

EXTRADITION BETWEEN GREAT BRITAIN AND THE UNITED STATES.

opinion there is at present little hope of concluding a new treaty with the United States.

It will be seen, however, that his Lordship will not fail, should a favourable opportunity occur, to press upon the United States Government the expediency of concluding a more comprehensive treaty than the existing one, an arrangement which, in the opinion of Her Majesty's Government, would be as much to the advantage of the United States as to this country and the Dominion.

I have, &c.,

(Signed), CARNARVON.

Governor-General,

The Right Honourable

The EARL OF DUFFERIN, K.P., K.C.B.

The Foreign Office to the Colonial Office.

FOREIGN OFFICE,

January 29, 1876.

SIR,—I have laid before the Earl of Derby your letter of the 19th instant, in which you inclose copy of a despatch from the Governor-General of Canada, together with a Minute of the Privy Council of the Dominion, submitting for the consideration of Her Majesty's Government the inadequacy of the existing Extradition Treaty between Great Britain and the United States, and suggesting the expediency of taking steps for the negotiation of a more comprehensive treaty; and in reply I am directed by his Lordship to state to you, for the information of the Earl of Carnarvon, that negotiations for the conclusion of a new treaty with the United States were opened after the passing of the Extradition Act of 1870, and were carried on until May 1874, when they were suspended in consequence of the Government of the United States objecting to an article in the English Draft which provided, in accordance with section 3 of the Act of 1870, that "no accused or convicted person shall be surrendered, if the offence in respect of which his surrender is demanded shall be deemed by the party upon whom the demand is made to be of a political character, or if he prove to the satisfaction of the magistrate, justice, judge or court before which he is brought, or of the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or to punish him for an offence of a political character."

The Government of the United States main-

tained that the Secretary of State alone should decide whether an offence with which a fugitive criminal is charged is of a political character.

On the other hand, the Secretary of State for Home Affairs, to whom this question was referred, reported that it was not possible to agree to the proposal of the United States Government, as any stipulation in accordance with their views would be at variance with section 3 to the act above recited.

Under these circumstances Lord Derby considered that it would be useless to continue the negotiations, which were accordingly suspended until quite recently, when the question was revived in a discussion which took place between Her Majesty's Minister at Washington and the Secretary of State of the United States, relative to the trial of a fugitive criminal named Lawrence, who was surrendered to the United States in April last on a charge of forgery.

As, however, Mr. Fish continues to hold the same views on the point at issue as he held in 1874, and to maintain that the British Government must take the whole responsibility in deciding whether the offence with which a fugitive criminal is charged is of a political character, Lord Derby apprehends that there is at present little hope of concluding a new Extradition Treaty with the United States.

Should, however, a favourable opportunity occur, His Lordship will not fail to press upon the Government of the United States the expediency of concluding a more comprehensive treaty than the existing one, an arrangement which would be as much to the advantage of the United States as to Great Britain and the Dominion of Canada.

I have, &c.,

(Signed), T. V. LISTER.

The Under Secretary of State,
Colonial Office.

"Sic utere tuo ut alienum non lædas." This maxim was once discarded unceremoniously by Mr. Justice Erle. "The maxim," he said, "is mere verbiage. A party may damage property where the law permits, and may not where the law prohibits, so that the maxim can never be applied till the law is ascertained, and when it has been, the maxim is superfluous."—*Bonomi v. Backhouse*, 36 L. J. Q. B., 388.