

SIR,—

Whitehall, 26th March, 1902.

I am directed by the Secretary of State to say that he has had under his careful consideration your letter of the 21st November last, on the subject of the expenses involved in procuring extradition from the United States of America, and entirely concurs in the suggestion that the fairest way of settling the question would be that any legal assistance necessary should be supplied by the United States Government.

By the treaty of 1842 each Government agreed to "deliver up to justice," on a requisition made by the other Government, any persons found within their territory who had been charged with certain specified crimes within the jurisdiction of the other Government, provided that certain conditions laid down in the treaty were duly satisfied. To enable the two Governments to discharge the obligations so undertaken by them, legislation was necessary in both countries. The principle on which this legislation was founded does not, so far as Mr. Ritchie is aware, differ materially in the two countries, but the practice appears to be widely different. In England this Government has conceived it to be its duty to take active steps for giving effect to any requisition received from the United States for the surrender of an accused person.

On receipt of such a requisition, the evidence supporting it is forwarded to the Magistrate at Bow Street, with an order directing the issue of a warrant for the arrest of the accused, provided that the requirements of English law are met. The Magistrate considers the evidence so transmitted to him, and, if it is sufficient, and the fugitive is brought before him, he commits him for extradition.

If the evidence is insufficient, an opportunity is given the foreign Government to furnish more. If any legal question of real difficulty is raised it is the practice to commit the accused, so long as there is some *prima facie* case against him, in order that it may be fully discussed before the High Court upon the application of the accused for a *habeas corpus*, and in that event His Majesty's Government instructs counsel to argue the case for extradition.

As soon as the legal conditions imposed by statute are satisfied, a warrant of surrender is issued from this Department, and, in fact, from the time when the requisition from America is received till the time when His Majesty's Government is in a position to surrender the prisoner, His Majesty's Government charges itself with the duty of conducting the proceedings for the purpose of carrying out its obligations under the treaty, without requiring from the Federal Government any action beyond that of supplying the evidence specified in the treaty.

When the apprehension of a fugitive is desired prior to the submission of a claim for extradition, every facility is afforded the Federal Government for obtaining it: an information has to be laid in order to procure a warrant of arrest, but the process for this purpose is quite simple; a form has been drawn up for use by any representative of the United States; the police give every assistance, and the Secretary of State believes that occasion never arises for the employment of a solicitor, or still less a counsel.

In America the procedure is widely different, and it would almost seem as though His Majesty's Government is regarded as having acquired no right under the treaty of 1843 except that of appearing in the Federal Courts and instituting what is closely analogous to an ordinary prosecution, the action of the United States Government being confined, so far as Mr. Ritchie is aware, to the issue of a warrant of surrender as soon as the requirements of law have been satisfied. It may be that the Federal Courts are not, strictly speaking, empowered to insist on the case being put before them by counsel, but it is obvious that if the proceedings in extradition go on the lines of an ordinary prosecution, in which the fugitive claimed for surrender under the treaty is defendant and His Majesty's Government is the prosecutor, it may become practically as necessary to obtain legal assistance as though this were an actual requirement of the Court. If the American law requires proceedings for extradition to be of the nature above indicated, Mr. Ritchie cannot but think that in view of the terms of the treaty the United States Government should supply such legal aid as may be necessary.

That Government would, in his opinion, have a legitimate ground of complaint under the treaty if they found themselves compelled, in order to procure the surrender of a fugitive criminal, to appear, whether by counsel or not, in the Courts of this country and conduct criminal proceedings against him; and it seems to him inequitable that His Majesty's Government in America should be liable to obligations of a kind from which in this country the American Embassy is entirely relieved. Mr. Ritchie would say nothing at this time of the cost entailed on His Majesty's representative in the United States in employing detective agencies for tracing criminals, in paying the fees charged by the United States Commissioners and Marshals, and in paying for the board of persons claimed for extradition while in American gaols.

In these respects also there is a manifest difference in the mode of carrying out the treaty in the two countries; but, in his opinion, these matters are of secondary importance, and will admit of easy settlement if the United States Government concur, as he trusts they will feel disposed to do, in the view indicated in the earlier part of this letter. If it should be agreed that His Majesty's Government should be relieved in America, as the United States Government is in this country, of all legal expenses arising out of the extradition procedure, the decision would no doubt be extended so as to secure a uniformity of practice with regard to other expenses also.

Nor is he familiar with the procedure of extradition under the Canadian statutes, and he thinks that any representation to the United States Government should be strictly limited to the case of fugitives from the United Kingdom.

If it is the fact that the United States Government is charged fees for the services of a Magistrate in Canada in extradition cases, and if in other respects the procedure between the two countries is similar, it is clear that the United States Government cannot be asked to alter its practice with regard to fugitives from Canada unless the Canadian practice is also altered; but Mr. Ritchie does not think this need stand in the way of a representation with regard to English fugitives.