

In Germany by a British consular officer to the President of the German Landgericht.

(d) It shall be incumbent upon the judicial authority to whom the "Letters of Request" are addressed to give effect thereto by the use of the same compulsory measures as are employed in the execution of a commission or order emanating from the authorities of his own country.

(e) The diplomatic or consular officer by whom the "Letters of Request" are transmitted shall, if he so desires, be informed of the date and place where the proceedings will take place, in order that the interested party or parties may be able to be present, or to be represented.

(f) The execution of the "Letters of Request" can only be refused—

- (1) If the authenticity of the "Letters of Request" is not established;
- (2) If in the country where the evidence is to be taken, the execution of the "Letters of Request" in question does not fall within the functions of the Judiciary;
- (3) If the Contracting Party applied to considers that his sovereignty or safety would be compromised thereby.

(g) In case the authority to whom they are addressed is without jurisdiction, the "Letters of Request" shall be forwarded without any further request to the competent authority of the same country in accordance with the rules laid down by its law.

(h) In every instance where the "Letters of Request" are not executed by the authority to whom they are addressed, the latter will at once inform the diplomatic or consular officer by whom the "Letters of Request" were transmitted, stating the grounds on which the execution of the "Letters of Request" has been refused, or the judicial authority to whom they have been forwarded.

(i) The authority which executes the "Letters of Request" will apply, so far as the procedure to be followed is concerned, the law of his own country.

Nevertheless, an application by the authority making the request that some special procedure may be followed shall be acceded to, provided that such procedure is not incompatible with the law of the country applied to.

Article 10.

No fees of any description shall be payable by one Contracting Party to the other in respect of the execution of any "Letters of Request."

Nevertheless, the Contracting Party making the request shall repay to the other Contracting Party any charges and expenses payable to witnesses, experts, interpreters, or translators, the costs of obtaining the attendance of witnesses who have not appeared voluntarily, and the charges and expenses payable to any person whom the competent judicial authority may have deputed to act in cases where his municipal law permits this to be done, and any charges and expenses incurred by reason of a special procedure being requested and followed.

The repayment of these charges and expenses may be claimed by the judicial authority by whom the "Letters of Request" have been executed, when sending to him the documents establishing their execution, from the diplomatic or consular officer by whom they were transmitted. These charges and expenses shall be such as are usually allowed in such case in the Courts of the country where the "Letters of Request" have been executed.

Article 11.

(a) The evidence may also be taken without the intervention of the authorities of the country in which it is to be taken, by a diplomatic or consular officer of the Contracting Party before whose Courts the evidence is to be used:

Provided that this Article shall not apply to the taking of evidence of subjects or citizens of the Contracting Party in whose territory it is to be taken unless and until the German Government, at any time, by a notification* given through their Ambassador in London, signify their consent to the Article being so applied, in which case this Article shall, as from the date of such notification, apply to such subjects or citizens if they consent to their evidence being so taken.

(b) The diplomatic or consular officer appointed to take the evidence may request named individuals to appear as witnesses or to produce any document, and shall have power to administer an oath, but he shall have no compulsory powers.

(c) The evidence may be taken in accordance with the procedure laid down by the law of the country in which the evidence is to be used, and the parties shall have the right to be present and to be represented by counsel or solicitors of that country, or by any person competent to appear before the tribunals of either country.

* This notification was made by the German Ambassador on the 15th February.

Article 12.

(a) The competent Court of the Contracting Party applied to may also be requested to cause the evidence to be taken by a diplomatic or consular officer of the Contracting Party making the request.

The Court applied to shall, in the case of subjects or citizens of the Contracting Party making the request, take the necessary steps to secure the attendance of and the giving of evidence by witnesses and other persons to be examined, and the production of documents, making use, if necessary, of its compulsory powers.

(b) The person thus nominated shall have power to administer an oath. The evidence shall be taken in accordance with the law of the country in which it is to be used, and the parties shall have the right to be present in person or represented by counsel or solicitors of that country or by any persons who are competent to act before the Courts of either country.

Article 13.

The fact that an attempt to take evidence by the method laid down in Article 11 has failed owing to the refusal of any witnesses to appear or to give evidence, or to produce documents does not preclude an application being subsequently made in accordance with Articles 9 or 12.

Article 14.

The subjects or citizens of one Contracting Party shall enjoy in the territories (to which the Convention applies) of the Contracting Party a perfect equality of treatment as regards free judicial assistance for poor persons and imprisonment for debt, and, provided that they are resident in any such territory, shall not be compelled to give security for costs in any case where a subject or citizen of such other Contracting Party would not be so compelled.

IV.—GENERAL PROVISIONS.

Article 15.

Any difficulties which may arise in connection with the operation of this Convention shall be settled through the diplomatic channel.

Article 16.

The present Convention, of which the English and German texts are equally authentic, shall be subject to ratification. Ratifications shall be exchanged at Berlin and the Convention shall come into force one month after the date on which ratifications are exchanged, and shall remain in force for three years after the date of its coming into force. In case neither of the Contracting Parties shall have given notice to the other six months before the expiration of the said period of three years of his intention to terminate the Convention, it shall remain in force until the expiration of six months from the day on which either of the Contracting Parties shall have given such notice.

Article 17.

(a) The present Convention shall not apply *ipso facto* to Scotland or Northern Ireland, nor to any of His Britannic Majesty's Colonies or Protectorates nor to any territories under his suzerainty, nor to any mandated areas administered by his Government in Great Britain, but His Britannic Majesty may at any time, by a notification given through His Majesty's Ambassador at Berlin, extend the operation of this Convention to any of the above-mentioned territories.

(b) Such notification shall state the date on which such extension shall come into force, the authorities in the territory concerned to whom judicial and extra-judicial documents and "Letters of Request" are to be transmitted, and the language in which communications to such authorities and translations should be made. The date of the coming into force of any such extension shall not be less than one month from the date of such notification.

(c) Either of the Contracting Parties may, at any time after the expiry of three years from the coming into force of the extension of this Convention to any of the territories referred to in paragraph (a) of this Article, terminate such extension on giving six months' previous notice.

Article 18.

(a) His Britannic Majesty may at any time, by a notification given through his Ambassador at Berlin, accede to the present Convention in respect of any of his self-governing Dominions or India. The provisions of Article 17 (b) shall be applicable to any such notification. Any such accession shall take effect one month after the date of its notification.

(b) After the expiry of a period of three years from the date of the coming into force of any accession under paragraph (a) of this Article, either of the Contracting Parties may, by giving six months' notice, terminate the application of the