

Long Rd Desk



# Harvard Law Record

America's Oldest Law School Newspaper

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35 CENTS

## Experts Assess Prosecutor Law

By David Snouffer

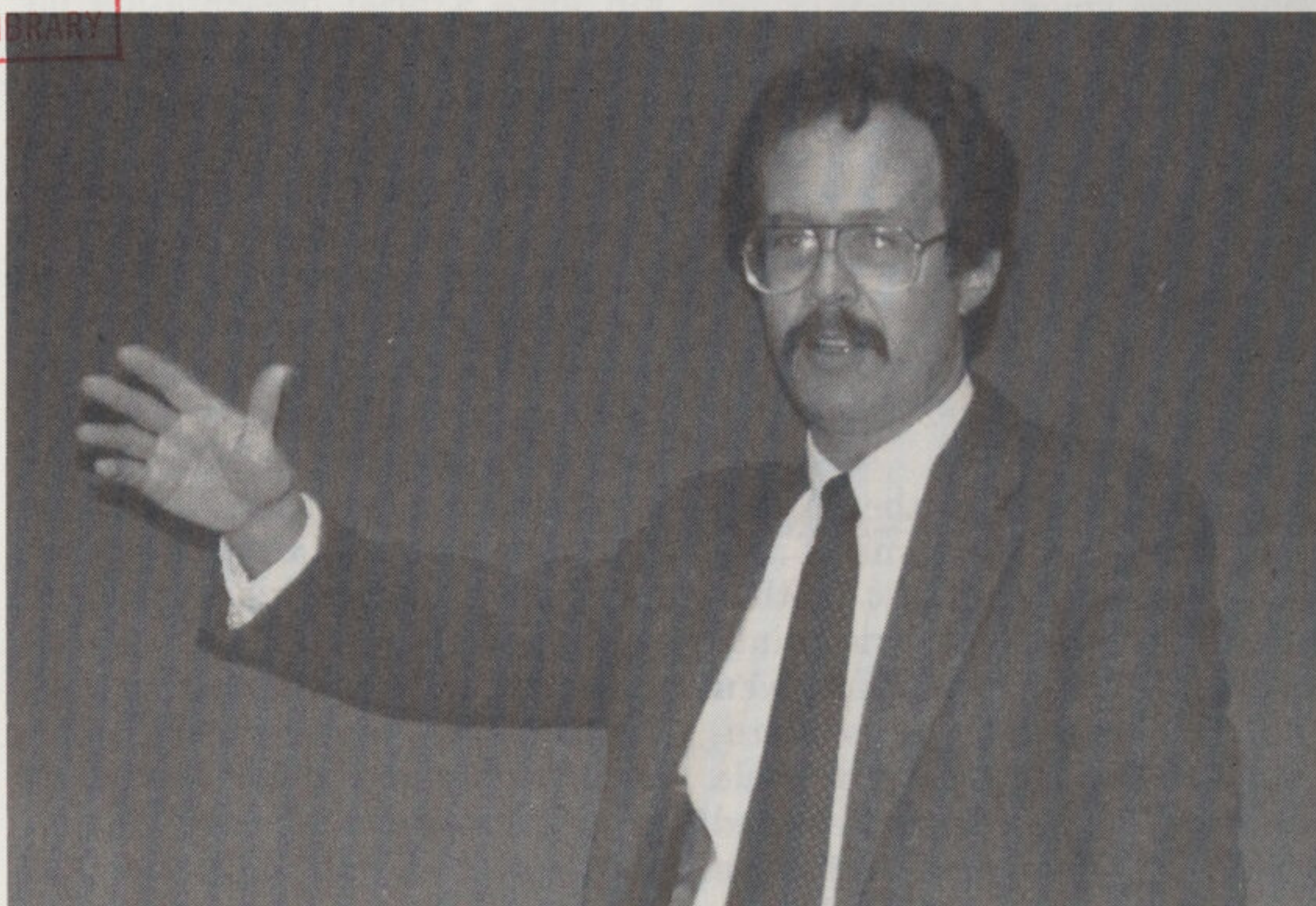
The special prosecutor law elicited both enthusiasm and hostility from panelists at a forum held at Harvard's Kennedy School of Government last Monday night, Feb. 29. At the end of the program, co-sponsored by the Kennedy School's Institute of Politics and HLS, moderator Richard Thornburgh, the institute's director, polled the audience of about 50 on the matter and found overwhelming support for the statute.

The law is "essential" to assure the public that high officials do not receive "special treatment" when they break the law, according to one of the four speakers at the program, Fred Wertheimer '62, president of Common Cause.

Since the U.S. attorney general, who is a "key member" of any president's cabinet, faces a "fundamental conflict of interest" if he investigates other executive officials, Wertheimer said, independence in a prosecutor is essential in order to conduct a "credible investigation."

Under the Ethics in Government Act, when the attorney general receives information "sufficient to constitute grounds to investigate"

(Continued on Page 7)



Yearbook

*New University of Virginia Law School Dean Thomas Jackson.*

## Jackson To Lead Virginia Law

By Howard Meyerson

Professor Thomas H. Jackson will be leaving HLS, where he has been teaching since September 1986, to become dean of the University of Virginia Law School.

Jackson, who teaches courses in Bankruptcy, Secured Transactions and Contracts, came to HLS from Stanford Law School, where he taught from 1977-1979 and 1981-1986. Professor Andrew Kaufman '54, who teaches Commercial Law at HLS, described Jackson as

"preeminent among the younger people in the field."

