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Table of Contents ● Sommaire

ARTICLES

| | |
|---|----|
| The Unmysterious Law of Torts G.H.L. FRIDMAN | 13 |
| Air Rights and The Air Space Act FRANKLIN O. LEGER, Q.C. | 39 |
| The Probate Court Act HENRY J. MARQUIS | 65 |
| Prerogative Remedies in Federal Income Tax Cases: A New Perspective E.J. MOCKLER, Q.C. | 73 |

NOTES AND CASE COMMENTS ● NOTES ET CHRONIQUE DE JURISPRUDENCE

| | |
|--|-----|
| L'Affaire du détroit de Géorgie GÉRARD SNOW | 83 |
| <i>Non Est Factum</i> in Canada After <i>Marvo Color Research Ltd. v. Harris</i> SAUL SCHWARTZ | 92 |
| Economic Analysis of False Imprisonment in Canada: A Statistical and Empirical Study DONALD POIRIER | 104 |
| Solicitors' Responsibilities When Certifying Title Under the <i>Registry Act</i> of New Brunswick RAYMOND F. GLENNIE | 119 |
| Rudimentary Practice Notes for the Inexperienced Trial Lawyer PATRICK A.A. RYAN | 128 |
| The Propriety of Decisions Based on Principles Not Raised in Court DAVID M. NORMAN | 134 |
| <i>Delta Electric Co. Ltd. v. Aetna Casualty Company of Canada Ltd., et al.:</i> Practice — Affidavits of Documents K. DANIEL LARSEN | 137 |
| Supreme Court Charter Decisions, 1984: An Analysis STEPHEN JOHNSTON, STEPHEN MARSHALL and EUGENE BHATTACHARYA | 145 |

BOOK REVIEWS ● REVUE BIBLIOGRAPHIQUE

| | |
|--|-----|
| Waters, <i>Law of Trusts in Canada</i> (Beverley G. Smith) | 159 |
| Davies, <i>Family Law in Canada</i> (J. Shawn O'Toole) | 164 |
| Feldthusen, <i>Economic Negligence</i> (Edward Veitch) | 171 |
| Smith, <i>Liability in Negligence</i> (Myron Gochnaeur) | 174 |
| Waite, <i>Law in a Colonial Society: The Nova Scotia Experience</i> (D.G. Bell) | 179 |
| Romonow, <i>Canada...Notwithstanding</i> (John P. McEvoy) | 183 |
| <i>Cultures in Collision: The Interaction of Canadian and U.S. Television Broadcast Policies</i> (David A. Townsend) | 186 |
| Simmonds and Mercer, <i>An Introduction to Business Associations in Canada, Cases, Notes and Materials</i> (Richard W. Bird) | 191 |



SALUTATION TO MR. JUSTICE G.V. LA FOREST

by Dr. D.M. Hurley

On February 12, 1985, Mr. Justice Gerard V. La Forest of the New Brunswick Court of Appeal became a member of the Supreme Court of Canada, crowning a most successful academic, legal and judicial career.

Justice La Forest's whole life has been a chronicle of successes. He hurried through Arts at St. Francis Xavier to take a B.C.L. at U.N.B. Law School, then on to Oxford, as a Rhodes Scholar, for a B.A. in Jurisprudence and later an M.A. He practiced law for a few years but succumbed to the lure of academia and returned to teach law at U.N.B. Law School in 1956. He interrupted his teaching at U.N.B. for a year, to respond to the challenge of advanced legal studies, and rushed off to Yale University for an LL.M. and J.S.D.

While teaching at U.N.B. Law School, Professor La Forest was a guiding light for the Law Journal. For that and many other reasons the U.N.B. Law Journal now salutes him.

