

## COVEY T. OLIVER

LOUIS H. POLLAK †

With the single exception of Jefferson Fordham, all qualified observers agree that it was Dean Fordham who, more than any other person or combination of people, brought this school into the select handful of institutions that constitute the first rank of American law schools. Notwithstanding this consensus about his aggregate achievement, there is still some contrariety of views about which of the Dean's manifold contributions to this school was the one of most pervasive and consequential impact. Some point to the remarkable roster of law teachers who came to Pennsylvania during the Fordham years. Others cite the Dean's encouragement of an astonishing renaissance of faculty and student scholarly endeavor, much of which is to be found in volumes 101 to 118, *et seq.*, of this *Review*. Still others believe that the physical transformation of this school, which Dean Fordham oversaw brick-by-brick, was the catalyst of all else.

There is a measure of truth in each of these explanations. But I would submit that Dean Fordham's most precious gift to this school was of a different and more enduring kind—and I have reason to believe that Bernard Wolfman, whose deanship built so strongly on the Fordham precepts, would agree with my submission: by personal example, Dean Fordham instilled in his faculty colleagues a commitment to pedagogy and scholarship, lit from within by moral force, which has made the teaching of law at Pennsylvania—and the practice of law by this school's graduates across the land—not a job but a public calling. And because Dean Fordham himself, year by year, grew in energy and scope and extended his remarkable influence across the national legal scene, his faculty colleagues accepted it as natural that they too would become more productive and creative scholar-teachers with the advancing years, to the point where the achievement of *emeritus* status would merely serve to enlarge one's opportunity and obligation to think and write greatly in the law.

Thus, years after Dean Fordham's move from this school to Utah Law School, it is the senior faculty who are in many ways the most youthful and enterprising members of the law school community. When I joined this faculty five years ago, the redoubtable Louis B. Schwartz was the only member of the rising-sixty-and-older

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† United States District Judge for the Eastern District of Pennsylvania. A.B. 1943, Harvard University; LL.B. 1948, Yale University.

generation I knew at all well. The rest—Paul Bruton, Alexander Frey, and Clarence Morris, already *emeriti*; and George Haskins, John Honnold, and Covey Oliver, still in active service—were principally known to me through their important scholarly achievements across the full range of the curriculum. Getting to know the members of this eminent senior professoriate as colleagues and friends was one of the numerous happy dividends of coming to Pennsylvania.

All of these men are leading scholars in one or more fields of law. Professor Oliver stands out from this remarkable group in that he, unlike the others, has combined a major academic career with an extended stint of governmental responsibility at a high executive level.<sup>1</sup> In the mid-nineteen sixties, Professor Oliver, following the authoritative international law model of Philip Jessup twenty years before, took a leave from his academic post for a tour of high-level diplomatic duty in the State Department and in the field. As with Ambassador Jessup, so with Ambassador Oliver: he proved as wise and persuasive in the international arena as in the classroom and in the literature; and on his return to the academy, he brought with him insights and experiences that have illuminated his teaching and writing ever since.

I learned much from Covey Oliver during the four years I was privileged to be his colleague. Thus, as a kindly mentor, he taught me a great deal of substantive law. While pretending simply to be re-orienting a superannuated combatant who was about to re-enter the storied battlefield of Conflicts, Professor Oliver not only reminded me of the whereabouts of long-established minefields (*renvoi*, *Milliken v. Pratt*,<sup>2</sup> *Bradford Electric Light Co. v. Clapper*,<sup>3</sup> *Kilberg v. Northeast Airlines, Inc.*<sup>4</sup>), but identified and described the probable blast area of newer minefields I hadn't theretofore adequately surveyed (*Banco Nacional de Cuba v. Sabbatino*,<sup>5</sup> *Shaffer v. Heitner*<sup>6</sup>). But, valuable as were Covey Oliver's lessons

<sup>1</sup> This is by contrast with the equally important public responsibilities of Professor Schwartz (directing the (Brown) Commission on Reform of the Federal Criminal Laws), or Professor Honnold (directing the unification of international trade law at the United Nations) or their "junior" colleague Professor Levin (directing (a) the (Hruska) Commission on Reform of Federal Appellate Courts, and (b) the Federal Judicial Center)—responsibilities which are closer to the familiar terrain of a professor than to the action-packed arena of an ambassador and an assistant secretary of state.

<sup>2</sup> 125 Mass. 374 (1878).

<sup>3</sup> 286 U.S. 145 (1932).

<sup>4</sup> 9 N.Y.2d 34, 172 N.E.2d 526, 211 N.Y.S.2d 133 (1961).

<sup>5</sup> 376 U.S. 398 (1964).

<sup>6</sup> 433 U.S. 186 (1977).

in the resolution of doctrinal conflicts, far more valuable were his lessons in the resolution of human conflicts. Such lessons were of inestimable value for a recidivist dean—one whose earlier decanal servitude had led him to be reasonably confident that he could cope with patterns of academic trench warfare common to every university campus, but who, new to Pennsylvania, was unacquainted with those local and well-camouflaged pitfalls of educational administration not even hinted at on charts of the academic terrain found in the files of previous deans.

It was the proper measure of Covey Oliver's qualities of judgment and leadership that President Meyerson immediately and enthusiastically concurred in faculty urgings that he ask the newly *emeritus* Professor to become Acting Dean in 1978. And it was the proper measure of Covey Oliver's loyalty to Pennsylvania that, at substantial personal inconvenience, he immediately returned to harness.

Professor Oliver may regard what I am about to say as the sort of heresy that only one wholly unlettered in international law could pursue. Nonetheless, I will acknowledge that I have long thought that the doctrine of foreign policy attached to the name of James Monroe—important as that doctrine has been in the diplomatic life of the nation—is of lesser historic significance than the label attached to Monroe's presidency: "the era of good feeling." Covey Oliver's term as Dean was just such an era, and served as prelude to the new era of community, of commitment to the profession's highest aspirations, and of intellectual adventure, which is now in train under Dean Freedman. All who cherish the law school are happily indebted to Dean Oliver—and to Dean Fordham, of whom he was a true colleague and worthy successor.