

## At the Threshold of a New Millennium: The Institute of Air and Space Law Revisited



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As 1999 fades away, the eve of the Institute's fiftieth anniversary provides us with an opportunity to review the circumstances behind our Institute's birth, and the initiatives, successes, problems, and developments leading to its international reputation.

### **The Institute's Early Years**

**The Institute of Air and Space Law (IASL)** was originally founded in 1951 under McGill University's administration as the **International Institute of Air Law**. Coincidentally, it was also in 1951 that I established a chair of Air Law (that eventually was broadened to become *Droit aérien et spatial*) at the *Université de Montréal*: indeed, it was the first course of this nature given in French in North America.

**John Cobb Cooper**, eminent US jurist and former Legal Adviser at IATA, worked with McGill University to establish the IASL as a unique, *avant-garde*, post-graduate learning institution. He became the Institute's first Director.

In subsequent years, Professor Cooper secured financial support for the Institute from a number of US foundations, particularly in the form of fellowships for students from developing countries. McGill's initial contributions to the Institute consisted mainly of providing premises on its campus, academic and administrative staff and the best choice of postgraduate students.

The directors that succeeded Professor Cooper - whether chosen from among McGill's *Faculty of Law* professors or from outside - must be commended for their hard work in developing and promoting the Institute and its programs:

- **Dr Eugène Pépin** (former Director of the Legal Bureau of ICAO) 1955-1959;
- **Mr Alfred Beatty Rosevear QC** (former General Counsel at Trans Canada Air Lines, predecessor of Air Canada) 1959-1962;
- **Prof Maxwell Cohen OC, QC** (Professor at McGill Faculty of Law) 1962-1965;
- **Sir Francis Vallat QC** (former Legal Advisor in the British Foreign Office) 1965-1966;
- **Prof Edward McWhinney QC** (Professor at McGill Faculty of Law and former Member of Parliament, Canada) 1966-1971;
- **Dr Ivan A. Vlastic** (graduate of the IASL and Professor at McGill Faculty of Law) 1971 - 1975;
- **Prof Dr Nicolas Mateesco Matte OC, QC, FRSC** (former Professor at the Université de Montréal; Visiting Professor and Research Director at the IASL, assisted by **Dr Jean-Louis Magdelénat**) 1975-1989;
- **Dr Michael Milde** (former student and Lecturer at the IASL; former Director of the Legal Bureau of ICAO) 1989-1998; and
- **Dr Armand de Mestral** (Professor at McGill's Faculty of Law) 1998 and Interim Director until 2000.

## **The Institute's Years of Challenges and Achievements**

In 1961, I was invited by both the Dean of the Faculty of Law, **Professor Frank Scott**, and **Professor Maxwell Cohen**, to organize two conferences at the IASL. Following these conferences, Dean Scott asked me to assume the directorship of the Institute. Regrettably, I had to decline this flattering invitation since, at that time, my professional activities were heavily committed to private practice at my legal office, lecturing on air and space law at the *Université de Montréal* and researching to update and publish the second edition of my *Treatise on Air - Aeronautical Law*. However, I accepted Dean's Scott's proposal to be a yearly visiting part-time professor at the IASL - or as Dean Scott put it jokingly, a "permanent" visiting professor.

The IASL's existence was challenged in 1973 when the world oil crisis induced the **Ford Foundation** the Institute's last remaining US donor - to cease its financial contribution. To help assure the Institute's survival, I was appointed part-time Research Director by both **Dr Walter Hitchfeld**, Dean of the Faculty of Graduate Studies and Research, and Professor **John E.C. Brierley**, Dean of the Faculty of Law. In this challenging environment, I put forward suggestions to expand the IASL's program and to solve its financial crisis. Accordingly, my vision was to enhance legal scholarship by creating a *multidisciplinary research centre* covering similar domains of interest - technical, economic, political and ecological. Furthermore, the results of the Centre's research were to be disseminated through biannual international symposia, a yearbook and other publications.

The Institute and I owe much gratitude to Deans Hitchfeld and Brierley. They not only appointed me IASL Director in 1975 but also encouraged me to rationalize my projects. My fourteen years tenure, until 1989, have been referred to by some as the *Golden Age* of the Institute.

Among my most significant achievements were the establishment of the *Centre for Research in Air and Space Law* and the *Annals of Air and Space Law*, in 1976.

The *Centre* sponsored, during my tenure, research valued at over two million dollars, with most of the funding coming from Canadian governmental sources - federal and provincial. Research was largely conducted by meritorious LL.M. and doctoral students, and the best papers were published by the Institute. The research was multi-disciplinary, with special emphasis on producing aerospace law recommendations to monitor the peace among the ideologically divided states during the Cold War. Similarly, the biannual symposia organized by the *Centre* encouraged international scholars from different states and continents to exchange opinions and suggest legal means to bridge political gaps. The proceedings - and opinions exchanged - were published and widely distributed. The relative autonomy and longtime trust conferred to the *Centre* by the McGill administration provided many benefits to the Institute, including not only much needed cash flow but also a stimulating academic and research environment for LL.M. and doctoral students.

