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### **Extradition – offences for which surrender sought time-barred in requesting state – whether magistrate ought to receive evidence of foreign law to prove limitation – Fugitive Offenders Ordinance, ss. 10 and 12 – Hong Kong/US Extradition Agreement – (Hong Kong)**

C was wanted by the United States of America on charges of conspiracy to import aliens into the United States unlawfully, unlawful detention of 130 aliens with a view to securing a ransom for their release and transfer of money from the United States to a place outside the United States to promote the smuggling of aliens into the United States. Prior to the issue of the warrant for her arrest, C was, ordinarily resident in New York. He was alleged to have left the US in December 1994 in order to avoid prosecution.

In April 2000, C was arrested in Hong Kong and the Chief Executive issued an Authority to Proceed. A magistrate committed C to custody to await the decision of the Chief Executive as to her surrender.

There was before the magistrate a duly authenticated bundle of evidence in the form of a number of affidavits, including one from an Assistant United States Attorney, assigned to the Organized Crime and Terrorism Unit of the United States Attorney's Office. Briefly put, the evidence against C was that she conducted extensive smuggling operations whereby she imported into the United States illegal immigrants from the Mainland of China, in return for very large sums of money and employed crime gangs to assist her. Once the illegal immigrants were on USA soil, she then saw to it, that they were unlawfully detained, to ensure that the smuggling fees were paid by their relatives abroad. In one charge, C was said to have smuggled 130 persons from Fujien province, undertaking to pay a gang USD750,000 for their assistance in bringing the immigrants in from a boat off shore. It is said that they were detained in an apartment in New York until the smuggling fees had been received. The requesting state also produced affirmations made by alleged co-conspirators.

Counsel acting on behalf of C argued that some of the offences for which she was wanted in the United States, were time-barred. As such, they were not offences at all for the purposes of the Fugitive Offenders Ordinance. He invited the magistrate to receive evidence of the law of the requesting state, “for the

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For further information or copies, please  
contact: The Editor, Criminal Law Section,  
Legal & Constitutional Affairs Division (LCAD),  
Commonwealth Secretariat,  
Marlborough House, Pall Mall,  
London SW1Y 5HX, United Kingdom.  
Tel: +44 (0)20 7747 6417/6420/6423  
Fax: +44 (0)20 7839 3302  
E-mail: k.prost@commonwealth.int  
v.wright@commonwealth.int

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limited purpose of ascertaining whether or not this court has jurisdiction to commit the fugitive for a relevant offence.”

The requesting state resisted the application, saying that the only matter of foreign law with which the court was concerned was to see whether the offences carry minimum terms of 12 months' imprisonment in the United States. The magistrate refused the application, holding that he had no jurisdiction to deal with the issue. The Magistrate then proceeded to order C's committal to await the decision of the Chief Executive of the HKSAR, pursuant to s. 10(6)(b) of the Fugitive Offenders Ordinance.

C applied for a writ of habeas corpus contending that the order of the magistrate was unlawful. She argued that the magistrate ought to have received evidence of United States law on the time limitation and that, had he done so, he would or might then have refused to commit, and that had evidence of C and others been received, it would have been established that all the offences were time-barred from prosecution. C asserted that US law requires prosecutions to be conducted within five years of the commission of the offence unless the offence is murder or an additional time is expressly permitted by statute. Moreover, C challenged that she was not a fugitive from justice as she had re-entered the US, several times since the time of her original charge.

The issue for the determination of the court was “whether the magistrate ought to have determined whether prosecution of the offences in respect of which the applicant's surrender was requested in the United States was there time-barred, and whether the magistrate was under an obligation to receive evidence about United States law in relation to the limitation period and its applicability to these offences”.

► **Held:** dismissing the application;

### 1. *The Ordinance*

Section 10(6)(b) of the Ordinance prescribes the circumstances in which a magistrate is bound to make a committal order thus:

an authority to proceed must have been and the court must be satisfied that the offence is a relevant offence, the supporting documents in relation to the offence have been produced and have been duly authenticated, and where the person is wanted for prosecution in respect of the offence,

that the evidence in relation to the offence would be sufficient to warrant the his committal for trial according to the law of Hong Kong the offence had it been committed in Hong Kong. The Court can then commit the fugitive to custody.