Jackson, who clerked on the U.S. Supreme Court for Justice William Rehnquist, will be replacing Richard A. Merrill, dean of the University of Virginia Law School since 1980.

Jackson was first contacted concerning the deanship in the fall of 1987 by the search committee at Virginia. In late January, after two rounds of interviews and upon the recommendation of the law school

(Continued on Page 10)

### Inside the RECORD:

#### Feature:

*Olgetree And The  
Constitution*

Page 3

#### News:

*Williston Over*

Page 2

#### Fenno:

*To Calgary*

Page 6

# Williston Teams Discuss Strategy, Raw Deals

By Dan Kroll

The 36th annual Williston Negotiation Competition, which began Mon., Feb. 1 and ran until Fri., Feb. 5, saw 112 first year students plunge into a five-day session of grueling simulated contract negotiation and drafting.

When the smoke cleared, David DeJute, Tom Mueller, Donald G. Dunham and Christine O'Shaughnessy emerged as the winners of the best overall contract award, while best contracts for the individual parties were submitted by the team of Christopher Davis and Phillip Ihenacho and the team of Alfredo Sanchez Gomez and Victor A. Bernace.

The participants in the competition signed up in teams of two and were matched against another team with instructions to negotiate and draft an agreement on a given topic. This year, 28 teams represented "Lt. Col. Oliver South" while the other 28 teams represented "SPECTRE Aerodynamics, Inc.," a defense contractor that wished to employ South as a special lobbyist to garner government support for its "Light Saber" defense system.

Each team was given secret instructions from its client as to what the client's hidden interests and priorities were and what general salary figures the client would accept. The hardest part about writing the secret instructions, said Doug Gessner, 2L, who wrote this year's instructions with Tom Barnett, 2L, was achieving a balance between giving the teams enough information to infer what the client would want and letting the teams have sufficient freedom to "come up with creative solutions of their own."

The teams were encouraged to cooperate with, rather than to try to overcome, their opponents. In this spirit, the participants listened to a short presentation on the virtues of principled negotiation by resident negotiation "guru" Professor Roger Fisher '48, and perused an article in their instruction packets entitled "A Causerie on Lawyers' Ethics in Negotiation."

The BSA laid heavy emphasis on drafting, advising the participants to devote at least half of their allotted time to it. To give the participants an introduction into the "real life" aspects of drafting, the BSA enlisted the help of Elliot Surkin '67, a real estate partner at the Boston firm of Hill & Barlow. Surkin gave a brief presentation on drafting at the introductory Williston meeting.

## Fortune And Fame

Nine members of the BSA evaluated the contracts. According to Gessner, the most important quality that he was looking for in the winning contracts was "ease in administrability." Committee Chairman Rich Strassberg, 3L, emphasized the importance of clarity and conciseness.

The highest cash award went to the winners of the best overall contract, who will receive \$100 each and an inscription on the Williston plaque in the Langdell Library. The winners in the other two categories will receive \$50 each.

DeJute, who summarized the negotiation as an "intensive" experience, said he thought his team and the opposing team stayed fairly close to the "Roger Fisher principled negotiation" approach, even though the parties occasionally threatened to take stubborn positions. DeJute admitted that there were a couple of frustrating points at which his team "was willing to walk" from the table, but added that by and large both teams were "pretty amicable."

Gomez says he was surprised and a little embarrassed to win the best contract for the company award, claiming his team was "shooting for the best overall contract." He said he realized the opposing team might think that it got a "raw deal."

One member of the team opposing Gomez did report that she was frustrated with the outcome. She said that Gomez' team repeatedly stressed its intention of taking a non-adversarial approach to the negotiation and working together

to try to write the best overall contract. Despite this, she said her team ended up with relatively low terms for its client.

Gomez said the award did not indicate that the opposing team got the worst terms for its client because, he said, it was possible for his team to be very successful while the opposing team still comes away with a good deal for its client.

Strassberg said that the winning contracts did not necessarily have the best terms, as the BSA accorded great weight to the quality of the drafting.

## Stock Option Vital

Ihenacho said his team went into the competition hoping for terms which would be reasonable and fair, "so I was pretty surprised when we won" the best contract for the lobbyist award. Ihenacho noted that a particular provision in the contract which may have helped his team was a clause that tied the success of the company to the earnings of the lobbyist, in the form of a stock option plan. Ihenacho said the competition was a good experience, adding that he now realizes why attorneys often haggle over small details that may end up "having fairly large consequences."

Strassberg said that the comments he has received about the Williston experience have been "really positive." He attributes the success of the exercise to the fact that it provides one of the only opportunities at HLS to get a feel for transactional work. "There's really nothing else like it . . . unless you take the Negotiation class. There's no other chance to actually negotiate . . . and to sit down and draft something," Strassberg said.

**Next RECORD:**

**March 11, 1988**

# MacArthur Grant Bolsters Terrorism Research

By Tom Bilello

The HLS Center for Criminal Justice (CCJ) has received the first installment of a three-year \$300,000 MacArthur grant to study world terrorism. The grant makes possible a five-nation study of governmental responses to national terrorism.

The goal of the study, according to Professor Philip Heymann '60, director of CCJ, is to allow the U.S. to "take advantage of the experiences of other countries [exposed to terrorism]." The center hopes to uncover "lessons for U.S. policy-makers," while remaining sensitive to considerations of fairness and equal treatment, said Deputy CCJ Director Daniel McGillis.

