

## Foreword

### The Editor

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## FOREWORD

### *The Editor\**

For a good many years now the students of the Faculty of Law of McGill University have felt the need for a legal periodical of their own, edited by students and, largely, contributed to by students. This first number of the McGill Law Journal is the result of much discussion and consultation among students and faculty.

The Journal, its editors hope, will find a place in the lives of both student and advocate. To the latter, it will provide a means of voicing his opinions about the law. To the former, it will be a challenge to integrate himself into the legal process by contributing some original research and, at the same time, an opportunity to develop his legal mind.

There is one specific aspect about McGill's Faculty of Law which is too frequently forgotten: it is the only law school in Canada where the Civil Law is taught in an English-speaking atmosphere. The fact that Quebec stands at the confluence of two great systems of Private Law makes McGill's potential contribution to a better mutual understanding unique. We feel that a great opportunity, in fact a challenge, lies before us. The time has arrived for us to meet this challenge and to this purpose we dedicate our efforts.

The Journal is devoted to discussion of all legal problems, public or private, with emphasis on issues peculiar to the Province of Quebec. For convenience, the contents will be classified under four headings: Articles, International Air Law, Case and Comment, and Book Reviews. A distinctive classification for subjects pertaining to Air Law is recognition of the pioneer work which McGill University is doing in this field.

The first article, *The Twilight of Judicial Control in the Province of Quebec?*, by Mr. Gerald E. LeDain, considers a question which must increasingly trouble the legal profession: the need for an adequate judicial

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\* We reproduced the foreword in the *McGill Law Journal* Volume 1, Number 1, written by "The Editor" to honour our founding editors, one who sadly left us last year.

Nous reproduisons l'avant-propos publié dans le Volume 1, Numéro 1 de la *Revue de Droit de McGill*, rédigé par « Le Rédacteur » pour rendre hommage à nos rédacteurs fondateurs, dont l'un nous a malheureusement quitté l'année dernière.

control of administrative acts. The present system of judicial control is being challenged not only by legislative enactments but by its own defects of uncertainty, complexity, delay and costliness. Mr. LeDain's article considers the problem in the light of recent Quebec legislation and judicial decisions, but the problem of judicial control in the Province of Quebec is to be found in varying degrees throughout the Anglo-American world, for the Quebec principles of public law are derived from the same sources. The solution to the problem in Quebec is to a very large extent however within the competence of the provincial legislature, and as the avowed purposed of Mr. LeDain's article is to stimulate discussion of the question, he has suggested a possible reform of the present system.

Prof. John Cobb Cooper, Director of the Institute of International Air Law, discusses some aspects of an old maxim in his article entitled *Roman Law and the Maxim "Cujus est Solum" in International Air Law*. In his article, the author traces the origin of the rule that sovereign states hold territorial rights in the airspace above their surface territory. The paper presents a critical analysis of the maxim's evolution through mediæval times to the modern law of Continental Europe, Britain, the United States and Canada.

The final article, *Conflicts in the Competence and Jurisdiction of Courts of Different States to Deal with Crimes Committed on Board Aircraft and the Persons Involved Therein*, is an unusual experiment by two other members of the Institute of International Air Law. Mr. John Fenston, a member of the Bars of Saskatchewan and Quebec, and Captain De Saussure, of the Bar of Massachusetts, collaborate in the development of their chosen theme and are in thorough agreement with one another in respect of the fundamental theories underlying the historical and legal background of the subject-matter, but part company when it comes to the conclusion to be drawn therefrom. Mr. Fenston puts forward a solution international in character while Captain De Saussure suggests a solution based on the nationality and territoriality of aircraft.

In this first issue, graduate lawyers predominate the list of contributors. But, in future, the writings of students will fill a more prominent space. To all of them, we recommend the words of a former lord chancellor of England:

"Reading maketh a full man,  
Conference a ready man and  
Writing an exact man."  
(Sir Francis Bacon, Of Studies)

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