

EXTRADITION ORDINANCE 1927-1933.<sup>(1)</sup>

An Ordinance Relating to Extradition.

**B**E it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *New Guinea Act 1920-1926* as follows:—

Short title.  
Amended by  
No. 3 of 1934,  
s. 50.

1. This Ordinance may be cited as the *Extradition Ordinance 1927-1933*.<sup>(1)</sup>

Definition.  
Sub-section (1)  
amended by  
No. 5 of 1933,  
s. 2.

2.—(1.) In this Ordinance, unless the contrary intention appears—

“the Act” means the Extradition Acts 1870 to 1932 of the United Kingdom, as adopted as laws of the Territory.

(2.) Terms defined in the Act have in this Ordinance the same meaning as in the Act unless the contrary intention appears.

Application of  
Extradition  
Acts of United  
Kingdom.

3. The Act is, subject to the modifications specified in this Ordinance, hereby adopted as a law of the Territory, so far as it is applicable to the circumstances of the Territory, and is not repugnant to or inconsistent with the provisions of any Act, Ordinance, law, regulation, rule, order or proclamation having the force of law that is, whether before or after the commencement of this Ordinance, expressed to extend to or applied to or made or promulgated in the Territory.

Date from  
which Act  
applies in case  
of foreign  
State.

4. The Act shall apply in the case of a foreign State from the date of the extension to the Territory of the provisions of an arrangement by His Majesty the King with the foreign State with respect to the surrender to that State of any fugitive criminals, but not before the date of the Order in Council made by His Majesty under section two of the *Extradition Act 1870* of the United Kingdom, directing that that Act shall apply in the case of that foreign State.

(1) The *Extradition Ordinance 1927-1933* comprises the *Extradition Ordinance 1927*, as amended by the other Ordinance referred to in the following Table:—

ORDINANCES MADE BY THE GOVERNOR-GENERAL IN COUNCIL.

Short title, number and year.	Date on which made by Gov. Gen. in Council.	Date on which published in <i>Cwlth. Gaz.</i>	Date on which took effect.
<i>Extradition Ordinance 1927</i> (No. 10 of 1927)	16.3.1927	17.3.1927	17.3.1927 ( <i>Cwlth. Gaz.</i> of 17.3.1927)
<i>Extradition Ordinance 1933</i> (No. 5 of 1933)	29.3.1933	6.4.1933	6.4.1933 ( <i>Cwlth. Gaz.</i> of 6.4.1933)

*Extradition Ordinance 1927-1933.*

5. The Act shall apply with the following modifications:—

Modifications  
of Act.

- (a) Any reference to Her Majesty's dominions, the United Kingdom and England shall be read as a reference to the Territory;
- (b) Any reference to English jurisdiction shall be read as a reference to the jurisdiction of the Territory;
- (c) The requisition for the surrender of a fugitive criminal who is in or suspected of being in the Territory may be made to the Administrator by any person recognized by the Administrator as a Consul-General, Consul or Vice-Consul, or (if the fugitive criminal has escaped from the colony or dependency of the foreign State on behalf of which the requisition is made) as the Governor of that colony or dependency;
- (d) No warrant of a Secretary of State shall be required, and all powers vested in and acts authorised or required to be done by a Secretary of State in relation to the surrender of a fugitive criminal, shall be vested in, and may, in the Territory, be exercised and done by, the Administrator;
- (e) All powers vested in and acts authorised or required to be done by a Police Magistrate or any justice of the peace, in relation to the surrender of a fugitive criminal, shall be vested in, and may, in the Territory, be exercised and done by, any District Officer;
- (f) Any prison in the Territory may be substituted for a prison in Middlesex;
- (g) A judge of the Central Court<sup>(2)</sup> may exercise the power of discharging a fugitive criminal when not conveyed out of the Territory within two months after committal to prison.

6. Where the Act applies in the case of any foreign State, a requisition for the surrender of a person, accused or convicted of an extradition crime in the Territory, who is or is suspected to be in that foreign State, may be made by the Administrator to a consular officer of the State in the Territory, or to any Minister of that State through the diplomatic representative of His Majesty the King in that State or in such other mode as is settled by arrangement.

Requisition  
for surrender  
of fugitive  
criminal.

7. Any person accused or convicted of an extradition crime who is surrendered by a foreign State may, under the warrant for his surrender issued in the foreign State, be brought into the Territory and delivered to the proper authorities to be dealt with according to law.

Persons  
surrendered  
may be  
brought into  
Territory.

(2) See Section 7A of the *Judiciary Ordinance 1921-1933.*

Page 1743—*Extradition Act 1870* (United Kingdom, adopted).

In paragraph (1) of Section 16, for “substituted” read “substituted”.

# EXTRADITION ACT 1870<sup>(1)</sup> (UNITED KINGDOM, ADOPTED).

## An Act for amending the Law relating to the Extradition of Criminals.

Preamble repealed by 56 & 57 Vic. c. 54, s. 1 and Schedule.

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### PRELIMINARY.

Short title.

