

This circular is very important. It sums up the whole practice, in matters of extradition, as it has ever been followed by the French Government.

I have found it impossible to get a copy; but, as it is very long, I am going to have it reprinted, and shall have the honor of sending you a copy, as well as one to the Swiss Minister, according to his request.

I think, then, that I am not rash in persisting in the opinion which I gave on the 10th of December last, namely, that there is no precedent applicable to the case of Lamirande.

Accept, &c.,
(Signed,) TREITE.

No. 30.

Lord Stanley to Mr. Fane.

FOREIGN OFFICE, January 12, 1867.

SIR,—Her Majesty's Government have given their best consideration to and have consulted the Law Officers of the Crown on Lord Cowley's report, contained in his despatch of the 19th of December, of his conversation with M. de Moustier respecting the case of M. Lamirande, and they gather from it that unless a formal application for the surrender of M. Lamirande is made to the French Government, that object will probably not be effected.

Her Majesty's Government would have much preferred that the question should have been set at rest, as it has hitherto been discussed, by informal rather than by official representation on their part; but as the French Government seem to consider the latter course preferable, I can no longer hesitate to say that although even now Her Majesty's Government are advised that they cannot demand the surrender of M. Lamirande as a matter of right, yet it is their desire that you should at once make an official request for his surrender.

You will observe that Her Majesty's Government contend that the extradition of M. Lamirande was unauthorized by the Treaty of 1843, and by the Statute giving effect to that Treaty, on two grounds.

First, that the demand made for his extradition was not made through the intervention of such a Diplomatic Agent as is contemplated by the Treaty, and the British Statute confirming it, and,

Secondly, that the offence charged against M. Lamirande was not the offence of "faux" or forgery contemplated by the Treaty.

As regards the first point, M. de Moustier, in his conversation with Lord Cowley, reported by the latter in his despatch of the 20th of November, seemed disposed to contend that the French Consul General was, under the circumstances, an accredited Diplomatic Agent, within the meaning of the Treaty and Statute.

The Governor General of Canada, by appearing to treat the French Consul General as an authorized Agent, within the meaning of the Act, certainly made himself a party to such a construction.

It is to be observed, however, that the British Statute reproduces the term "Diplomatic Agents," which alone appears in the Treaty, and limits to persons so qualified the right to demand extradition under the French Treaty. If a more comprehensive significance had then been considered to be attached to that term, there was no reason why it should not have been set forth in the Statute, in the same manner as in the Statute passed on the self-same day, namely, the 22nd of August, 1843, for giving effect to the Extradition Article of the Treaty with the United States of the previous year. No mention was made of the specific character of the officer who should make the demand for extradition, but only that the requisition should be "made by the authority of the United States," the Treaty specifying in general terms, "Ministers, officers, or authorities," as the channels through which requisitions should be made, and not, as in the case of the Treaty with France, defining those authorities as Diplomatic Agents. In the absence, therefore, of a more comprehensive term than that of "Diplomatic Agents" in the British Statute, it is impossible for Her Majesty's Government to accede to M. de Moustier's view that for the purposes of demands of extradition a Consular Agent can be recognized as a Diplomatic Agent, under the Treaty of 1843.