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GUEST SPEAKER:

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The Law Society of Upper Canada has paid me a very high compliment indeed in inviting me to participate in this Convocation. I very much welcome the opportunity it provides to join in extending my warmest congratulations to all of you who, in being admitted to the Bar today, are making your formal entry into the legal profession. I wish you all well in the future which now awaits you. And, I would like to use this occasion to share with you some personal views about that future, and how international law can help to shape it.

While most of you will be practising your profession at the level of local, provincial and national affairs, I would like to direct your attention to the larger arena of international affairs. Here, a rapid evolution is taking place in the concepts and application of international law. Increasingly today, even the most local of concerns is influenced by the large and complex network of cause and effect relationships which is the hallmark of the technological civilization. This network transcends the boundaries of nation states; it is intrinsically and irrevocably international in its dimensions.

Although I am not a lawyer, much of my life has been concerned with matters closely related to international law. And, during the past five years, I have had the privilege of being directly concerned with some important aspects of international law, particularly those which relate to the environment, to the exploitation of natural resources and to the Law of the Sea.

As you well know, international law, unlike national law is still largely a body of commonly accepted principles which apply to the conduct of nations towards each other. These are expressed in a variety of international agreements, treaties,

conventions and regulations promulgated by international organizations. Very few of them are capable of specific enforcement in the sense that national laws are usually enforced.

One of the cornerstones of international law is the sovereignty of nations. But with the rapid evolution of interdependence, particularly since the end of World War II, nations have recognized to an increasing degree, some limitation on their absolute sovereignty because of our growing interdependence; they have also recognized the existence of certain basic human rights which have universal application beyond the concept of national sovereignty. The United Nations Universal Declaration of Human Rights is perhaps the best example to cite, both because it commands such broad acceptance by nations and because it illustrates the difficulty of translating principle into practice as this acceptance is accompanied by virtually no effective means of enforcement.

But, there is one respect in which nations have sought to accentuate rather than to reduce or limit their sovereignty. That is in relation to their own natural resources. The principle that a nation has absolute sovereignty over its own national resources, their exploitation, development and use has, in recent years, been enshrined as one of the most sacred and inviolable principles of international Law. This has come about primarily because of the fear of many developing nations that resources shortages in the more industrialized countries might lead to attempts to limit their control over their own natural resources. The principle has been elaborated and confirmed in resolution after resolution at the United Nations.

One significant modification of it, --which was only achieved after overcoming the very tough resistance

of countries like Brazil, -- was the Declaration on the Human Environment agreed to at the Stockholm Conference in 1972. While it affirmed the sovereignty of each nation over its own natural resources, this Declaration also recognized the corresponding responsibility to ensure that the development of its resources did not impair the environment of others beyond its own borders.

Thus, there was explicit recognition of the responsibilities which must accompany all rights -- even the rights of sovereign nations --.

The 1973 Arab oil embargo focused on another very important aspect of this question of national rights and responsibilities. There was, as you will recall, serious talk at that time that denial by the Arab oil producing states of oil supplies on which the western nations depended for the healthy functioning of their own economies provided justification to use force to maintain these supplies. In other words, the right of the western nations to supplies of oil that were vital to their own national interest could be seen as transcending the sovereign right of the Arab producers to decide what they wanted to do with their own oil.

Fortunately, the West did not resort to military intervention, but I suspect this was due as much to an evaluation of its possible effectiveness or consequences as to respect for the sovereignty of the producing nations. Nevertheless, whatever the reason, national sovereignty won out and these nations achieved the basic recognition of their right to decide about the disposition of their own resources.

Another very important area in which international law is in the process of being evolved relates to the oceans and, in particular, to the exploitation and development of the seabed.

Some 70% of the surface of the earth is ocean lying beyond the present limits of national jurisdiction. Through the United Nations Conference on the Law of the Sea, the nations of the world have, for the past several years, been engaged in a process of negotiation concerning the future of this vast territory.

This involves such basic issues as who owns it, how will the benefits of developing its resources be shared, how will its environment be protected and what kind of a regime will be established to administer the laws and regulations that must govern its future development, use and care. The importance of the issues that are being decided here goes well beyond the perception of most people and certainly beyond the public attention that has been accorded to them.

