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INTERNATIONAL LAW

Statement in the Sixth Committee
by Professor Maxwell Cohen, Delegation of Canada,
on October 5, 1959

...I should like this morning ... to deal with four matters, of which have already been touched upon by other speakers. These tions are, firstly, some general problems arising out of the ory and operations of the International Law Commission; secondly, report of the Commission presently before this Committee covering work of its eleventh session; thirdly, the draft resolution pro- by El Salvador on the question of asylum; and fourthly, some ral comments on the work and significance of the Sixth Committee lf.

First, then, a word about the International Law Commission the record of its activities. I think we are all in agreement tha establishment of the Commission by the General Assembly in 1949 happy event. It already has led to a fulfilment of some of the s of the draftsmen of the Charter, namely, that members should together toward programmes of codification and the progressive lopment of international law. If there are any problems with ect to the work of the Commission, they tend to arise out of the ef by some Member States that the speed with which the Commission ble to accomplish its tasks is not as great as it perhaps should nd that its methods of operation might be improved upon. It is difficult to judge by any objective criteria whether the work of Commission has moved less rapidly than could have been expected. s for codification among Member States, or programmes involving atements of the law, have in most cases shown a great resistance peed. And this is only natural. It took the better part of half ntury to develop the first Federal German Civil Code, while so ound a contribution to codification as the Code Napoleon of 1804 only possible because of the readily available materials in the of Domat, Pothier, the Customs of Paris and the demoniac energy Napoleon driving his draftsmen to distraction and immortality. e we should not be too disappointed if the International Law ission is unable to produce at a greater rate than that which we had from it.

I am bound to say, however, that the delays in the case of present study of Consular Intercourse and Immunities, and the ussions we have had on this matter during the past few days, do est that some remedies might be available to increase the rate at h the Commission is able to proceed. It would seem to me that e is nothing in the Commission's Statute to prevent the employmen utside rapporteurs not members of the Commission. Indeed, Part B icles 18 to 23 of the Statute, dealing with codification, make no erence whatever to the appointment of rapporteurs, or limiting r selection to the membership of the Commission itself. While it rue that Article 16, under Part A of the Statute, dealing with gressive development of international law refers, in clause (a), t fact that the Commission shall appoint one of its members to be porteur, even this language -- which does not appear in Part B -- ably would not prevent the Commission from appointing persons to st the rapporteur in his research or to provide interim associate porteurs whenever other duties make it impossible for the particul ission member so appointed to carry on with his assignment.