars which may serve to identify him.
Ecuador	Article III. The requisition for the surrender shall be . . . 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 . . . If the evidence to be produced shall be such as to justify, according to the laws 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, &c.

France	Article VI. The ambassador . . . shall send . . . in support of each demand for extradition an authenticated and duly legalized copy . . . of a warrant of arrest against a person accused, clearly setting forth the nature of the crime or offence on account of which the fugitive is being proceeded against. The judicial document thus produced shall be accompanied by a description of the person claimed, and by any other information which may serve to identify him.
Germany	Article VIII. 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. Article X. The extradition shall take place . . . only if the evidence produced be found sufficient, according to the laws of State applied to, to justify the committal of the prisoner for trial in case the crime had been committed in the territory of the said State.
Guatemala	Articles VIII and XI. Same terms as in German Treaty.
Haiti	Articles VIII and X. Same terms as in German Treaty.
Italy	Articles IX and XIII. Same terms as in German Treaty.
Luxemburg	Article VII. Same terms as in Article VIII of the German Treaty. Article IX. The surrender shall take place . . . only if the evidence produced be found sufficient according to the laws of the State applied to.
Mexico	Articles VIII and XI. Same terms as in German Treaty.
Netherlands	Articles VIII and X. Same terms as in Luxemburg Treaty.
Russia	Articles VIII and XII. Same terms as in German Treaty.
Salvador	Articles VIII and XI. Same terms as in German Treaty.
Spain	Article V. The diplomatic representative of Great Britain will send . . . with the demand for extradition, an authenticated and legalized copy . . . of the warrant of arrest against the person accused, clearly showing the crime or offence for which proceedings are taken against the fugitive. This judicial document shall be accompanied, if possible, by a description of the person claimed, and any other information or particulars that may serve to identify him.
Sweden and Norway	Articles VIII and IX. Same terms as in German Treaty.
Switzerland	Article VI. The requisition for the extradition of an accused person must be accompanied by an authentic copy of the warrant of arrest issued by a competent official or magistrate, clearly setting forth the crime or offence of which he is accused, together with a properly legalized information setting forth the facts and evidence upon which the warrant was granted. The requisition must also be accompanied by a description of the person claimed, and, if it be possible, by other information and particulars which may serve to identify him.
United States	Provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offence had there been committed.
Uruguay	Article VI. The diplomatic representative . . . shall address . . . with the demand for extradition, an authentic and legalized copy . . . of the mandate of arrest issued by competent authority, or other documents of the same legal force, against the accused person, setting forth clearly the crime or offence on account of which proceedings are being taken against the fugitive. These judicial documents shall be accompanied, if possible, by a description of the person claimed, and by any other information or intelligence which may serve to identify such person.

APPENDIX E.

FORM OF INDEMNITY.

WHEREAS, on an information laid by me, the undersigned, a Warrant has been granted by a Magistrate of the of for the arrest of on a charge of
 AND WHEREAS information has been obtained that the said is now in or on the way to

AND WHEREAS, at my request, the Secretary of State for the Home Department, on behalf of Her Majesty's Government, has agreed, on the terms and conditions hereinafter stated, to take the necessary steps under (a) with a view to obtain the surrender of the said
 NOW I, the undersigned, do hereby agree and undertake, for myself, my executors, administrators, and assigns, to pay on demand to the said Secretary of State, or to the Secretary of State for the Home Department for the time being, or to any person duly authorized to act on behalf of the said Secretary of State, all expenses incurred by Her Majesty's Government, or any person acting on behalf of Her Majesty's Government, in taking steps to obtain the surrender of the said and in obtaining and carrying out such surrender, and in conveying the said to England and otherwise in pursuance of the said Warrant.

AND I further agree and undertake to indemnify the Secretary of State for the Home Department for the time being against any expenses to which he or any person acting on his behalf may be put, and against any compensation or damages paid by or on behalf of the said Secretary of State in his discretion, or in consequence of any legal proceedings in the event of the unlawful arrest of any person erroneously supposed to be the said if in the opinion of the said Secretary of State such unlawful arrest is caused by imperfect or inaccurate information or description given by me.

Witness my hand this day of 18

Address

Signed by the said in the presence of

Address

APPENDIX F.

FORM OF INFORMATION MADE IN SUPPORT OF APPLICATION FOR ISSUE OF PROVISIONAL WARRANT.

