

understanding by Canada that the agreement would provide the exclusive means whereby Canada and her constituent provinces, and the United States and its constituent states would seek to obtain custody of fugitives from each other.

Because this case affects the construction of all of petitioner's extradition treaties it raises doubt concerning the correctness of Canada's perception of the mutually agreed upon manifest scope and purpose of the Treaty. Moreover, in this case, the United States seeks the imprimatur of the Court to abrogate if necessary, the right of Canadian citizens and others to access Canadian courts, contrary to its solemn undertaking in the Treaty to respect that right.

Canada and the United States enjoy an undefended border more than 3000 miles in length. The ease with which this border may be crossed accounts for the fact that approximately 50% of all American requests for extradition are made to Canada. In 1991, the United States made 74 requests for extradition to Canada and Canada made 47 requests to the United States. Many of these requests emanate from state and local authorities. Transborder incidents, involving bounty hunters, resulted in an exchange of notes in 1988 between Secretary of State George P. Shultz and Secretary of State for External Affairs Joe Clark in an attempt to partially resolve the problem. The position adopted by the petitioner in this case, however, raises a potentially far more serious problem; the spectre not only of federal, but more likely of official state and local incursions to abduct fugitives, where extradition is seen as too costly, too slow or unavailable, in violation of Canada's territorial integrity. This unlawful conduct would in effect be sanctioned in United States law by a decision favouring petitioner.

Canada has an interest in ensuring that its treaties are given that construction and application which their express terms, nature, scope and purpose require. Moreover, Canada has an interest, indeed an obligation to its citizens, in taking all steps necessary to protect the rights of its inhabitants and its sovereign interest in its territorial integrity, guaranteed by the Treaty and international law.

#### SUMMARY OF ARGUMENT

Canada submits that the current position of the United States departs from established practice in the relations between the United States and Canada, and among other nations, on which many extradition treaties have been built. Ultimately it departs as well from common sense underpinnings of all such treaties, which is to substitute the rule of law for force in such matters as national sovereignty, the right to give asylum, and the orderly cooperation in the enforcement of criminal laws.

Canada views transborder abductions from Canada to the United States as breaches of the Canada-United States Extradition Treaty and breaches of Canada's sovereignty. Other civilized nations, as well, would not agree with the position of petitioner in this case; they would insist that unless a nation otherwise consents to a removal of a