

VII.

The Social Contributions Of McGill Law



Charles D. Day (second from left), and other members
of the Codification Commission, CA. 1860 (FLA)



John Brierley, Paul Crépeau, and Principal Robert Bell, examining the draft Civil Code, 1977 (MUA)

Nearly one hundred years after its first codification, McGill was again to contribute to the reform of the *Civil Code of Quebec*.

Les contributions à la société de la Faculté de droit de McGill

The mark of a great law school is more than the sum-total of its notable graduates, professors and students. McGill's Faculty of Law has a long and proud tradition of making contributions to the society of which it is a part, on the regional, national and global levels. Few law schools in the world can match McGill's international reach: professors and students hail from numerous countries, and McGill is involved in scores of international legal reform and development projects. Those projects not only provide a nourishing intellectual climate for its students, but also allow McGill to contribute in a very tangible and important way to the advancement of the rule of law around the world.

Alongside its impressive academic achievements, McGill remains firmly committed to advancing social justice. As such, McGill's involvement with legal clinics presents opportunities for educating its students, as well as a means of providing legal access to members of the local community who might otherwise be unable to secure it. The founders of the first legal aid clinic in Quebec, located in Pointe St.-Charles, included two McGill professors. Today, more than sixty law students are placed in legal clinics in the Montreal area annually, including the Pointe St.-Charles clinic, the Native Friendship Centre of Montreal, the Elizabeth Fry Society, the *Chez Doris* Hostel for Women, and *le Comité des personnes atteintes du VIH*. The annual Skit Nite reflects students' commitment to those institutions: each year proceeds from the event are donated to the Old Brewery Mission, *Chez Doris*, and *Dans la rue*, an amount which in 1998 was approximately \$20,000. In addition, dozens of students volunteer with the McGill Legal Information Clinic, a campus-based service that has provided legal information to McGill students and the larger community since 1973. The Clinic receives approximately two thousand calls and visits each year, on such subjects as residential housing, domestic matters and consumer protection. Furthermore, law students advise and represent McGill students involved in university disciplinary and grievance proceedings, and sit on the judicial board of the Students Society of McGill University.

Nowhere is McGill's emphasis on legal reform and scholarship better exemplified than in its century-long commitment to Quebec civil law. From its earliest days, the Faculty of Law has shown a particular interest in and loyalty to the development of the *Civil Code of Quebec*. In 1859 a commission of three jurists was appointed to produce a codification of the civil law, including the Chancellor of McGill, Charles Dewey Day. Despite the enormity of the task, the Commission was able to present its work to the Canadian Parliament in January of 1865. Many other McGill scholars have continued in this tradition of civil law scholarship. Gonzalve Doutre, *B.C.L. '71, D.C.L. '73*, produced a

definitive early history of the Quebec civil law, *Le droit civil canadien*, in 1872. Dean Frederick Parker Walton, LL.D. '15, published the classic *Scope and Interpretation of the Civil Code of Lower Canada* in 1907 and Pierre-Basile Mignault, B.C.L. '78, LL.D. '20, published his highly-influential civil law treatise, *Le droit civil canadien*, between 1895 and 1916—not to mention the contributions of Eugène Lafleur, B.A. '77, B.C.L. '80, D.C.L. '00, LL.D. '21, William de Montmollin Marler, B.A. '68, B.C.L. '72, D.C.L. '97, and Arnold Wainwright, B.A. '99, B.C.L. '02, LL.D. '63, among others.

Nearly one hundred years after its first codification, McGill was again to contribute to the reform of the *Civil Code of Quebec*. In 1965, the Quebec government announced plans to organize a commission to overhaul the *Civil Code*, and the following year Paul Crépeau, Wainwright Professor of Civil Law at McGill, was named President of the Office of Revision of the Civil Code. Professors John W. Durnford, B.A. '49, B.C.L. '52, John E.C. Brierley, B.C.L. '59, and Yves Caron were among those most involved on the revision committee, and thus McGill's contribution was once again indispensable. Given this active participation by McGill in the development and reform of the civil law in Quebec, it is no surprise that on December 10, 1966, the Faculty of Law was able to celebrate "McGill Day in Commemoration of the Centennial of the *Quebec Civil Code*", a widely-attended event whose theme was «*le Code civil et la famille*».

McGill's commitment to the development of Quebec's civil law therefore dates back to the earliest days of codification, but it is very much an on-going commitment. In 1981 Crépeau and Brierley produced an exhaustive legislative history of the *Civil Code*, analyzing its 2,715 articles from 1866 to the time of publication—despite the scope of this project having been, in Crépeau's words, "a mammoth task that only Benedictine monks would be crazy enough to undertake". More recently, for example, fourteen McGill professors collaborated on a ground-breaking work that appeared in 1993: the first comprehensive study of Quebec's *Civil Code* in English, a 786-page work under the joint editorship of Brierley and Roderick A. Macdonald entitled *Quebec Civil Law: An Introduction to Quebec Private Law*. The Quebec Research Centre for Private and Comparative Law continues to conduct research in the civil law tradition, health care, as well as in law and language. Among its many publications are the *Private Law Dictionary and Dictionnaire de droit privé*; the bilingual *Critical Edition-Édition critique* of the *Quebec Civil Code*; and numerous civil law treatises.