1. This Act may be cited as the *Extradition Act 1870*.<sup>(1)</sup>

Where arrangement for surrender of criminals made, Order in Council to apply Act.

2. Where an arrangement has been made with any foreign state with respect to the surrender to such state of any fugitive criminals, Her Majesty may, by Order in Council,<sup>(2)</sup> direct that this Act shall apply<sup>(3)</sup> in the case of such foreign state.

Her 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 Her Majesty's dominions specified in the order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient.

Every such order shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

Every such order shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then next meeting of Parliament, and shall also be published in the *London Gazette*.

Restrictions on surrender of criminals.

3. The following restrictions shall be observed with respect to the surrender of fugitive criminals:—

(1) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the police magistrate or the court be-

(1) The *Extradition Acts 1870-1932* of the United Kingdom were adopted by the *Extradition Ordinance 1927-1933*, subject to the modifications set out in the *Extradition Ordinance 1927-1933*. The *Extradition Act 1870* is reprinted as amended by the *Statute Law Revision Act 1883* (46 and 47 Vic. c. 39) and by the *Statute Law Revision Act (No. 2) 1893* (56 and 57 Vic. c. 54).

(2) A Table containing particulars of arrangements made with foreign states which have been applied to the Territory of New Guinea is printed on p. 1758.

(3) See Section 4 of the *Extradition Ordinance 1927-1933*.

fore whom he is brought on habeas corpus, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character;

- (2) A fugitive criminal shall not be surrendered to a foreign state unless provision is made by the law of that state, or by arrangement, that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in that foreign state for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded:
- (3) A fugitive criminal who has been accused of some offence within English jurisdiction not being the offence for which his surrender is asked, or is undergoing sentence under any conviction in the United Kingdom, shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise:
- (4) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

4. An Order in Council for applying this Act in the case of any foreign state shall not be made unless the arrangement—

Provisions of arrangement for surrender.

- (1) provides for the determination of it by either party to it after the expiration of a notice not exceeding one year; and,
- (2) is in conformity with the provisions of this Act, and in particular with the restrictions on the surrender of fugitive criminals contained in this Act.

5. When an order applying this Act in the case of any foreign state has been published in the *London Gazette*, this Act (after the date specified in the order, or if no date is specified, after the date of the publication), shall, so long as the order remains in force, but subject to the limitations, restrictions, conditions, exceptions, and qualifications, if any, contained in the order, apply in the case of such foreign state. An Order in Council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this Act, and that this Act applies in the case of the foreign state mentioned in the order, and the validity of such order shall not be questioned in any legal proceedings whatever.

Publication and effect of order.

Liability of  
criminal to  
surrender.

6. Where this Act applies in the case of any foreign state, every fugitive criminal of that state who is in or suspected of being in any part of Her Majesty's dominions, or that part which is specified in the order applying this Act (as the case may be), shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before<sup>(4)</sup> or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty's dominions over that crime.

Order of  
Secretary of  
State for issue  
of warrant in  
United  
Kingdom if  
crime is not of  
a political  
character.

7. A requisition for the surrender of a fugitive criminal of any foreign state, who is in or suspected of being in the United Kingdom, shall be made to a Secretary of State by some person recognised by the Secretary of State as a diplomatic representative of that foreign state. A Secretary of State may, by order under his hand and seal, signify to a police magistrate that such requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal.

If the Secretary of State is of opinion that the offence is one of a political character, he may, if he think fit, refuse to send any such order, and may also at any time order a fugitive criminal accused or convicted of such offence to be discharged from custody.

Issue of  
warrant by  
police  
magistrate,  
justice, &c.

8. A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in or suspected of being in the United Kingdom, may be issued—

1. by a police magistrate on the receipt of the said order of the Secretary of State, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in England; and
2. by a police magistrate or any justice of the peace in any part of the United Kingdom, on such information or complaint and such evidence or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction.

Any person issuing a warrant under this section without an order from a Secretary of State shall forthwith send a report of the fact of such issue, together with the evidence and information or complaint, or certified copies thereof, to a Secretary of State, who may if he think fit order the warrant to be cancelled, and the person who has been apprehended on the warrant to be discharged.

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(4) See Section 2 of the *Extradition Act 1873* (United Kingdom, adopted).

*Extradition Acts 1870-1932 (United Kingdom, adopted).*

A fugitive criminal, when apprehended on a warrant issued without the order of a Secretary of State, shall be brought before some person having power to issue a warrant under this section, who shall by warrant order him to be brought and the prisoner shall accordingly be brought before a police magistrate.

A fugitive criminal apprehended on a warrant issued without the order of a Secretary of State shall be discharged by the police magistrate, unless the police magistrate, within such reasonable time as, with reference to the circumstances of the case, he may fix, receives from a Secretary of State an order signifying that a requisition has been made for the surrender of such criminal.

9. When a fugitive criminal is brought before the police magistrate, the police magistrate shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner were brought before him charged with an indictable offence committed in England.

Hearing of case and evidence of political character of crime.

The police magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

10. In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorising the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, justify the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged.

Committal or discharge of prisoner.

In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, prove that the prisoner was convicted of such crime, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged.

