STATUTORY INSTRUMENTS

1976 No. 2144

FUGITIVE CRIMINAL

The United States of America (Extradition) Order 1976

Made - - - -	15*th December* 1976
Laid before Parliament	23*rd December* 1976
Coming into Operation	21*st January* 1977

At the Court at Buckingham Place, the 15th day of December 1976

Present,

The Queen's Most Excellent Majesty in Council

Whereas a Treaty with Protocol of Signature was concluded on 8th June 1972 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America for the reciprocal extradition of offenders, the terms of which are set out in Schedule 1 to this Order:

And whereas the said Treaty and Protocol were ratified on 21st October 1976:

And whereas in accordance with Article II(1)(*a*) of the said Treaty it has been agreed by Notes exchanged on 21st October 1976(**a**) that the Treaty shall apply to those territories for the international relations of which the United Kingdom is responsible and which are specified in Schedule 2 to this Order:

And whereas on the entry into force of the said Treaty the provisions of the earlier Extradition Treaty which was concluded on 22nd December 1931(**b**) shall cease to have effect between the United Kingdom and the United States of America:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by sections 2, 17 and 21 of the Extradition Act, 1870(**c**) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the United States of America (Extradition) Order 1976 and shall come into operation on 21st January 1977.

2. The Interpretation Act 1889(**d**) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

3. The Extradition Acts 1870 to 1935, as amended or extended by any subsequent enactment, shall apply in the case of the United States of America in accordance with the said Treaty of the 8th June 1972.

4. The operation of this Order is limited to the United Kingdom of Great Britain and Northern Ireland, the Channel Islands, the Isle of Man, and the other territories (including their dependencies) specified in Schedule 2 to this Order.

5. The United States of America (Extradition) Order in Council 1935(**e**) is hereby revoked.

N. E. Leigh,
Clerk of the Privy Council.

(a) Cmnd. . (b) Cmnd. 4928. (c) 1870 c. 52. (d) 1889 c. 63.
(e) S.R. & O. 1935/574 (Rev. IX. p. 421: 1935 p. 552).

SCHEDULE 1

EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America ;

Desiring to make provision for the reciprocal extradition of offenders ;

Have agreed as follows:

ARTICLE I

Each Contracting Party undertakes to extradite to the other, in the circumstances and subject to the conditions specified in this Treaty, any person found in its territory who has been accused or convicted of any offence within Article III, committed within the jurisdiction of the other Party.

ARTICLE II

(1) This Treaty shall apply:

(*a*) in relation to the United Kingdom: to Great Britain and Northern Ireland, the Channel Islands, the Isle of Man, and any territory for the international relations of which the United Kingdom is responsible and to which the Treaty shall have been extended by agreement between the Contracting Parties embodied in an Exchange of Notes ; and

(*b*) to the United States of America ;

and references to the territory of a Contracting Party shall be construed accordingly.

(2) The application of this Treaty to any territory in respect of which extension has been made in accordance with paragraph (1) of this Article may be terminated by either Contracting Party giving six months' written notice to the other through the diplomatic channel.

ARTICLE III

(1) Extradition shall be granted for an act or omission the facts of which disclose an offence within any of the descriptions listed in the Schedule annexed to this Treaty, which is an integral part of the Treaty, or any other offence, if:

(*a*) the offence is punishable under the laws of both Parties by imprisonment or other form of detention for more than one year or by the death penalty ;

(*b*) the offence is extraditable under the relevant law, being the law of the United Kingdom or other territory to which this Treaty applies by virtue of sub-paragraph (1) (*a*) of Article II ; and

(*c*) the offence constitutes a felony under the law of the United States of America.

(2) Extradition shall also be granted for any attempt or conspiracy to commit an offence within paragraph (1) of this Article if such attempt or conspiracy is one for which extradition may be granted under the laws of both Parties and is punishable under the laws of both Parties by imprisonment or other form of detention for more than one year or by the death penalty.