While McGill continues to contribute to the reform and study of the civil law, an integral part of Canada's bi-juridical system, it also remains at the forefront of scholarship in Canada in other areas. Established in 1952 and therefore the oldest student-run law review in the country, the *McGill Law Journal* has published compelling scholarship since its first issue. As the *Montreal Star* reported on November 22, 1952:

The powers of Quebec courts have diminished alarmingly while those of provincial administrative bodies have increased proportionately. This is set forth in a leading article by Dr. Gerald E. Le Dain, B.C.L. '49, sessional lecturer in Administrative Law at McGill, in the issue of a 98-page *McGill Law Journal*, which will appear on the campus this week. The article is entitled "The Twillight of Judicial Control in the Province of Quebec"....Dr. Le Dain, who obtained his doctorate at the University of Lyon, France, after undergraduate studies at McGill, claims in his article that a "serious situation is developing in Quebec with respect to the control exercised over administrative bodies by the courts of law. That control, which we have taken for granted as an essential safeguard of legal rights, has, in fact, been far from what it might have been, but it now passes to another stage where it threatens to disappear entirely. Provincial legislative policy, deficiencies in our law of procedure, and the attitude of the courts to both these factors have combined so to restrict the application and scope of judicial control as to make it no longer a general right, but a chance privilege in rare cases."

The journal, published by the McGill Law Undergraduate Society, will go to some 750 graduates of the Faculty, to 200 American law journals and law schools, all Canadian libraries and law schools, all bar associations and law societies in Canada, to 100 European universities and law schools, as well as to the law students themselves. The students regard it as one of the major undertakings on the campus, and the only student-edited law journal in Canada. The next issue is planned for February.

Since that time, the *McGill Law Journal* has grown to be one of the most widely-read and respected law reviews in North America. Not content with publishing first-rate legal scholarship, it has also produced several editions of the *Canadian Guide to Legal Citation*, the authoritative guide to legal citation adopted by most law schools, courts and law journals in Canada.

Internationally, McGill maintains an intimate involvement in legal reform and scholarship the world over. In 1997, for example, Professor Roderick A. Macdonald was appointed President of the Law Commission of Canada. The mandate of this Commission is to address such issues as: access to justice and public legal education; social justice in the federal sphere (such as family law, custody and child support, and personal bankruptcy); aboriginal peoples and their access to legal institutions; and the interaction of law and emerging technologies. A year later, Professor Patrick Glenn became the first Canadian recipient of the Grand Prize of the International Academy of Comparative Law for his work, *The Legal Traditions of the World*.

One of the best known units of the Faculty of Law is the Institute of Air and Space Law, founded in 1951. Its principal objective is to conduct teaching and research on issues related to world-wide aerospace activities. Since 1976, the Centre for Research in Air and Space Law has conducted major research projects for the Canadian government, in fields as diverse as air transport, deregulation, commercialization of space, and the legal implications of space activities. The Institute is responsible for the publication of *The Annals of Air and Space Law*. Both the Centre and the Institute maintain close ties with the International Civil Aviation Organization, the International Air Transport Association, and the Canadian Space Agency, all of which are based in Montreal.

The reach of the Faculty of Law is indeed broad. For example, contemporary issues related to health care are grappled with by the Centre for Medicine, Ethics and Law, an inter-disciplinary centre involving the Faculties of Medicine, Law, Religious Studies and Arts. The Centre is dedicated to transdisciplinary research, teaching and community involvement in health law and bioethics. The Centre for the Study of Regulated Industries continues its participation in cutting-edge issues involving privatization and deregulation in such areas of industry as the transportation, telecommunications and energy sectors.

The Institute of Comparative Law, founded in 1965, is dedicated to the promotion of research in private, commercial, international and public law, specializing in areas such as legal diversity, international business law, and comparative health law; it is also immersed in reform projects throughout the world. For example, during the early years of the reign of Emperor Haile Sellasie, Ethiopia had no formal legal profession of which to speak. In 1966, Ethiopia—a country with a population of twenty million people, roughly similar to that of Canada at the time—had no more than *twenty* university-trained Ethiopian attorneys. It also had a Civil Code of French origin, while the language of university instruction in Addis Ababa was English. McGill, for these reasons and many more, was an ideal spot to educate Ethiopian attorneys. The contributions these McGill graduates made to their country were impressive by any measure. In 1955, six Ethiopian students were among the forty-seven McGill students to pass their first year law examinations. Eleven years later, the list of McGill-trained lawyers filled many of Ethiopia's most important posts: the Attorney-General; Vice-Minister of Justice; Chief Legal Advisor to the Ministry of Foreign Affairs; Vice-Minister of Commerce and Industry; the head of the United Nations Section of the Ministry of Foreign Affairs; and the President of the High Court of Asmara—to name but a few. McGill graduates played a large part, as well, in the formation of the Faculty of Law at the Haile Selassie I University in 1963.

Yves-Marie Morissette (front left), Stephen Toope (front right) and Gary Bell (third from left, back row) with Vietnamese officials visiting McGill, 1994 (FLA)



This devotion to international human rights is one of McGill's greatest offerings to the world community, and the faculty, alumni and students of the Faculty of Law continue to work to improve human rights around the globe.

Today, McGill is still involved in research and legal development projects in Ethiopia, as well as in more than thirty other countries. For example, McGill is a partner in the President's Centre for Private Law in Russia, which is drafting a new Civil Code for the Russian Federation. McGill scholars are providing expertise and training in Code-related reform, with the long-term objective of sustaining successful legislative reforms; indeed, the Faculty is in a unique position to contribute meaningfully to such reforms due to its foundation in both the civil and common law traditions. McGill also continues to offer training to Chinese judges as part of a project sponsored by the Canadian International Development Agency, and in Vietnam it is offering its services to the Ministry of Justice in training judges, lawyers and civil servants in the methodology of comparative law. Through a graduate certificate programme of the Institute of Comparative Law, the Ukraine Legal Training Programme is educating a new generation of law professors as that country makes its transition to a free-market economy. Professor Jane Matthews Glenn has been an integral part of a CIDA-funded project tackling various development issues in the Caribbean. As part of its mandate, that group has been assisting in the formation of graduate programmes in land use in Trinidad, Costa Rica, Mexico, and Haiti.