Think of it. All man's history to date has been concerned with establishing his sovereignty and the rule of law over barely one-third of the earth's surface -- the land and contiguous waters --. Now, in one generation, we face the task of establishing sovereignty and the rule of law over the other two-thirds.

In light of the importance of the issues involved, it should not be surprising that it has taken several years to negotiate them. Indeed, a good deal of progress has been made when you consider the difficulty of getting some 150 sovereign nations to agree.

It now seems likely that an agreement will be reached on extension of the sovereignty of coastal States to 12 miles from their coasts, together with the establishment of a 200-miles Exclusive Economic Zone over which these coastal States would have effective control of resources exploitation and development, subject to certain internationally agreed rules.

This would represent the largest single extension of national

jurisdiction in history. It would put most of the presently exploitable mineral resources of the seabed under national control while providing for some of the benefits of development to be shared with the world community, especially the developing countries. It would be accompanied by the creation of a seabed regime which would administer the remainder of the ocean floor -- still some two-thirds of the earth's surface -- beyond national jurisdiction. But, still unresolved, are the powers such a regime would have. The larger, more technologically advanced countries want a relatively weak regime with power primarily to allocate the exploration and development rights whereas the developing countries, with limited access to the capacities and technologies required to exploit the seabed, want a stronger international regime with the power to enter into direct development operations on behalf of the world community.

Canada has played a key role in the negotiations to date. And, as the country with the longest coastline in the world, we stand to benefit more than any other by extending our control over the 200 mile Exclusive Economic Zone. In effect, Canadians, who already occupy a disproportionately large share of the earth's land area in relation to our population, will also become the biggest ocean grabbers of all. Clearly, this places a special responsibility on Canadians.

The way in which these issues are resolved will have a crucial, if not decisive effect, on the future direction of the world community. If agreement is not reached, there is a very real risk that governments will find it necessary to take unilateral action --indeed the pressures for such action are already strong in the United States and in Canada too, particularly in respect of fishing rights --.

This could create such a scramble for the oceans that dangerous

divisions and conflicts would escalate to the point where they could pose a real threat to peace and security. Similarly, creation of a weak seabed regime which would put most development of the seabed in the hands of the presently wealthy and powerful nations and multi-national corporations, could effectively deprive the developing nations of their share of the benefits of exploitation.

Of particular concern to me, of course, are the measures to be agreed upon for the protection of the marine environment and the living resources of the sea. At Caracas, I expressed my deep concern with the relatively low priority which this aspect of the issue was receiving at the Law of the Sea Conference. While it is now receiving considerably greater attention, there is still a very real danger that, in the final analysis, environmental considerations may be sacrificed to the mounting pressures for early exploitation of the resources of the sea and the continued competition by nations over ocean fishing. If this happens, it would be a great and, perhaps, irremediable tragedy -- a repetition and compounding of the errors that we now realize we have made in the exploitation of many of our onshore resources.

The oceans play an indispensable role in maintaining the life support systems of the biosphere on which human survival and well-being depend. And their living resources provide one of the principal sources of protein supply required to meet the needs of a rapidly growing world population. It surely would be tragic folly if the preservation and care of the marine environment and the conservation of its living resources should be sold short in the agreements which emerge from the Law of the Sea Conference.

International law is man-made and arises in response to the

values, the drives and the perceived interest of nations and the people who govern them. Thus, international law is a product of international morality.

International morality is an extension of the moral values held by individuals and societies. There surely can be no basis for assuming that nations which act on behalf of people can be exempt from their standards of morality. On the contrary, the behavior of nations has to be seen as a direct reflection of the moral and ethical values of their people. Thus, if you ask me, should nations be honest, should nations be kind, should rich nations feel a moral obligation to share with poor nations, should powerful nations be protectors rather than exploiters of the weak, my own answer must be, clearly, yes.

This brings me to the question of the "New International Economic Order" for which developing countries are now pressing. This too will have far reaching implications for the evolution of international law and the broader distribution of economic and political power amongst nations which is an essential precondition to the establishment of an effectively functioning world system of law and order. The quest for the "New International Economic Order" has just begun and it will be a long and often difficult process. To achieve it will require negotiation of a new set of international arrangements for the production, marketing and pricing of natural resources as well as industrial products and for the transfer of resources between rich and poor nations.

