

As an example of the work of the Section an interesting case arose recently when a Canadian born child was taken to Germany by his German citizen mother without the knowledge and/or consent of his Canadian father. Since that time the father has been granted custody of the child by order of the Ontario courts. Because the Order is ineffective in Germany the father was forced to defend a custody action commenced by his wife in that country. The case was complicated by a series of court proceedings through the Amtsgericht and Landgericht in Berlin; first, on the issue of jurisdiction and, secondly, on the substantive issue of custody. On November 9, 1976 the Berlin Supreme Court granted custody of the child to the father and ordered that the child be returned over to him and returned to Canada. In reaching a decision the Berlin court took cognizance of the 1961 Hague Convention concerning the powers of authorities and the law applicable to the protection of infants. The present status of the case is that the mother and child have apparently gone into hiding. On January 14, 1977 an arrest warrant was issued against the wife. The Berlin police have as yet been unable to locate the wife and child. At present the Department is involved in about 20 cases of "child napping".

In the past year, Canada has agreed to treaties on the exchange of prisoners with the United States and with Mexico. The purpose of these treaties is to promote the rehabilitation of offenders by enabling them to serve sentences in their own countries. In each case, the consent of the offender as well as the approval of the authorities of the two governments is required.

The treaties provided for the exchange of prisoners, probationers and parolees under the responsibility of the federal governments. However, provinces and states may participate in the arrangements with the consent of the federal governments.

Upon transfer, the original sentence will carry over to the new confinement preserving deductions for good behaviour, pre-trial confinement, etc. The transferring state retains a power to grant pardon or amnesty. However, with these exceptions, the execution of the sentence is to be carried out according to the rules and practices prevailing in the state to which the offender is transferred. No offender shall be transferred until the time for leave to appeal against conviction or sentence has expired and while proceedings by way of appeal or collateral attack are pending.

The Treaty on the Execution of Penal Sentences between Canada and the United States was signed on March 2, 1977 and the Treaty between Canada and Mexico is expected to be signed in November 1977. Both Treaties are subject to ratification. A Bill to provide for the implementation of such treaties was introduced into the United States Senate and