tual Ins. Co., 61 N.Y. 160 (1874); *Pendergast v. Globe and Rutgers Ins. Co.*, 246 N.Y. 396, 159 N.E. 183 (1927). Reasonable effort in due time suffices in life insurance, *Stipcich v. Metropolitan Life Ins. Co.*, 277 U.S. 311, 72 L. Ed. 895 (1927), and it has been indicated that if there is an absolute duty in fire insurance that duty is satisfied by the insured using reasonable means to transmit the information in due time, *Springfield Fire and Marine Ins. Co. v. National Fire Ins. Co.*, 51 F. (2d) 714 (C.C.A. 8th 1931). Whether a reasonable effort has been made is at law a question of fact for the jury, *M'Lanahan v. Universal Insurance Co.*, 1 Pet. (U.S.) 170, 7 L. Ed. 98 (1828); *Green v. Merchants' Insurance Co.*, 10 Pick. 402 (Mass. 1830), but it is said that the use of means ordinarily employed is required, *Proudfoot v. Montefiore*, L.R. 2 Q.B. 511 (1867), but suffices when used, *Snow v. Mercantile Mutual Insurance Co.*, 61 N.Y. 160 (1874). It is not clear whether the court in the present case meant to require more than a reasonable effort to get the information to the insurer in due time, or adhered to that rule and found the defendant's conduct unreasonable in that he sent the information to his broker and not to the insurer, or limited the rule to apply only when the information is sent directly to the insurer or his agent. It would seem, however, that the effort of the broker to transmit the information to the plaintiff through the Netherlands company should have been considered.

SAMUEL EISENBERG

International Law—Extradition—Necessity of Criminality in the Asylum State—[Federal].—The petitioner was held for extradition from Illinois to England upon a charge of having received money knowing it to have been fraudulently obtained. The act alleged was not a crime in Illinois. The article of the extradition treaty (Webster-Ashburton Treaty of 1842, 8 Stat. 572, supplemented by the Blaine-Pauncefote Convention of 1889, 26 Stat. 1508) covering this offense did not specifically require that it be criminal in both states, although such was the requirement in articles covering other crimes. *Held*, that the writ of habeas corpus be denied, the treaty not requiring that the offense be a crime in both states. *Factor v. Laubenheimer*, 54 Sup. Ct. 191, 78 L. Ed. 151 (1933). Butler, Brandeis, and Roberts JJ. dissenting.

The right to demand extradition and the duty to surrender depend on treaty rather than international law. *United States v. Rauscher*, 119 U.S. 407, 7 Sup. Ct. 234, 30 L. Ed. 425 (1886); 1 Phillimore, International Law (3d ed. 1879), 517; Pomeroy, International Law (Woolsey's ed. 1886), 236. But the principles of international law often throw light upon the intent of the treaty framers and determine to a great extent the construction to be given the extradition treaty. Thus it was held in *United States v. Rauscher*, 119 U.S. 407, 7 Sup. Ct. 234, 30 L. Ed. 425 (1886), though there was no relevant provision in the pertinent treaty, that a person could not be tried for an offense other than the one for which he was extradited, in accordance with the principle of international law to that effect. 1 Moore, Extradition (1891) 218; Lawrence, The Extradition Treaty, 14 Alb. L. Jour. 85 (1876). It is a principle of international law that there will be no extradition for political offenses. 1 Phillimore, International Law (3d ed. 1879), 521; 1 Moore, Extradition (1891), 303. Hence it has been held that though the applicable treaty does not prohibit such extradition, it will nevertheless be denied. *In re Ezeta*, 62 Fed. 972 (D.C.N.D. Cal. 1894).

Of particular significance in the present case is the "accepted principle that the acts for which extradition is demanded must constitute an offense according to the laws of both countries." 1 Moore, International Law (1891), 112–113; Byron and Chalmers,

Extradition (1903), 11. It has been enunciated in extradition cases under the treaty applicable to the present case. *Wright v. Henkel*, 190 U.S. 40, 23 Sup. Ct. 781, 47 L. Ed. 948 (1902); *Collins v. Loisel*, 259 U.S. 309, 42 Sup. Ct. 469, 66 L. Ed. 965 (1921); *Greene v. United States*, 154 Fed. 401 (C.C.A. 5th 1907); *Collier v. Vaccaro*, 51 F. (2d) 17 (C.C.A. 4th 1931). It has been repeated in cases involving the same offence as that charged in the principal case. *Kelley v. Griffin*, 241 U.S. 6, 36 Sup. Ct. 487, 60 L. Ed. 861 (1915); *Bingham v. Bradley*, 241 U.S. 511, 36 Sup. Ct. 634, 60 L. Ed. 1136 (1915). The court here, advancing beyond previous decisions, refused to apply the above principle on the ground that the treaty did not specifically require criminality in both countries for the acts here alleged while it did require criminality in both countries for other offenses. See *Ford v. United States*, 273 U.S. 593, 47 Sup. Ct. 531, 71 L. Ed. 793 (1926); *Springer v. Philippine Islands*, 277 U.S. 189, 48 Sup. Ct. 480, 72 L. Ed. 845 (1927).

The treaty states that certain persons shall "be reciprocally delivered up." Great Britain will not extradite unless the offense is a crime in Great Britain. Extradition Act of 1870, 33 & 34 Vict. C. 52, § 26, schedule 1; *Ex parte Piot*, 15 Cox C.C. 208 (1883); *Re Bellencoutre*, 17 Cox C.C. 253 (1891). The present holding seemingly deprives the treaty of its reciprocity, but this should not be a fatal objection to the court's liberal construction. But see 32 Mich, L. Rev. 417 (1924), where the present decision was interpreted to mean that since the offense was a crime in "most states" the requirement of criminality in both countries was satisfied.

JOSEPH TOBE ZOLINE

Taxation—Status of Government Lessees under "Instrumentality" Doctrine—[Federal].—Defendant, lessee of oil and gas rights on municipal land used for water supply and other civic purposes, sought exemption as a state instrumentality from a federal tax on its share of the net income derived from the lease. The city received a percentage of the proceeds from the sale of oil and gas removed, and defendant agreed to pay for all development. The lower court allowed the exemption. On appeal, *held*, the lessee's net income was taxable; it was remote from governmental function, and the effect on the state's activities was inconsiderable. *Burnet v. Jergins Trust*, 288 U.S. 508, 53 Sup. Ct. 439, 77 L. Ed. 925 (1933).

The broad principle that an "instrumentality" of the government cannot be taxed has been used to hold lessees of government property immune from taxation on the income from the lease. The doctrine as thus applied is exemplified in the *Gillespie* case where a state tax on the net income derived from a lease of restricted Indian land was held invalid. *Gillespie v. Oklahoma*, 257 U.S. 501, 42 Sup. Ct. 171, 66 L. Ed. 338 (1922). The court reasoned that a lease of land dedicated to the support of a governmental agency is an "instrumentality" of the government, that a tax on the lease is invalid since it "is a tax upon the power to [lease] and could be used to destroy [that] power," and that therefore a tax on the income from the lease is likewise invalid. This doctrine had been previously enunciated in *Choctaw, Oklahoma & Gulf R.R. v. Harrison*, 235 U.S. 292, 35 Sup. Ct. 27, 59 L. Ed. 234 (1914), where the gross income derived from coal mining under a lease of restricted Indian lands was held exempt from taxation on the theory that the lessee was an agency succeeding to the duties of the government, notwithstanding the state's contention that it taxed only the coal at the pit's mouth as personal property of the lessee. Cf. *Indian Oil Co. v. Oklahoma*, 240 U.S. 522, 36