A “relevant offence” is defined by section 2(2) of the Ordinance to be, inter alia, one that is punishable for more than 12 months. The offences for which C was wanted by the United States carry maximum terms of imprisonment in the United States exceeding 12 months. They related to conduct which, if it had occurred in Hong Kong, would have been punishable with imprisonment for more than 12 months.

Section 5 of the Ordinance contains a list of restrictions upon surrender, which make no mention of time limits for prosecution in the requesting country.

### 2. *The USA - Hong Kong Agreement*

Article 2 of the United States and Hong Kong agreement on extradition provides for surrender for offences of kidnapping, and offences of arranging for financial gain the illegal entry of persons into the jurisdiction of the requesting country, as well as for conspiracy to commit such offences. Some articles preclude surrender in specified circumstances, eg. where the offence is a political one. But there is no bar on surrender where it is suggested that the offence is time-barred in the requesting jurisdiction.

### 3. *The exceptional accusation point*

Counsel for C made the point that this was an ‘exceptional accusation’ case and that therefore the magistrate had the right, or an obligation, to concern himself with the provisions of the United States - Hong Kong Agreement, and that that in turn lead to a requirement to hear evidence of USA law. He relied on a dictum of Lord Diplock in *In re Nielsen* [1984] 1 AC 606 at 621.

In *Re Nielsen*, the House of Lords held that the magistrate should not have refused to commit Neilsen. He should not have entertained the evidence of foreign law at all, that he had no jurisdiction to make any findings in that case as to substantive Danish law, or to receive expert evidence about it. His sole function was to ascertain, as he was required to do by the statute, whether the foreign warrant was duly authenticated and whether the evidence

produced of the conduct in respect of which the applicant was wanted was sufficient according to the law of England to justify the fugitive criminal being committed for trial for a scheduled offence had the conduct described in the evidence been committed in England.

In *Regina v. Governor of Pentonville Prison, ex parte Sinclair* [1991] 2 AC 64, the House of Lords was required to determine whether the magistrate had jurisdiction to consider whether or not the extradition treaty relied upon had been complied with, and their Lordships held that he did not.

The Hong Kong Court of Appeal concluded in *Chen Chong Gui v. Senior Superintendent of Lai Chi Kok Reception Centre & Anor.* [1998] 1 HKC 522 that:

“... It is not within the jurisdiction of the magistrate nor is it his function to receive evidence concerned with the obligations under the treaty. His powers are limited to those provided in the relevant statutory provisions...”

The arrangement does not bar surrender where a prosecution for an offence in the United States is time-barred. There is no prohibition against surrender for offences the prosecution of which is time-barred. The wording of Article 8, its purport and context - all are fatal to any argument which is based upon the exceptional offence proposition, even assuming, that such a proposition was sound. Article 8 has to do with formal requirements, the documents that the requesting jurisdiction has to forward; and one of those documents is a statement about time limits for prosecution for the offences for which the fugitive is sought. The magistrate's authority to refuse a committal order must rest, and rest exclusively, upon the terms of the Ordinance.

#### 4. The section 2 point

C also argued that if prosecution for an offence is time-barred, it is for the purpose of the Ordinance not an offence at all. To make an order under section 10(6)(b) of the Ordinance, the magistrate must be satisfied that the offence to which the authority to proceed relates is a relevant offence.

The Court found this contention untenable. Section 2(2)(a) addresses the punishment available in the event of a person being convicted of a transgression of a particular law. The magistrate must ask himself the question: Were a person - any person - in the foreign

jurisdiction to be convicted of such an offence, could he there be punished by imprisonment for more than 12 months? The magistrate does not ask whether the particular person then appearing before him in committal proceedings will or will not be convicted. He does not ask whether, the courts of the requesting country have the jurisdiction to try him: *Alves v. Director of Public Prosecutions and Anor.* [1992] 4 All ER 787 at p.794); and, by the same token, section 2(2) does not require the magistrate to ask if a plea in bar of any other kind, including a limitation point, is available, let alone whether it will succeed. What section 2(2)(a) is concerned with is the specified statutory or common law offence in the foreign jurisdiction, and the penalty provided by the law of that jurisdiction for such an offence in the event of a conviction for that offence. To this end alone, evidence of foreign law is permitted and, indeed, required. And in this case that evidence was provided and not contested.