As part of its commitment to global human rights, McGill offers a number of students the opportunity each year to participate in volunteer human rights internships in developing nations. These internships are run by the Faculty Human Rights Committee, presided over by Professor Irwin Cotler, *B.A. '61, B.C.L. '64*. The student interns aid various non-governmental organizations (NGOs) in the preparation of draft legislation and prepare reports on a variety of human rights issues, and gain invaluable experience through their participation in such projects. Students have interned in Burkina Faso, Guatemala, Bolivia, Pakistan, Columbia, Sri Lanka and the Dominican Republic, and have grappled with pressing social issues including aboriginal rights, domestic violence, female genital mutilation and child labour. Other students receive financial assistance from McGill to organize their own internships and work on worthwhile projects around the world. The organizations with which they have interned include the Caucasian Institute for Peace, Democracy and Development in the former Soviet republic of Georgia; the European Commission Against Racism and Intolerance; and the Palestinian Peace Project. McGill students make valuable contributions to these organizations and the search for solutions due to their trans-systemic legal training, their bilingual (or even multilingual) abilities, and their devotion to social justice.

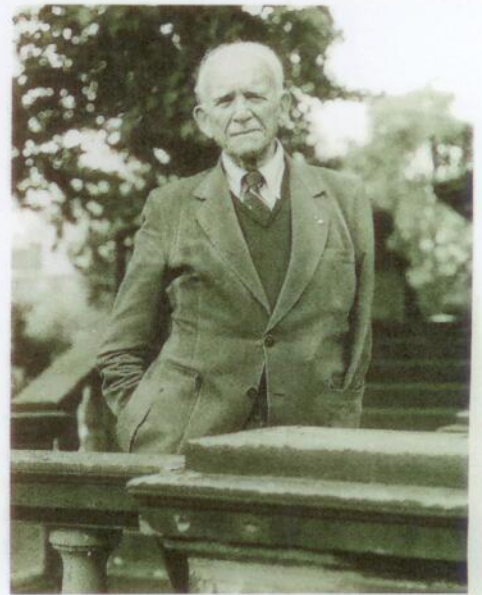
A focus on human rights also necessitates participation in research and advocacy projects. McGill's International Human Rights Law Programme, in conjunction with InterAmicus, a faculty-based advocacy group, provides a focus for human rights research, scholarship and advocacy. Among its many activities, it coordinates the bi-annual Human Rights Lectures named in honour of Natan Sharansky, Raoul Wallenberg, John P. Humphrey and René Cassin. In addition, each year the Faculty of Law holds a conference on contemporary human rights issues; in January 1999 the annual conference focused on genocide. This devotion to international human rights is one of McGill's greatest offerings to the world community, and the faculty, alumni and students of the Faculty of Law continue to work to improve human rights around the globe.



Human rights interns,
1997 (MUA)

"Fighting for the Right"

by Hélène Katz, B.A. '87 (excerpted from *McGill News*, Winter 1998)



John Humphrey, CA. 1994 (FLA)

John Humphrey

It started innocently enough in June [of] 1988 with Associate Law Librarian Louise Robertson, B.A. '69, M.L.S. '71, looking through a library filing cabinet for John Humphrey's notes for a Roman Law course he had taught at McGill some 40 years earlier.

Humphrey, B.Com. '25, B.A. '27, B.C.L. '29, Ph.D. '45, LL.D. '76, thought he had donated the notes to the library, along with documents from his tenure as the first director of the United Nations Division of Human Rights from 1946 to 1966. He had taught at McGill for ten years before taking up the UN post in New York, and returned to the University to resume teaching well into his 80s. Robertson never did find the course notes, but Acting Law Librarian John Hobbins' [B.A. '66, M.L.S. '68] interest was piqued by the Humphrey files. Sifting through them in his office, he found himself looking at the first drafts of the Universal Declaration of Human Rights.

Library staff already knew about the first handwritten draft and the six subsequent typewritten revisions that had notes scrawled in the margins. They had even been placed in acid-free envelopes. But Hobbins was about to find out why this historically important material had received so little attention. While researching an article about how the declaration had changed from its first draft to the final version, he was surprised to learn that French human rights advocate and 1968 Nobel Peace Prize winner René Cassin was credited with writing the first draft of the UN Declaration....Using original UN documents, Hobbins was eventually able to prove that Cassin's revision of the declaration was actually based on Humphrey's draft. "If you went back to the original sources, it was clear," Hobbins says, "but nobody ever bothered. They just assumed it was Cassin's work."

The idea for the Universal Declaration stemmed from Nazi Germany's monstrous abuses and abrogation of human rights during World War II. The task of drafting it was placed in the hands of the newly formed United Nations and Humphrey, director of its first Division of Human Rights. Using existing constitutions and bills of rights from around the globe, he decided which elements needed to be included in a universal version. After a number of revisions, the General Assembly of the United Nations adopted the Universal Declaration on December 10, 1948.

In 1963, long after his role in drafting "the Magna Carta of all mankind," as colleague Eleanor Roosevelt referred to the declaration, Humphrey put forward the idea of having a United Nations High Commissioner for Human Rights, a position finally created in 1993. After returning to teach at McGill in 1966, Humphrey became the first president of the national section of Amnesty International in Canada and was one of the founders of the Canadian Human Rights Foundation. In 1988, the McGill Faculty of Law established the "John Humphrey Lectureship on Human Rights" which Humphrey himself inaugurated, and in the same year he received the United Nations award for Outstanding Achievement in the Field of Human Rights.