"The grant was awarded for broader international scopes in collaboration and for deeper investigation in the seams of violence in democracy," Ruth Adams, a MacArthur Foundation official, told the *Harvard Crimson*. "Hopefully, the project will improve long term peace collaboration prospectives," she said.

## Future Books

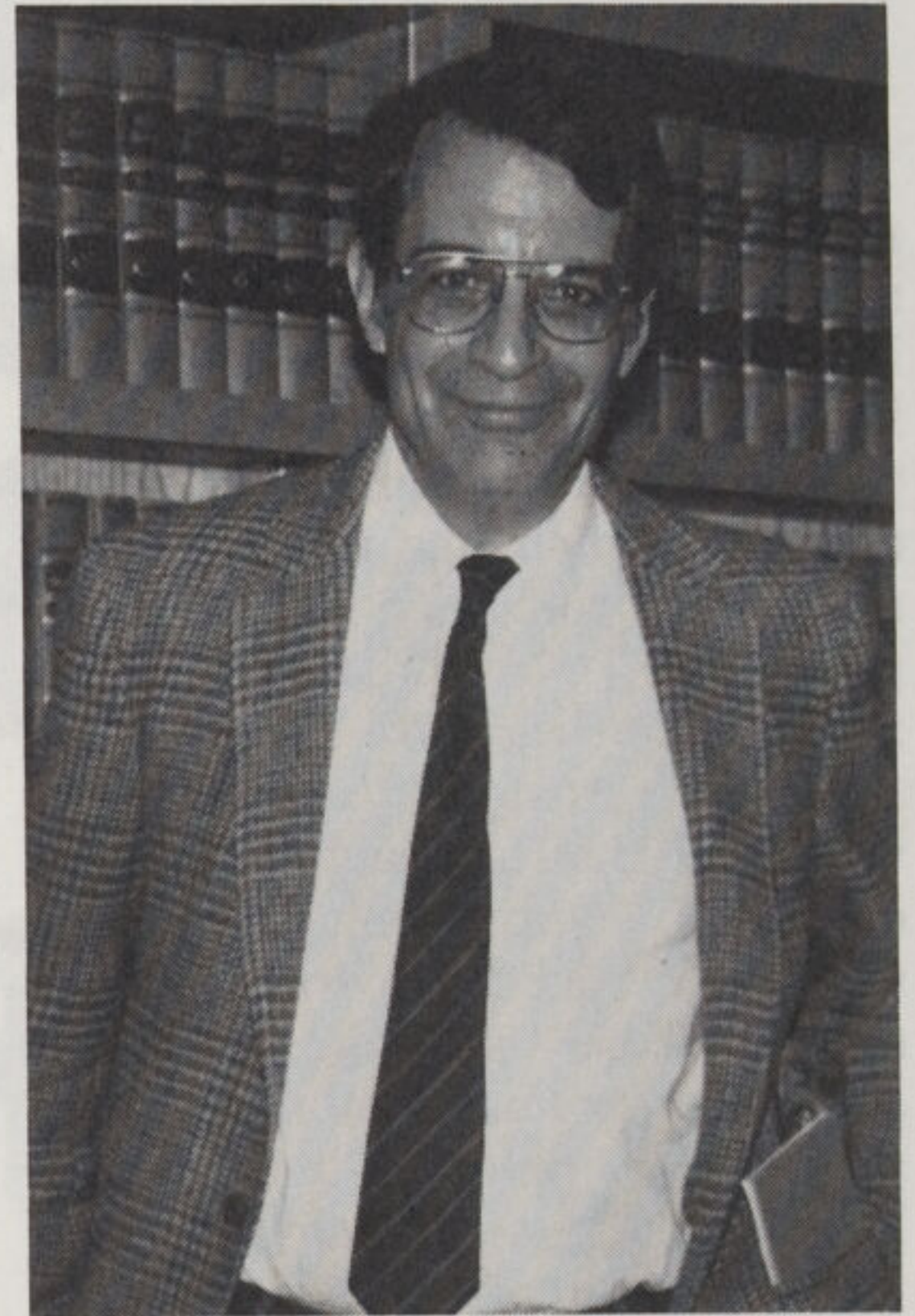
The \$100,000 annual installments will go toward travel and research

expenses and a compilation of case studies for each country. From this research, the CCJ hopes to produce two books on the subject. One will be an analysis of the projected two years of field work. The other will be a collection of readings on the subject. Heymann has solicited resumes from students in his Winter Term terrorism class to assist in compiling this collection.

The project will focus on the response of five countries to terrorism within their borders. The CCJ plans to send representatives to France to investigate Middle East terrorists, Italy to research the Red Brigades, Israel to study the Palestine Liberation Organization, Germany to examine the Red Army Faction and the United Kingdom to assess the Irish Republican Army.

"One problem to be studied," said McGillis, "will be the changes in law enforcement practices and statutes in response to terrorist activity."

Heymann and his associates have already begun work on the project. McGillis recently returned from the United Kingdom, where he conducted interviews with journalists, politicians and law enforcement agencies.



Yearbook

Prof. Philip Heymann '60

## Civil Liberties & Ethnicity

Plans to conduct similar studies in the other countries have also been developed. The handling of the Israeli terrorist problem will be headed by Ariel Merari, visiting professor from the University of Tel

(Continued on Page 4)

# Ogletree Heads Constitutional Law Program For Kids

By Julia Loewy

May police stop and search a student on her way home from school simply because she matches the description of a runaway thought to be in possession of a stolen camera? May school officials search the locker of a champion marksman who threatens to kill the school bully if the bully, who had just beaten him up, touches him again?