If he commits such criminal to prison, he shall commit him to the Middlesex House of Detention, or to some other prison in Middlesex, there to await the warrant of a Secretary of State for his surrender, and shall forthwith send to a Secretary of State a certificate of the committal, and such report upon the case as he may think fit.

11. If the police magistrate commits a fugitive criminal to prison, he shall inform such criminal that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of Habeas corpus.

Surrender of fugitive to foreign state by warrant of Secretary of State.

CRIMINAL LAW—

Upon the expiration of the said fifteen days, or, if a writ of Habeas corpus is issued, after the decision of the court upon the return to the writ, as the case may be, or after such further period as may be allowed in either case by a Secretary of State, it shall be lawful for a Secretary of State, by warrant under his hand and seal, to order the fugitive criminal (if not delivered on the decision of the court) to be surrendered to such person as may in his opinion be duly authorised to receive the fugitive criminal by the foreign state from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly.

It shall be lawful for any person to whom such warrant is directed and for the person so authorised as aforesaid to receive, hold in custody, and convey within the jurisdiction of such foreign state the criminal mentioned in the warrant; and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of that part of Her Majesty's dominions to which he escapes may be retaken upon an escape.

Discharge of persons apprehended if not conveyed out of United Kingdom within two months.

12. If the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the United Kingdom within two months after such committal, or, if a writ of Habeas corpus is issued, after the decision of the court upon the return to the writ, it shall be lawful for any judge of one of Her Majesty's Superior Courts at Westminster, upon application made to him by or on behalf of the criminal, and upon proof that reasonable notice of the intention to make such application has been given to a Secretary of State, to order the criminal to be discharged out of custody, unless sufficient cause is shown to the contrary.

Execution of warrant of police magistrate.

13. The warrant of the police magistrate issued in pursuance of this Act may be executed in any part of the United Kingdom in the same manner as if the same had been originally issued or subsequently indorsed by a justice of the peace having jurisdiction in the place where the same is executed.

Depositions to be evidence.  
Imp. 6 & 7 Vict. c. 76.

14. Depositions or statements on oath,<sup>(5)</sup> taken in a foreign state, and copies of such original depositions or statements, and foreign certificates of or judicial documents stating the fact of conviction, may, if duly authenticated, be received in evidence in proceedings under this Act.

Authentication of depositions and warrants.  
Imp. 29 & 30 Vict. c. 121.

15. Foreign warrants and depositions or statements on oath,<sup>(5)</sup> and copies thereof, and certificates of or judicial documents stating the fact of a conviction, shall be deemed duly authenticated for

(5) See Section 4 of the *Extradition Act 1873* (United Kingdom, adopted).

the purposes of this Act if authenticated in manner provided for the time being by law or authenticated as follows:—

- (1) If the warrant purports to be signed by a judge, magistrate, or officer of the foreign state where the same was issued;
- (2) If the depositions or statements or the copies thereof purport to be certified under the hand of a judge, magistrate, or officer of the foreign state where the same were taken to be the original depositions or statements, or to be true copies thereof, as the case may require; and
- (3) If the certificate of or judicial document stating the fact of conviction purports to be certified by a judge, magistrate, or officer of the foreign state where the conviction took place; and

if in every case the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be) are authenticated by the oath of some witness or by being sealed with the official seal of the minister of justice, or some other minister of state: And all courts of justice, justices, and magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof.

#### CRIMES COMMITTED AT SEA.

16. Where the crime in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel on the high seas which comes into any port of the United Kingdom, the following provisions shall have effect:—

Jurisdiction as to crimes committed at sea.

1. This Act shall be construed as if any stipendiary magistrate<sup>(6)</sup> in England or Ireland, and any sheriff or sheriff substitute in Scotland, were substituted for the police magistrate throughout this Act, except the part relating to the execution of the warrant of the police magistrate:
2. The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime:
3. If the fugitive criminal is apprehended on a warrant issued without the order of a Secretary of State, he shall be brought before the stipendiary magistrate, sheriff, or sheriff substitute who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port.

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(6) See Section 6 of the *Extradition Act 1873* (United Kingdom, adopted).

## CRIMINAL LAW—

### FUGITIVE CRIMINALS IN BRITISH POSSESSIONS.

Proceedings as  
to fugitive  
criminals in  
British  
possessions.

17. This Act, when applied by Order in Council, shall, unless it is otherwise provided by such order, extend to every British possession in the same manner as if throughout this Act the British possession were substituted for the United Kingdom or England, as the case may require, but with the following modifications; namely,

- (1) The requisition for the surrender of a fugitive criminal who is in or suspected of being in a British possession may be made to the governor of that British possession by any person recognized by that governor as a consul general, consul, or vice-consul, or (if the fugitive criminal has escaped from a colony or dependency of the foreign state on behalf of which the requisition is made) as the governor of such colony or dependency:
- (2) No warrant of a Secretary of State shall be required, and all powers vested in or acts authorised or required to be done under this Act by the police magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the governor of the British possession alone:
- (3) Any prison in the British possession may be substituted for a prison in Middlesex:
- (4) A judge of any court exercising in the British possession the like powers as the Court of Queen's Bench exercises in England may exercise the power of discharging a criminal when not conveyed within two months out of such British possession.