Even well into his 80s, Humphrey continued to defend victims of human rights abuses, lobbying the Japanese government on behalf of Korean women who had been used as sex slaves—the so-called military comfort women—by Japanese soldiers during World War II. He died on March 14, 1995, just shy of his 90th birthday.

Humphrey's role in shaping human rights has been commemorated in a number [of] ways, including a Canadian postage stamp, a Heritage Minute television spot and a special exhibit this summer at the National Arts Centre in Ottawa.

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Francis Reginald Scott

Poet, professor, constitutional lawyer and civil libertarian, F.R. Scott, *B.C.L. '27, LL.D. '67*, was a Renaissance man who used his poetry to express outrage at injustice and his courtroom skills to win landmark human rights cases in the Supreme Court of Canada.

Born in Quebec City in 1899, Scott studied at Bishop's College in Lennoxville, and was a Rhodes scholar at Oxford before graduating from McGill's Faculty of Law in 1927. A contemporary of John Humphrey, Scott began teaching at McGill's Faculty of Law in 1928. Four years later, he co-founded the League for Social Reconstruction, a socialist organization whose formation was prompted by the miseries of the Great Depression and closely linked with the Cooperative Commonwealth Federation (CCF), forerunner [of] the NDP. In 1933, Scott helped draft the CCF's "radical" platform that called for a minimum wage, unemployment insurance, workers' compensation and government-run health insurance.

Indeed, Scott's caustic writings against the Canadian establishment and criticism of the practices of corporations led by men who were on the McGill Board of Governors proved to be a source of consternation for the McGill administration. Scott was senior enough to survive a purge in the early 1940s by Chancellor Edward Beatty of radical faculty supporting the CCF, when concern for McGill's reputation as a hotbed of socialism was high and the leftist reputation viewed as a threat to important private donations. When Scott served as the CCF's national chairman from 1942 to 1950, he again won no friends in the McGill administration, who refused to appoint him Dean of Law until 1961, when his CCF activities had pretty much subsided after the Federation had been transformed into the New Democratic Party.

A civil libertarian, Scott used the courts to overturn the "Padlock Act" a law that authoritarian Quebec Premier Maurice Duplessis introduced in 1937, giving police the right to padlock buildings used by suspected communists as meeting places. The 1957 victory marked Scott's first Supreme Court triumph.

Scott's next major battle would again pit him against the autocratic premier. In 1946, Duplessis had ordered that the liquor licence of Montreal restaurateur Frank Roncarelli be revoked. Roncarelli had posted bail for some 300 Jehovah's Witnesses arrested for peddling literature and preaching without a licence and who were accused of sedition. Without the revenue that a liquor licence brought in, Roncarelli—not a Jehovah's Witness himself—had been forced out of business within a year. When the matter came before the Supreme Court in 1959, Scott successfully defended Jehovah's Witnesses' right to religious freedom in Quebec. He argued that Roncarelli had been sentenced to "economic death" for exercising his legal right to post bail—and the Supreme Court agreed, awarding over \$40,000 in damages against Duplessis and handing Scott his most celebrated victory.

The two-time Governor General's Award winner for literature once said, "I saw law, in a sense, as the expression of the feeling and aspirations of a people. It has a kind of creative quality to it. It's the long, written epic poem of the nation"....McGill's F.R. Scott Chair in Public and Constitutional Law was named for the civil libertarian in 1988, three years after his death at age 85.



Francis R. Scott, date unknown (MUA)

"I see law, in a sense, as the expression of the feeling and aspirations of a people. It has a kind of creative quality to it. It's the long, written epic poem of the nation."

"You can't have democracy without human rights," says Warren Allmand, B.C.L. '57, president of the Montreal-based International Centre for Human Rights and Democratic Development. "Some people think that having an election with majority rule is enough, but the other part of it is to respect minority rights and human rights in general."

Allmand was appointed by Prime Minister Chrétien to the Centre in February 1997, after retiring from a 31-year career as a Liberal Member of Parliament for the Montreal riding of Notre-Dame-de-Grâce. He began his political career in 1965 and joined the cabinet of Pierre Trudeau in 1972.

In his successive appointments as Solicitor General, Minister of Indian Affairs and Northern Development and Minister of Consumer and Corporate Affairs, Allmand implemented measures to strengthen gun control, established an ombudsman for the correctional system and brought women into the Royal Canadian Mounted Police. But his proudest moment, he says, was his role in abolishing capital punishment in Canada in 1976. A five-year partial ban that made the death penalty applicable only in cases of police or prison guard murders had been in place for three years. It was the second consecutive five-year ban since 1968.

"I tried to get a total ban in 1973 (when the first partial ban ended), but I couldn't, because it didn't have enough support, even in my own party," he recalls. So a further partial ban was introduced and Allmand found himself going to cabinet for approval to have each death sentence commuted to life in prison. As Solicitor General, he introduced the bill to abolish the death penalty and saw it passed in the House of Commons on July 14, 1976. "Bastille Day," he says, chuckling at the symbolism. "That's when the debate just happened to end." After lobbying efforts among MPs from different parties, church groups, authors (including Pierre Berton and Margaret Atwood) and the public, six MPs helped tip the free vote in favour of abolition.

Allmand says changing political winds spurred him to resign from Parliament in February 1997. "In the years under Trudeau we were building things: medicare, multiculturalism, unemployment insurance," he says. "In recent years, the thrust of government has been to cut things back."