These questions were discussed not in an HLS Constitutional Law or Criminal Procedure class but in Cambridge and Boston elementary and junior high schools as part of a new program established by Visiting Professor Charles Ogletree '78 to increase student understanding of the Constitution.

The adults and students attending the program "had provocative and intriguing questions about and very strong views on privacy, individual rights and state authority, yet had little information about constitutional principles," Ogletree explained. He said he realized that "we are taking the wrong approach in celebration of the Constitution if we don't make it a document that is meaningful to children."

The first phase of the program involves law students, recruited primarily from Ogletree's Criminal Law class, arguing opposing sides in case scenarios that they developed, conducting a vote of the elementary students (acting as judges), and then leading discussions on the issues raised.

The reaction from elementary students, teachers and principals was "tremendous," according to Ogletree. The law students also enjoyed their experience, which they said they believed helped them to learn more about constitutional issues as well, Ogletree added.

Ogletree said the discussions "were very interesting. The responses were right in touch with constitutional principles." For example, the elementary students, while not using the precise term, articulated a strong concept of the First Amendment right to freedom of speech in a scenario resembling the January 1988 Supreme Court decision in *Hazelwood School Dis-*

(Continued on Page 10)

# Women Make Up Increasing Numbers At HLS

By Julia Loewy

The entry of the Class of 1990 marks the first time that women represent 40 percent of a Harvard Law School class, an unprecedented high. This year's figure is consistent with a trend of rising female enrollment which has increased the number of women at HLS from 28 percent in 1978 and from a mere nine percent in 1970.

This increasing presence of women at HLS is likely to continue due to the appointment of Joyce Curll as assistant dean of admissions at HLS this past fall. Curll spent 16 years as an administrator at NYU Law School, where, during her tenure, the proportion of women rose from 22 percent in 1971 to nearly 50 percent in 1985. Since her departure, the number of women has fallen back to approximately 45 percent of the student population.

Curll said that she does not completely understand why "we were doing the same sort of thing at NYU, but ended up with more women" than HLS. She said she does not see the lower ratio of women at HLS as a dramatic problem and added that she has not noticed discrimination against women in the admissions process. "It's not 50 percent yet [but] it's not an affirmative action issue," she said.

"We're gradually creeping up," said Curll. "It's a function of who applies," she said, explaining that the number of women at HLS currently reflects the proportion of women in the applicant pool. She noted that an acceptance rate of women below their proportion in the applicant pool or a yield rate of women entering as 1L's below the proportion of those accepted would be an indication of a problem.

Among the factors that may play a role in women's decisions to attend a school is history, Curll said. Harvard is the oldest and most traditional university, and some women may not want to apply. HLS has not had as long a history of women students as NYU, Curll said, where "a number of students had mothers who had gone there." Curll ex-

pressed hope that the number of female faculty members would increase, because "while it's not necessarily a disadvantage, there's something good about seeing role models."

## Integrating Women

Curll also noted that at HLS, students find it difficult to become integrated with the school. She praised the Women's Law Association for creating a spirit of collegiality and noted the helpfulness of women's involvement in recruiting, but also pointed out that integration is a problem for all students.

With this in mind, Curll said that she hopes that the newly organized spring orientation program for students admitted to the Class of 1991 will help to alleviate the problem. The program will allow admitted students to visit classes and sample extracurricular activities before the academic year begins. A similar program was successfully implemented at NYU. According to Curll, "demythification would be a good thing. We need to tell a more direct story about what's really here."

Underrepresentation of women in law school is not a problem exclusive to HLS. "In some parts of society it's still a surprise to see women applying to law school. It is at 40 percent because of stereotypes. On a national basis we're still on our way to full representation," stated Curll.

In terms of female representation, this year's class at HLS has a comparable male/female ratio to those existing at other major law schools. Yale, for instance, had an entering class composed of 38.5 percent women and Stanford admitted a slightly higher 41.7 percent into its class of 1990.

Curll said she plans "to build on what was already a good admissions process, adding some things of my own. I hope and expect there will be a few more [women] each year. Something can become a tradition fairly quickly."

This April marks the 35th anniversary of admission of women to HLS. The school will celebrate with a conference to be sponsored by the HLS Alumni Association.



## Heymann Leads Terrorism Study

(Continued from Page 3)

Aviv, who assisted Heymann in teaching the terrorism class this winter. According to Heymann, Professor Alan Dershowitz "presently plans" to assist in this analysis as well.

The center will look at the role of the Israeli courts in reviewing anti-terrorist measures, with emphasis on the fate of civil liberties. Further, they will examine the problems of racial and ethnic discrimination in the application of these laws to an ethnically separate and identifiable group.

German terrorism will be examined in part at a conference with the German government scheduled to be held at Harvard in June 1988. Representatives from the Max-

Planck Institute and the Goethe Foundation in Germany will meet with officials from the Department of Justice, the State Department, and scholars to discuss international legal cooperation.

"Eventually, what we would like to do is talk to different terrorist organizations in different settings, talk to the government there and draw conclusions," Heymann said. "Yet, the problem may lie with the people of the country, their reactions and the expectations they have of their government," he noted.

McGillis said that the information gleaned from this project will feed into the group's Terrorism course.



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# All-Male Clubs In The '80s

As the RECORD goes to press, Eleanor Smeal, former president of the National Organization for Women, is addressing the HLS community on the "Feminization of Power." A timely issue indeed, and one with which Harvard is likely to become altogether too familiar.

The Supreme Court will soon rule on a challenge to New York City's anti-discrimination law under which the Century Association was found to be in violation. Closer to home, one of Harvard's social clubs is being sued by a female student who is being denied membership based upon her sex.