Saving of  
laws of  
British  
possessions.

18. If by any law or ordinance, made before or after the passing of this Act by the Legislature of any British possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such British possession, Her Majesty may, by the Order in Council<sup>(7)</sup> applying this Act in the case of any foreign state, or by any subsequent order, either

suspend the operation within any such British possession of this Act, or of any part thereof, so far as it relates to such foreign state, and so long as such law or ordinance continues in force there, and no longer;

or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of this Act.

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(7) No Order in Council has been made pursuant to Section 18 with respect to the Territory of New Guinea.

GENERAL PROVISIONS.

19. Where, in pursuance of any arrangement with a foreign state, any person accused or convicted of any crime which, if committed in England, would be one of the crimes described in the first schedule to this Act is surrendered by that foreign state, such person shall not, until he has been restored or had an opportunity of returning to such foreign state, be triable or tried for any offence committed prior to the surrender in any part of Her Majesty's dominions other than such of the said crimes as may be proved by the facts on which the surrender is grounded.

Criminal surrendered by foreign state not triable for previous crime.

20. The forms set forth in the second schedule to this Act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and in the case of a British possession may be so used, *mutatis mutandis*, and when used shall be deemed to be valid and sufficient in law.

As to use of forms in Second Schedule.

21. Her Majesty may, by Order in Council, revoke or alter, subject to the restrictions of this Act, any Order in Council made in pursuance of this Act, and all the provisions of this Act with respect to the original order shall (so far as applicable) apply, *mutatis mutandis*, to any such new order.

Revocation, &c. of Order in Council.

22. This Act (except so far as relates to the execution of warrants in the Channel Islands) shall extend to the Channel Islands and the Isle of Man in the same manner as if they were part of the United Kingdom; and the royal courts of the Channel Islands are hereby respectively authorised and required to register this Act.

Application of Act in Channel Islands and Isle of Man.

23. Nothing in this Act shall affect the lawful powers of Her Majesty or of the Governor-General of India in Council to make treaties for the extradition of criminals with Indian native states, or with other Asiatic states conterminous with British India, or to carry into execution the provisions of any such treaties made either before or after the passing of this Act.

Saving for Indian treaties.

24. The testimony of any witness may be obtained in relation to any criminal matter pending in any court or tribunal in a foreign state in like manner as it may be obtained in relation to any civil matter under the Act of the session of the nineteenth and twentieth years of the reign of Her present Majesty, chapter one hundred and thirteen, intituled "An Act to provide for taking evidence in Her Majesty's Dominions in relation to civil and commercial matters pending before foreign tribunals;" and all the provisions of that Act shall be construed as if the term civil matter included a criminal matter, and the term cause included a

Power of foreign state to obtain evidence in United Kingdom.

CRIMINAL LAW—

proceeding against a criminal: Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

Foreign State includes dependencies.

25. For the purposes of this Act, every colony, dependency, and constituent part of a foreign state, and every vessel of that state, shall (except where expressly mentioned as distinct in this Act) be deemed to be within the jurisdiction of and to be part of such foreign state.

Definition of terms.

26. In this Act, unless the context otherwise requires,—

"British possession."

The term "British possession" means any colony, plantation, island, territory, or settlement within Her Majesty's dominions, and not within the United Kingdom, the Channel Islands, and Isle of Man; and all colonies, plantations, islands, territories, and settlements under one legislature, as hereinafter defined, are deemed to be one British possession:

"Legislature."

The term "legislature" means any person or persons who can exercise legislative authority in a British possession, and where there are local legislatures as well as a central legislature, means the central legislature only:

"Governor."

The term "governor" means any person or persons administering the government of a British possession, and includes the governor of any part of India:

"Extradition crime."

The term "extradition crime" means a crime which, if committed in England or within English jurisdiction, would be one of the crimes described in the first schedule to this Act:

"Conviction."

The terms "conviction" and "convicted" do not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term "accused person" includes a person so convicted for contumacy:

"Fugitive criminal."

The term "fugitive criminal" means any person accused or convicted of an extradition crime committed within the jurisdiction of any foreign state who is in or is suspected of being in some part of Her Majesty's dominions; and the term "fugitive criminal of a foreign state" means a fugitive criminal accused or convicted of an extradition crime committed within the jurisdiction of that state:

"Fugitive criminal of a foreign State."

"Secretary of State."

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Repealed by Imp. 56 & 57 Vic. c. 54, s. 1 and Schedule.

*Extradition Acts 1870-1932 (United Kingdom, adopted).*

The term "police magistrate" means a chief magistrate of the metropolitan police courts, or one of the other magistrates of the metropolitan police court in Bow Street:<sup>(8)</sup> "Police magistrate."

The term "justice of the peace" includes in Scotland any sheriff, sheriff's substitute, or magistrate: "Justice of the Peace."

The term "warrant," in the case of any foreign state, includes any judicial document authorising the arrest of a person accused or convicted of crime. "Warrant."