(3) Extradition shall also be granted for the offence of impeding the arrest or prosecution of a person who has committed an offence for which extradition may be granted under this Article and which is punishable under the laws of both Parties by imprisonment or other form of detention for a period of five years or more.

(4) A person convicted of and sentenced for an offence shall not be extradited therefor unless he was sentenced to imprisonment or other form of detention for a period of four months or more or, subject to the provisions of Article IV, to the death penalty.

ARTICLE IV

If the offence for which extradition is requested is punishable by death under the relevant law of the requesting Party, but the relevant law of the requested Party does not provide for the death penalty in a similar case, extradition may be refused unless the requesting Party gives assurances satisfactory to the requested Party that the death penalty will not be carried out.

ARTICLE V

(1) Extradition shall not be granted if:

(*a*) the person sought would, if proceeded against in the territory of the requested Party for the offence for which his extradition is requested, be entitled to be discharged on the grounds of a previous acquittal or conviction in the territory of the requesting or requested Party or of a third State ; or

(*b*) the prosecution for the offence for which extradition is requested has become barred by lapse of time according to the law of the requesting or requested Party ; or

(*c*) (i) the offence for which extradition is requested is regarded by the requested Party as one of a political character ; or

(ii) the person sought proves that the request for his extradition has in fact been made with a view to try or punish him for an offence of a political character.

(2) Extradition may be refused on any other ground which is specified by the law of the requested Party.

ARTICLE VI

If the person sought should be under examination or under punishment in the territory of the requested Party for any other offence, his extradition shall be deferred until the conclusion of the trial and the full execution of any punishment awarded to him.

ARTICLE VII

(1) The request for extradition shall be made through the diplomatic channel, except as otherwise provided in Article XV.

(2) The request shall be accompanied by:

(*a*) a description of the person sought, his nationality, if known, and any other information which would help to establish his identity ;

(*b*) a statement of the facts of the offence for which extradition is requested ;

(*c*) the text, if any, of the law

(i) defining that offence ;

(ii) prescribing the maximum punishment for that offence ; and

(iii) imposing any time limit on the institution of proceedings for that offence ;

and

(*d*) (i) where the requesting Party is the United Kingdom, a statement of the legal provisions which establish the extraditable character of the offence for which extradition is requested under the relevant law, being the law of the United Kingdom or other territory to which this Treaty applies by virtue of sub-paragraph (1) (*a*) of Article II ;

(ii) where the requesting Party is the United States of America, a statement that the offence for which extradition is requested, constitutes a felony under the law of the United States of America.

(3) If the request relates to an accused person, it must also be accompanied by a warrant of arrest issued by a judge, magistrate or other competent authority in the territory of the requesting Party and by such evidence as, according to the law of the requested Party, would justify his committal for trial if the offence had been committed in the territory of the requested Party, including evidence that the person requested is the person to whom the warrant of arrest refers.

(4) If the request relates to a convicted person, it must be accompanied by a certificate or the judgment of conviction imposed in the territory of the requesting Party, and by evidence that the person requested is the person to whom the conviction refers and, if the person was sentenced, by evidence of the sentence imposed and a statement showing to what extent the sentence has not been carried out.

(5) The warrant of arrest, or the judicial document establishing the existence of the conviction, and any deposition or statement or other evidence given on oath or affirmed, or any certified copy thereof shall be received in evidence in any proceedings for extradition:

(*a*) if it is authenticated in the case of a warrant by being signed, or in the case of any other original document by being certified, by a judge, magistrate or other competent authority of the requesting Party, or in the case of a copy by being so certified to be a true copy of the original; and

(*b*) where the requesting Party is the United Kingdom, by being sealed with the official seal of the appropriate Minister and certified by the principal diplomatic or consular officer of the United States of America in the United Kingdom; and where the requesting Party is the United States of America, by being sealed with the official seal of the Department of State for the Secretary of State; or

(*c*) if it is authenticated in such other manner as may be permitted by the law of the requested Party.

