

so called. Your letter, it is true, invokes especially in support of the opinion which would exclude the intervention of French Consuls, the terms of the statute passed on the 22nd of August, 1843, for carrying into effect the Anglo-American Treaty—terms more comprehensive than those of the statute passed the same date to give force of law to the Anglo-French Treaty; and you deduce from the discrepancies of text which result from this comparison that the intention of the negotiators of the two Treaties must have been, in the one case, to admit the intervention of Consuls, and in the other to shut them out.

In our opinion the discrepancies in the text which exist between the two statutes and the two Treaties are explained by reasons of an opposite nature, but of which neither admits of the supposition that the contracting parties intend to admit Consuls in the one case and to exclude them in the other.

In fact, the Anglo-American Treaty, is anterior by eight months to the Anglo-French Treaty, and if the two statutes, although of the same date, differ in their wording, it is doubtless because it was intended to frame each in harmony with the terms of the Treaty to which it refers. As regards the discrepancies of text which exist between the Treaties themselves, the article of the Anglo-American Treaty does not figure in a special Extradition Convention. This article, casually introduced into a Boundary Treaty with Canada, concluded at Washington, designates, in fact, generally, the authorities of each country who can properly demand extradition, whilst all the specific Treaties on this subject, concluded by England with other Powers, France, Russia and Denmark, use the expression "Diplomatic Agents." But this form of expression can have but one meaning; for what reason could be invoked to justify the admission of the Consuls of the United States whilst those of other Powers were excluded?

But even if we suppose that the Treaty of 1843, by the use of the words "Diplomatic Agents," intended to lay down an invariable rule, it would not follow, after the accused has been handed over, and above all after foreign justice had pronounced its decision, that the extradition should be annulled on account of that irregularity.

Whilst placing ourselves with the Government of the Queen, upon the ground of strict right, we may be allowed to observe that, generally, in matters of legal procedure, formalities are only a source of invalidity, in so far as the law has formally declared them to be so, or when the irregularity in question attacks a general legal principle recognized in the country. Now, in the first place, the Treaty contains nothing upon the consequences entailed by the non-observance of the diplomatic channel; and, in the second place, this same non-observance is sanctioned by England towards the United States, in a general manner towards Italy for Malta, and, lastly, towards France herself, in the relations between the French and English Colonies.

The Government of the Queen alleges, in the second place, that the acts imputed to Lamirando would not constitute the crime of "*faux*," or forgery, as contemplated by the Treaty, inasmuch as there is no forgery according to the law of England.

We have no intention of affirming *a priori* that the forgeries committed by Lamirando are foreseen and punished by English legislation; but we are justified in taking into our consideration that the Government of the Queen brings to the support of its position no reference nor any official opinion originated by or emanating from a judicial authority, whilst, on the contrary, in our opinion the decision of Judge Bréhaut is a settled fact, creating a grave and serious presumption in favor of the legitimacy of the extradition.

Moreover, in adhering to the literal meaning of the Treaty of 1843, Lamirando's extradition appears to us perfectly regular.

What, in fact, does the Treaty say? That the extradition shall be carried out on the part of England, "on the report of a Judge or Magistrate duly authorized to take cognizance of the acts charged against the fugitive in the warrant of arrest."

This report has been made by Judge Bréhaut, and it is upon this report that the Governor of Canada has handed over the accused. We were therefore within the term of the Treaty; it is true, that it is argued that there existed an appeal to a superior Judge. But, strictly, according to the letter of the Treaty, we are justified in maintaining that this right of appeal does not exist; and, indeed, if this right does exist, is it requisite for the Government, which claims an accused person from England, to pursue him through all the judicial steps authorized by the forms of English law?