

Extension to New Zealand of Convention between the United Kingdom and Poland respecting Legal Proceedings in Civil and Commercial Matters.

Department of Justice,
Wellington, 24th January, 1933.

IT is hereby notified for general information that the Convention between the United Kingdom and Poland regarding Legal Proceedings in Civil and Commercial Matters, signed at Warsaw on the 26th day of August, 1931, and in respect of which ratifications were exchanged at London on the 31st day of May, 1932, has been extended to the Dominion of New Zealand pursuant to the provisions of Article 17 of the said convention, as from the 8th day of December, 1932. The authority to which requests for service or for the taking of evidence are to be transmitted is the Supreme Court of New Zealand, and communications should be addressed to the Registrar of the Supreme Court at Wellington in the English language.

The text of the said Convention is set out hereunder.

JOHN G. COBBE, Minister of Justice.

CONVENTION.

His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India, and the President of the Polish Republic, being desirous to render mutual assistance in the conduct of legal proceedings in civil and commercial matters which are being dealt with or which it is anticipated may be dealt with by their respective judicial authorities, have resolved to conclude a Convention for this purpose and 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 Polish Republic; and

The President of the Polish Republic:

M. Auguste Zaleski, Minister for Foreign Affairs for the Polish Republic;

M. Stefan Sieczkowski, Under-Secretary of State to the Ministry of Justice for the Polish Republic;

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

I.—PRELIMINARY.

Article 1.

(a) This Convention applies only to civil and commercial matters including non-contentious matters.

(b) In this Convention the words—

- (1) "Territory of one (or of the other) High Contracting Party" shall be interpreted (a) in relation to His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India, as meaning at any time England and Wales and all territories in respect of which the Convention is in force by reason of extensions under Article 15 or accessions under Article 17; (b) in relation to the President of the Polish Republic as meaning at any time, without prejudice to the provisions of Article 16, Poland;
- (2) "Persons" shall be deemed to mean individuals and artificial persons;
- (3) "Artificial persons" shall be deemed to include partnerships, companies, societies, and other corporations;
- (4) "Subjects or citizens of a High Contracting Party" shall be deemed to include artificial persons constituted or incorporated under the laws of the territory of such High Contracting Party;
- (5) "Subjects of one (or of the other) High Contracting Party" shall be deemed (a) in relation to His Majesty to mean all subjects of His Majesty wherever domiciled, and all persons under His protection; (b) in relation to the President of the Polish Republic to mean, without prejudice to the provisions of Article 16, all Polish citizens;
- (6) "Consular Officer" shall be deemed to include diplomatic officer.

II.—SERVICE OF JUDICIAL AND EXTRA-JUDICIAL DOCUMENTS.

Article 2.

(a) When judicial or extra-judicial documents drawn up in the territory of one of the High Contracting Parties are required by a judicial authority situated therein to be served on persons in the territory of the other High Contracting

Party, such documents may be served on the recipient, whatever his nationality, by any of the methods provided in Articles 3 and 4.

(b) In Part II of this Convention, the expression "country of origin" means the country from which the documents to be served emanate, and the expression "country of execution" means the country in which service of documents is to be effected.

Article 3.

(a) A request for service shall be addressed and sent by a Consular Officer acting for the country of origin to the competent authority of the country of execution, requesting such authority to cause the document in question to be served.

(b) The request for service shall be drawn up in the language of the country of execution and shall state the names and descriptions of the parties, the name, description, and address of the recipient, and the nature of the document to be served, and shall enclose the document to be served in duplicate. Where the document is of considerable length, a duplicate of the material parts sufficient to identify it will be accepted.

(c) The document to be served shall either be drawn up in the language of the country of execution, or be accompanied by a translation into such language. Such translation shall be certified as correct by a Consular Officer acting for the country of origin or an official or sworn translator of one of the two countries concerned.

(d) Requests for service shall be addressed and sent:—

In England, to the Senior Master of the Supreme Court of Judicature;

In Poland, to the Ministry of Justice in Warsaw.

If the authority to whom a request for service has been sent is not competent to execute it, such authority shall (except in cases where execution is refused in accordance with paragraph (f) of this Article) of his own motion forward the request to the competent authority of the country of execution.

(e) Service shall be effected by the competent authority of the country of execution, who shall serve the document in the manner prescribed by the municipal law of such country for the service of similar documents, except that, if a wish for some special manner of service is expressed in the request for service, such manner of service shall be followed in so far as it is not incompatible with the law of that country.

(f) The execution of a request for service, duly made in accordance with the preceding provisions of this Article, shall not be refused unless (1) the authenticity of the request for service is not established, or (2) the High Contracting Party in whose territory it is to be executed considers that his sovereignty or safety would be compromised thereby.

(g) In every instance where a request for service is not executed by the authority to whom it has been sent, the latter will at once inform the Consular Officer by whom the request was sent, stating the ground on which the execution of the request has been refused or the competent authority to whom it has been forwarded.

(h) The authority by whom the request for service is executed shall furnish a certificate proving the service or explaining the reason which has prevented such service, and setting forth the fact, the manner, and the date of such service or attempted service, and shall send the said certificate to the Consular Officer by whom the request for service was sent. The certificate of service or of attempted service shall be placed on one of the duplicates or attached thereto.

Article 4.

(a) Service may be effected, without any request to or intervention of the authorities of the country of execution, by any of the following methods:—

- (1) By a Consular Officer acting for the country of origin;
- (2) By an agent appointed for the purpose either by the judicial authority of the country of origin or by the party on whose application the document was issued;
- (3) Through the post; or
- (4) By any other method of service which is not illegal, under the law existing at the time of service, in the country of execution.

(b) All documents served in the manner provided in (1) of the preceding paragraph shall, unless the recipient is a subject or citizen of the High Contracting Party from whose territory the document to be served emanates, either be drawn up in the language of the country of execution or be accompanied by a translation into such language, certified as correct as prescribed in Article 3 (c).

(c) The High Contracting Parties agree that in principle it is also desirable that the provisions of paragraph (b) of this Article should apply to documents served in the manner provided in (2), (3), and (4) of paragraph (a) of this Article.