Metropolitan Police District. } The information of of taken on oath this day of hundred and in the year of Our Lord one thousand eight County of London, and within the Metropolitan Police District before me, the undersigned, one of the Magistrates of the Police Courts of the Metropolis, sitting at the Police Court aforesaid. Who saith that late of is suspected and accused [or convicted] of the commission of the crime of within the jurisdiction of and now suspected of being in the United Kingdom. I make this application on behalf of the Government.

I produce I am informed and verily believe that a Warrant has been issued in for the arrest of the accused; that the said Government will demand h extradition in due course, and that there are reasonable grounds for supposing the accused may escape during the time necessary to present the diplomatic requisition for h surrender, and I therefore pray that a provisional Warrant may issue under the provisions of 33 & 34 Vict., c. 52, s. 8. Sworn before me, the day and year first above mentioned, at the Police Court aforesaid.

APPENDIX G.

MEMORANDA AS TO PROCEDURE IN EXTRADITION CASES IN THE UNITED STATES.

(1)

Foreign Office,
April 19th, 1887.

Sir,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Mr. Secretary Matthews, a copy of a Despatch from Her Majesty's Minister at Washington enclosing a copy of a Minute which he has drawn up of the procedure in extradition cases which now obtains in the United States.

I am, &c.,
(Signed) J. PAUNCEFOTE.

The Under Secretary of State,
Home Office.

MINUTE.

Procedure which at present obtains in Extradition cases under Article X of the Treaty of 1842 and Act of Congress of 1882:

- I. The demand for Extradition is made under Article X of the Treaty of 1842.
- II. The reply thereto states that when the necessary forms of law have been complied with, the usual warrant of surrender will be issued.
- III. No warrant for the preliminary arrest of a fugitive criminal is issued by the Secretary of State.
- IV. The application for arrest is made directly to the Commissioner, or other judicial officer in whom the function of arrest and examination is specifically vested, by the Consular Officer in whose consular jurisdiction the fugitive criminal may be found, at the instigation of Her Majesty's Representative and upon affidavit of the Consul of his identity.
- V. The depositions and warrants duly authenticated are then submitted to the judicial authority or Commissioner, who takes cognizance of the case under the Treaty and Act of Congress.
- VI. If held for Extradition thereunder, the papers and certificates are submitted to the Secretary of State.
- VII. If the Commissioner's decision in favor of Extradition is approved by the Secretary of State, the warrant of surrender is issued.
- VIII. The warrant of surrender is sent to Her Majesty's Representative, who authorizes the Consular officer, or such person as he may designate, to receive the fugitive criminal.

OBSERVATIONS.

The demand for Extradition need not necessarily be made before the case is sent to the Secretary of State by the Commissioner, for it is only when he is satisfied that the forms of law have been complied with that the warrant of surrender can be issued.

It is when the case comes before the Commissioner that the defect in the legal procedure is seen to allow of the escape of criminals. To secure the preliminary arrest, it is only necessary for Her Majesty's Representative to instruct the Consular officer to make the demand pending the arrival of the necessary papers, and that the Consul should have means of identifying the criminal. In places where there is no Consular officer, a difficulty would undoubtedly arise in finding some person who could be authorized to act in the case, and it would be advisable therefore that an officer should be sent out who could be authorized by Her Majesty's Representative to make the demand for the arrest, and to identify the fugitive. It is essential therefore for the preliminary arrest that the Consular officer or person authorized to make the demand should have the means of identifying the fugitive, in order to be enabled to make the necessary affidavit before the Commissioner.

(2.)

Sir Julian Pauncefote presents his compliments to Sir A. F. O. Liddell, and begs to enclose for his information an extract from a letter from Messrs. Marbury, Counsel to Her Majesty's Consulate-General at New York, concerning the particulars required by the United States Courts when a request for Extradition for the crime of forgery is transmitted by telegraph.

Foreign Office, July 24, 1884.

(EXTRACT.)

It is of prime importance, where a person is apprehended upon a telegraphic despatch, to have as far as possible complete particulars of the character of the offence committed, to secure his detention until the depositions and documentary evidence shall be received. In cases of forgery, the despatch should contain a description of the instrument claimed to be forged, date, amount, if draft or bill, upon whom drawn, name of payee, place of utterance, name forged or

character of forgery, and the person defrauded, or as much of these as can be furnished, and more to be supplied as soon as obtained. Where adequate particulars are contained in the despatch, which is the foundation for the complaint, there will be no difficulty in having the accused remanded until the arrival of the papers.

(3.)

AUTHENTICATION OF PAPERS.

Act of Congress "Regulating Fees and Practice in Extradition cases," of August 1882.