It seems that in an age where most men would rather admit to barbarism than chauvinism, male clubs still abound. Yes, Virginia, it seems many of those sensitive '80s males would rather drink, dine, and deal with the guys than share this world with the women they purport to respect so much. And deal they do.

Women and minorities are being criticized for demanding entry to associations where they will remain unwanted. Somewhere in the distance Groucho Marx is heard to say "I wouldn't join any club that would have me as a member." But, the issue is not one of seeking membership in something previously off limits, it is rather an issue of equality of power.

Male clubs perpetuate an all-male, all-white bastion of power. These are the places where deals are made, where friendships based on mutual business endeavors are formed, and where favors are done.

Women and minorities have supposedly been given equal access to the business world. And this is *all* that is requested here. No special treatment of women is required to maintain that all-male clubs should be declared illegal. It is simply a matter of equal access to public accommodations and equal access to the business world.

For those who find fault with the notion that these clubs represent a center of business, consider the fact that a 1980 study conducted by the National Club Association in Washington as reported by *The Boston Globe* found that 37 percent of city-club and 26 percent of country-club membership income was paid by business.

For those who further argue that if all-male clubs should be banned so too should all-female clubs, this argument rings true. Open the female clubs up to men. There will be one very real difference and one which will further prove the need to make illegal all-male clubs. Men will *not* flock to join women's clubs. Women's clubs do not offer power.

And, for those still in shock over the notion that '80s men would protest opening the doors to their exclusive clubs, think again.

T.M.F.

## HARVARD LAW RECORD

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## Fenno

After feeding his hamster, Fenno turned to his next routine task of drudgery. Expecting his daily: "Sorry, Fenno, nothing yet," from his agent, Fenno punched out the numbers on his free-with-subscription-to-LIFE-call-today designer phone.

"Fenno dahling," the cigarette-worn voice rasped. "Your ship has finally come in."

Fearing another Barry Manilow duet offer, Fenno braced himself.

"The story is this," the rasp continued. "Meister Brau is starting a new ad campaign, and they've decided you're the Bob Uecker of the legal world. Pack your bags, dahling, a cab'll be picking you up in 10 minutes."

Next thing he knew, Fenno and his hamster were downing cold ones at 12,000 feet with the new "M.B. Gang."

Fenno said to himself, "Wow, all the great ones are here." Hoisting his glass across the aisle, he nodded to Pia Zadora, Bob Bork and Doug Ginsburg (to name but a few), and said: "Nothing like a few free ones on the house!!" They all giggled.

Once in Calgary, Fenno settled down to business. For two entire days, he and Eddie the Eagle perfected the exhibition sport of Combined Ski Jumping/12-ounce Curling before an amazed M.B. camera crew.

He finished filming and hurried off to the Foam Dome to watch the finals of the Ladies Figure Skating (to which the appreciative brewery had given their new star free tickets). In his hurry to find his seat, Fenno tumbled into the carpet-costumed mascots — Hidy and Howdy. Momentarily dazed by his collision with the masses of artificial fur, Fenno had trouble locating his seat. Still staggering, he went toward the ice mumbling, "Hey, I must be in the front row!" Choruses of "sssh's" spurted out around him — two mounties sprang to silence the furtive Fenno.

"Dudley Do-Right!" he cried. "You won't get *this* man!" With nary a second to spare, Fenno vaulted the glass barrier and landed on the ice with a perfect triple axel.

The crowd exploded.

As he spun around to acknowledge their adulation, he was swept up into the strong, beautiful limbs of Katerina Witt. Together they glided through her program in perfect synchronization. All the judges responded with perfect 6.0's.

Upon acceptance of the gold medal for pairs skating, Dick Button queried Katerina: "What do you have to say to your new partner?"

Coyly, she answered, "I shall tell that to *mein* little *wienerschnitzel* over a cool M.B., thank you." But Fenno could read "Defection" in her eyes.



# Letters to the Editor of the Record

## No Women In Tribute

### To the Editor:

Drake Colley and Luke Cole should be commended for their efforts to commemorate Black History Month by depicting the various achievements Black leaders have made in the struggle for Black liberation. Nonetheless, because the commemoration omits Black women who have made significant contributions to the struggle for civil rights, the commemoration distorts Black history and disservices Black women who have made, and are making, significant contributions to the struggle for equality.

In the fight for emancipation, women such as Harriet Tubman and Sojourner Truth risked their lives so that they could save others from the bondage of slavery. Although they differ in their approach to problems Blacks face, Black women such as Constance Baker Motley, Shirley Chisholm, Coretta Scott King, Angela Davis and Barbara Jordan have taken prominent, active roles in their efforts to secure for blacks the privileges whites enjoy.

For the past four years, the President of the Harvard Black Law Students Association (BLSA) has been a woman. For many Black students, BLSA serves as a political and social base with which to address many of the obstacles Black students face here at Harvard as well as in the world outside of Harvard. Many of the contributions BLSA makes to the Harvard Law School community result directly from the leadership of Black women.

The RECORD should make a more serious effort to address issues which affect the Black

community by covering events that provide insight into Black achievements and expectations. For example, on February 26, 1988, BLSA sponsored a tribute to the Black family which featured actor Ossie Davis and the poet Sonia Sanchez. Their presentation incorporated the voices of both Black men and women in describing Blacks' disappointments, achievements and aspirations. On March 18 and 19, BLSA will hold its Fifth Annual Spring Career Conference in which distinguished women and men will address issues in Campaign 1988 affecting Black Americans.

