

Mr. BOUCHER: As a rule of law, a British decision is more binding on a Canadian court than an American decision? Isn't that a principle of law?

Mr. JAENICKE: But the American law is the other way?

Mr. BOUCHER: And if this treaty were passed, Mr. Jaenicke, the Americans could even change that law and create the status of a fugitive even though he were not physically within this country.

*By Mr. Marquis:*

Q. Can we change the law in Canada? Can the United States change the law after the adoption of the treaty without informing Canada?—A. Well, in the course of ordinary practice, either country would inform the other of any changes in the legislation that would affect the provisions of a bargain made between them.

*By Mr. Marquis:*

Q. You said a few minutes ago that if we changed our Act, we should inform the United States?—A. That would be the ordinary course. However, if there was any suggestion at any time to change Canadian legislation, the ordinary diplomatic practice would be that we would let the United States authorities know; and if they should change their Extradition Act, they would let us know, unless the change was of such a character that it did not affect the provisions of the treaty between the two countries.

Mr. MARQUIS: If they change the interpretation of the treaty, it seems to me that they should inform the other country.

Mr. JAENICKE: Do I understand you correctly, Mr. Read, on the authority of these English decisions, that a Canadian resident could be extradited to the United States without ever being present in the United States?—A. Yes.

*By Mr. Jaenicke:*

Q. But according to American law, an American who commits a similar offence in Canada could not be extradited from the United States?—A. Yes.

*By Mr. Boucher:*

Q. Isn't that subject to variation from state to state? Every state has different laws in that respect?—A. Well, I have not been able to find any decision the other way; it is largely due to the fact that things are profoundly affected by interstate extradition. Let us say, in a case corresponding to the Nillins case or to the Godfrey case, you could not extradite between states because of the provisions of the Constitution of the United States. In it, extradition is limited. Even the definition of a fugitive is given in the Constitution of the United States, as being "one who shall flee from justice".

*By Mr. Boucher:*

Q. You will agree with me that fleeing from justice has such an elastic meaning that it can be a case of fleeing from justice according to the law of one state and not fleeing from justice according to the law of another state?—A. But there is only one law when it comes to the Constitution of the United States and that is the law of the United States Supreme Court.

Q. That is right, and it also interprets the law of the various state courts or the state laws.

*By Mr. Marquis:*

Q. We have nothing to do with the governments of the particular states; but when our country deals with extradition, it deals with the government of the United States.—A. We deal with the government of the United States, but the extradition is initiated by the state authority, just as it is in Canada, where it is initiated by the attorney general of a province.