

NOTIFICATION EFFECTED BY AN
EXCHANGE OF NOTES
(October 9, 1935, January 1 and 3, 1936) .

EXTENDING TO CANADA AS FROM FEBRUARY 1, 1936

THE CONVENTION

BETWEEN

HIS MAJESTY

AND

THE PRESIDENT OF FINLAND

REGARDING

LEGAL PROCEEDINGS IN CIVIL AND
COMMERCIAL MATTERS

Signed at London August 11, 1933
Ratifications exchanged at London January 23, 1934

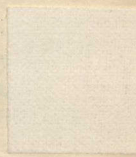
IN FORCE FEBRUARY 1, 1936



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OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1937

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NOTIFICATION EFFECTED BY AN EXCHANGE OF NOTES (October 9, 1935, January 1 and 3, 1936) EXTENDING TO CANADA AS FROM FEBRUARY 1, 1936, THE CONVENTION BETWEEN HIS MAJESTY AND THE PRESIDENT OF FINLAND REGARDING LEGAL PROCEEDINGS IN CIVIL AND COMMERCIAL MATTERS SIGNED AT LONDON AUGUST 11, 1933

From the Secretary of State for External Affairs of Canada to the Secretary of State for Dominion Affairs

DEPARTMENT OF EXTERNAL AFFAIRS

OTTAWA, October 9, 1935.

No. 252
SIR,

I have the honour to refer to my despatch No. 126,¹ dated the 17th May, 1935, and to the Civil Procedure Conventions which have been concluded with Estonia, Denmark, Finland, Lithuania and the Netherlands, all of which have been signed and duly ratified.

I have the honour to state that His Majesty's Government in Canada desire that, in accordance with the stipulations therein contained, these Conventions shall be extended to Canada by notification to the respective Governments. Such extension should, if it is possible, come into force from a fixed date and it is desirable that that date should be the first day of January, 1936. If, however, the adoption of a fixed date is impracticable, the date of ratification would be satisfactory; and, further, if the date suggested is not satisfactory, a later date, say the first day of February, 1936, should be adopted.

The authorities to whom judicial and extra-judicial Acts and Commissions Rogatoires are to be transmitted will be, where action is to be taken in any Province in Canada, the Attorney-General of such province; in the North West Province in Canada, the Commissioner of the North West Territories; and in the Yukon Territory, the Gold Commissioner of that territory. The language in which communications to such authorities, and translations, are to be made, will be English, except in the Province of Quebec, where they may be made either in English or in French. In order to insure due execution, Commissions Rogatoires should contain full and complete interrogatories.

I have included a tabulated list of the authorities, together with their addresses, in my despatch No. 251 of even date, herewith.

I shall be obliged, therefore, if steps will be taken to make the necessary notifications to the interested Governments.

I have the honour to be,

Sir,

Your most obedient,
humble servant,

O. D. SKELTON
*for the Secretary of State for
External Affairs*

¹ See Nos. 11-19, 1935 Treaty Series.

| PROVINCE OR TERRITORY | AUTHORITY AND ADDRESS | LANGUAGE |
|------------------------|---|-------------------|
| Ontario | Attorney-General, Toronto | English |
| Quebec | Attorney-General, Quebec | English or French |
| Nova Scotia | Attorney-General, Halifax | English |
| Prince Edward Island | Attorney-General, Charlottetown | English |
| New Brunswick | Attorney-General, Fredericton | English |
| British Columbia | Attorney-General, Victoria | English |
| Manitoba | Attorney-General, Winnipeg | English |
| Saskatchewan | Attorney-General, Regina | English |
| Alberta | Attorney-General, Edmonton | English |
| North West Territories | Commissioner of the North West Territories, Ottawa | English |
| Yukon Territory | The Gold Commissioner of the Yukon Territory, Dawson City | English |

I have the honor to refer to my despatch No. 1307, dated the 17th May 1935, and to the Civil Procedure Conventions which have been concluded with the Dominion of Newfoundland, the Netherlands, all of which have been signed and duly ratified.

I have the honor to state that His Majesty's Government in Canada desire its assistance with the stipulations therein contained, these Conventions will be extended to Canada by notification to the respective Governments. It is possible, however, that the date of January 1936, if however, the date of ratification would be impracticable, the date of ratification would be later than the date of February 1936 should be adopted.

The authorities to whom judicial and extra-judicial Acts and Commissions are to be transmitted will be, where action is to be taken in the Province in Canada, the Attorney-General of such province; in the North West Territories, the Commissioner of that territory. The language in such communications to such authorities and translations are to be made in English, except in the Province of Quebec, where they may be made in French. In order to insure due execution, Commissions should contain full and complete instructions.