Becoming president of the International Centre for Human Rights and Democratic Development has allowed Allmand to continue his human rights work. The nonprofit, nonpartisan centre was established in 1988 by an Act of Parliament and officially inaugurated in 1990. Allmand directs a staff of 26 in the Centre's daily activities. Principally funded by the federal government, it works with citizens' groups, international organizations and governments in 13 countries to promote and defend human rights and encourages the development of democratic societies. It also gives funding to some groups, such as Pakistan's nongovernmental human rights commission.

Despite problems in Latin America, human rights and democracy are improving there, Allmand observes. "Ten years ago there were more dictatorships than democracies. Now there are more democracies than dictators," he says. Meanwhile, the situation has become grimmer in Asia and Africa, particularly in places where religious fundamentalists are taking over. "One of the earmarks of fundamentalism is its intolerance towards others," he says. Examples Allmand cites are the government of Pakistan's declaration that religious courts will interpret the country's constitution, and the recently imposed ban in Afghanistan on women's right to work and attend school.

Seeing the erosion of human rights that have been fought for and won can be discouraging. But the face of optimism can be seen in a middle-aged Pakistani woman, Shahnaz Bukhari, whose Progressive Womens' Association operates out of her house, educating Muslim women about their rights, sensitizing judges to women's issues and raising money for lawyers to defend women in court. Allmand visited her in August, and the International Centre for Human Rights and Democratic Development is providing her with funding. "She's a very courageous woman, because some of the people in Pakistan think she's interfering with the customs and practices of the country," Allmand says.

"Some people think that having an election with majority rule is enough, but the other part of it is to respect minority rights and human rights in general."

Irwin Cotler

The seeds of McGill professor Irwin Cotler's commitment to human rights were planted at any early age by his father and grew in a family home visited by David Lewis, who later became leader of the NDP, civil libertarian F.R. Scott, and Canadian poet A.M. Klein.

Scott, who taught constitutional law to both Cotler and his father, "symbolized someone who had been in the trenches and was a model of what human rights law is about," Cotler recalls.

Now it is Cotler, B.A. '61, B.C.L. '64, who is a model to others. A law professor at McGill since 1973, he had blazed his own trail as an international human rights lawyer. He has acted as legal counsel to political prisoners like Nelson Mandela, Andrei Sakharov and Natan Sharansky. He has testified as an expert witness on human rights before government committees in Canada, the United States, Russia, Sweden, Norway and Israel, and he is chair of InterAmicus, the McGill-based International Human Rights Advocacy Centre.



Plaque honouring World War I dead from the Faculty of Law, painted by Mrs. Robert Warden Lee, 1919 (FLA)



Plaque honouring World War II dead from the Faculty of Law, 1945 (FLA)

In the 1980s, Cotler was very active in the anti-apartheid movement, rallying international support for the imprisoned Mandela, who was not yet the symbol of apartheid injustice and figure of adulation that he later became (even Amnesty International did not yet recognize him as a political prisoner, claiming he advocated violence). On Cotler's first visit to South Africa in 1981, he gave a talk at the University of Witwaterstand titled "If Sharansky why not Mandela?" in which he called for an international campaign for Mandela's release, and was promptly arrested by South African police for daring to speak of the man who would become an international hero. Cotler was later a key figure in mobilizing universities around the world into divestment campaigns (the "mobilization of shame"), providing support to the anti-apartheid movement within South Africa itself, and developing a new constitution for a post-apartheid society.

Born in 1940, Cotler grew up in the shadow of the Holocaust, which taught him his first human rights lesson. "The Holocaust didn't begin in the gas chamber," he says. "It started with words." Nazism almost succeeded, he says, because of the ideology of hate, the teaching of contempt and the demonizing of the "other." The recent massacres in Bosnia and Rwanda show that it's a lesson that the world is still learning.

Despite the proliferation of international human rights treaties and covenants, the commitment to human rights is ebbing—if not being abandoned completely, Cotler says. Glasnost in Russia brought freedom for hundreds of millions of people, but it also unleashed xenophobia and racism, he points out. Many of the 190 countries that have ratified the International Convention on Children's Rights are themselves violators, as children die of hunger, are injured by war or work in slavery or prostitution. Nevertheless, he cautions against cynicism. "To be cynical is to remain indifferent," he says. "Nazism almost succeeded partly because of indifference, because of a conspiracy of silence."

Cotler's work for human rights is "a privilege rather than an obligation. Being involved with people who put their lives on the line had provided me with energy, inspiration and commitment to stay the course." It's a path he hopes his four children, aged 11 to 27 and whom he describes as "a humbling presence in his life," will join him on eventually.



Quelques « premières » à la Faculté de droit de McGill

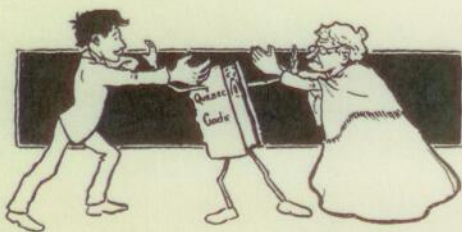
Some McGill Faculty of Law "Firsts"