ARTICLE VIII

(1) In urgent cases the person sought may, in accordance with the law of the requested Party, be provisionally arrested on application through the diplomatic channel by the competent authorities of the requesting Party. The application shall contain an indication of intention to request the extradition of the person sought and a statement of the existence of a warrant of arrest or a conviction against that person, and, if available, a description of the person sought, and such further information, if any, as would be necessary to justify the issue of a warrant of arrest had the offence been committed, or the person sought been convicted, in the territory of the requested Party.

(2) A person arrested upon such an application shall be set at liberty upon the expiration of forty-five days from the date of his arrest if a request for his extradition shall not have been received. This provision shall not prevent the institution of further proceedings for the extradition of the person sought if a request is subsequently received.

ARTICLE IX

(1) Extradition shall be granted only if the evidence be found sufficient according to the law of the requested Party either to justify the committal for trial of the person sought if the offence of which he is accused had been committed in the territory of the requested Party or to prove that he is the identical person convicted by the courts of the requesting Party.

(2) If the requested Party requires additional evidence or information to enable a decision to be taken on the request for extradition, such evidence or information shall be submitted within such time as that Party shall require.

ARTICLE X

If the extradition of a person is requested concurrently by one of the Contracting Parties and by another State or States, either for the same offence or for different offences, the requested Party shall make its decision, in so far as its law allows, having regard to all the circumstances, including the provisions in this regard in any Agreements in force between the requested Party and the requesting States, the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality of the person sought and the possibility of subsequent extradition to another State.

ARTICLE XI

(1) The requested Party shall promptly communicate to the requesting Party through the diplomatic channel the decision on the request for extradition.

(2) If a warrant or order for the extradition of a person sought has been issued by the competent authority and he is not removed from the territory of the requested Party within such time as may be required under the law of that Party, he may be set at liberty and the requested Party may subsequently refuse to extradite him for the same offence.

ARTICLE XII

(1) A person extradited shall not be detained or proceeded against in the territory of the requesting Party for any offence other than an extraditable offence established by the facts in respect of which his extradition has been granted, or on account of any other matters, nor be extradited by that Party to a third State—

(*a*) until after he has returned to the territory of the requested Party ; or

(*b*) until the expiration of thirty days after he has been free to return to the territory of the requested Party.

(2) The provisions of paragraph (1) of this Article shall not apply to offences committed, or matters arising, after the extradition.

ARTICLE XIII

When a request for extradition is granted, the requested Party shall, so far as its law allows and subject to such conditions as it may impose having regard to the rights of other claimants, furnish the requesting Party with all sums of money and other articles—

(*a*) which may serve as proof of the offence to which the request relates ; or

(*b*) which may have been acquired by the person sought as a result of the offence and are in his possession.

ARTICLE XIV

(1) The requested Party shall make all necessary arrangements for and meet the cost of the representation of the requesting Party in any proceedings arising out of a request for extradition.

(2) Expenses relating to the transportation of a person sought shall be paid by the requesting Party. No pecuniary claim arising out of the arrest, detention, examination and surrender of a person sought under the provisions of this Treaty shall be made by the requested Party against the requesting Party.

ARTICLE XV

A request on the part of the Government of the United States of America for the extradition of an offender who is found in any of the territories to which this Treaty has been extended in accordance with paragraph (1) of Article II may be made to the Governor or other competent authority of that territory, who may take the decision himself or refer the matter to the Government of the United Kingdom for their decision.

ARTICLE XVI

(1) This Treaty shall be ratified, and the instruments of ratification shall be exchanged at Washington as soon as possible. It shall come into force three months after the date of the exchange of instruments of ratification.

(2) This Treaty shall apply to any offence listed in the annexed Schedule committed before or after this Treaty enters into force, provided that extradition shall not be granted for an offence committed before this Treaty enters into force which was not an offence under the laws of both Contracting Parties at the time of its commission.

