



1912

Interview on Charlton Case, 1912

Francis Mairs Huntington-Wilson

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For the Press - or release Monday, Aug 1st
Interview on Charlton case given out
by Huntington Wilson, Acting Secretary of State
~~July 28, 1916.~~ date ?

regrettable

It is ~~surprising~~ to find in many of the newspapers so much misleading discussion of the so-called Charlton case. The fact is doubtless due in a large measure to the complexity of the subject of extradition which is an especially technical one. Among editorial comments one frequently finds "it is persistently reported", "it is assumed", that the State Department will or will not do, has decided to do or not to do, or has done this or that. Now baseless reports, however, ~~persistant~~, remain baseless, and it should not be gratuitously assumed that the Department of State has or will decide one way or the other some question which has not even come before it in any form.

The only important relation which the Department of State bears to any extradition case is that ultimate quasi-judicial function of passing upon the final question of the issuance or non-issuance of the warrant of surrender. This function is discharged only when the whole record has come before the Department after the question of release or commitment for surrender has been finally adjudicated in the courts. It is thus far from necessary to call attention to the fact that it would be not only indelicate but grossly improper for the Department of State to form, much more to express, any opinion or impression whatsoever on an extradition case until called upon to do so which can only be in the mode just stated. Acting upon this principle the Department of State has of course scrupulously refrained from any expression whatsoever upon the probable outcome of the Charlton case. That case, it is also unnecessary to say, is taking so far as the Government of the United States is concerned, precisely the routine course of all other extradition

cases. Extradition cases, by the way, come to the notice of the Department at the rate of about one per day, and as to all these cases the Government remains silent and plays no determinative role except as to the last step, the warrant of surrender. ~~The Government of the United States could in no event surrender any fugitive from justice except upon the request of the foreign government concerned made under the pursuit of treaty. For example, although some other governments can do so, the Executive of the United States is absolutely unable under the Constitution to surrender a citizen as a matter of comity. It is entirely obvious, therefore, that the first determinative factor in the matter as an extradition case is the decision of the Italian Government whether or not to prosecute the case before the Courts.~~

It is frequently stated point blank that Italy has requested the surrender of Charlton.

The only indications thus far made by the Italian Government were their procedure under Section 5270 et seq. of the Revised Statutes, whereby the accused was detained by the New Jersey Court, and secondly, their request of the Department for a "preliminary mandate". This document, which was issued, is not legally necessary and operates as a mere certificate that the party making the complaint represents the Italian Government. Under the Italian Treaty, if Italy initiates extradition proceedings, the Italian case is presented directly to the court concerned, which sits as an extradition magistrate, and the formal requisition for surrender would only be addressed to the Department of State after all the legal proceedings might have resulted in an order by the competent court for commitment for surrender.

It is not for the Government of the United States to seek to influence the Italian Government in its decision whether to prosecute the case to its conclusion with a view to requisition for surrender, and all insinuations as to the ultimate decision of the Secretary of State in the event of the case's coming before him are absolutely baseless, unauthorized and conjectural; and, if they have any effect, evidently it could only be the evil effect of creating false impressions.

Dear Wilson

I don't like to admit that the newspapers
can annoy us. Hence suggest a substitute.

Better strike out on second page the
truce statement. It is not necessary and
is of doubtful soundness as stated

Am answering this part of your
letter first. Remains to be said

PK