Like so many Easterners, he answered the call of the West to be Dean of Law at Alberta in 1968. Of course it could not last. He started back East in 1970, got side-tracked in Ottawa for a few years as an Assistant Deputy Attorney General, Law Reform Commissioner, Professor of Law (University of Ottawa), Consultant to Federal and Provincial government, Royal Commissioner, Advisor to the Department of Justice and Prime Minister on Constitutional matters, Task Force member, Chairman of several Committees and Inquiries, etc. etc., before coming "home" as a member of the New Brunswick Court of Appeal in June 1981.

On his meteoric journey, he collected such honours and recognition as a Rhodes Scholarship, Yale Fellowship, Queen's Counsel, Fellow-Royal Society of Canada, Fellow-World Academy of Art and Science and an LL.D.

"Gerry" had a habit of jotting down notes on various subjects, which culminated in six major publications, well known in the practicing and academic legal profession."

Somehow it seemed very appropriate that he was appointed to the Supreme Court. The many who know him were not surprised and many, like us at U.N.B. Law School, stand a bit taller when we say he was, and is, one of us.

To Mr. Justice La Forest, we wish continued success in his high judicial office and to him, his wife Marie and five daughters, we wish happiness now and always.



MONSIEUR LE JUGE G.V. LA FOREST

par Dr D.M. Hurley

Le 12 février 1985, Monsieur le juge Gérard V. La Forest de la Cour d'appel du Nouveau-Brunswick fut appelé à la Cour suprême du Canada, l'apogée d'une brillante carrière comme professeur, avocat et magistrat.

Pendant toute sa vie, Monsieur le juge La Forest a connu le succès. Ayant terminé son baccalauréat-ès-arts à St-François-Xavier, il se lance aussitôt dans l'étude du droit à U.N.B. Après avoir obtenu son diplôme, il étudie à Oxford comme boursier Rhodes où il obtient un baccalauréat et une maîtrise en science du droit. Il exerce la profession d'avocat pendant quelques années mais le milieu universitaire l'attire de nouveau et en 1956, il accepte un poste de professeur de droit à U.N.B. Avant longtemps, il prend congé du professorat pendant une année afin de poursuivre des études supérieures en droit à l'Université Yale où il obtient les grades de L.L.M. et de J.S.D.

Tout en enseignant à l'école de droit de U.N.B., le professeur La Forest s'est dévoué à la Revue de droit de notre faculté. C'est pour cette raison entre autres qu'aujourd'hui la Revue est fière de le saluer.

Comme beaucoup des citoyens de l'Est du Canada, il s'est senti attiré vers l'Ouest où il a été nommé doyen de la faculté de droit de l'Université Alberta en 1968. Mais cela ne devait pas durer. Il retourne vers l'Est et s'installe à Ottawa, en 1970, où il occupera plusieurs postes: sous-ministre adjoint au Procureur Général, Commissaire à la Réforme du droit, professeur de droit (à l'Université d'Ottawa), consultant auprès des gouvernements fédéral et provincial, membre d'une commission royale d'enquête, conseiller au ministère de la Justice et au premier ministre sur les questions constitutionnelles, membre d'un groupe d'études, président de plusieurs comités et commissions d'enquête, etc, etc... Enfin, en juin 1981, il revient "chez lui" comme juge à la Cour d'appel du Nouveau-Brunswick.

Cette carrière exceptionnelle fut parsemée de plusieurs témoignages d'honneur: boursier Rhodes et boursier à Yale, Conseiller de la Reine, membre de la Société royale du Canada, membre de l'Académie mondiale des Arts et des Sciences et doctorat (LL.D.).

L'habitude de "Gerry" de méditer et noter ses réflexions sur une variété de sujets a eu pour résultat six publications d'envergure qui sont bien appréciées par ses collègues dans les universités et dans la pratique du droit.

L'on comprend donc très bien sa nomination à la Cour suprême. Tous ceux qui le connaissent n'en étaient nullement surpris et beaucoup, comme nous à l'école de droit de U.N.B., s'enorgueillissent d'un tel honneur pour celui que nous considérons comme l'un des nôtres.