REPEAL OF ACTS.

27. The Acts specified in the third schedule to this Act are hereby repealed as to the whole of Her Majesty's dominions; and this Act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the Acts so repealed) shall apply (as regards crimes committed either before or after the passing of this Act), in the case of the foreign states with which those treaties are made, in the same manner as if an Order in Council referring to such treaties had been made in pursuance of this Act, and as if such order had directed that every law and ordinance which is in force in any British possession with respect to such treaties should have effect as part of this Act. Repeal of Acts in Third Schedule.

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Proviso repealed by Imp. 46 & 47 Vic. c. 39, s. 1 and Schedule.

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SCHEDULES.

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FIRST SCHEDULE.

LIST OF CRIMES.<sup>(9)</sup>

The following list of crimes is to be construed according to the law existing in England, or in a British possession (as the case may be) at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act:

Murder, and attempt and conspiracy to murder.

Manslaughter.

Counterfeiting and altering money and uttering counterfeit or altered money.

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(8) See Section 1 of the *Extradition Act 1895* (United Kingdom, adopted).

(9) For additional crimes deemed to be included in the First Schedule see Section 8 and Schedule of the *Extradition Act 1873* (United Kingdom, adopted), Section 1 of the *Extradition Act 1906* (United Kingdom, adopted), and Section 1 of the *Extradition Act 1932* (United Kingdom, adopted).

## CRIMINAL LAW—

### FIRST SCHEDULE—*continued.*

Forgery, counterfeiting, and altering, and uttering what is forged or counterfeited or altered.

Embezzlement and larceny.

Obtaining money or goods by false pretences.

Crimes by bankrupts against bankruptcy law.

Fraud by a bailee, banker, agent, factor, trustee, or director, or member, or public officer of any company made criminal by any Act for the time being in force.

Rape.

Abduction.

Child stealing.

Burglary and housebreaking.

Arson.

Robbery with violence.

Threats by letter or otherwise with intent to extort.

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

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### SECOND SCHEDULE.

#### FORM OF ORDER OF SECRETARY OF STATE TO THE POLICE MAGISTRATE.

To the chief magistrate of the metropolitan police courts or other magistrate of the metropolitan police court in Bow Street (or the stipendiary magistrate at \_\_\_\_\_).

Whereas, in pursuance of an arrangement with \_\_\_\_\_, referred to in an Order of Her Majesty in Council dated the \_\_\_\_\_ day of \_\_\_\_\_, a requisition has been made to me, \_\_\_\_\_, one of Her Majesty's Principal Secretaries of State, by \_\_\_\_\_, the diplomatic representative of \_\_\_\_\_, for the surrender of \_\_\_\_\_, late of \_\_\_\_\_, accused (or convicted) of the commission of the crime of \_\_\_\_\_ within the jurisdiction of \_\_\_\_\_: Now I hereby, by this my order under my hand and seal, signify to you that such requisition has been made, and require you to issue your warrant for the apprehension of such fugitive, provided that the conditions of the *Extradition Act 1870*, relating to the issue of such warrant, are in your judgment complied with.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

*Extradition Acts 1870-1932 (United Kingdom, adopted).*

SECOND SCHEDULE—*continued.*

FORM OF WARRANT OF APPREHENSION BY ORDER OF SECRETARY OF STATE.

Metropolitan police district,  
(or county or borough of )  
to wit.

To all and each of the constables of the metropolitan police force  
(or of the county or borough of ).

Whereas the Right Honourable \_\_\_\_\_, one of  
Her Majesty's Principal Secretaries of State, by order under his hand and  
seal, hath signified to me that requisition hath been duly made to him for the  
surrender of \_\_\_\_\_, late of \_\_\_\_\_, accused (or convicted)  
of the commission of the crime of \_\_\_\_\_ within the jurisdiction  
of \_\_\_\_\_: This is therefore to command you in Her Majesty's  
name forthwith to apprehend the said \_\_\_\_\_ pursuant to  
the *Extradition Act 1870*, wherever he may be found in the United Kingdom  
or Isle of Man, and bring him before me or some other (*\*magistrate sitting  
in this court*), to show cause why he should not be surrendered in pursuance  
of the said *Extradition Act*, for which this shall be your warrant.

Given under my hand and seal at (*\*Bow Street, one of the police courts  
of the metropolis*) this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

J.P.

\*NOTE.—Alter as required.

FORM OF WARRANT OF APPREHENSION WITHOUT ORDER OF SECRETARY OF STATE.

Metropolitan police district, }  
(or county or borough of ) } To all and each of the constables of the  
to wit. } metropolitan police force (or of the  
county or borough of ).

Whereas it has been shown to the undersigned, one of Her Majesty's  
justices of the peace in and for the metropolitan police district (or the said  
county or borough of \_\_\_\_\_) that \_\_\_\_\_ late  
of \_\_\_\_\_ is accused (or convicted) of the commission  
of the crime of \_\_\_\_\_ within the jurisdiction of \_\_\_\_\_:  
This is therefore to command you in Her Majesty's  
name forthwith to apprehend the said \_\_\_\_\_ and to  
bring him before me or some other magistrate sitting at this court (or one  
of Her Majesty's justices of the peace in and for the county (or borough)  
of \_\_\_\_\_) to be further dealt with according to  
law, for which this shall be your warrant.

