SPEECH TO BE DELIVERED BY MR. MARCEL CADIEUX,
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TO THE FEDERAL LAWYERS' CLUB,
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First, let me say how pleased I am to have the opportunity of speaking to the Federal Lawyers' Club tonight. It is always a happy occasion for me to find myself a lawyer among lawyers. It is an even happier event to be able to talk to the members of this Club, which counts among its members many personal friends and some of the very best legal minds in Canada. And to be able to speak on the subject of international law is, for me, also a happy occasion. As you shall see, this is a subject which interests me greatly, and on which I have some definite opinions. I am always anxious to share my views on this subject and so I gratefully - and quickly - accepted Mr. MacLellan's kind invitation to speak tonight.

The first point I wish to make concerns the increasingly significant role being played in our society by international law.

It is becoming even more obvious that the growing interdependence of states, which is the hallmark of the decades since the turn of the century, has cast the role of international law in the spotlight. It is understandable, I think, as nations accelerate their relations with one another and grow more dependant upon one another, thus giving rise to

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increasing friction and disputes, that the rules which govern these inter-relationships and attempt to make the relations smoother should come in for greater scrutiny. It is unfortunate, therefore, that so much misunderstanding should exist on the part of so many people, even legally trained people, on the nature, the sources, and force of international law.

It seems to me that much of this misunderstanding stems from the aura of mystery and complexity that has somehow managed to pervade this field. To those of us whose primary legal training is in domestic legal systems, there is a great tendency to see international law as something quite divorced and alien from what we often imagine as a logical and neat system of domestic law. The civil lawyer in particular tends to shrink from what often must appear to be a chaotic collection of precepts, warnings and unenforceable agreements.

Yet I do not see this great gulf between the two; indeed, the parallels are often amazingly great. What I propose to stress tonight is, first, that the similarities between the domestic and international bodies of law are more numerous than is often suspected. And, secondly, I hope to be able to show that many of the differences that we see in international law are in fact a measure of insurance that nations, which are after all the true subjects of international law, will be able to regulate their affairs more

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effectively than would be the case under a more rigid system. These differences also reflect the basic differences in the nature of the subjects of the two systems. Those who criticize the failures of international law often neglect to take into account the fact that nations do not behave as individuals, and to try to make states conform to patterns of behaviour we impose upon individuals is simply unworkable.

It is commonly objected that to speak of a body of international law is not realistic since there is no legislative body which can create the laws which would constitute it. To this I would answer first that it is precisely this absence of a legislator that enables us to speak of international law. If there were a central power over states, then the rules applied to them would be the internal law of a confederation without room for international law. And, in the second place, the legislature within the state is but one source of domestic law. And, as in the domestic forum the law creating process goes on on many levels, so too in the international sphere law is being continually created on many planes and in a variety of ways.

One of the most common sources of domestic law creation is the conclusion of contracts. Thousands of times each day individuals consent to be bound by rules of conduct which they themselves establish. The same is true of states which contract to behave in a certain manner in international

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conventions and bilateral or multilateral treaties that stipulate general rules for future international conduct or confirm, define or abolish existing customary rules. Surely this is the most common and best known source of international law. I do not wish to stress this analogy with respect to multilateral conventions since they plainly are not the same thing as contracts. They are, in a way, something in the nature of international legislation. They are a hybrid. They must contain a meeting of the wills and bear the consent of all the parties. Yet they bear many of the marks of legislation, in that they embrace the largest part of the world community in their scope, and that the terms in which they are couched is a reflection of the majority will, achieved very often by compromise, debate, and a vote. In the end, of course, it is for each state to arrive independently at the decision as to whether or not it will adhere to the convention. Thus, while not yet legislation, they are nonetheless more than contracts.

To look first at the general multilateral conventions is to look at the rules of conduct that govern the most common areas of intercourse among states. I am thinking for example of the Vienna Convention on Diplomatic Relations. This Convention is, as you know, the result of a Conference held in Vienna in 1961, attended by representatives of most states

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