

abroad is possible provided the law of the place where the service is to be effected is followed.

From past experience, the Department of External Affairs has found that it is more satisfactory for the Canadian law firm requiring service of documents to contact a lawyer in the locality of the required service who will advise on procedure and, if necessary, assume the responsibility of carrying out such service.

Service by a Canadian diplomatic or consular officer is effected without any request to or intervention by the local authorities. While a local bailiff can employ measures of compulsion if needed, neither the diplomatic or consular officer nor the local legal agent has this authority. Moreover, some states restrict the activities of diplomatic or consular officers in this field to serving their own nationals, or nationals of a third state. If service by a Canadian officer is possible, this method is easier and quicker, as translations of the documents are not required. Furthermore, as these officers are *ex-officio* Commissioners for Oaths under provincial and federal evidence statutes, they can complete the necessary Affidavit of Service. However, as noted previously, Departmental policy provides that Canadian diplomatic or consular officers may serve legal documents only on the premises of the Canadian mission. Thus, the persons to be served *must* be willing to attend at the Canadian mission to accept service, or this method cannot be used.

In the United States, the United Kingdom and other common law countries, there are usually no prohibitive rules in force, and, as in Canada, the local law permits the service of legal documents to the fullest extent without any intervention by the competent authorities. Canadian lawyers can simply contact the sheriff or a local lawyer practising in the jurisdiction for assistance. Translations are not normally required and proof of Affidavit of Service is the usual practice. Names and addresses of local sheriffs and law firms can be found in *Martindale & Hubbell* or any other international legal directory.

2. Criminal Matters

Foreign jurisdictions often do not extend assistance for service of certain kinds of legal documents in criminal matters. States which refuse to serve criminal judgments regard them as part of penal execution for which no judicial assistance is rendered except by Agreement. Excluded from service are, as a rule, orders to a convicted person to serve his sentence, or to pay fines or costs of proceedings.