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## Editorial

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## EDITORIAL

### THE JOURNAL'S GUEST EDITOR — THE DIRECTOR OF THE INSTITUTE OF INTERNATIONAL AIR LAW

**I**N 1951 McGill University in Montreal established in its Faculty of Law an Institute of International Air Law. Its purpose is to provide facilities for advanced study and graduate work in international air law and to provide an academic organization of fundamental research. On the basis of his experience and intellect Professor Cooper was the logical man to be the Institute's first Director. Among many other achievements he is a Legal Consultant for the IATA, a member of the Air Law Committee of the International Law Association and of the International Chamber of Commerce. From 1946 to 1951 he was a member of the Institute for Advanced Study at Princeton and from 1934 to 1945 had been Vice-President of Pan-American Airways. He has represented the United States at various international air law conferences and in 1944 served as Chairman of the Drafting Committee of the International Civil Aviation Conference in Chicago.

To understand the concept of the study of international air law at the institute, it would be appropriate to quote from a statement by Professor Cooper himself:

"Aviation is itself in many respects international in character. The airspace knows no physical boundaries. International law should continue to have as its objective the promulgation and acceptance of sound legal rules that will be applicable to every aircraft no matter what may be its nationality or where it may fly. To obtain universality of that character, the interchange of ideas of men and women from far distant parts of the world is necessary. No single theory of law or system of jurisprudence can be accepted as controlling. International air law must eventually become a set of rules that exists irrespective of the background of any particular national system. It is hoped that the future interchange of ideas between men and women admitted to the Institute from many parts of the world will aid in some small degree this necessary objective."

— *Canadian Bar Review*, May 1951

The present course of study at the Institute makes equal use of basic courses and original research. Four basic courses, which are designed to be useful in future professional work are offered and they cover International Transport Law, Public and Private International Air Law, and International Air Regulation. In the study of Transport Law and Public International Air Law particular attention is given to rights of commerce and of transit of one state into or through the territory of another state, the right of each state to control activity within its territory, the development of the law of the relation of the state to its territory and the controversies as to whether the air space is or is not a part of the territory of the subjacent state, and the Paris and Chicago Conventions. Private International Air Law offers an analysis

of the conflicts of law arising in international aviation and the extent to which they have been or can be eliminated by international convention. Various relationships, and liabilities are studied — carrier to passenger and shippers and carrier to third persons on the surface. The course on International Air Regulation is an analysis of the implementation of the Chicago Convention.

The Director supervises the work of members of the Institute on major research projects. It is appropriate to mention that one of the leading articles of this issue is the work of a member of the Institute, Mr. David M. Hughes, a graduate of the University of London. During the past year one project has been a study of the conflicts that exist in the competence and jurisdiction of courts in the case of crimes, or other occurrences on board an aircraft requiring judicial consideration when the flag of the aircraft is not that of the state flown over (for example, the question whether the courts of Canada or of the United States are competent to punish crimes committed on board United States aircraft flying through Canadian airspace). Another project has been a study of the extent of national airspace rights in the polar regions, whether flight over permanently frozen seas has the same legal ramifications as flight over the high seas, and also a study of airspace rights over those territories that are covered by United Nations trusteeships, whether the trustee state can claim, under the UN Charter and the Chicago Convention, individual sovereign control of the airspace over the trusteeship territory or whether it must permit the entry of aircraft of all members of the UN. A further project looks into the future — the study of the extent of sovereignty above and beyond the airspace.

The Institute has also established an Advisory Committee to aid the Director in determining policies on courses of study, research projects and similar matters. The Editor of the JOURNAL has been honored in having been invited to serve on the Committee. The membership of the Board, also includes the following well-known men in the field of international aviation: Mr. John P. Baldwin, Chairman, Air Transport Board of Canada; Major K. M. Beaumont, C.B.E., D.S.O., Member for the United Kingdom, Legal Committee of ICAO; Mr. Andre Garnault, Avocat a la Cour d'Appel, Paris, and Member for France of the Legal Committee of ICAO; Sir William P. Hildred, Director General, IATA; Dr. Luis Machado, Ambassador of Cuba to the United States; Mr. Emory T. Nunneley, Jr., General Counsel, U.S. Civil Aeronautics Board and Member of the Legal Committee of ICAO; Dr. Edward P. Warner, President of the Council of ICAO; Mr. Richard O. Wilberforce, Member for the United Kingdom, Legal Committee of ICAO, and Mr. Arnold W. Knauth, Editor of United States and Canadian Aviation Reports.

The JOURNAL congratulates McGill University and those responsible for the creation of the Institute of International Air Law and welcomes its Director, Professor Cooper, as its Guest Editor for this issue.

EDWARD C. SWEENEY