

of international co-operation as a result of the greater mobility of individuals. As many of these subjects come under provincial jurisdiction, the Department carried on liaison with the provinces to establish and administer the necessary reciprocal arrangements. During 1984, the Department worked on revisions to its manual *International Judicial Co-operation in Civil, Commercial, Administrative and Criminal Matters* to assist Canadian lawyers and law enforcement officials with international legal problems.

Canada has conventions on legal proceedings in civil and commercial matters with 19 countries. These conventions provide for the reciprocal service of legal documents and for the taking of evidence in civil cases either in Canada for use abroad or in a foreign country for use in Canada. The Department has also been successful in serving legal documents abroad to non-convention countries on the basis of reciprocity.

Canada has extradition treaties with some 40 countries, and extradition arrangements with Commonwealth countries pursuant to the British Fugitive Offenders Scheme. New treaties are being negotiated with Belgium, France and the Netherlands but are not yet in force. On February 16, 1985, instruments of ratification were exchanged between Canada and Finland on a new extradition treaty, which came into force as of that date. During 1984-85, Canada requested the extradition of a person from Australia and the extradition was granted by the Australian courts. However, the Attorney General of Australia refused to extradite on the grounds that the extradition would be unjust or oppressive. This was an executive rather than a judicial act, and the Australian government recently introduced a bill which, when enacted, will vest this discretionary power in the Attorney General.

The Department continued to be involved in the international aspects of a number of "childnapping" cases involving disputes between a mother and father over custody of a child. While departmental officials are not able to represent the parent of an abducted child before a foreign court or to provide advice on foreign law, the Department has attempted to obtain reports on the well-being of the children involved and, where possible, has helped arrange for their return to Canada in cases where Canadian courts have already ruled on custody.

Internationally, Canada played an active role in the completion, in 1980, of the Convention on the Civil Aspects of International Child Abduction at the fourteenth session of the Hague Conference on Private International Law. Canada signed the Convention on October 25, 1980, and consulted with provincial authorities prior to ratifying it. The Convention was also ratified by France, Portugal and Switzerland and came into effect on December 1, 1983. Its main purpose is to ensure judicial co-operation in achieving the prompt return of a child wrongfully removed from the custodial parent to the country from which he or she was abducted. In 1984-85, Newfoundland, Quebec and the Yukon Territory joined New Brunswick, Ontario, Manitoba, Nova Scotia and British Columbia in passing the necessary implementing legislation. Other provinces are expected to take similar action.

During 1984-85, the Claims Section of the Legal Bureau continued to negotiate claims settlements with countries where there are still outstanding Canadian claims under

customary international law. Progress was made during the year with the German Democratic Republic. The Claims Section also assisted Canadians, whether private or corporate, who are attempting to uphold their possible rights to claim against foreign governments for the taking of property. Such claims involve countries ranging from the USSR to Iran, the United States to Yugoslavia.

The Bureau also worked closely with the Foreign Claims Commission, which was established under the Inquiries Act and reports directly to the Secretary of State for External Affairs and the Minister of Finance. When an agreement has been concluded with another country for granting compensation to Canadian citizens whose assets have been taken by that country, the individual claims are referred to the Commission for recommendation to the two Ministers as to eligibility and amount of claims. On approval by the Ministers, compensation is paid out of the Foreign Claims Fund into which the monies received from the other country have been deposited.

At the special request of the Secretary of State for External Affairs, the Foreign Claims Commission has been engaged in a preliminary appraisal of claims with respect to the claims arrangements with the German Democratic Republic and Yugoslavia. It has also adjudicated the final claims in the China program.

Unlawful seizure of individuals

In 1981, Sidney Jaffe, a naturalized Canadian citizen, was allegedly abducted outside his Toronto apartment by US bounty hunters and returned to Florida to face charges of illegal land sales practices. The incident highlighted the problem of the kidnapping of individuals in Canada and their forcible return to the United States by persons purporting to act under US federal or state authority. Such activities are not only illegal in Canada but constitute a violation of international law. Although Mr. Jaffe has since returned to Canada, the matter has been left in a state that is unsatisfactory to the Canadian government. Accordingly, Canada maintained the *habeas corpus* petition which it filed in 1983 in the US Federal District Court in Jacksonville for the purpose of putting an end to the jurisdiction of the Florida court that was obtained over Mr. Jaffe as a direct result of his original abduction.

A recent case, however, indicates that the US authorities concerned may be taking notice of Canada's assertion that the abduction of persons from Canada to the United States is both illegal and intolerable. In February 1985, a Canadian citizen was abducted from British Columbia to Seattle, Washington, by bounty hunters. In response to representations by the government of Canada, the US Justice Department stated that it would not proceed with the prosecution, which was made possible by an illegal abduction. In an earlier case, the Governor of the state of Washington had agreed with the Canadian government that persons in Canada charged with an offence in the United States should be returned to the US by way of extradition. As the individual in question was within the state of Washington without benefit of extradition proceedings, charges were dropped temporarily and the Governor allowed his return to Canada.