Given under my hand and seal at Bow Street, one of the police courts  
of the metropolis, (or \_\_\_\_\_ in the county or borough  
aforesaid) this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

J.P.

FORM OF WARRANT FOR BRINGING PRISONER BEFORE THE POLICE MAGISTRATE.

County (or borough) of }  
to wit. } To \_\_\_\_\_ constable of the police  
force of \_\_\_\_\_ and to all other  
peace officers in the said county (or  
borough) of \_\_\_\_\_

Whereas \_\_\_\_\_ late of \_\_\_\_\_  
accused (or alleged to be convicted of) the commission of the crime  
of \_\_\_\_\_ within the jurisdiction of \_\_\_\_\_,  
has been apprehended and brought before the undersigned, one of Her  
Majesty's justices of the peace in and for the said county (or borough)  
of \_\_\_\_\_: And whereas by the *Extradition Act 1870* he  
is required to be brought before the chief magistrate of the metropolitan  
police court, or one of the police magistrates of the metropolis sitting at  
Bow Street, within the metropolitan police district (or the stipendiary  
magistrate for \_\_\_\_\_): This is therefore to command you  
the said constable in Her Majesty's name forthwith to take and convey the

CRIMINAL LAW—

SECOND SCHEDULE—continued.

said to the metropolitan police district  
 (or the said ) and there carry him before the  
 said chief magistrate or one of the police magistrates of the metropolis  
 sitting at Bow Street within the said district (or before a stipendiary  
 magistrate sitting in the said ) to show cause why  
 he should not be surrendered in pursuance of the *Extradition Act 1870*, and  
 otherwise to be dealt with in accordance with law, for which this shall be  
 your warrant.

Given under my hand and seal at in the county  
 (or borough) aforesaid, this day of  
 19

J.P.

FORM OF WARRANT OF COMMITTAL.

Metropolitan police district, (or { To one of the  
 county or borough of ) constables of the metropolitan police  
 to wit. } force, (or of the police force of the  
 county or borough of ),  
 and to the keeper of the

Be it remembered, that on this day of  
 in the year of our Lord, late of  
 is brought before me the chief magistrate of the  
 metropolitan police courts (or one of the police magistrates of the metro-  
 polis) sitting at the police court in Bow Street, within the metropolitan  
 police district, (or a stipendiary magistrate for ),  
 to show cause why he should not be surrendered in pursuance of the  
*Extradition Act 1870*, on the ground of his being accused (or convicted) of  
 the commission of the crime of within the jurisdiction  
 of , and forasmuch as no sufficient cause has  
 been shown to me why he should not be surrendered in pursuance of the  
 said Act:

This is therefore to command you the said constable in Her Majesty's  
 name forthwith to convey and deliver the body of the said  
 into the custody of the said keeper of the at  
 and you the said keeper to receive the said into  
 your custody, and him there safely to keep until he is thence delivered pur-  
 suant to the provisions of the said *Extradition Act*, for which this shall  
 be your warrant.

Given under my hand and seal at Bow Street, one of the police courts  
 of the metropolis, (or at the said ) this  
 day of 19 .  
 J.P.

FORM OF WARRANT OF SECRETARY OF STATE FOR SURRENDER OF FUGITIVE.

To the keeper of and to  
 Whereas late of accused  
 (or convicted) of the commission of the crime of within  
 the jurisdiction of , was delivered into the  
 custody of you the keeper of by  
 warrant dated pursuant to the *Extradition Act 1870*:

Now I do hereby, in pursuance of the said Act, order you the said keeper  
 to deliver the body of the said into the custody of the  
 said , and I command you the said  
 to receive the said into your custody, and  
 to convey him within the jurisdiction of the said  
 and there place him in the custody of any person or persons appointed by  
 the said to receive him, for which this shall  
 be your warrant.

Given under the hand and seal of the undersigned, one of Her Majesty's  
 Principal Secretaries of State, this day  
 of

*Extradition Acts 1870-1932 (United Kingdom, adopted).*

THIRD SCHEDULE.

Third Schedule  
amended by  
Imp. 56 & 57  
Vic. c. 54, s. 1  
and Schedule.

Year and Chapter.	Title.
6 & 7 Vict.c.76.	An Act for giving effect to a treaty between Her Majesty and the United States of America for the apprehension of certain offenders.
8 & 9 Vict.c.120.	An Act for facilitating execution of the treaties with France and the United States of America for the apprehension of certain offenders.
29 & 30 Vict.c.121.	An Act for the amendment of the law relating to treaties of extradition.

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EXTRADITION ACT 1873<sup>(1)</sup> (UNITED  
KINGDOM, ADOPTED).

**An Act to amend the Extradition Act 1870.**

**B**E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Construction of  
Act and Short  
Title.  
33 & 34 Vict.  
c. 52.