Mr. Colley's and Mr. Cole's commemoration completely failed to consider the contributions of Black women in American history. If a commemoration depicting *only* the achievements of Black women had appeared in the RECORD, it would be very clear to most of your readers that the depiction was inaccurate. Similarly, a depiction of only Black men in commemoration of Black History Month is a distortion of the truth.

Black efforts to gain equality is a struggle fought by both Black men and Black women. Black women are fighting for racial equality, which I believe, incorporates gender equality as well.

Daphene R. McFerren, 2L

## Robbery And The Revolution

### To the Editor:

I received the December 4, 1987, issue of the RECORD in the mail today (news comes slowly to these backwaters), and I hope that there is still time to make some observations

on a few of the letters that were printed therein. It appears that there was a bit of a stir caused by the RECORD's use of the word "robbery" in connection with the unlawful removal of some money (the consensus seemed to indicate "burglary") from the Harkness coffee shop. The letter from Messrs. Starett, Mullen, and Sayers raised the specter of horrors that attend upon the decay of standards and distinctions. Unfortunately, they neglected the cardinal rule that when one attempts satire, one must make sure his or her punctuation is correct. Had they consulted their Strunk & White, *The Elements of Style*, they would have known that the comma goes inside the quotation marks — not outside, which is the British style. Brave Americans fought a long and particularly difficult revolution to free us from British tyranny over our style of punctuation and to secure for future generations the right to put the comma inside the quotation marks. Carelessness in such matters is tantamount to treason (in Massachusetts, no less!). Next I expect to see them writing in protest to the "defence" budget or to denigrate the "practise" of law. (The RECORD itself is to be scolded for using the word "sic" in parentheses rather than in brackets.)

Ray A. Balestri '85  
Dallas, Texas

*Ed. Note: The RECORD thanks you for your revolutionary analogy. In our "defence" we'd like to point out that the Associated Press Stylebook (our stylebook of choice) requires parentheses rather than brackets when using "sic."*

# Conservatives Crush Counselor's Constitutionality

(Continued from Page 1)

possible wrongdoing by a high-ranking executive branch official, she has 90 days to determine if a special prosecutor should be appointed. If the attorney general "finds reasonable grounds to believe that further investigation is warranted," then a special court of three judges named by the chief justice of the Supreme Court appoints a special prosecutor to pursue the investigation and decide whether to seek an indictment from a grand jury. The law requires special prosecutors to obey Justice Department regulations and allows the attorney general to dismiss them for certain specified reasons. A fired special

prosecutor can appeal her dismissal to the special court.

A three-judge panel of the U.S. Court of Appeals for the D.C. Circuit found the special prosecutor law unconstitutional in January and denied one special prosecutor's subpoena request. The Supreme Court has agreed to hear the case, which involves special prosecutor Alexia Morrison's investigation of three former Justice Department officials, and has scheduled oral arguments for late April.

The act has produced some of the "most outrageous violations of civil rights" of our time, said panelist Gordon Crovitz, an assistant editorial page editor of *The Wall Street Journal*, because a special prose-

cutor's "raison d'être is to focus on one individual." Such prosecutors must "make their reputations — if they are to make reputations — on just one individual," Crovitz said.

Congressmen support the law because it aggrandizes their power at the expense of the executive, he said. Independent counsels, as special prosecutors are officially called, have "harassed conservative Republican members of the executive branch," he added.

## Justice Department

A third panelist, Thomas Boyd, deputy assistant attorney general

(Continued on Page 8)

# Coop Nominations

The Board of Directors of the Harvard Cooperative Society has 23 members - 11 students from M.I.T. and Harvard, 11 members of the faculty and staff or alumni of M.I.T. and Harvard, and the president of The Society. The following persons have been nominated by the stockholders of the Society to serve as Student Directors during the 1988-1989 school year.

## HARVARD AND RADCLIFFE COLLEGE STUDENTS

Marcus Hall, '90  
Bonnie B. Huang, '89  
Kevin G. Volpp, '89  
Michael E. Wiese, '89

## HARVARD GRADUATE STUDENTS

Horst J. Kayser, '89  
Richard Hoskins, '89  
Kevin Mohan, '91

## M.I.T. UNDERGRADUATE STUDENTS

Darian C. Hendricks, '89  
Charles Fabian, '89

## M.I.T. GRADUATE STUDENTS

Dennis L. Marler, '89  
Deborah M. Ball, '89

## PROCEDURE FOR ADDITIONAL NOMINATIONS FOR STUDENT DIRECTORS

Additional nominations for student directors may be made by the petition process. Petitions for student directors must be validly signed by at least 100 student members and filed with the Clerk of the Society ( by leaving the petition at the president's office in the Harvard Square store) no later than 5PM, March 14, 1988.

Ballots will be distributed in April to all student members for the purpose of electing eleven directors from the whole list of nominees. If you are interested in becoming a petition nominee, you should promptly acquire petition forms and instructions from the Cashier's Office in any of the Coop stores between the hours of 9:30AM and 5PM, Monday through Friday. Remember that completed petitions cannot be accepted after 5PM March 14, 1988.

*the*  
**Coop**

# S. Prosecutors

(Continued from Page 7)

for legislative affairs, said that while the Justice Department favors some kind of special prosecutor statute, the current one runs afoul of several constitutional provisions.

The law violates Article II's requirement that the president nominate state officers who are not "inferior," he stated, because inferior officers have to be subordinate to someone. Since special prosecutors are independent, they cannot be inferior, he added.