*Cheung Chui Ping v. Superintendent of Tai Lam Centre for Women & the United States of America* [2000] HCAL 1985

### **Extradition – whether the Minister of Foreign Affairs was the proper person to issue authority to proceed – whether sufficient evidence for committal – whether certiorari proper vehicle for challenging magistrate's decision – whether delay oppressive and an abuse of process – (St. Christopher & Nevis)**

The United States of America requested the extradition of H, M and M, the appellants, from St Kitts and Nevis. They were wanted in connection with an alleged conspiracy to supply and import cocaine into the US. The Minister of Foreign Affairs of St Kitts and Nevis ordered the appearance of the appellants before a Magistrate to issue warrants for their arrests. The Magistrate ruled that the evidence before him did not justify committal. He discharged them.

The US applied to the High Court for a writ of certiorari to quash the decision of the magistrate and an order of mandamus directing the magistrate to commit the appellants to prison. The High Court ordered that the magistrate's orders be “removed into the High Court of Justice and that the said orders or copies of the same under the hand of the said Senior

Magistrate to the Registrar of the High Court of Justice. ... and "further that this matter be remitted to the said Senior Magistrate ... for him to resume hearing of the matter and for his further consideration therefore in light of the judgment of this court and to determine whether to commit all or any of the said Respondents in accordance with s. 10 of the Extradition Act 1870".

The matter then went back to the Senior Magistrate who ruled that the High Court had not quashed the orders of discharge and that it was therefore not possible to resume hearing of the case and the appellants remained discharged.

The US further applied to the High Court for similar orders as previously. The same High Court judge disagreed with the view of the magistrate but again fell short of actually making a formal order quashing the magistrate's orders.

Upon appeal to the Privy Council, the appellants advanced the following arguments:

1. The Minister of Foreign Affairs was not authorized to issue the requisitions to the magistrate in purported exercise of section 7 of the Extradition Act, which they argued could only be exercised by the Governor General.
2. The evidence before the magistrate was not sufficient to warrant the High Court ordering that the magistrate should commit the appellants.
3. The challenge to the decision of the magistrate through an application for certiorari was not permitted by section 14 of the Extradition Act.
4. There had been such delay in the case that it would constitute oppression and an abuse of process for the case to continue.

➔ **Held:**

1. Under section 7 of the Act, a requisition for surrender of a fugitive was to be made to the Governor General. Upon the attainment of independence, the Extradition Act continued to have effect as an "existing law with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the Constitution" of the independent nation. By an instrument dated 6<sup>th</sup> July 1995, made pursuant to section 54 of the Constitution, the Governor General assigned the responsibility for *inter alia*, "Conventions

and Agreements" to the Minister of Foreign Affairs. The treaty concluded between the UK and the US for the reciprocal extradition of offenders is an "Agreement" within the meaning of that term in the assignment by the Governor General. In their Lordships' opinion, the Minister of Foreign Affairs was the appropriate person to exercise the function under section 7 of the 1870 Act.

The decision in *Re Saoop* was not of relevance in this case, because here the assignment of the Governor General expressly stated that "Conventions and Agreements" were one of the subjects for which responsibility was assigned to the Minister of Foreign Affairs, and extradition matters are included within the term "Agreements". Therefore, in order to bring the 1870 Act into conformity with the Constitution pursuant to paragraph 2(1) of Schedule 2 to the Constitution Order 1983, it was necessary to adapt the Act by substituting "St Christopher and Nevis" for "British possession" and the Minister of Foreign Affairs for "the Governor" in section 17 of the Act. Accordingly, the requisitions issued by the Minister of Foreign Affairs were valid and lawful.

2. Considering the evidence at the hearing before the magistrate, their Lordships found that the main objection related to the admission of tapes which recorded conversations among the appellants. They held that the tapes were properly before the court, the prosecution, having laid proper foundation by leading evidence from the police officers and other witnesses relevant to the tapes. And having been properly adduced in evidence it was permissible for the transcripts of the tapes to be considered. The objection that the recordings had been illegally obtained was without basis, since the interception of the conversations had been judicially authorized. Furthermore, the fact that evidence had been obtained illegally did not of itself, make it inadmissible: *Kuruma v. the Queen* [1955] AC 197, although the court may exclude it in exercise of its discretion.

3. The law is clear that the High Court has power on an application for judicial review to quash the decision of a magistrate to discharge a fugitive under section 10 of the 1870 Act: *In re Nielson* [1984] AC 606. Section 14 did not in any way restrict this power.

