

HIGH COMMISSIONER'S NOTICE No. 64 of 1934.

The following Order of His Majesty-in-Council, dated the 26th February, 1934, applying, as from the 12th March, 1934, the Extradition Acts in the case of Poland under and in accordance with an Extradition Treaty with Poland, signed on the 11th January, 1932, is published for general information.

By Command of His Excellency  
the High Commissioner.

SHIRLEY EALES,  
Administrative Secretary.

High Commissioner's Office,  
Capetown, 29th May, 1934.

AT THE COURT AT BUCKINGHAM PALACE,  
The 26th day of February, 1934.

PRESENT,

THE KING'S MOST EXCELLENT MAJESTY.

LORD PRESIDENT.	SECRETARY SIR JOHN SIMON.
MASTER OF THE HORSE.	MR. NORMAND.
LORD STANLEY.	SIR FREDERIC MAUGHAM.

Whereas by the Extradition Acts, 1870, (a) to 1932, (b) it was amongst other things enacted that, where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, His Majesty may, by Order in Council, direct that the said Acts shall apply in the case of such foreign State; and that His Majesty may, by the same or any subsequent Order, limit the operation of the Order, and restrict the same to fugitive criminals who are in or suspected of being in the part of His Majesty's dominions specified in the Order, and render the operation thereof subject to such conditions, exceptions and qualifications as may be deemed expedient;

And whereas a Treaty was signed on the 11th day of January, 1932, between His Majesty and the President of the Republic of Poland for the mutual extradition of fugitive criminals, which Treaty is in the terms following:—

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India,

And the President of the Republic of Poland,

Desiring to make provision for the reciprocal extradition of criminals,

Have resolved to conclude a Treaty for that purpose, and to that end have appointed as their plenipotentiaries:

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India:

for Great Britain and Northern Ireland,

The Right Honourable Sir William Forbes Erskine,  
G.C.M.G., M.V.O., His Majesty's Ambassador  
Extraordinary and Plenipotentiary to the Republic of  
Poland;

The President of the Republic of Poland:

M. August Zaleski, Minister for Foreign Affairs, and  
M. Stefan Sieczkowski, Under-Secretary of State to the  
Ministry of Justice;

Who, having communicated their full powers, found in good and due form, have agreed as follows:—

*Article 1.*

The High Contracting Parties engage to deliver up to each other, under certain circumstances and conditions stated in the present Treaty, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article 3, committed within the jurisdiction of the one Party, shall be found within the territory of the other Party.

*Article 2.*

For the purposes of the present Treaty—

- (i) The territory of His Britannic Majesty shall be deemed to be Great Britain and Northern Ireland, the Channel Islands and Isle of Man, and all parts of His Britannic Majesty's dominions overseas other than those enumerated in Article 19, together with the territories enumerated in Article 21 and any territories to which it may be extended under Article 22. It is understood that in respect of all territory of His Britannic Majesty as above defined other than Great Britain and Northern Ireland, the Channel Islands and Isle of Man, the present Treaty shall be applied so far as the laws permit.
- (ii) The nationals or natives of any British Protectorate or British-protected State or of any territory in respect of which a mandate on behalf of the League of Nations is held by His Britannic Majesty shall be deemed to be British subjects.
- (iii) Danzig citizens in Poland shall be assimilated to Polish citizens, and in the event of the Treaty being applied to the territory of the Free City of Danzig under Article 18, Polish citizens in the said territory shall be assimilated to citizens of the Free City.

*Article 3.*

Extradition shall be reciprocally granted for the following crimes or offences when they are punishable in accordance with the laws of both the High Contracting Parties (that is to say, in Poland, in accordance with the laws of at least one of the Provinces of Poland):—

1. Murder (including assassination, parricide, murder of relations, infanticide, poisoning), or attempt or conspiracy to murder.
2. Manslaughter.
3. Administering drugs or using instruments with intent to procure the miscarriage of women.
4. Rape.
5. Unlawful carnal knowledge, or any attempt to have unlawful carnal knowledge of a girl under 16 years of age.
6. Indecent assault.
7. Kidnapping or false imprisonment.
8. Child stealing, including abandoning, exposing or unlawfully detaining.
9. Abduction.
10. Procuration; that is to say, the offences enumerated in Articles 1 and 2 of the International Convention for the Suppression of the White Slave Traffic concluded at Paris on the 4th May, 1910.
11. Bigamy.
12. Maliciously wounding or inflicting grievous bodily harm.
13. Threats, by letter or otherwise, with intent to extort money or other things of value.
14. Perjury, or subornation of perjury.
15. Arson.
16. Burglary or housebreaking.