À Monsieur le juge La Forest nous souhaitons la continuation de sa tradition de succès dans ses hautes fonctions judiciaires. Pour lui, pour sa femme Marie, ainsi que leur cinq filles, nos meilleurs voeux de bonheur maintenant et toujours.

BICENTENNIAL OF THE SUPREME COURT OF NEW BRUNSWICK

(Notes for an address given by the Hon. Gerard V. La Forest
for the Court of Appeal of New Brunswick,
November 27, 1984)

Before hearing the cases set for today's sitting, it seems fitting to pause for a moment to take note that today marks an important milestone in the history of this court and, indeed, of this province. For it was precisely 200 years ago today, November 27, 1784, that the Governor in Council of this province established the Supreme Court of New Brunswick. The Royal instructions issued to Governor Thomas Carleton conferred upon him full powers, with the advice and consent of his Council, to erect, constitute and establish such and so many courts as he or they might think fit for the hearing and determination of all causes as well criminal as civil.

The importance attached by Carleton to the power thus conferred is evident from the fact that he and his council established the court within months of the creation of the province. It sat for the first time in February 1785 at Parr Town, now Saint John, presided by the first Chief Justice George Ludlow, whose portrait graces the walls of this courtroom. It moved to Fredericton in 1787. Significantly Carleton waited until 1786 to call a legislative assembly. While new laws were later to be established, the Supreme Court and the other courts functioned as they continue to this day by applying such of the laws of England as were suitable to our situation and condition. They could thus begin on a firm basis, but with all necessary room to adapt at the instance of both the legislature and of the court.

Carleton's instinct about the importance of establishing a judicial system at the earliest date was sound. There must be a forum where justice is meted out to those who have offended against society's values, while ensuring that no one shall be convicted and lose his liberty except in accordance with law. The people also have need for an impartial and unbiased arbitrator for the settlement of private disputes. But more, they have a need for a bulwark against government. Courts have as one of their foremost duties to restrain the power of government to those functions only that are justified by law. They ensure that we have a society under law.

There is another aspect of courts I would mention. Of the three branches of government — legislative, executive, and judicial — the judicial branch acts only when its powers and jurisdiction are invoked, when someone comes to it to redress a wrong. It cannot, like the executive or the legislative branch, initiate action. It acts at the behest of those who seek its assistance. So it is, as Alexander Hamilton underlined, the "least dangerous" branch of government.

Much has changed in the structure of the judicial system in this province over a period of 200 years. The Supreme Court itself now continues as two distinct courts — the Court of Queen's Bench, which bears cases at first instance, and this court, the Court of Appeal, which is confined to hearing appeals from the Court of Queen's Bench and the other courts and tribunals in the province. Subject to the few cases that can go to the Supreme Court of Canada, it is for most New Brunswickers the final Court of Appeal.

Un des changements des plus importants est qu'aujourd'hui, les causes sont entendues en français et en anglais afin que nous puissions servir toute la population. La tradition de nommer des francophones date de 1890 quand le juge Pierre Amand Landry fut nommé à la Cour Suprême. Mais ce n'est que récemment, environs dix ans passés, que la cour a commencé à fonctionner en français, bien que c'était assez rare avant les quelques dernières années. Aujourd'hui nous en avons de plus en plus de causes en français, un développement qui va certainement continuer.

But while much has changed, Carleton would perceive much that is the same,

because our court system has lasting value. We still have jurisdiction to hear the private claims of individuals as well as criminal law. But we continue to guard the underlying principles of our legal and political system against the executive and legislative branches of government, a function now significantly strengthened by the Charter of Rights and Freedoms. And in all cases we treat litigants as equals. All are equal before the law. The courts will continue to exercise these functions, but as before, only when someone seeks redress. We do not and should not have power to initiate action. The court must be a source of redress from power, but only when called on. Judicial power must be effective but it cannot itself get involved in the fray. So it remains an effective protection of our liberty, and still the least dangerous branch of government.

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