I have included a tabulated list of the authorities together with their names, in my despatch No. 251 of even date herewith.

I shall be obliged, therefore, if steps will be taken to make the necessary arrangements to the interested Governments.

I have the honor to be,
 Sir,
 Your most obedient,
 humble servant,
 O. D. SKELTON
 for the Secretary of State for
 External Affairs

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*From the British Minister at Helsingfors to the
Minister of Foreign Affairs of Finland*

BRITISH LEGATION

HELSINGFORS, January 1, 1936.

No. 1

MONSIEUR LE MINISTRE,

At the instance of His Majesty's Government in Canada I have the honour to notify Your Excellency, in accordance with Article 15 (a) of the convention regarding legal proceedings in civil and commercial matters, which was signed at London on the 11th August, 1933, the accession of His Majesty to that convention in respect of the Dominion of Canada.

The attached list indicates in respect of each province or territory in Canada the authority to whom requests for service under Article 3 or Letters of Request under Article 7 should be transmitted. The language in which communications and translations are to be made is English except in the Province of Quebec, where they may be made either in French or in English.

In accordance with Article 15 (a) of the convention, the accession now notified will come into force one month from the date of this note, that is to say, on the 1st February next.

In requesting that Your Excellency will be so good as to acknowledge the receipt of this communication, I avail myself of this opportunity, Monsieur le Ministre, to renew to Your Excellency the assurance of my high consideration.

H. A. GRANT WATSON

*From the Minister of Foreign Affairs of Finland to the
British Minister at Helsingfors*

MINISTÈRE DES AFFAIRES ÉTRANGÈRES DE FINLANDE

HELSINKI, January 3, 1936.

MONSIEUR LE MINISTRE,

I have the honour to acknowledge the receipt of your note No. 1 of the 1st inst. in which you were good enough to notify to me the accession of His Majesty to the convention regarding legal proceedings in civil and commercial matters in respect of the Dominion of Canada; this accession coming into force on the 1st February next.

I have taken good notice of the information as to the authorities to whom requests for service and Letters of Request are to be transmitted and of the information, that the language in which communications and translations are to be made is English except in the Province of Quebec, where they may be made either in French or in English.

Thanking you for the information I have the honour to inform you that I will not fail to bring it to the notice of the Finnish authorities concerned.

I avail myself of this opportunity to renew to you, Monsieur le Ministre, the assurance of my high consideration.

For the Minister

BRUNO KIVIKOSKI

Secretary General.

Convention between His Majesty in respect of the United Kingdom and the President of Finland Regarding Legal Proceedings in Civil and Commercial Matters

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 Finland;

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:

Sir Robert Vansittart, G.C.M.G., K.C.B., M.V.O., Permanent Under-Secretary of State for Foreign Affairs;

The President of the Republic of Finland:

Monsieur Georg Achates Gripenberg, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Finland in London;

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

I.—Preliminary

ARTICLE I

(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 the Republic of Finland, as meaning Finland and (b) in relation to His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India—England and Wales and all territories in respect of which the Convention is in force by reason of extensions under Article 14 or accessions under Article 15;

(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 (or citizens) of one (or of the other) High Contracting Party" shall be deemed to mean (a) in relation to the Republic of Finland—all Finnish citizens; and (b) in relation to His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India—all subjects of His Majesty wherever domiciled, and all persons under His protection.

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 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, in the manner provided in Article 3.

(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 Diplomatic or 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 full names and descriptions of the parties, the full 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.

(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 Diplomatic or Consular Officer acting for the country of origin.

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

In Finland to the Governor of the Province in which service is to be effected;

In England to the Senior Master of the Supreme Court of Judicature.

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 Diplomatic or 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 Diplomatic or 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) The provisions of Articles 2 and 3 in no way prejudice the right to use in the territory of either High Contracting Party, without any request to or intervention of the authorities of the country of execution, any of the following methods of service in connection with judicial or extra-judicial documents drawn up in the territory of the other High Contracting Party:

- (1) Service by a Diplomatic or Consular Officer acting for the country of origin;
- (2) Service 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) Service through the post; or
- (4) Any other method of service recognised under the law existing at the time of service in the country of origin.

(b) The High Contracting Parties agree that in principle it is desirable that documents served by any of the methods referred to in paragraph (a) of this Article should, 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. Nevertheless, in the absence of any legislation in their respective territories making translations obligatory in such cases, the High Contracting Parties do not accept any obligation in this respect.