4. A very substantial part of the delay was attributable to the unfortunate difference of opinion between the magistrate and the High Court Judge which gave rise to additional and

protracted proceedings and which was not attributable to the respondent. Moreover, the appellants had not been in custody since the decision of the magistrate. Therefore, the submission that the proceedings be stayed for delay constituting an abuse of process was rejected.

Noel Heath, Charles Miller and Glenroy Matthew v. the United States of America Privy Council Appeal No. 6 of 2001

Source: <http://www.privycouncil.gov.uk>

**Immigration – deportation of terrorist – whether convention refugee can be deported while communication to UN Human Rights Committee still pending – whether legitimate expectation that Canada would await determination of Committee before deportation – (Canada)**

A, an Iranian citizen lived as a Convention refugee in Canada. The Minister of Citizenship and Immigration concluded that he was a terrorist and a danger to the security of Canada, and ordered him to be deported to Iran. He challenged this deportation order, alleging that he would face torture in Iran. He appealed unsuccessfully through to the Supreme Court of Canada.

Having exhausted all of his rights of review in Canada, A filed a “communication” with the United Nations Human Rights Committee (the “Committee”) for relief under the Optional Protocol to the *International Covenant on Civil and Political Rights*, which Canada had ratified but not incorporated into its domestic law. The Committee made an “interim measures” request, asking Canada to stay the deportation order until it considered A’s communication. Canada refused to accede to the request and moved to deport A immediately.

A then applied to the Superior Court for an injunction restraining his deportation pending the Committee’s consideration of his communication. This application was refused. A appealed to the Ontario Court of Appeal. In support of his appeal, A submitted that: (1) the principles of fundamental justice under s. 7 of the Canadian Charter of Rights and Freedoms guarantee him the right not to be returned to Iran until the Committee had considered his communication;

(2) he had a legitimate expectation of not being deported pending the Committee’s consideration.

The Government of Canada, cross-appealed, asking for a stay of proceedings on the ground that the trial court should not have assumed jurisdiction on the application for a stay, but instead should have deferred to the Federal Court.

➤ Held: dismissing both appeals;

1. The Respondents’ cross-appeal

The respondents acknowledge that a provincial superior court and the Federal Court have concurrent jurisdiction on constitutional issues concerning the application and enforcement of the provisions of the *Immigration Act*, but that the provincial superior court should decline jurisdiction in immigration matters in recognition of the Federal Court’s expertise in this area of the law. In the court’s opinion however, A’s application did not raise immigration issues, but constitutional issues over which the Federal Court had no greater expertise than provincial superior courts.

2. Does s. 7 of the Charter guarantee Ahani the right to remain in Canada until the Committee has considered his communication?

s. 7 of the Charter, states:

“7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.”

A’s mere removal from Canada did not establish a deprivation under s 7 of the Charter. Convention refugees and other non-citizens of Canada do not have an unqualified constitutional right to remain in Canada: *Chiarelli v. Canada (Minister of Employment and Immigration)*, [1992] 1 S.C.R. 711.

To trigger the principles of fundamental justice, A must show a potential risk of serious harm if he is deported to Iran. But the Supreme Court of Canada had found A had “not cleared the evidentiary threshold required to access ... s. 7 protection”. This meant that A had not shown a potential risk of deprivation to his life, liberty or security of the person. However, since A was still a Convention refugee, he still had a well-founded fear of persecution if returned to Iran. That was enough to trigger his s. 7 rights: *Singh v. Canada (Minister of Employment and*

*Immigration*), [1985] 1 S.C.R. 177. However, even assuming that A had demonstrated that his return to Iran would threaten to deprive him of his right to security of the person under s. 7 of the *Charter*, no principle of fundamental justice entitles him to remain in Canada until his communication was considered by the Committee.

The content of the principles of fundamental justice can only be determined by balancing individual and state interests. A's interest was reflected in the opportunity to seek the Committee's views on whether Canada's treatment of him breached the Covenant. Canada's interest was reflected in two undisputed facts that show what A sought was not a principle of fundamental justice, namely that, Canada had not incorporated either the Covenant or the Protocol into Canadian law by implementing legislation. Although Canada's international human rights commitments may still inform the content of the principles of fundamental justice under s. 7 of the *Charter*, this did not allow A to use s. 7 to enforce Canada's international commitments in a domestic court.