In addition, the Constitution's mandate that the president "take care that the laws be faithfully executed" means that the executive branch, and not an independent official, must prosecute crimes, Boyd said. Finally, he said Article III empowers judges only to hear cases and controversies before them and does not authorize the special court to appoint prosecutors.

HLS Professor Philip Heymann '60 answered Boyd's arguments. Article II's distinction "doesn't throw much light on the independent counsel," said Heymann. He endorsed Justice Joseph Story's interpretation that the ambiguous language "must mean" that the Constitution left Congress to distinguish posts filled by the president and the Senate from other offices. "In the status-conscious days of the late 18th century, inferior meant of lower status," he added.

By seeing that the laws are executed, Heymann said, the Constitution thus means that the president must make sure congressional enactments are carried out. The "take care" provision does not vest exclusive control over prosecutions in the executive, he added.

Heymann and Professor Emeritus Archibald Cox '37 are filing an amicus brief with the Supreme Court on behalf of Common Cause. In addition, Professor Laurence Tribe '66 will file an amicus brief at the request of Lawrence Walsh, the special prosecutor who is investigating the Iran-contra scandal.

(Continued on Page 12)

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# Mock Trials In The Works For Area Youths

(Continued from Page 3)

*trict v. Kuhlmeier.*

Steven Sidel, 1L, who worked on that scenario, said that "the students were right on the ball and understood the basic issues as well as we did." As a follow-up to the discussions, each of the elementary students will be given copies of the Constitution, and their teachers will instruct them on the history of the document and the practical applications of its principles.

## Junior Moot Court

The second phase of the program "is more challenging and experimental," Ogletree said. In early April, the fifth through eighth graders will be coming to HLS to participate in mock trials. It is hoped that by playing their assigned roles as lawyers, witnesses, defendants, victims and jurors, they will develop basic trial advocacy and persuasion skills. Ogletree said the elementary students are energetic and that he is confident they will master the issues.

After the initial classroom discussions, many of the elementary students went home and discussed the Constitution with their parents, which Ogletree said he saw as a major success. He found it troubling, however, that while the parents have their own strong views and are caught up in the celebration of the anniversary of the Constitution, they are in no better position to articulate their views than are their children.

The ultimate goal of the program is to teach students "to have a greater appreciation of a document like the Constitution and at the same time be critical of its application," said Ogletree, who added that he is "excited and optimistic that the program will make an important contribution to young people's understanding of the most important document to shape our country's history."

The program is also helping to raise the public image of lawyers among students. According to Og-

letree, the legal profession suffers a great deal from a negative perception that "all lawyers want to do is make money and defend bad ideas at the expense of social responsibility, justice, fairness and individual rights." He said that he hopes that the profession will be viewed in a more favorable light in the long run as a result of such

community service programs.

The future of the program, however, remains somewhat in doubt. While both the students and the schools are interested in doing the program again, Ogletree said that he "hopes to be back practicing law in D.C. next year," and he is trying to find a replacement as faculty coordinator of the program. ❧

## UVA Deanship Lures Jackson

(Continued from Page 1)

search committee, the University of Virginia offered Jackson the position.

The offer comes at a good time for Jackson, he said, because he has just completed a book on bankruptcy. Although he regrets that he will be unable to devote as much time to his teaching and research as he does at present, Jackson said he considers this offer to be "too good of an opportunity to pass up."

While at Stanford, Jackson chaired the appointments committee, and he said he believes his involvement there may have induced colleagues on the Stanford faculty to recommend Jackson to Virginia's search committee as a potential candidate.

Jackson, who is 37 years old, said he does not believe that his age was an important factor in the selection process. Although law schools traditionally have chosen deans who are older than Jackson, he said he does not believe that he is much younger than the emerging crop of deans.

Jackson said he hopes to be able to teach at least one course a year, in order to keep up in his field and to maintain contact with students. While he said he hopes to continue his scholastic work, he anticipates that this will be his last priority as dean.

## Scaling Down Students

Jackson sees a number of important issues facing him as dean, but does not envision any major struc-

tural reforms. "I did not present myself as someone who was coming in because the school needed a clean sweeping," he said.

The recent increase in the student-faculty ratio at Virginia was cited by Jackson as a significant problem, and he hopes to scale down the entering class while increasing the size of the faculty. According to Jackson, Virginia had intended to scale down its most recent entering law school class, but a rise in the number of applications made this task more difficult.