(c) It is understood that the question of the validity and effect of any service effected by the use of any of the methods referred to in paragraph (a) of this Article will remain a matter for the free determination of the respective courts of the High Contracting Parties in accordance with their laws.

ARTICLE 5

(a) In any case where documents have been served in accordance with the provisions of Article 3, the High Contracting Party, by whose Diplomatic or Consular Officer the request for service was addressed shall repay to the other High Contracting Party any charges and expenses which are payable under the law of the country of execution to the persons employed to effect service, and any charges and expenses incurred in effecting service in a special manner. These charges and expenses shall not exceed such as are usually allowed in the courts of that country.

(b) Repayment of these charges and expenses shall be claimed by the competent authority by whom the service has been effected from the Diplomatic or Consular Officer by whom the request was addressed, when sending to him the certificate provided for in Article 3 (h).

(c) Except as provided above, no fees of any description shall be payable by one High Contracting Party to the other in respect of the service of any documents.

III. Taking of Evidence

ARTICLE 6

(a) When a judicial authority in the territory of one of the High Contracting Parties requires that evidence should be taken in the territory of the other High Contracting Party, such evidence may be taken, whatever the nationality of the parties or witnesses may be, in the manner prescribed in Article 7.

(b) In Part III of this Convention (but without prejudice to the safeguards in respect of the law of the country of execution contained in paragraph (d) of Article 7) the expressions:

(1) "Taking of evidence" shall be deemed to include the taking of the statements of a plaintiff, defendant, expert or any other person on oath or otherwise; the submission to a plaintiff, defendant, expert or any other person of any oath with regard to any legal proceedings; and the production, identification and examination of documents, samples or other objects;

(2) "Witness" shall be deemed to include any person from whom any evidence, as defined above, is required to be taken;

(3) "Country of origin" shall be deemed to mean the country by whose judicial authority the evidence is required, and "country of execution," the country in which the evidence is to be taken.

ARTICLE 7

(a) The judicial authority of the country of origin may, in accordance with the provisions of the law of his country, address himself by means of a Letter of Request to the competent authority of the country of execution, requesting such authority to take the evidence.

(b) The Letter of Request shall 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 Diplomatic or Consular Officer acting for the country of origin. The Letter of Request shall state the nature of the proceedings for which the evidence is required, giving all necessary information in regard thereto, the full names and descriptions of the parties thereto, and the full names, descriptions and addresses of the witnesses. It shall also either (1) be accompanied by a list of interrogatories to be put to the witness or witnesses, or, as the case may be, by a description of the documents, samples or other objects to be produced, identified or examined, and a translation thereof, certified as correct in the manner heretofore provided; or (2) shall contain instructions or information as to the matters in relation to which evidence is required; or (3) shall request the competent authority to allow such questions to be asked *viva voce* as the parties or their representatives shall desire to ask.

(c) Letters of Request shall be transmitted:

In Finland by a British Consular Officer to the Tribunal of First Instance in the jurisdiction of which the witnesses to be examined are resident;

In England by a Finnish Diplomatic or Consular Officer to the Senior Master of the Supreme Court of Judicature.

In case the authority to whom any Letter of Request is transmitted 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 Letter of Request to the competent authority of the country of execution.

(d) The competent authority of the country of execution shall give effect to the Letter of Request and obtain the evidence required by the use of the same compulsory measures and the same procedure as are employed in the execution of a commission or order emanating from the authorities of his own country, except that if a wish that some special procedure should be followed is expressed in the Letter of Request, such special procedure shall be followed in so far as it is not incompatible with the law of the country of execution.

(e) The Diplomatic or Consular Officer, by whom the Letter of Request is transmitted, shall, if he so desires, be informed of the date when and the place where the proceedings will take place, in order that he may inform the

interested party or parties, who shall be permitted to be present in person or to be represented, if they so desire, by barristers or solicitors or by any representatives who are competent to appear before the courts either of the country of origin or of the country of execution.

(f) The execution of a Letter of Request which complies with the preceding provisions of this Article can only be refused:

(1) If the authenticity of the Letter of Request is not established;

(2) If, in the country of execution, the execution of the Letter of Request in question does not fall within the functions of the judiciary;

(3) If 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 Letter of Request is not executed by the authority to whom it is addressed, the latter will at once inform the Diplomatic or Consular Officer by whom it was transmitted stating the grounds on which the execution of the Letter of Request has been refused, or the competent authority to whom it has been forwarded.

(h) When a Letter of Request has been executed the competent authority to whom it was transmitted or forwarded shall send to the Diplomatic or Consular Officer by whom it was transmitted the necessary documents establishing its execution.

