

framed in a spirit of hostility to the interests of other countries. Political offences should also be excluded. The most serious political offences fail of justification because they are not successful, and the nation against which they are committed is justified in punishing them, not because they are morally wrong, but because the stability of the government depends upon it.

"Treason never prospers; what's the reason? Why, when it prospers, none dare call it treason."

The sympathies of all the rest of the world are generally with the leader of a revolution however unsuccessful he may be, provided he appears to have been influenced in his action by patriotic motives, and to have had reasonable prospects of bettering his country.

In fine it may be said generally that all offences should be excepted that are not by the common consent of civilized nations denounced as bad in themselves (*mala in se*).

In adopting means for the enforcement of an extradition treaty there should be provision for prompt arrest on mere accusation. This may sometimes cause injustice, but without it the law would be too easily evaded to be of much value. A judicial investigation without unnecessary delay should be required in the country of the offence to determine whether a case existed which was within the treaty, and which, if so, should be the basis of the demand for surrender. In the country of arrest there should also be a judicial inquiry as a basis for executive action in determining upon the propriety of responding favorably to the demand. Report of this inquiry should be made to the executive, and, if satisfactory, be followed by the warrant of the criminal's extradition.

The most careful provision for such proceedings, however, cannot preclude the susceptibility of treaties being perverted to purposes never contemplated in the making of them. The participant, for example, in a political disturbance cannot be demanded under the treaty for his treason; but suppose instead of charging him with treason, he be proceeded against for murder in the killing of some soldiers: in this case it would be the duty of the country to which he had fled to look beyond the *prima facie* showing of criminal homicide and deal with the case as one of a political nature. The treaty of 1842, already alluded to, was silent on the subject of political offences, the intent being not to include them. It was on this account that much of the harsh feeling between the two countries arose during the southern rebellion and the subsequent Fenian attempts.

Abuses should be carefully guarded against on the part of the judicial and executive authorities when making their inquiry into the facts before the surrender is conceded, as well as a recognition of the principle that the extradited party shall not be subject to prosecution on any other charge than that on which he has been surrendered. But perhaps a more suitable and satisfactory security would be found in the recognition of a principle that would preclude the parties active in procuring a surrender from making use of the process for purposes which they had not avowed.

In a recent number of a contemporary review we find the following reasonable provision for a treaty of extradition: "That a person delivered up as a fugitive from justice should not be subject to trial or punishment in the country receiving him, on any other than the charge specified in the warrant of extradition until that charge had been finally disposed of, nor afterwards until he had reasonable opportunity to return to the country extraditing him. The principle of the following should also be assented to, though some exceptions should probably be made: that he should for a like period be exempt from civil process in the country to which he had been returned. There are cases in which the courts have recognized the principle that when a person is brought within the reach of judicial process for one purpose, advantage cannot be taken of his enforced presence to serve him with process for another purpose. It is this principle that protects parties attending as witnesses from being arrested on the processes of legal courts; and it is so perfectly reasonable that it might well have been applied by analogy to the case of a party extradited for one offence and then charged with another. But it has not been so applied, and there were certain English precedents in criminal cases that would have stood in the way. To give the needed protection would consequently require one of two things:—1. An executive pledge, given on receiving the surrender of an accused person that he should be held only on the charge to which he was surrendered; or, 2. A treaty stipulation to that effect."

An exception, however, should be made to this rule in cases where private wrongs were connected with the public wrong and sprung from the same facts. But if the public prosecution break down on trial or is abandoned, there would be palpable wrong and almost certain abuse if private parties might then take advantage of the circumstances for their own purposes.

Supposing a person is arrested in the

United States and brought to Canada on a charge of robbery; if the charge prove well-founded, there is no good reason why the prosecutor should not in a private suit recover the article or its value; but if the authorities discover that it is no robbery but only a taking of property on a *bona fide* claim of title, and on this ground abandon the proceedings, it would be grossly wrong to permit the prosecutor to obtain a private remedy by thus subjecting his adversary to trouble and expense on an unfounded charge. All former treaties are deficient in this particular, and difficulties will be likely to arise until they are amended.

There is perhaps more need of a complete treaty between the United States and ourselves than between any other two countries in the world. Indeed the present condition of affairs is a continual temptation to embezzlement, and has the effect of promoting that disregard for commercial morality with which both countries are often charged by Europeans, and which every honest business man on both sides must deeply regret. Take away the danger of punishment that surrounds dishonesty and immediately the wits of too many in both countries are set to work at devising the readiest means of acquiring wealth with which they may step across the boundary line and be able to set the honest owners of their ill-acquired gain at defiance. Surely it is to the interest of the people of both countries that a speedy remedy be found and applied to such a state of things. The defaulter and embezzler cannot become an honest man by going from one country into the other, and is not a desirable acquisition to either. Recent negotiations between Great Britain and the United States are likely to result in the resumption of the previous treaty, and probably lead to a more comprehensive one. It is to be hoped that no punctilios, false national pride or fancied slights will be permitted to interfere with such a necessary measure.

BUTTER AND CHEESE.

There has been a better demand for butter in the past ten days, the inquiry being confined almost entirely to choice full dairy, which has been moved freely at 23 to 24½ cents for Morrisburg and Brockville and 24 to 26 for Townships. In Western some 5,000 packages have been placed at 21c. to 23c. as to quality. The stock here is estimated at about 16,000 packages, two-thirds of which, it is thought, will be moved out before the close of navigation. The balance now held and to come in, is considered to be of fine quality, and holders are of opinion that all will be wanted for winter trade at good prices.

The present season has been an exceptional one, inasmuch as the heat of the summer