

*Canada urged
U.S. authorities
to avoid
repetition*

attention of the Canadian Government in 1974. The first involved Chris Ozga, a resident of Spencerville, Ontario, who, while returning from Ogdensburg, New York, on September 16, 1973, was intercepted by a patrol car approximately 100 yards from the end of the International Bridge on the Canadian side of the border, but before he had reached the Canadian border-control point. He was forcibly removed from his vehicle, put into the U.S. police car and returned to Ogdensburg, where he was subsequently released on bail. The Canadian Government considered that the action of the U.S. police officers, if the material facts were as reported, constituted a clear breach of international law and an infringement of Canadian territorial sovereignty. Accordingly, the Canadian Embassy in Washington, on instructions, brought the incident to the attention of the U.S. State Department, with a request that the American authorities take whatever measures were necessary to ensure that similar incidents did not occur in the future. The Canadian authorities have been subsequently informed on a number of occasions by the State Department that the U.S. authorities were looking into the matter, particularly the allegations as to the arrest of Mr. Ozga on the Canadian side of the International Bridge.

Another recent case is that of Ronald James Anderson. On August 24, 1974, Anderson and his wife sought entry to the U.S. by automobile at Bellingham, Washington. U.S. customs officials identified Anderson as a U.S. Army deserter and asked him to come inside for further examination. Anderson immediately left his car and ran back across the border. He was pursued by U.S. officials, apprehended a short distance beyond the border on Canadian territory at Douglas, British Columbia, and forcibly taken back across the border and turned over to the Federal Bureau of Investigation. Following a formal request by the Canadian Government to the U.S. authorities, Anderson was returned to Canadian jurisdiction on August 30. The Canadian authorities maintained that Anderson's apprehension was clearly incompatible with Canadian sovereignty and contrary to international law and practice.

An even more recent case is that of Edward Gross of Glen Bain, Saskatchewan, who landed his aircraft on September 29, 1974, on an airstrip operated by the State of North Dakota near Noonan, N.D., and was fined \$25 by a U.S. border-patrol official for landing at the airport without proper permission. According to

Gross, he had landed on the grass landing strip that ran along both sides of the 49th Parallel. After landing, a U.S. border official "ordered" him to taxi his aircraft over to U.S. territory. Subsequently the Department of External Affairs delivered a note to the U.S. Embassy in Ottawa that requested the U.S. authorities to investigate this matter further. The note stated the view of Canadian authorities that U.S. regulations cannot be applied to a Canadian aircraft piloted by a Canadian and landing in Canadian territory. It also suggested that the U.S. authorities provide redress to Gross for the fine levied, should further investigations confirm that he had, as alleged, landed on Canadian territory.

No hot pursuit

These cases of unlawful seizure of persons on the territory of another state raise some interesting questions of international law. In contrast to the position under the international law of the sea, where the doctrine of "hot pursuit" is well established and is, in fact, embodied in Article 23 of the 1958 Geneva Convention on the High Seas, no similar doctrine has been established in international law with regard to pursuit over land boundaries. As has been explained by D. P. O'Connell, in his work on international law, "where jurisdiction would be properly exercised intraterritorially, it is unreasonable that it should abruptly terminate the moment the line of demarcation between territory and high seas is reached. . . . Where an offender escapes into neighbouring territory the situation is different because to follow him involves an offence to the neighbouring sovereignty".

It is interesting to note that, from time to time, certain states have threatened to resort to what they consider to be a right of "hot pursuit" on land. Prime Minister Vorster of South Africa made a statement to that effect a few years ago with regard to alleged infiltrators or terrorists. However, the legality of any such action could not be upheld. It is clear that only in the case of agreement between the two states concerned giving specific consent to such pursuit of wrongdoers would pursuit be permissible under international law. Thus, a number of treaties between the U.S.A. and Mexico during the latter part of the nineteenth century provided on the basis of reciprocity, for pursuit of bands of marauding Indians across the common border of the two countries. (Negotiations following the Pancho Villa raid in 1916 did not culminate in a treaty.)

It should be noted also that, if a person is wrongfully seized in one country