17. Robbery with violence or menaces.
18. Larceny or embezzlement.
19. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any company, or fraudulent conversion.
20. Obtaining money, valuable security, or goods by false pretences; receiving any money, valuable security, or other property, knowing the same to have been stolen or unlawfully obtained.
21. (a) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money.  
(b) Knowingly and without lawful authority making or having in possession any instrument, tool or engine adapted and intended for the counterfeiting or alteration of coin.
22. Forgery or counterfeiting or altering, or uttering what is forged or counterfeited or altered; comprehending all crimes designated in the Polish laws as counterfeiting or falsification of paper money, bank notes or other securities, forgery or falsification of other public or private documents, likewise the uttering or bringing into circulation, or wilfully using such counterfeited, forged or falsified papers.
23. Crimes against bankruptcy law.
24. Any malicious act done with intent to endanger the safety of any persons travelling upon a railway or being upon a railway.
25. Piracy.
26. Wrongfully sinking or destroying a vessel at sea or attempting to do so.
27. Assault on a person on board a ship on the high seas with intent to inflict death or do grievous bodily harm.
28. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master.
29. Dealing in slaves in such manner as to constitute a crime or offence against the laws of both States.

Extradition is also to be granted for participation in any of the aforesaid crimes or offences, before, during or after the crime is committed; provided that such participation is punishable by the laws of both the High Contracting Parties (that is to say, in Poland, in accordance with the laws of at least one of the Provinces).

#### *Article 4.*

Each Party reserves the right to refuse or grant the surrender of its own subjects or citizens to the other Party.

#### *Article 5.*

The extradition shall not take place if the person claimed has already been tried and discharged or punished, or is still under trial in the State applied to, for the crime or offence for which his extradition is demanded: provided that the discharge of the accused on the ground that the crime or offence was committed abroad shall constitute no hindrance to his subsequent extradition.

If the person claimed should be under examination or under punishment in the State applied to for any other crime or offence was committed abroad shall constitute no hindrance of the trial and the full execution of any punishment awarded to him.

#### *Article 6.*

Extradition shall not be granted if the accused has by lapse of time, in accordance with the laws of that part of the territories of the High Contracting Parties in which he is found, acquired exemption from prosecution or punishment with respect to the crime or offence for which his surrender is claimed.

*Article 7.*

A fugitive criminal shall not be surrendered if the crime or offence in respect of which his surrender is demanded is one of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for a crime or offence of a political character.

*Article 8.*

A person surrendered can in no case be kept in custody or be brought to trial in the State to which the surrender has been made for any other crime or offence, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or has had an opportunity of returning to the State by which he has been surrendered (whether he has made use of this opportunity or not) or else until having returned there he reappears in the country to which he has been previously surrendered.

This stipulation does not apply to crimes or offences committed after the extradition.

*Article 9.*

Subject to the provisions of Articles 19 and 20, the requisition for extradition shall be presented by the diplomatic agent of the High Contracting Party requiring the extradition to the Secretary of State or Minister for Foreign Affairs of the High Contracting Party applied to.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime or offence had been committed there.

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent court of the State that makes the requisition for extradition.

A sentence passed *in contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

*Article 10.*

If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

*Article 11.*

In urgent cases a criminal fugitive may be apprehended under a warrant issued by any police magistrate, justice of the peace, or other competent authority in either State, on such information or complaint, and such evidence, or after such proceedings, as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime or offence had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the magistrate, justice of the peace, or other competent authority exercises jurisdiction. He shall, in accordance with this Article, be discharged if within the term of thirty days a requisition for extradition shall not have been made by the diplomatic agent of the other State in accordance with the stipulations of this Treaty.

*Article 12.*

Extradition shall take place only if the evidence be found sufficient, according to the laws of the State applied to, (a) either to justify the committal of the prisoner for trial, in case the crime or offence had been committed in the territory of the same State, or (b) to prove that the prisoner is the identical person convicted by the courts of the State

which makes the requisition, and that the crime or offence of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to.

No criminal shall be surrendered until after the expiration of fifteen days from the date of his committal to prison to await the warrant for his surrender.

*Article 13.*

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, or copies thereof, and certificates of, or judicial documents stating the fact of a conviction, provided the same are authenticated as follows:—

1. A warrant, or copy thereof, must purport to be signed by a judge, magistrate, or officer of the other State, or purport to be certified under the hand of a judge, magistrate or officer of the other State to be a true copy thereof, as the case may require.
2. Depositions or affirmations, or the copies thereof, must purport to be certified, under the hand of a judge, magistrate, or officer of the other State, to be the original depositions or affirmations, or to be true copies thereof, as the case may require.
3. A certificate of, or judicial document stating the fact of a conviction must purport to be certified by a judge, magistrate, or officer of the other State.

In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated, either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of the other State, or by any other mode of authentication for the time being permitted by the law of the State to which the application for extradition is made.

*Article 14.*

If the extradition of an individual is claimed by one of the High Contracting Parties in pursuance of the present Treaty and his extradition is also claimed by one or more other States, the State applied to shall in its absolute discretion determine to which State the extradition shall be granted.

*Article 15.*

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper tribunal thereof, shall direct, the fugitive shall be set at liberty.

*Article 16.*

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, and any articles that may serve as a proof of the crime or offence shall be given up when the extradition takes place, in so far as this may be permitted by the law of the State granting the extradition.

*Article 17.*

Each of the High Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons whom it may have consented to surrender in pursuance of the present Treaty.