- Premier ministre d'État diplômé de McGill : l'Honorable William Badgley, *D.C.L.* '43, qui exerça la fonction de ministre de la Justice d'avril 1847 à janvier 1848.
- Première femme à occuper un siège à l'Assemblée nationale : Marie-Claire Kirkland-Strover, *B.A.* '47, *B.C.L.* '50, *LL.D.* '97.
- Premier chancelier de l'université McGill : l'Honorable Charles Dewey Day.
- Premier lauréat du Prix d'excellence en éducation remis par l'Association des étudiants en droit : professeur G. Blaine Baker en 1994 (et aussi en 1999).
- Première femme diplômée en droit au Québec : Annie Macdonald Langstaff, *B.C.L.* '14.
- Premières avocates admises au Barreau du Québec : quatre femmes dont Elizabeth Monk, *B.A.* '19, *B.C.L.* '23, *LL. D.* '75; et Constance Garner Short, *B.A.* '33, *B.C.L.* '36.
- Premier avocat noir admis au Barreau du Québec : Frederick R. Phillips, *B.A.* '51, *B.C.L.* '56, en 1962.
- Premier président de la Commission du droit du Canada : professeur Roderick Macdonald.
- Première femme à plaider à la Cour d'appel du Québec : Constance Garner Short, *B.A.* '33, *B.C.L.* '36.
- Première femme professeur de droit à plein temps à McGill : professeur Jane Glenn, en 1977.
- Première femme admise à un barreau provincial : Florence Seymour Bell, *B.C.L.* '20, en Nouvelle-Écosse en 1921.
- Première revue de droit au Canada dirigée par des étudiants : *McGill Law Journal*, fondé en 1951.
- Première femme nommée "Queen's Counsel" au Québec : Elizabeth C. Monk, *B.A.* '19, *B.C.L.* '23, *LL.D.* '75.
- Première femme à obtenir un diplôme d'études supérieures en droit à McGill : Louise Weibel, *LL.B.* '22, *LL.M.* '23.
- Première bienfaitrice à doter McGill de sa première chaire de droit : la famille de Samuel Gale, en 1884.
- Premier lauréat de la médaille d'or Elizabeth Torrance : Norman W. Trenholme, *B.A.* '63, *B.C.L.* '65, *M.A.* '67, *D.C.L.* '87, plus tard nommé doyen de la faculté, en 1865.
- Première femme à obtenir deux diplômes de premier cycle en droit à McGill : Dorothy Heneker, *LL.B.* '24, *B.C.L.* '25.
- Premier conférencier Wainwright : l'Honorable Albert Mayrand sur «L'inviolabilité de la personne humaine», en 1973.
- Première femme à obtenir la médaille d'or Elizabeth Torrance : Elizabeth C. Monk, *B.A.* '19, *B.C.L.* '23, *LL.D.* '75, en 1923.
- Première personne à obtenir une maîtrise en arts à McGill : Alexander Morris, *B.A.* '50, *B.C.L.* '50, *M.A.* '52, *D.C.L.* '62.
- Premier professeur de common law et de théorie du droit à McGill : professeur Herbert Arthur Smith, en 1919.
- Premiers étudiants à obtenir un D.C.L. «in course» à McGill : Christopher Abbott, *B.C.L.* '50, *D.C.L.* '62, et Alexander Morris, *B.A.* '50, *B.C.L.* '50, *M.A.* '52, *D.C.L.* '62.
- Première femme premier ministre du Québec par intérim : Marie-Claire Kirkland, *B.A.* '47, *B.C.L.* '50, *LL.D.* '97.
- Auteur de la première rédaction de la Déclaration universelle des droits de l'homme : professeur John Humphrey, *B.Com.* '25, *B.A.* '27, *B.C.L.* '29, *Ph.D.* '45, *LL.D.* '76.
- Premier ouvrage systématique publié sur l'histoire du droit au Québec : «Le droit civil canadien», par Gonzalve Doutre, *B.C.L.* '61, *D.C.L.* '73, en 1872.
- Premier ambassadeur canadien en Asie : Sir Herbert Marler, *B.A.* '95, *B.C.L.* '98, ambassadeur au Japon en 1929.
- Première femme sténographe dans une cour criminelle de Montréal : Annie Macdonald Langstaff, *B.C.L.* '14.
- Première faculté de McGill à créer un programme de remise de cadeaux aux classes finissantes, devenu le programme «Class Action» : Faculté de droit de McGill, en 1989.
- Première femme, et première canadienne-française, à être nommée présidente du Fonds Alma Mater de McGill : Marie Giguère, *B.C.L.* '75, en 1998.
- Premier président de l'Association du Barreau canadien : l'Honorable Charles J. Doherty, *B.C.L.* '76, *D.C.L.* '93, *LL.D.* '13, en 1914.
- Premier lauréat canadien du Grand prix de l'Académie internationale de droit comparé : professeur Patrick Glenn, en 1998.
- Premier cours de droit offert à plein temps au Québec : Faculté de droit de McGill, en 1926.
- Premier diplômé de McGill à être nommé chancelier de McGill : le juge en chef Orville S. Tyndale, *B.A.* '08, *M.A.* '09, *B.C.L.* '15.
- Première femme professeur de droit de McGill à être nommée à la Cour supérieure : Helen Lebel, en 1987.
- Premier canadien-français premier ministre après la confédération : Sir Wilfrid Laurier, *B.C.L.* '64, *LL.D.* '98.
- Premier premier ministre né au Canada : Sir John Joseph Caldwell Abbott, *B.C.L.* '54, *D.C.L.* '67.
- Premier directeur des droits de l'homme pour l'Organisation des Nations Unies : John P. Humphrey, *B.Com.* '25, *B.A.* '27, *B.C.L.* '29, *Ph.D.* '45, *LL.D.* '76.
- Première canadienne-française à obtenir un diplôme en droit de McGill : Martine Hébert-Duguay, *B.C.L.* '34.