1. This Act shall be construed as one with the *Extradition Act 1870* (in this Act referred to as the principal Act), and the principal Act and this Act may be cited together as the *Extradition Acts 1870 and 1873*, and this Act may be cited alone as the *Extradition Act 1873*.<sup>(1)</sup>

2. Whereas by section six of the principal Act it is enacted as follows:

Explanation of  
Section 6 of 33  
& 34 Vict. c. 52.

“Where this Act applies in the case of any foreign state, every fugitive criminal of that state who is in or suspected of being in any part of Her Majesty's dominions, or that part which is specified in the order applying this Act (as the case may be), shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any Court of Her Majesty's dominions over that crime.”

And whereas doubts have arisen as to the application of the said section to crimes committed before the passing of the principal

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(1) The *Extradition Acts 1870-1932* of the United Kingdom were adopted by the *Extradition Ordinance 1927-1933*, subject to the modifications set out in the *Extradition Ordinance 1927-1933*. The *Extradition Act 1873* is reprinted as amended by the *Perjury Act 1911* (1 & 2 Geo. V. c. 6).

CRIMINAL LAW—

Act, and it is expedient to remove such doubts, it is therefore hereby declared that—

A crime committed before the date of the order includes in the said section a crime committed before the passing of the principal Act, and the principal Act and this Act shall be construed accordingly.

Liability of accessories to be surrendered.

3. Whereas a person who is accessory before or after the fact, or counsels, procures, commands, aids, or abets the commission of any indictable offence, is by English law liable to be tried and punished as if he were the principal offender, but doubts have arisen whether such person as well as the principal offender can be surrendered under the principal Act, and it is expedient to remove such doubts; it is therefore hereby declared that—

Every person who is accused or convicted of having counselled, procured, commanded, aided, or abetted the commission of any extradition crime, or of being accessory before or after the fact to any extradition crime, shall be deemed, for the purposes of the principal Act and this Act, to be accused or convicted of having committed such crime, and shall be liable to be apprehended and surrendered accordingly.

Explanation of Section 14 of 33 & 34 Vict. c. 52, as to statements on oath including affirmations.

4. Be it declared, that the provisions of the principal Act relating to depositions and statements on oath taken in a foreign state, and copies of such original depositions and statements, do and shall extend to affirmations taken in a foreign state, and copies of such affirmations.

Power of taking evidence in United Kingdom for foreign criminal matters.

5. A Secretary of State may, by order under his hand and seal, require a police magistrate or a justice of the peace to take evidence for the purposes of any criminal matter pending in any court or tribunal in any foreign state; and the police magistrate or justice of the peace, upon the receipt of such order, shall take the evidence of every witness appearing before him for the purpose in like manner as if such witness appeared on a charge against some defendant for an indictable offence, and shall certify at the foot of the depositions so taken that such evidence was taken before him, and shall transmit the same to the Secretary of State; such evidence may be taken in the presence or absence of the person charged, if any, and the fact of such presence or absence shall be stated in such deposition.

Any person, may, after payment or tender to him of a reasonable sum for his costs and expenses in this behalf, be compelled, for the purposes of this section, to attend and give evidence and answer questions and produce documents, in like manner and subject to the like conditions as he may in the case of a charge preferred for an indictable offence.

*Extradition Acts 1870-1932 (United Kingdom, adopted).*

\* \* \* \* \*

\*(2)

Paragraph repeated by Imp. 1 & 2 Geo. V. c. 6, s. 17 and Schedule.

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

6. The jurisdiction conferred by section sixteen of the principal Act on a stipendiary magistrate, and a sheriff or sheriff substitute, shall be deemed to be in addition to, and not in derogation or exclusion of, the jurisdiction of the police magistrate.

Explanation of Section 16 of 33 & 34 Vict. c. 52.

7. For the purposes of the principal Act and this Act a diplomatic representative of a foreign state shall be deemed to include any person recognized by the Secretary of State as a consul-general of that state, and a consul or vice-consul shall be deemed to include any person recognized by the governor of a British possession as a consular officer of a foreign state.

Explanation of diplomatic representative and consul.

8. The principal Act shall be construed as if there were included in the first schedule to that Act the list of crimes contained in the schedule to this Act.

Addition to list of crimes in schedule.

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SCHEDULE.

LIST OF CRIMES.

The following list of crimes is to be construed according to the law existing in England or in a British possession (as the case may be) at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act:

Kidnapping and false imprisonment.

Perjury, and subornation of perjury, whether under common or statute law.

Any indictable offence under the *Larceny Act 1861*, or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

24 & 25 Vict. c. 96 &c.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-seven, "To consolidate and amend the statute law of England and Ireland relating to malicious injuries to property," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-eight, "To consolidate and amend the statute law of England and Ireland, relating to indictable offences by forgery," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-nine, "To consolidate and amend the statute law of the United Kingdom against offences relating to the coin," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

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(2) The paragraph repealed by 1 & 2 Geo. V. c. 6 (the *Perjury Act 1911*) read as follows:

"Every person who wilfully gives false evidence before a police magistrate or justice of the peace under this section shall be guilty of perjury."