Furthermore, in signing the Protocol, Canada did not agree to be bound by the final views of the Committee, nor did it even agree that it would stay its own domestic proceedings until the Committee gave its views. In other words, neither the Committee's views nor its interim measures requests are binding on Canada as a matter of international law, much less as a matter of domestic law. To give effect to A's position, however, would convert a non-binding request in a Protocol, which has never been part of Canadian law, into a binding obligation enforceable in Canada by a Canadian court, and more, into a constitutional principle of fundamental justice. The Court found this result to be untenable. The principle that international treaties and conventions not incorporated into Canadian law have no domestic legal consequences had been affirmed by a long line of authority in the Supreme Court of Canada. For example, in *Capital Cities Communications Inc., Taft Broadcasting Co. and WBEN, Inc. v. Canadian Radio Television Commission*, [1978] 2 S.C.R. 141. Moreover, it was evident from the wording of Protocol and the Committee's Rule 86, from the Committee's own pronouncements, from the opinions of recognized international law scholars and from caselaw, that both the Committee's final views and its interim measures requests were not

binding or enforceable in international law. The language is permissive and does not have an enforcement mechanism.

A thus had no basis in domestic law and no basis in international law to ask a Canadian court to prevent his deportation. His right to remain in Canada ended with the Supreme Court of Canada's decision. And, as the Supreme Court of Canada found, throughout the entire deportation proceedings he was accorded full procedural fairness consistent with the dictates of fundamental justice in s. 7 of the *Charter*. A was not entitled to any more than that.

A also argued that Canada was not acting in good faith and contrary to its many pronouncements on the importance of international human rights. In the Court's opinion, Canada was enforcing its own laws and the decision of its highest court. It was entitled to do so under the terms of the Protocol. Moreover, Canada's domestic statutory regime for deporting Convention refugees itself embodies a willingness to comply with international human rights standards. A had had the full benefit of statutory and *Charter* protections. Thus, the Government of Canada would have every reason to hold a good faith belief that deporting A now would not breach its obligations under the Covenant.

### 3. Did A have a legitimate expectation of not being deported to Iran pending the Committee's consideration?

The doctrine of legitimate expectations can affect the content of the duty of procedural fairness or impose procedural fairness requirements where none would otherwise exist. The doctrine is limited. It is a doctrine of procedural fairness only. It creates no substantive rights.

First, nothing in Canada's past practice with interim measures requests or in its dealings with A could have given rise to a legitimate expectation that it would permit A to remain in the country until the Committee considered his communication. At its root, the doctrine of legitimate expectations protects people's reasonable expectations in their dealings with government. In other words, it protects participatory expectations derived from consistent patterns of previous behaviour or from an undertaking given to an aggrieved party: Mullan, *Administrative Law* (2001), at pp. 177-78.

Canada, however, had no consistent practice of acceding to interim measures requests. Nor had Canada made any undertaking to A that would permit him to legitimately expect that he could remain in Canada pending the Committee's deliberations. Instead, it had consistently maintained its intention to deport him immediately.

Secondly, A sought the substantive right to remain in Canada until the Committee delivered its views. But the law in Canada is that the doctrine of legitimate expectations does not create substantive rights, it is a doctrine of procedural fairness.

**Extradition – What amounts to adequate authentication – whether admissibility of properly authenticated documents provided warrant for admissibility of hearsay contents – Power of court to order release of person for delay giving rise to abuse of process – Extradition Act 1870 - (Belize)**

The Chief Magistrate of Belize committed F to detention to await extradition to the United States of America, on a charge of murder. F was detained but later granted bail. F applied to the Supreme Court of Belize for an order of habeas corpus challenging the committal order, complaining that:

1. The bundle of documents supporting the request for extradition was wrongly put before the magistrate in that no witnesses were called to put them in. As such there was no evidence or sufficient evidence before the Chief Magistrate on which to commit.
2. None of the documents contained in the bundle were properly authenticated in accordance with sections 14 and 15 of the Extradition Act.
3. Several of the documents before the Chief Magistrate contained hearsay evidence on which he could not in law properly commit F, if the alleged case against him were to be tried in Belize.
4. It had not been proved that F was the person actually sought by the requesting state.
5. In view of the lapse of time since the commission of the alleged offence, the fact that the arrest warrant had been issued over a decade ago, and in all that time the requesting state had not put in train the machinery for F's surrender,

proceeding with the action would amount to an abuse of the process of the Court.