During the tenure of **Professor Dr Michael Milde**, the *Annals* have continued to be credited as the best bilingual English/French aerospace law book of reference. This appreciation was confirmed by **Dr Assad Kotaite**, *President of the Council of ICAO* at the 1996 festivities celebrating the *Annals* 20th anniversary. Furthermore, in 1996, the *Annals* - and myself as its founder and Editor-in-chief during its formation years - received recognition through an award from the **International Academy of Astronautics** at a conference held in Beijing.

As Director of the IASL, Professor Dr Michael Milde - a scholar and esteemed speaker restructured the pedagogy and organized a number of very successful conferences and symposia, notably the Institute's 40th and 45th anniversary conferences. During his term, testimony of the IASL's worldwide preeminence in advancing the science of aerospace law has come in both a **50th Anniversary Medal of Honor** (1994) and the **Edward Warner Prize** (1996) awarded by ICAO.

## The Institute's Alumnae and Alumni

The Institute's reputation has been enhanced by the impressive number of graduates (almost one thousand) from over 140 countries. Many now fill high positions in various government services and departments, airlines, international organizations, the judiciary, law firms and universities.

It is worthwhile to review some of the achievements of the Institute graduates.<sup>[1]</sup> One of the first students, **Sheila MacBrayne** (1953), not only created the IASL Association (IASLA) of former Institute students but also promoted and developed this Association over many decades. In 1997, the IASLA was incorporated under Canadian law as a non-profit corporation.<sup>[2]</sup> The Association's mission is to catalyze energies of the alumnae and alumni in the continuity and development of the Institute.

The IASLA is very active on many fronts. It sponsors an annual Christmas Cocktail and Graduation Dinner (in April), encouraging students, faculty and alumnae and alumni to interact. The Association funds the printing and mailing of the Newsletter, which was founded and edited by **Dr John Saba** (on a voluntary basis). The Association is, moreover, investigating various ways of assisting the Institute in its funding challenges and seeking the advice and assistance of its members.

In 1988, **Dr Nikolai Ehlers** founded in Munich a regional branch of the IASLA, the **European IASLA**. This European branch has been very active with biannual workshops presided by **Dr Nikolai Ehlers** (Munich 1988), **Giuseppe Guerreri** (Rome 1990), **Michel Fobe** (Brussels 1992), **Elisabeth Granier Zarrabi** (Cannes 1994), **Dan Gardner** (Glasgow 1996) and **Nandasiri Jasentulyiana** (Vienna 1998). The next workshop is scheduled for Amsterdam this coming year and will be presided by Professor **Peter P. Haanappel**.<sup>[3]</sup>

My hope is that a member of the Institute's growing family will consult the existing public, private or personal archives to write a detailed history of the Institute's glorious past!

## The Institute's Bright Future

Where does the IASL go as it enters a new millennium and approaches the celebration of half a century of sterling scientific and legal achievements? Undoubtedly, the Institute's big leap forward will be encouraged by the new Dean of the Faculty of Law, **Professor Peter Leuprecht**, whose interest and expertise represent invaluable assets in introducing fresh paths to leadership. He will be assisted by the distinguished **Professor Armand de Mestral**, who will act as Interim Director of the Institute until spring 2000.

The destiny of the IASL has been to crystallize its mission in adversity only to better reach new heights of excellence: *per aspera ad astram*.

Many happy returns as our Institute steps into the new millennium!

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[1] Among other alumnae and alumni, the following have participated in the development of the IASL: Ruwantissa I.R. Abeyratne, Donald Bunker, Guido Rinaldi Baccelli, Edmund Faller, Jochen Erler, Dionigi Fiorita, Peter van Fenema, Jean-Marc Fortier, Louis Haeck, Jiefang Huang, Ram Jakhu, Stdpheane Lessard, Rod Margo, Peter Nesgos, George Petsikas, Ghislaine Richard, John Saba, Lucie Stojak, JitenDr Thaker, Ludwig Weber. Last but not least, the devotion and care of the Secretariat during my years at the Institute, will not be forgotten. A special thanks to Josephine Leake, Pauline Normand and Maria d'Amico.

[2] The present Board of Governors consists of George Petsikas (President), Geoff Pratt (Vice-President) and Dr John Saba (Secretary - Treasurer).

[3] As co-founder and Honorary President of the European IASLA, I attended all the workshops and I was impressed by the choice of the subjects, the seriousness and maturity of the debates and the attachment of the participants to their alma mater.