

From time to time during the past few months there have been expressions of public interest and concern regarding the nature and degree of assistance provided to Canadian citizens who find themselves in difficulties with the laws and regulations of the countries they are visiting or in which they are temporarily resident. I should like, therefore, to explain the limitations on what the Government of Canada, through its representatives abroad, can do on behalf of Canadian citizens who find themselves in such difficulties.

Assistance by foreign consular or diplomatic representatives in another country to their nationals in general is based on longstanding international custom and, more particularly, on the Vienna Conventions on Diplomatic and Consular Relations of 1961 and 1963, and on any such special bilateral agreements as may exist between the particular governments concerned. (Because the Vienna Convention on Consular Relations contains certain provisions which involve the jurisdiction of provincial governments, the Government of Canada has not yet considered itself to be in a position to become a party to that Agreement. However, it is essentially declaratory of general and longstanding international law concepts and Canadian consular practice is generally in conformity with it.) Article 5 of the Vienna Convention on Consular Relations specifies the various internationally accepted consular functions, including: "protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits prescribed by international law". The limits prescribed by international law refer, of course, to the principle that states are sovereign entities and that the laws, customs and regulations of a particular country have no external status or authority, and thus do not apply inside foreign states. It is a long established principle of international law and custom that under ordinary conditions a citizen of one state coming within the jurisdiction of another state may make no claim to favoured status. His basic rights are the same as those of a citizen of that country. At one time in the 19th and the early 20th centuries certain states had imposed on them by the then imperial and colonial powers the acceptance of special consular courts to deal with foreign nationals but these arrangements, aptly called "capitulations", were ultimately recognized as being repugnant to national sovereignty and independence and were abolished half a century ago.

It follows, therefore, that Canadian citizens residing or travelling in other countries are subject to the laws and regulations of those countries, just as foreign citizens residing or travelling in Canada are subject to Canadian laws and regulations. When such persons run afoul of these laws and regulations, they must be expected to be dealt with in accordance with local procedures and practices, just as foreign citizens in violation of laws in Canada must be dealt with in accordance with Canadian laws and regulations. Unfortunately, many countries have laws, regulations and legal procedures which could be regarded as severe and even harsh by Canadian standards. Some countries, for example, permit almost unlimited detention without charges, pending an investigation of a case; severe punishments are often imposed, particularly for trafficking in or use of narcotics; conditions of detention, while perhaps adequate by local standards, are sometimes far below what we would consider to be even minimum standards in Canada. Legally and officially all that Canadian representatives abroad can do in such circumstances is to ensure that a Canadian citizen is treated no less fairly than other foreign nationals or than the citizens of that country would be treated in similar circumstances, and to ensure that appropriate legal counsel is obtained. Unofficially, Canadian representatives abroad can and do assist by making representations to local