DROIT QUÉBÉCOIS DE L'AMÉNAGEMENT DU TERRITOIRE. Sous la direction de Michel Poirier. Les Editions Revue de Droit Université de Sherbrooke, 1983. Pp. 601 (No price given)

During the 1960's and 1970's when planning law became more pervasive and sophisticated across Canada, it languished in Québec.[1] Although provincial attention was directed to the problems associated with unchecked urban and rural development by the reports of the April Commission[2] and the La Haye Commission[3] in the late 1960's, it was not until a decade later that significant action was taken. However, when reform came it was bold and far-reaching. Québec became the second Canadian province to institute mandatory "green zones" for agricultural land preservation with its 1978 *Loi sur la protection du territoire agricole* (LPTA)[4] and drastically altered the structure of municipal governments as part of the global reform of planning law contained in the 1979 *Loi sur l'aménagement et l'urbanisme*.[5] A thorough reform of municipal taxation completed the trilogy in 1979, with the enactment of the *Loi sur la fiscalité municipale*.[6]

Although a number of articles on each individual law have appeared in legal and planning journals,[7] the Faculty of Law at the Université de Sherbrooke decided that there was a need for further information on the subject of planning law as a whole. To this end, a conference was held at Sherbrooke in November 1982 and the volume under review contains the papers presented there. The conference organizers made special efforts to invite planners, government officials working in the planning area, lawyers from both the private and public sectors, as well as the more traditional participants, the legal academics. This orientation is confirmed in the preface to the present volume, which specifically disclaims any intention of being a comprehensive treatise on planning law or of presenting a critical analysis of the law. Rather, the book's aim is to serve as a manual of practical information for the groups identified above.

Before examining how well this book achieves its stated goals and what interest it may hold for those outside Québec, I would like to pause

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[1] Jacques L'Heureux goes so far as to label it "antédiluvienne" in his paper in this volume: J. L'Heureux, *Les pouvoirs des municipalités régionales de comté en matière d'aménagement*, in DROIT QUÉBÉCOIS DE L'AMÉNAGEMENT DU TERRITOIRE [hereafter cited as DROIT QUÉBÉCOIS] 1 (1983).

[2] *Rapport de la Commission royal d'enquête sur l'Agriculture au Québec* (April N. President 1967-68).

[3] *Rapport de la Commission provinciale d'urbanisme* (La Haye J-C. President 1968).

[4] L.R.Q., c. P-41.1 1 July 1982.

[5] L.R.Q., c. A-19.1.

[6] L.R.Q., c. F-2.1.

[7] *See, e.g.*, Glenn, *La Protection du territoire agricole au Québec*, 11 R.G.D. 209 (1980).

for a moment to comment on the goals themselves. I must confess that I find it somewhat odd that a volume directed to the above-mentioned audience should appear in its present form. If it is truly aimed at providing a practical manual on planning law for those who may not have formal legal training, why has it been published in a series entitled *Collection Monographies Juridiques*, the previous two volumes of which have been aimed almost exclusively at legal audiences?[8] Why has the collection been written exclusively by lawyers or legal academics in the most impeccable law review style? I do not intend to fault the quality of the individual contributions, for they are of a very high standard, *for legal writing*. However, the language which legal workers use when conversing with each other is not necessarily what should be used when communicating ideas about law to those in other disciplines or to the general public. There is nothing patronizing about this statement: it is simply a question of how best to communicate with non-specialist audiences.

Beyond the issues of language and style, there is the question of content. I had the uneasy feeling that the planners, civil servants and local government officials who were invited to the conference were addressing issues which the lawyer-organizers believed should be considered, rather than the problems which arose in their personal encounters with planning law. Let me say immediately that I have no empirical evidence to substantiate this observation: I spoke to no disgruntled planners nor heard of any rumblings of discontent from the non-lawyers in attendance. However, I think the present volume speaks for itself. For example, in form and content it is indistinguishable from a symposium on Québec planning law which might be published in the *Revue de Droit de l'Université de Sherbrooke*. It is not recognizable as a manual of planning law for non-lawyers of whatever background. I find this regrettable, not only from the non-lawyer's point of view but also from the lawyer's perspective, for it seems to me that the conference organizers missed an opportunity for some genuine cross-fertilization between law and planning. Why, for example, were papers commissioned *exclusively* from lawyers and law professors?