"The Lawyer's Love"

by Henry Steven Williams, B.A. '01, B.C.L. '04
(Inspired by the *Quebec Civil Code*, which gravely
commands men not to marry their grand-mothers)
(*Old McGill*, 1904)

*Like the wailing of wind in the winter
The message came to me,
Oh, my darling, my grey-haired darling,
I fear it can never be:
For the hand of the heartless lawyer
Is raised to sweep us apart,
To sever the tie that unites us
And binds us heart to heart.
When first I saw you, my darlin',
You stood in the nursery door,
You stood in the grace and beauty
Of a maiden of sixty-four.
And from the moment I saw you
I knew that on earth and sea,
There was only one girl, my precious,
Yes, only one girl for me.
Since then I have worked and laboured
With head and hand and heart,
And now when I claim my darling,
I find we must walk apart.
But I hope that in the future,
In the Islands of the Blest
Where the wicked do all the working
And the Righteous perform the rest,
We may live 'neath a dispensation
Which e'en Law cannot daunt,
And we all may marry our grannies
As frequently as we want.*



(*Old McGill*, 1904)

"This Is A Law"

by F.R. Scott, B.C.L. '27, LL.D. '67
(from *The Collected Poems of F.R. Scott*)

*Who says Go
When the Green says Go?*

*And who says No
When the Red says No?
Asked I.*

*I, said the Law,
I say Go
When the Green Says Go
And don't you Go
When the Red says No,
Said the Law.*

*Who are you
To tell me so
To tell me Go
When the Green says Go
And tell me No
When the Red says No?
Asked I.*

*I am you
Said the Law.*

*Are you me
As I want to be?
I don't even know
Who you are.*

*I speak for you
Said the Law.*

*You speak for me?
Who told you you should?
Who told you you could?
How can this thing be
When I'm not the same as before?*

*I was made for you
I am made by you
I am human too
So change me if you will
Change the Green to Red
Shoot the ruling class
Stand me on my head
I will not be dead
I'll be telling you Go
I'll be telling you No
For this is a Law
Said the Law.*

"Dean Walton's Lecture" (The McGill Fortnightly, January 20, 1898)

Dean [Frederick Parker] Walton, LL.D. '15, delivered the annual "University Lecture" on Friday, the 7th inst., in the Molson Hall, before a thoroughly pleased and appreciative audience. Though there have been many good lectures given in the last few years, yet we think we are not going too far in saying that none had proved more interesting or had produced a more favorable impression upon the audience than that of Dean Walton. The Lecturer's subject was the "Work of a Law Faculty in the University," and if the Dean can only get the co-operation of his students in carrying out in practice what he has preached in theory, he will earn the lasting gratitude of all lovers of learning for its own sake and not for what it represents in dollars and cents. The lecture, as was fitting, was most serious and scholarly in tone, yet at the same time it was illuminated by bright flashes of wit, which showed the writer to be possessed in a high degree of the saving sense of humour so necessary for men placed in leading positions.

In introducing his subject, the Dean referred to the past history of the Law Faculty in terms of the warmest praise, and yet ventured to hope that the reputation which the Faculty had already acquired would be enhanced in the future.

He then made frank admission that the whole training of a lawyer could not be received in the Faculty. Practice was necessary to develop and ripen theory. What the Law Faculty could do, however, was to teach fundamental principles, to accustom the student to reason upon the general principles of things, and to enable him to refer isolated cases to general rules. This the Dean considered to be the cardinal feature in any intelligent legal training. As was natural the Dean made a strong plea for the thorough study of Roman Law, and showed most clearly how useful and even how necessary was its study in the Province of Quebec. After mentioning what subjects ought to be included in a Law Faculty curriculum, Dean Walton in the strongest possible manner declared his views with regard to education:

"I am sure I speak for my colleagues, as well as for myself, when I say that we do not intend our Faculty to be a mere coaching establishment to prepare students for the Bar examinations. Of all the shallow and short-sighted views of education, there is surely none more shallow and more contemptible than that which lies in thinking that nothing is worth learning which cannot be put to immediate practical account. (Applause). The student whose main anxiety is not to learn anything which, as he would express it, will not "pay" is a deplorable spectacle. I do not think at McGill we have many such, but we want to exterminate the species. In our Faculty we want to fill our students with generous enthusiasm for learning, with respect for knowledge patiently and painfully won, with large and liberal views of life and its purposes, with the consciousness that they are preparing themselves for a noble profession. We want to inspire them with a desire to play a worthy and strenuous part in the community, to add them to the number of those:

*'Whom a thirst,
Ardent unquenchable fires,
Not with the crowd to be spent,
Not without aim to go round,
In an eddy of purposeless dust,
Effort unmeaning and vain.'*

He then went on to make a strong plea for a scientific system of education: for a system which builds the strongest possible foundation of general principles. "There was never a time," said he, "when there was greater danger of forgetting that a man is not educated, merely by reason of living in an age of mechanical invention, and that education itself is not a set of tools which we place in the hands of young men, to enable them to carve out commercial success....The day seems to be approaching, when we shall be whisked about the planet with the velocity of torpedoes. But that will be small consolation if it finds us not worth whisking anywhere except into everlasting obscurity."

After having dealt very fully with the aims of a Law Faculty, the Dean concluded, in spite of objection which had been made to the contrary on both sides of the Atlantic, that these aims entitled it to rank as an integral part of any university. In support of his statement, he gave a short resumé of the History of Law, showing how intimately it had been connected with the great universities of the Middle Ages. The lecturer then referred to the close and inevitable connection which had always existed between law and politics, and made a strong plea for the foundation of a chain of political science and constitutional history.

The Dean closed with a reiteration of the statement that law was a science and not a mere business. "How often it may be our fortune to entertain unawares the future statesman no one can say. With more reasonable assurance we may hope to be of service to the coming generation of lawyers, and to do something to impress the conviction upon them that law is a science and not a mere business, and that to attain to a knowledge of it they must be prepared 'to scorn delights and live laborious days.'"

