CANADIAN DELEGATION TO THE UNITED NATIONS GENERAL ASSEMBLY

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Press Office
750 Third Avenue
YUkon 6-5740

STATEMENT BY
MR. G.E. NIXON, M.P.
CANADIAN REPRESENTATIVE
ON THE SIXTH COMMITTEE
OF THE UNITED NATIONS GENERAL ASSEMBLY
OCTOBER 8, 1963.

Mr. Chairman:

It was with great interest that my Delegation listened to the presentation, by the learned President of the International Law Commission, of the Commission's report on the work of its Fifteenth Session. The views which have been voiced and the substantial comments which have been made by many delegations on this report reflect, I think, a wide appreciation of the importance, and complexity, of the various subjects which the Commission currently has under study, and of the efficient manner in which it is discharging its valuable role.

My Delegation, therefore, has been pleased to join in co-sponsoring draft resolution A/C.6/L.529 of October 4 moved by the distinguished representatives of Ceylon and Guatemala on this Committee.

Mr. Chairman, I do not propose at this stage to comment on the substance of the main item, The Draft Law of Treaties, on which work is in progress. As this and the other topics before the Commission come to maturity, the Canadian Government will wish to submit written comments as appropriate and otherwise to actively contribute to their discussion in depth. Indeed, my Delegation hopes that this Committee in due course will devote the fullest discussion to The Draft Law of Treaties as a whole, having regard to its long-range meaning for the maintenance of the rule of law.

In the process of helping to develop and extend the rule of law, there is need for a constant awareness by the international lawyer of the special degree of accuracy expected from him. At the inception of the activities of

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International Law Commission, the Secretary-General of the United Nations submitted the memorandum entitled "Survey of International Law in Relation to the Work of Codification of the International Law Commission" published as Document A/CN.4/1.Rev.1 of February 10, 1949. It cautioned the members of the Commission against, and I quote from pages 62 and 63 of that excellent document, "stating international law at a degree of generality which may conceal continued disagreement. There may be a disadvantage in weakening the authority of customary law, by pronouncements of studied generality, and incompleteness which are of limited usefulness for the settlement of disputes". Unquote.

In our estimation, the International Law Commission has managed throughout these years to avoid such a pitfall while maintaining a high scientific and legal standard.

The role of the International Law Commission in defining and developing customary law was outlined recently by the Chairman of this Delegation, the Secretary of State for External Affairs of Canada, in a talk which he gave to the Montreal Branch of the International Law Association. He likened this process to the work which a good many new Member States of the United Nations are performing in their internal legislation.

Mr. Chairman, in the current programme of work of the International Law Commission, the three topics of Treaties, State Responsibility, Succession of States and Governments, duly occupy a prominent place. I wish to record, in this connection, approval of the decision which has been reached by the Commission to give priority to succession in respect to the Law of Treaties.

Due to a crowded agenda, a problem has arisen in respect to the two further topics of Special Missions and of Relations Between States and Inter-Governmental Organizations. Reference to this problem and to the solution proposed by the Commission is made in paragraphs 71 to 75 of the report concerning its programme of work. In our view, it would seem appropriate for this Committee to take a stand of principle on the question of whether, subject to the availability of funds, the studies being made by the special rapporteurs to whom these topics have been assigned should come up for early consideration

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before the Commission. It seems quite clear that, if this is the desired result, a winter meeting is the only feasible solution.

May I stress in this regard the importance which my Delegation attaches to the study on Relations Between States and Intergovernmental Organizations as concerned with the original legal personality which, through their activities in the field of economic and social co-operation, and in peacemaking, the United Nations and its agencies have acquired.

This Committee will no doubt wish to take note of the satisfaction expressed by the Commission, at the very considerable improvement of the facilities put at its disposal for the production of documents, summary records and translations, and to endorse its hope that further improvements in the translation of documents into Spanish will be effected. Paragraph 70 of the report touches upon a further question which has arisen concerning the circulation of documents between the Commission and the bodies with which it co-operates. It is the underatanding of my Delegation that further study is to be given to this question in the light of its financial and other implications.

Mr. Chairman, important tasks await this Committee at this Session. The Prime Minister of Canada, in addressing the General Assembly of the United Nations on September 19 last, stressed the favourable atmosphere in which this Session of the General Assembly is taking place. "There seems now", he said, "to be more of a desire to seek peaceful settlements to stubborn problems. This improvement may soon fade before the test of policy and action. But it exists now, and we should take full advantage of it".

As a fitting expression of the spirit in which my Delegation approaches the important questions on the agenda of this Committee may I, Mr. Chairman, quote the message which the Prime Minister of Canada sent on behalf of the Government of my country, to the delegates to the European Conference on World Peace Through Law, who met in Athens this summer. And I quote:

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"There is a direct relationship between peace and justice; the one cannot survive without the other; the two meet together and combine in the concept of the rule of law amongst nations. This relationship is recognized in Article 1 of the Charter, which proclaims as one of the primary purposes of the U.N. "to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment of international disputes or situations which might lead to a breach of the peace".

"It may be appropriate to recall also, when meeting, as you will be, in one of the birthplaces of democracy, that just as the rule of law within a nation is a safeguard of the personal freedom, fundamental human rights and dignity of the individual, so too, the rule of law internationally is the best guarantee of the sovereign equality of states."

Thank you Mr. Chairman.