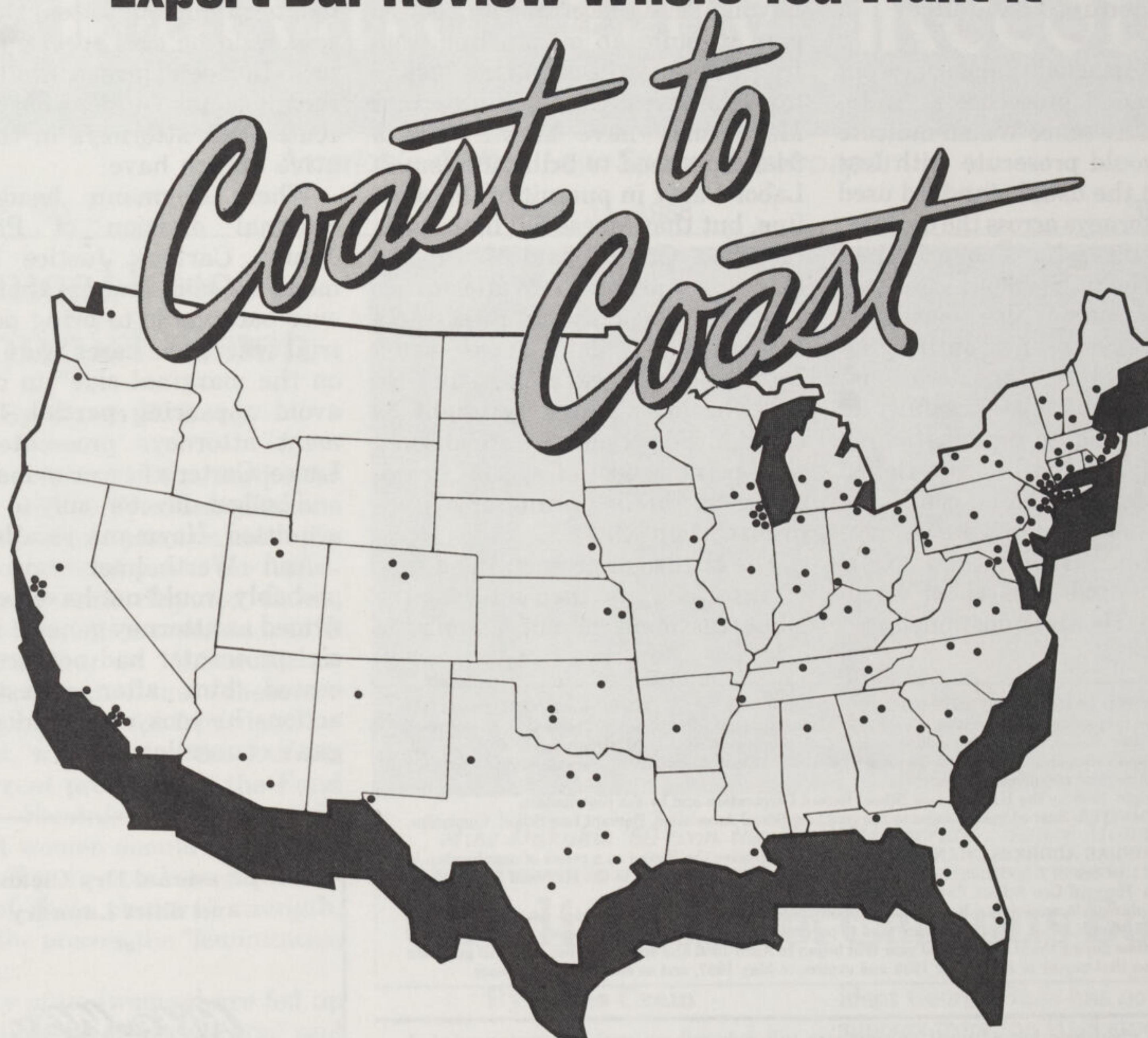
Jackson said he will also look for ways to make the second and third years of law school more engaging by having the faculty consider improvements in the upper-level curriculum. He will encourage various departments to consider team teaching, for example, as a method of stimulating greater interest in upper-level courses.

Jackson expects to be actively involved in the faculty selection process, although he notes that faculty members at Virginia are not in conflict with one another and he envisions no major changes in the appointment process.

HLS Dean James Vorenberg '51 said he is very sorry to see Jackson leave, but added that he believes Jackson will be successful at Virginia. Vorenberg indicated that he will have at least a temporary replacement for Jackson next year to teach his Bankruptcy and Commercial Law courses.

Jackson said he expects to return to academia full-time after completing his service as dean. ❧

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# Profs Draft *Amici* Briefs In Support Of Statute

(Continued from Page 8)

## Inadequate Evidence

Crovitz attacked various recent acts of special prosecutors. Statements by Lawrence Walsh indicate that he would prosecute with less basis than the usual standard used by U.S. attorneys across the country, said Crovitz, who also criticized Whitney North Seymour — investigator of former White House aide Michael Deaver — for “entirely ignoring diplomatic considerations” when he sought unsuccessfully to depose a Canadian diplomat.

Similarly, Boyd questioned whether Morrison had a conflict of interest when, as a private defense lawyer, she represented Carl Channell, a fundraiser whom Walsh prosecuted. He also questioned spe-

cial prosecutor James McKay’s investigation of Attorney General Edwin Meese concerning an aborted plan to build an oil pipeline from Iraq to Jordan. Documents leaked from the investigation indicate that Meese may have known that a friend planned to bribe the Israeli Labor Party in pursuit of the pipeline, but that Meese did nothing in response. Crovitz said Meese had no duty to prosecute Wallach.

But Boyd said special prosecutors appointed to date have acted “professionally and efficiently.” He said the law’s infirmity might be cured if the president were allowed to appoint a pool of special prosecutors at the beginning of his administration.

The chance of prosecuting a case of “notoriety” and then suffering the embarrassment of not winning a

conviction discouraged ambitious prosecutors from seeking indictments in dubious cases, Heymann said. And he said special prosecutors’ independence actually gives them greater freedom not to prosecute than attorneys in the executive branch have.

When Heymann headed the criminal division of President Jimmy Carter’s Justice Department, he said, lawyers there “bent over backwards to bring people to trial where the cases were a little on the marginal side” in order to avoid appearing partial. Government attorneys prosecuted Bert Lance, Carter’s former management and budget director, only to see him acquitted, Heymann recalled.

And Wertheimer said Meese probably would not have been confirmed as attorney general if a special prosecutor had not first exonerated him after investigating actions he took as President Reagan’s counsellor.

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