At the conclusion of the address, Judge [Jonathan S.C.] Würtele, B.C.L. '70, in most happy terms, moved a vote of thanks to the lecturer, and took occasion to congratulate the Governors on their wise choice of a Dean for the Law Faculty.

The Elizabeth Torrance Gold Medal

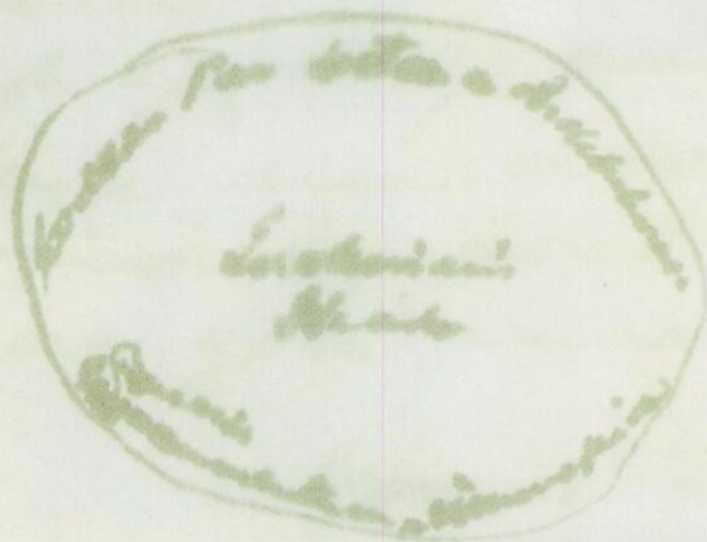
(from *McGill College and Its Medals*, by Alfred Sandham)

In the following year (1865), the late John Torrance, Esq., of St. Antoine Hall, Montreal, founded, in memory of his wife, a medal to be known as the "Elizabeth Torrance Gold Medal", for the best student of the graduating class in law, and more especially for the highest proficiency in Roman Law. It was but natural that this medal should be given to the department of law as a member of the family, Judge F[rederick] W. Torrance, B.C.L. '56, held for many years the Professorship of Roman Law in connection with the College. The design chosen for this medal is exceedingly appropriate. A full face bust of Justinian with an ancient Roll appears on the obverse, and above the bust is the name "Justinianus," while on the reverse are two palm branches encircling the words, "Universitas McGill, Præmium in facultate juris." On a ribbon which almost surrounds the medal is the inscription—"Ad nom Elizabeth Torrance perpetuand marit Joannes Torrance Inst. 1864."

L'authentique médaille d'or Elizabeth Torrance a été remise la première fois à Norman William Trenholme, B.A. '63, B.C.L. '65, M.A. '67, D.C.L. '87, qui devint un professeur notable ainsi que doyen de la Faculté de droit, en 1865. En 1987, ce prix fut remis à la Faculté de droit par son petit-fils, Lawrence B. Trenholme.



1987 (FLA)



Sketch of proposed Elizabeth Torrance Gold Medal by John Torrance, found in correspondence books of the Torrance-Morris law firm, 1865 (MUA)

A Celebration Of 150 Years Of History

The academic year 1998-1999 marked the sesqui-centennial celebrations of McGill University's Faculty of Law, and many alumni and friends joined in spirited gatherings held in New York, Vancouver, Toronto and Montreal.

In New York in November of 1998, a reception was hosted at the home of the Deputy Consul General, followed by an outing to the Young Artists Concert Series. On April 16, 1999, an elegant cocktail party was held in Vancouver at the Terminal City Club.

In Toronto, McGill was fêted at the Royal York Hotel, where a menu reflecting dishes popular in the 1840s was served (including such delights as pâté of smoked trout, millgown bread salad, and confit of duck). Over two hundred and sixty guests were in attendance, and the Honorable W. Ian Binnie, *B.A. '60*, delivered the key-note address. Proceeds from the evening, combined with sponsorship by Canadian Pacific, raised \$35,000 for an endowed scholarship at the Faculty of Law.



Mr. Justice W. Ian Binnie,
150th Anniversary Gala,
Toronto, 1998 (FLA)



"Speaking Frankly", 150th Anniversary Gala,
Erik Wang, Don MacSween, Tim Porteous
Montreal, 1999 (FLA)

A Celebration 150 Years Of History

Of course, Montreal also celebrated in grand style. Held on May 27, 1999 at The Windsor, over four hundred and forty people raised their glasses in honour of the Faculty of Law. Three alumni involved in 1957's classic *My Fur Lady* provided entertainment: Don MacSween, B.A. '56, B.C.L. '61, Tim Porteous, B.A. '54, B.C.L. '57, and Erik Wang, B.A. '54, B.C.L. '57. Once again, the generosity of alumni, friends and law firms, as well as the Class of '99 and the Law Students' Association, created a bursary fund in honour of the anniversary.

And as this chapter of the Faculty of Law's

history comes to its conclusion, we stand on the threshold of a new millennium. We may be confident that as world economies become more interlinked, McGill's role in promoting the global rule of law will become increasingly indispensable. The next one hundred and fifty years look promising indeed for the Faculty of Law!



150th Anniversary Gala, Montreal, 1999 (FLA)

In the words of
Maxwell Goldstein,
B.C.L. '82:

may it so continue and
thrive *ad multos annos*.



Nineteenth-century Superior Court crest, now installed in the
Maxwell Cohen Moot Court, 1999 (FLA).

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Ego polliceor, me, pro
viribus meis, studiosum
fore communis hujus
Universitatis boni,
operamque daturum ut
decus ejus ac dignitatem
amplificem, et officiis
omnibus ad
Baccalaureatus in Jure
Civili gradum
pertinentibus fungar.



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