Section 5.—That in all cases where any depositions, warrants, or other papers, or copies thereof, shall be offered in evidence upon the hearing of any Extradition case under title sixty-six of the Revised Statutes of the United States, such depositions, warrants, and other papers, or the copies thereof, shall be received and admitted as evidence on such hearing for all the purposes of such hearing, if they shall be properly and legally authenticated, so as to entitle them to be received for similar purposes by the tribunals of the foreign country from which the accused party shall have escaped; and the certificate of the principal diplomatic or Consular officer of the United States resident in such foreign country shall be proof that any deposition, warrant, or other paper, or copies thereof, so offered, are authenticated in the manner required by this Act.

FORM OF HOME OFFICE CERTIFICATE (1889.)

In forwarding the annexed papers, to be used in support of an application for the surrender from the United States of charged with the crime of, committed in Great Britain, I hereby certify that, to the best of my knowledge and belief, the signatures ["A.B."] on the Warrant of Arrest, and on the information and depositions on which the Warrant was granted, are the signatures of ["A.B"], one of Her Majesty's Justices of the Peace for the [.....], having authority to issue and receive the same, and I further certify that such documents so signed by a magistrate having jurisdiction in the place where the same were issued and taken, and authenticated by a Minister of State, sealed with his official seal, would be received in evidence for similar purposes by the tribunals of Great Britain.

(Signed)

[.....],

*Under Secretary of State
for the Home Department.*

L. S.

Whitehall,

(Signed)

C. J. LYALL,

Offg. Secretary to the Government of India.

No. 4 Judicial 943—952.

Copy forwarded to all Local Governments and Administrations for information and guidance.

(By order.)

(Signed)

J. P. HEWETT,

Under Secretary to the Government of India.

To the Government of Madras.

ORDER—dated 8th August 1890, No. 1317, Judicial.

Communicated to all District Magistrates, for information and guidance.

2. The notification will be published in the *Fort St. George Gazette*.

(True Extract.)

Chief Secretary.

To all District Magistrates.
 „ the Chief Presidency Magistrate, Madras.
 „ the Commissioner of Police.
 „ the Military Department.
 Gazette.

Ed. A. Raitt.

Govt. of {1890} Madras.

JUDICIAL.

Issued

Recd.

Encl.

G.O., 8th August 1890, No. 1317.

AUGUST.

Extradition.

Communicating notification of the Government of India regarding the procedure in cases and cases under the Fugitive Offenders Act, 1681, and publishing it in the Fort St. George Gazette.

for Gazette

to be filed in the office

12
Sir

This notification
already appeared under
Govt. of India Extraordinary
in the 5th August
Gazette.

1/9/90 J. H. C. J. H. C.

H.C.
any need to republish again
Rur
1/9

Judicial Act 29-5-8

From
the Govt of India
Home Dept.

Wd 10⁵
Res. 28³ July 1890.
(948.52)

2P
A
Order 8 August 1900/1317
To be told best mag.
for information & guidance.
2. The instructions will be
published in the For. & Foreign
Gazette. 22/1/8

* Has been already ordered to be republished

Procedure in extradition
cases and cases under the Fugitive
Offenders Act 1881.

To all & mag. 17¹
the Ch. Mag. mag. 17¹
- Gen. of Police 17¹
- mag. 17¹
- Gazette 17¹
22/1/90

*Jud. No. 1317
2/8.11 August 1890.*

The Collectors of
The District Magistrates of

Decd 27/8/90.

- 14
- Anantapur. *P*
 - North Arcot, Chittoor. *P*
 - South Arcot, Cuddalore. *P*
 - Bellary. *P*
 - South Canara, Mangalore. *P*
 - Chingleput, Saidapet. *P*
 - Coimbatore. *P*
 - Cuddapah. *P*
 - Ganjam, Chatrapur. *P*
 - Godavari, Cocanada. *P*
 - Kistna, Masulipatam. *P*
 - Kurrul. *P*
 - Madras (when necessary). *P*
 - Madura. *P*
 - Malabar, Calicut. *10*
 - Nilgiris, Ootacamund. *P*
 - Nellore. *P*
 - Salem. *A*
 - Tanjore. *9*
 - Tinnevely. *P*
 - Trichinopoly. *P*
 - Vizagapatam. *f*

ORDINARY. PRINTED.

Judicial DEPARTMENT.
G.O., DATED 8-8-90
No. 1317.

First copy sent to Press. 15/8

Notated for signature.

Despatched in print. 29/8

[Despatch Abstract.]

Extradition.

Comms. notification
of the Govt of India regarding
the procedure in
cases & cases involving
Fugitive Offenders
& publishing
of George Page