ARTICLE 8

(a) The provisions of Articles 6 and 7 in no way prejudice the right of taking evidence required by a judicial authority in the territory of one High Contracting Party in the territory of the other, without any request to or the intervention of the authorities of the country of execution by a person qualified to do so according to the law of the country of origin. Such person may be a Diplomatic or Consular Officer acting for the country of origin or any other suitable individual directly appointed for the purpose.

(b) It is understood that, where the method of taking evidence referred to in the preceding paragraph is employed, the procedure must be entirely voluntary and no measures of compulsion can be employed, and the admissibility of evidence so taken remains a matter for the determination of the respective courts of the High Contracting Parties in accordance with their law.

ARTICLE 9

The fact that an attempt to take evidence by the method laid down in Article 8 has failed owing to the refusal of any witness to appear or to give evidence does not preclude a request being subsequently made in accordance with Article 7.

ARTICLE 10

(a) Where evidence is taken in the manner provided in Article 7, the High Contracting Party, by whose judicial authority the Letter of Request was addressed, shall repay to the other High Contracting Party any expenses incurred by the competent authority of the latter in the execution of the request in respect of 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 such authority may have deputed to act, in cases where the law of the country of execution permits this to be done, and any charges and expenses incurred by reason of a special procedure being requested and followed. These expenses shall be such as are usually allowed in similar cases in the courts of the country of execution.

(b) The repayment of these expenses shall be claimed by the competent authority by whom the Letter of Request has been executed from the Diplomatic or Consular Officer by whom it was transmitted when sending to him the documents establishing its execution as provided in Article 7 (h).

(c) Except as above provided no fees of any description shall be payable by one High Contracting Party to the other in respect of the taking of evidence.

IV.—Judicial Assistance for Poor Persons, Imprisonment for Debt and Security for Costs

ARTICLE 11

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

V.—General Provisions

ARTICLE 12

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

ARTICLE 13

The present Convention, of which the Finnish* and Swedish* and English texts are equally authentic, shall be subject to ratification. Ratifications shall be exchanged in London. 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. If neither of the High Contracting Parties shall have given notice through the diplomatic channel to the other not less than 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 High Contracting Parties shall have given notice to terminate it.

ARTICLE 14

(a) This Convention shall not apply *ipso facto* to Scotland or Northern Ireland, nor to any of the Colonies or Protectorates of His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, nor to any territories under His suzerainty, nor to any Mandated territories in respect of which the mandate is exercised by His Government in the United Kingdom, but His Majesty may at any time, while this Convention is in force under Article 13, by a notification given through His Minister at Helsingfors, extend the operation of the Convention to any of the above-mentioned territories.

(b) Such notification shall state the authorities in the territory concerned to whom requests for service under Article 3 or Letters of Request under Article 7 are to be transmitted, and the language in which communications and translations are to be made. The date of the coming into force of any such extension shall be one month from the date of such notification.

* Not printed.



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

(d) The termination of the Convention under Article 13 shall, unless otherwise expressly agreed to by both High Contracting Parties, *ipso facto* terminate in respect of any territories to which it has been extended under paragraph (a) of this Article.

ARTICLE 15

(a) The High Contracting Parties agree that His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, may at any time, while the present Convention is in force, either under Article 13 or by virtue of any accession under this Article, by a notification given through the diplomatic channel, accede to the present Convention in respect of any other Member of the British Commonwealth of Nations whose Government may desire that such accession should be effected, provided that no notification of accession may be given at any time when the President of the Republic of Finland has given notice of termination in respect of all the territories of His Majesty to which the Convention applies. The provisions of Article 14 (b) shall be applicable to such notification. Any such accession shall take effect one month after the date of its notification.

(b) After the expiry of three years from the date of the coming into force of any accession under paragraph (a) of this Article, either of the High Contracting Parties may, by giving six months' notice of termination through the diplomatic channel, terminate the application of the Convention to any country in respect of which a notification of accession has been given. The termination of the Convention under Article 13 shall not affect its application to any such country.

(c) Any notification of accession under paragraph (a) of this Article may include any dependency or mandated territory administered by the Government of the country in respect of which such notification of accession is given; and any notice of termination in respect of any such country under paragraph (b) shall apply to any dependency or mandated territory which was included in the notification of accession in respect of that country.

In witness whereof the undersigned have signed the present Convention, in Finnish, Swedish and English texts, and have affixed thereto their seals.

Done in duplicate at London the 11th day of August, 1933.

(L.S.) ROBERT VANSITTART

(L.S.) G. A. GRIPENBERG