*Article 18.*

The Government of the Republic of Poland, in virtue of Article 104 of the Treaty of Peace, signed at Versailles on the 28th June, 1919, and of Articles 2 and 6 of the Convention concluded between Poland and Danzig on the 9th November, 1920, reserves the right of subsequently declaring that the provisions of the present Treaty are applicable also to the territory of the Free City of Danzig.

*Article 19.*

His Britannic Majesty may accede to the present Treaty on behalf of any of His Dominions hereafter named—that is to say, the Dominion of Canada, the Commonwealth of Australia (including for this purpose Papua and Norfolk Island), the Dominion of New Zealand, the Union of South Africa, the Irish Free State, and Newfoundland—and India. Such accession shall be effected by a notice to that effect given by His Britannic Majesty's representative at Warsaw, which shall specify the authority to which the requisition for the surrender of a fugitive criminal who has taken refuge in the Dominion concerned, or India, as the case may be, shall be addressed. From the date when such notice comes into effect, which date shall be specified in the notice, the territory of the Dominion concerned or of India shall be deemed to be territory of His Britannic Majesty for the purposes of the present Treaty.

The requisition for the surrender of a fugitive criminal who has taken refuge in any of the above-mentioned Dominions or India, on behalf of which His Britannic Majesty has acceded, shall be made by the appropriate consular officer of the Republic of Poland.

Either High Contracting Party may terminate this Treaty separately in respect of any of the above-mentioned Dominions or India. Such termination shall be effected by a notice given in accordance with the provisions of Article 23.

Any notice given under the first paragraph of this Article in respect of one of His Britannic Majesty's Dominions may include any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, and which is being administered by the Government of the Dominion concerned; such territory shall, if so included, be deemed to be territory of His Britannic Majesty for the purpose of the present Treaty. Any notice given under the third paragraph of this Article shall be applicable to such mandated territory.

*Article 20.*

The requisition for the surrender of a fugitive criminal who has taken refuge in any territory of His Britannic Majesty other than Great Britain and Northern Ireland, the Channel Islands, or Isle of Man, or the Dominions or India mentioned in Article 19, shall be made to the Governor, or chief authority, of such territory by the appropriate consular officer of the Republic of Poland.

Such requisition shall be dealt with by the competent authorities of such territory: provided, nevertheless, that if an order for the committal of the fugitive criminal to prison to await surrender shall be made, the said Governor or chief authority may, instead of issuing a warrant for the surrender of such fugitive, refer the matter to His Majesty's Government in the United Kingdom.

*Article 21.*

This Treaty shall apply in the same manner as if they were Possessions of His Britannic Majesty to the following British Protectorates, that is to say, the Bechuanaland Protectorate, Gambia Protectorate, Kenya Protectorate, Nigeria Protectorate, Northern Rhodesia, Northern Territories of the Gold Coast, Nyasaland, Sierra Leone Protectorate, Solomon Islands Protectorate, Somaliland Protectorate, Swaziland, Uganda

Protectorate and Zanzibar, and to the following territories in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, that is to say, Camerouns under British mandate, Togoland under British mandate, and the Tanganyika Territory.

*Article 22.*

If after the signature of the present Treaty it is considered advisable to extend its provisions to any British Protectorates other than those mentioned in the preceding article or to any British-protected State, or to any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, other than those mandated territories mentioned in Articles 19 and 21, the stipulations of Articles 19 and 20 shall be deemed to apply to such Protectorates or States or mandated territories from the date and in the manner prescribed in the notes to be exchanged for the purpose of effecting such extension.

*Article 23.*

The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties by a notice not exceeding one year and not less than six months.

In the absence of an express provision to that effect, a notice given under the first paragraph of this Article shall not affect the operation of the Treaty as between the Republic of Poland and any territory in respect of which notice of accession has been given under Article 19.

The present Treaty shall be ratified, and the ratifications shall be exchanged at Warsaw as soon as possible.

In faith whereof the above-named plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in duplicate in English and Polish at Warsaw this 11th day of January, in the year 1932.

WILLIAM ERSKINE.

AUGUST ZALESKI.

STEFAN SIECZKOWSKI.

And whereas the ratifications of the said Treaty were exchanged at Warsaw on the 19th day of December 1933:

And whereas His Majesty has ratified the said Treaty in respect of, and the said Treaty thereby extends to, the United Kingdom of Great Britain and Northern Ireland (including for that purpose the Channel Islands and the Isle of Man) and all British Colonies:

Now, therefore, His Majesty, by and with the advice of His Privy Council, and in virtue of the authority committed to Him by the said recited Acts, doth order, and it is hereby ordered, that from and after the 12th day of March, 1934, the said Acts shall apply in respect of the United Kingdom of Great Britain and Northern Ireland, the Channel Islands, the Isle of Man, and all British Colonies in the case of Poland under and in accordance with the said Treaty of the 11th January 1932.

This Order may be cited as the "Poland (Extradition) Order in Council, 1934".

M. P. A. HANKEY.