Perhaps I should explain why I am concerned with this point. I have nothing against meticulous legal research and writing, provided it is confined to law reviews and certain government reports. In such publications the reader knows the language and conventions of legal discourse and outsiders who stumble in must be deemed to have voluntarily assumed the risk of mystification. However, public legal education or dissemination of legal information to specific groups without legal training is quite a different matter. The lawyer's "professional" mode of expression is generally inappropriate, as it tends

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[8] A. BERNADOT & R. KOURI, LA RESPONSABILITÉ CIVILE MÉDICALE (1980); P. LEMIEUX, *Les contrats de l'administration: fédérale, provinciale et municipale* (1981).

to obscure rather than enlighten. Further, to the extent that lawyers do not shed their professional trappings, they explicitly or implicitly perpetuate the idea that "legal literacy" is reserved for a privileged priesthood.

Having outlined my criticisms, I can now praise this volume for what it does as opposed to what it promised to do. It provides a very good introduction to current Québec planning law for lawyers and law professors in the rest of Canada. Those who have dealt with planning law in only the common law jurisdictions may be pleasantly surprised to find how regularly the authors cite non-Québec decisions and legislation and may pause to reflect on whether the Québec experience might not be more relevant and accessible than they had thought. Anyone who has wrestled with section 29 of the Ontario *Planning Act*[9] will derive a certain amount of wry comfort in reading Danielle Codere's account[10] of the impact of the *LPTA* on private law. Whether by accident or design, the *LPTA*'s prohibition on the alienation of designated agricultural land, where the owner retains an interest in abutting land, resembles the Ontario provision. The Québec legislation promises to generate the same amount of litigation as its Ontario counterpart on the question of which transactions escape its embrace. Jane Matthews Glenn[11] draws attention to the potential for conflict between the vertical organization of government, which results in the administration by different ministries of particular laws relating to planning, and the horizontal demands of the planning process as a whole. This theme is one which concerns planners and lawyers across Canada. Certainly, anyone interested in agricultural land preservation techniques or in the interrelationships of planning law and municipal government structures, has a natural laboratory in Québec and will be well served by the present volume.

Three of the eight essays discuss the *LPTA* and consider its impact on public law,[12] on private law[13] and its coexistence with the *Loi sur l'aménagement et l'urbanisme*.[14] Two essays consider the planning powers of both regional county municipalities[15] and local municipal corporations.[16] The final three essays deal with a variety of topics. Gilles Rousseau examines administrative remedies in planning law,[17] Daniel Chénard considers the non-contractual liability of municipalities in

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[9] R.S.O. 1980, c. 379.

[10] *La Loi sur la protection du territoire agricole et le droit privé*, in DROIT QUÉBÉCOIS 139.

[11] *La coexistence de la Loi sur la protection du territoire agricole et de la Loi sur l'aménagement et l'urbanisme*, in DROIT QUÉBÉCOIS 279.

[12] Lavoie & Poirier, *La Loi sur la protection du territoire agricole et le droit public*, in DROIT QUÉBÉCOIS 195.

[13] Codère, *supra* note 10.

[14] Glenn, *supra* note 11.

[15] L'Heureux, *supra* note 1.

[16] Giroux, *Les pouvoirs des corporations municipales locales en matière d'aménagment*, in DROIT QUÉBÉCOIS 71.

planning matters[18] and Jean-Denis Archambault discusses the links between tax policy and planning.[19] This last essay differs from the others in its format. While the previous seven papers present detailed analyses of specific laws, Archambault's paper is a far more free-ranging meditation on the complex interactions between all forms of taxation (not just municipal taxes) and planning.

I hope that in four or five years the team that sponsored this volume will produce another[20] in which some serious evaluation of what will have been a decade-long experience under the new laws can be undertaken. However, I hope that they will invite political scientists and sociologists (to consider citizen participation), an agricultural economist (to report on the impact of the *LPTA*) and a number of planners. Il faut se parler.

*Philip Girard**

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[17] Rousseau, *La mise en oeuvre du droit de l'aménagement: les recours*, in DROIT QUÉBÉCOIS 317.

[18] Chénard, *La responsabilité extra-contractuelle en matière d'aménagment et d'urbanisme: le citoyen face aux corporations municipales locales*, in DROIT QUÉBÉCOIS 371.

[19] Archambault, *Aménagement, fiscalité et planification systémique*, in DROIT QUÉBÉCOIS 399.

[20] A title such as *L'aménagement du territoire au Québec — droit, structures, et politiques depuis la réforme de 1979* might be suitable.

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