➔ **Held:**

1. Extradition in Belize is governed by the Extradition Act 1870 and the Indictable Procedure Act Chapter 46 of the Laws of Belize. The extradition proceeding before a magistrate is a preliminary investigation as would be normally held for committal on indictment, and this is governed by the Indictable Procedure Act. The relevant provisions are sections 32 to 40. These provisions allow for "paper committal" in preliminary investigations. An attorney in a case is not a witness. The proper practice in extradition cases is for someone other than counsel for the requesting state to put in evidence the bundle of documents received from the requesting state. In the present case, counsel for the requesting state handed to the court the bundle of documents. However, this did not make the committal irregular in the light of the provision of the Indictable Procedure Act on preliminary investigations. In fact in a paper committal, the law allows for such course of action.

2. The magistrate found as a matter of fact that the "affidavit of Madelene Albright authenticated that of Janet Reno, Attorney General of the US and Reno's authenticated that of Jim Harris which authenticated that of Dawn Marie Cortese whose affidavit contained an explanation of the attached affidavits in the Bundle. Since the ribbon ran through the whole bundle and this formed part and parcel of the bundle, which carried the authenticating stamp, seals etc. of the Secretary of State, they are duly authenticated and accepted into evidence ... ". The Court was satisfied with this finding and held that the magistrate properly had regard to the documents before him and that they constituted evidence on which he could properly consider the case for F's extradition.

3. In *R. v. Governor of Pentonville Prison ex parte Kirby* [1979] 2 All E.R. 1094, it was held that the admissibility of properly authenticated documents for the purposes of extradition proceedings provided no warrant for the admissibility of the hearsay contents of those documents to prove a prima facie case. In *Kirby*, however, the issue was the receivability of a document derived from accounts prepared by others and not the deposing witness. In the present case, the alleged hearsay evidence was contained in the affidavits of Dawn Cortese and others, and they do not in the court's view prove

the facts contained in them. "Kirby did not decide that documents admitted in their own right as statutory exceptions to the rule against hearsay were inadmissible in extradition proceedings: it held that the evidence of an investigator, based upon such records, was inadmissible if those underlying documents were not proved ... It is for this reason that the affidavit of a foreign prosecuting lawyer or investigator, summarising his case (a familiar feature of requests for extradition from the United States) does not prove the facts contained in his affidavit ...": *Jones on Extradition and Mutual Legal Assistance 2001*, pages 355 to 356.

The affidavits in this case properly fell within the exceptions in sections 14 and 15 of the Extradition Act. Applying the principle in *Zossenheim* the strict requirements for taking evidence according to English (Belize) law would not necessarily apply to the taking of evidence abroad for the purposes of an extradition request. The affidavits were properly considered by the Chief Magistrate. The Court was satisfied that the magistrate clearly considered the elements of the offence for which F's extradition was sought and on the available evidence concluded that he should be committed for extradition.

4. There was evidence before the magistrate, of the police officer who arrested F and who was familiar with F from previous run-ins with the law. There was a photograph of the wanted person among the documents received from the requesting country, which clearly fitted F. There was also F's birth certificate. There was therefore no merit in this argument.

5. It was manifestly clear that there had been unreasonable delay in the proceedings. However, the Court was mindful that the application was within the contest of treaty obligations between Belize and the US. Although the Court was troubled by the delay, it felt constrained by the state of the law, in particular the lack of express and clear provisions inhibiting the effect of the Extradition Act. The law did not contain any provision empowering the court to discharge an applicant for habeas corpus. Also the applicable treaty did not provide support for the contention that because of the delay since the commission of the alleged offence and the institution of the request for his rendition, the court had the power or discretion to discharge F from custody. "[O]n present applicable authorities, this Court does not have the power to or the discretion to find that the inordinate delay in seeking formally his rendition by the requesting state, his return would, in the circumstances, be an abuse of the process of this Court. The discretion whether on a regular committal to return him or not lied not here but somewhere else. ...by section 11 of the Extradition Act 1870, it is the Minister of Foreign Affairs of Belize on whose order Extradition proceedings against the applicant were commenced, who is clothed with the discretion in the circumstances highlighted to make whatever representations he can in that discretion".

*In the Matter of Rhett Fuller and In the Matter of an Application for a Writ of Habeas Corpus Subjiciendum and In the Matter of Section 29 of the Supreme Court of Judicature Act, Action No. 102, April, 2002, Unreported.*