This "New International Economic Order" should, in my view, have as one of its essential tenets, acceptance of the principle that all people should be entitled, as the most

fundamental of human rights, to access to the basic resources and environmental conditions required to sustain their lives on a minimum level compatible with human dignity and well-being. The acceptance of this right is a basic precondition to the exercise of all other rights. To deny it would be a denial of the moral basis of civilized life on our planet. To achieve it must surely be the first priority for the building of a viable world order.

In realistic terms we are today still far away from the kind of attitudes that would make the achievement of such a new order politically and economically realistic. But we have to believe it is possible to achieve this new order simply because it is absolutely necessary; the alternatives are unthinkable.

For, surely, the environmental crisis, the traumatic disruptions in the world economy, the growing imbalances between rich and poor, all point up the truth that the course on which we are now embarked is simply not sustainable. The changes in which we are now caught up go well beyond the normal evolutionary and cyclical changes we have experienced in the past. They signal nothing less than a fundamental transition in the human experience. We have reached a point where the forces which are shaping our future are largely those which arise from our own activities and are subject to our control. We cannot escape our need to control them.

At the same time our approach to this control must change and, of course, it will change. The question is, will it change by the processes of escalating conflicts, turbulence, breakdown and perhaps the ultimate catastrophe of war, or by an enlightened act of political will in forging a new basis for cooperation amongst nations in securing our common future?

The paradox is that the same potential shortages of key resources, of living space, capital and other resources which create

the need for more cooperation amongst nations also serve to increase the pressures for more competition, more conflict, and more assertion of narrow concepts of national sovereignty and self-interest.

Clearly, the shaping of our future will require a new definition of the rights and responsibilities of nations.

Will the rich reduce their own claims on scarce resources? Will they develop patterns of growth, of consumption and production less demanding of resources and less destructive of the environment? I believe they must.

Should nations with energy surpluses have a responsibility to supply those with energy deficiencies? Surely there must be a higher order of responsibility to supply the nations which require supplies to meet the basic needs of their people than to accommodate those whose deficiencies arise from extravagantly high and wasteful levels of consumption?

Should not the wealthy nations feel a real sense of responsibility to share their wealth with the poor nations? Here again, surely the answer must be yes. But not merely by annual doles of foreign aid. Rather, it must be done by creating an international system of measures which extend into international life the concepts of equity and distributive justice which we have accepted as the basis for relations between rich and poor in our national societies. And if the rationale of this system is based on new concepts of international morality, its functioning will depend on major new advances in international law.

Canada can and should play a leading role in bringing about those changes. We have already taken a lead in such important areas as the Law of the Sea. And, domestically, we are setting

an encouraging example in seeking to change our own approach to law and morality in the context of the Law Reform Commission. As you know, it aims to find ways of enabling our traditional system of jurisprudence to respond more adequately to the needs, attitudes and aspirations of this and future generations. This represents an important opportunity for Canada. The work of the Commission deserves a great deal more public attention and support than it has yet received.

There are often advantages to being a young nation, constantly renewed by the influx of immigration from all parts of the world. One of these is that we are less bound by tradition, by precedent. And, so, my hope would be that, many of the very capable jurists we have in Canada will take a keen interest in the question of new approaches to international law and make possible an even greater Canadian contribution to the intricate process of evolving a new world society.

While I have raised these questions in the context of international morality, it must be equally clear that morality is reinforced by self-interest. The system of values which undergirds our society and provides the ultimate source of its strength and freedom -- such basis values as caring for one another, sharing with our brothers in mutual responsibility and respect for each other -- can no longer be seen as lofty ideals divorced from reality.

Today, the evidence of the physical world and the inescapable facts of interdependence reinforce the insights and values that have come to us from the great religions and philosophies. They tell us that, in an interdependent global society, these values are now essential to our very survival. They are the indispensable basis for the new realities that must govern the relationships amongst nations and people throughout the world.

These values must form the foundation on which the rights and responsibilities of nations will be based; the foundation on which the laws, codes of conduct and institutions required for an effective world community will be shaped.