(3) On the entry into force of this Treaty the provisions of the Extradition Treaty of December 22, 1931[1] shall cease to have effect as between the United Kingdom and the United States of America.

(4) Either of the Contracting Parties may terminate this Treaty at any time by giving notice to the other through the diplomatic channel. In that event the Treaty shall cease to have effect six months after the receipt of the notice.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Treaty.

Done in duplicate at London in the English language this 8th day of June, 1972.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

ANTHONY KERSHAW

For the Government of the United States of America:

WALTER ANNENBERG

SCHEDULE

List of offences referred to in Article III

1. Murder ; attempt to murder, including assault with intent to murder.
2. Manslaughter.
3. Maliciously wounding or inflicting grievous bodily harm.
4. Unlawful throwing or application of any corrosive or injurious substance upon the person of another.
5. Rape ; unlawful sexual intercourse with a female ; indecent assault.
6. Gross indecency or unlawful sexual acts with a child under the age of fourteen years.
7. Procuring a woman or young person for immoral purposes ; living on the earnings of prostitution.
8. Unlawfully administering drugs or using instruments with intent to procure the miscarriage of a woman.
9. Bigamy.
10. Kidnapping, abduction, false imprisonment.
11. Neglecting, ill-treating, abandoning, exposing or stealing a child.

(1) Treaty Series No. 18 (1935), Cmd. 4928.

12. An offence against the law relating to narcotic drugs, cannabis sativa L, hallucinogenic drugs, cocaine and its derivatives, and other dangerous drugs.
13. Theft ; larcency ; embezzlement.
14. Robbery ; assault with intent to rob.
15. Burglary or housebreaking or shopbreaking.
16. Receiving or otherwise handling any goods, money, valuable securities or other property, knowing the same to have been stolen or unlawfully obtained.
17. Obtaining property, money or valuable securities by false pretences or other form of deception.
18. Blackmail or extortion.
19. False accounting.
20. Fraud or false statements by company directors and other officers.
21. An offence against the bankruptcy laws.
22. An offence relating to counterfeiting or forgery.
23. Bribery, including soliciting, offering or accepting bribes.
24. Perjury ; subornation of perjury.
25. Arson.
26. Malicious damage to property.
27. Any malicious act done with intent to endanger the safety of persons travelling or being upon a railway.
28. Piracy, involving ships or aircraft, according to international law.
29. Unlawful seizure of an aircraft.

PROTOCOL OF SIGNATURE

At the time of signing this day the Extradition Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America (hereinafter referred to as " the Treaty "), the undersigned have agreed as follows:

(1) Article III of the Treaty shall permit the Government of the United States of America to obtain the extradition of a person for an offence to which the Treaty relates when United States Federal jurisdiction is based upon interstate transport or transportation or the use of the mails or of interstate facilities, these aspects being jurisdictional only.

(2) This Protocol of Signature shall form an integral part of the Treaty.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol.

Done in duplicate at London in the English language this 8th day of June, 1972.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

ANTHONY KERSHAW

For the Government of the United States of America:

WALTER ANNENBERG

SCHEDULE 2

Antigua
Belize
Bermuda
British Indian Ocean Territory
British Virgin Islands
Cayman Islands
Dominica
Falkland Islands and Dependencies
Gibraltar
Gilbert Islands
Hong Kong
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St. Christopher, Nevis and Anguilla
St. Helena and Dependencies
St. Lucia
St. Vincent
Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus
Turks and Caicos Islands
Tuvalu

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order applies the Extradition Acts 1870 to 1935, as amended, in the case of the United States of America in accordance with the Treaty and Protocol between Her Majesty's Government and the Government of the United States of America which was concluded on 8th June 1972 (Cmnd. 5040) and extended by Notes exchanged on 21st October 1976 to the Overseas territories listed. This Treaty replaces an earlier Treaty which was concluded on 22nd December 1931.

SI 1976/2144
ISBN 0-11-062144-1