Section 17 of that Act expressly provided that the repeal of this paragraph should not apply to Scotland or Ireland.

CRIMINAL LAW—

SCHEDULE—*continued.*

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred, "To consolidate and amend the statute law of England and Ireland relating to offences against the person," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the laws for the time being in force in relation to bankruptcy which is not included in the first schedule to the principal Act.

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EXTRADITION ACT 1895<sup>(1)</sup> (UNITED  
KINGDOM, ADOPTED).

**An Act to amend the Extradition Acts 1870 and 1873, so far as respects the magistrate by whom and the place in which the case may be heard and the criminal held in custody.**

**B**E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Hearing case  
elsewhere than  
at Bow Street.  
33 & 34 Vict.  
c. 52.

1.—(1.) Where a fugitive criminal has been apprehended in pursuance of a warrant under section eight of the *Extradition Act 1870*, and a Secretary of State on representation made by or on behalf of the criminal is of opinion that his removal for the purpose of his case being heard at Bow Street will be dangerous to his life or prejudicial to his health, the Secretary of State, if it appears to him consistent with the Order in Council under the *Extradition Act 1870*, applicable to the case, may in his discretion by order, stating the reasons for such opinion, direct the case to be heard before such magistrate as is named in the order, and at the place in the United Kingdom at which the criminal was apprehended, or for the time being is.

(2.) The magistrate may be, if the place is in England, a metropolitan police magistrate or a stipendiary magistrate, and if it is in Scotland, a sheriff or sheriff substitute, and if it is in Ireland, any stipendiary magistrate, and the magistrate hearing the case in pursuance of the order shall for that purpose be deemed to be a police magistrate within the meaning of the *Extradition Act 1870*, and also shall have the same jurisdiction, duties, and

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(1) The *Extradition Acts 1870-1932* of the United Kingdom were adopted by the *Extradition Ordinance 1927-1933*, subject to the modifications set out in the *Extradition Ordinance 1927-1933*.

*Extradition Acts 1870-1932* (United Kingdom, adopted).

powers, as near as may be, and may commit to the same prison as if he were a magistrate for the county, borough, or place in which the hearing takes place.

(3.) Provided that, when the fugitive criminal is committed to prison to await his surrender, the committing magistrate, if of opinion that it will be dangerous to the life or prejudicial to the health of the prisoner to remove him to prison, may order him to be held in custody at the place in which he for the time being is, or any other place named in the order to which the magistrate thinks he can be removed without danger to his life or prejudice to his health, and while so held he shall be deemed to be in legal custody, and the *Extradition Acts 1870 and 1873*, shall apply to him as if he were in the prison to which he is committed, and the forms of warrant used under the said Acts may be varied accordingly.

33 & 34 Vict.  
c. 52.  
36 & 37 Vict.  
c. 60.

2. This Act may be cited as the *Extradition Act 1895*,<sup>(1)</sup> and shall be construed together with the *Extradition Acts 1870 and 1873*; and those Acts and this Act may be cited collectively as the *Extradition Acts 1870 to 1895*.

Short title and  
construction.

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## EXTRADITION ACT, 1906<sup>(1)</sup> (UNITED KINGDOM, ADOPTED).

### An Act to include Bribery amongst Extradition Crimes.

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Preamble  
repealed by  
Imp. 17 & 18  
Geo. V. c. 42,  
s. 1 and  
Schedule.

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The *Extradition Act, 1870*, shall be construed as if bribery were included in the list of crimes in the First Schedule to that Act.

Addition of  
bribery to  
list of  
extradition  
crimes.

2. This Act may be cited as the *Extradition Act, 1906*,<sup>(1)</sup> and the *Extradition Acts, 1870 to 1895*, and this Act may be cited together as the *Extradition Acts, 1870 to 1906*.

Short title.

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(1) The *Extradition Acts 1870-1932* of the United Kingdom were adopted by the *Extradition Ordinance 1927-1933*, subject to the modifications set out in the *Extradition Ordinance 1927-1933*. The *Extradition Act, 1906* is reprinted as amended by the *Statute Law Revision Act 1927* (17 & 18 Geo. V. c. 42).

EXTRADITION ACT, 1932<sup>(1)</sup> (UNITED  
KINGDOM, ADOPTED).

**An Act to include offences in relation to dangerous drugs, and attempts to commit such offences, among extradition crimes.**

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:—

Amendment of  
33 & 34 Vict.  
c. 52,  
Schedule I.

1. The *Extradition Act, 1870*, shall be construed as if offences against any enactment for the time being in force relating to dangerous drugs, and attempts to commit such offences, were included in the list of crimes in the First Schedule to that Act.

2. This Act may be cited as the *Extradition Act, 1932*,<sup>(1)</sup> and the *Extradition Acts, 1870 to 1906*, and this Act may be cited together as the *Extradition Acts, 1870 to 1932*.

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(1) The *Extradition Acts 1870-1932* of the United Kingdom were adopted by the *Extradition Ordinance 1927-1933*, subject to the modifications set out in the *Extradition Ordinance 1927-1933*.