

# ON THE INSIDE BUT LOOKING OUT

*Though part of its border touches a foreign country—Texas—our state is generally considered to be quite inland. Therefore, it may surprise you to know that its OU law college is a leading supplier of attorneys specializing in foreign law. The man behind this remarkable record is Dr. R. Dale Vliet (right), who is our champion of the foreign law cause.*

A surprising number of that specialized group of attorneys versed in the intricacies of foreign law have also been grounded in the commercial code of Oklahoma. A significant portion of them, though their practices are generally centered in the major cities of the world—New York, Paris, Geneva, Tokyo, Washington, Cairo, Buenos Aires—are also familiar with such exotic places as Atoka, Gotebo, Marietta, Guymon, and Poteau. If you hum *Boola Boola* to them, not a few will respond with the words to *Boomer Sooner*. Which is to say a goodly representation of those trained in international law hail from Oklahoma, and specifically from the OU College of Law.

The University's law school has a notable record in the number of its graduates who have entered the field of international law. It ranks among the nation's leaders in this department. Says Dr. R. Dale Vliet, David Ross Boyd professor of law and champion of the cause at OU: "A professor at one of the schools which have special programs in this area told me that in recent years we have sent more students on to graduate study in international law than any other state university law school."

Don't be misled into picturing hordes of law graduates leaving Oklahoma and enrolling in the post-graduate training that is required. The flow is far from torrential, but it has been steady and respectable. An

average of from one to two OU law graduates each year for the past ten has chosen careers in international law, which is quite an impressive figure for this very selective field. It's particularly interesting and perhaps paradoxical to some that such a significant number of native sons from a state as inland (and some would say as provincial) as Oklahoma should choose such cosmopolitan careers. Dr. Vliet believes that the state's geographical insulation may in fact contribute to the appeal. Some may be attracted for the same reasons an unusually high percentage of Nebraska youths join the Navy. "Being landlocked, I think, actually has made us more aware and intrigued with the world outside," he says.

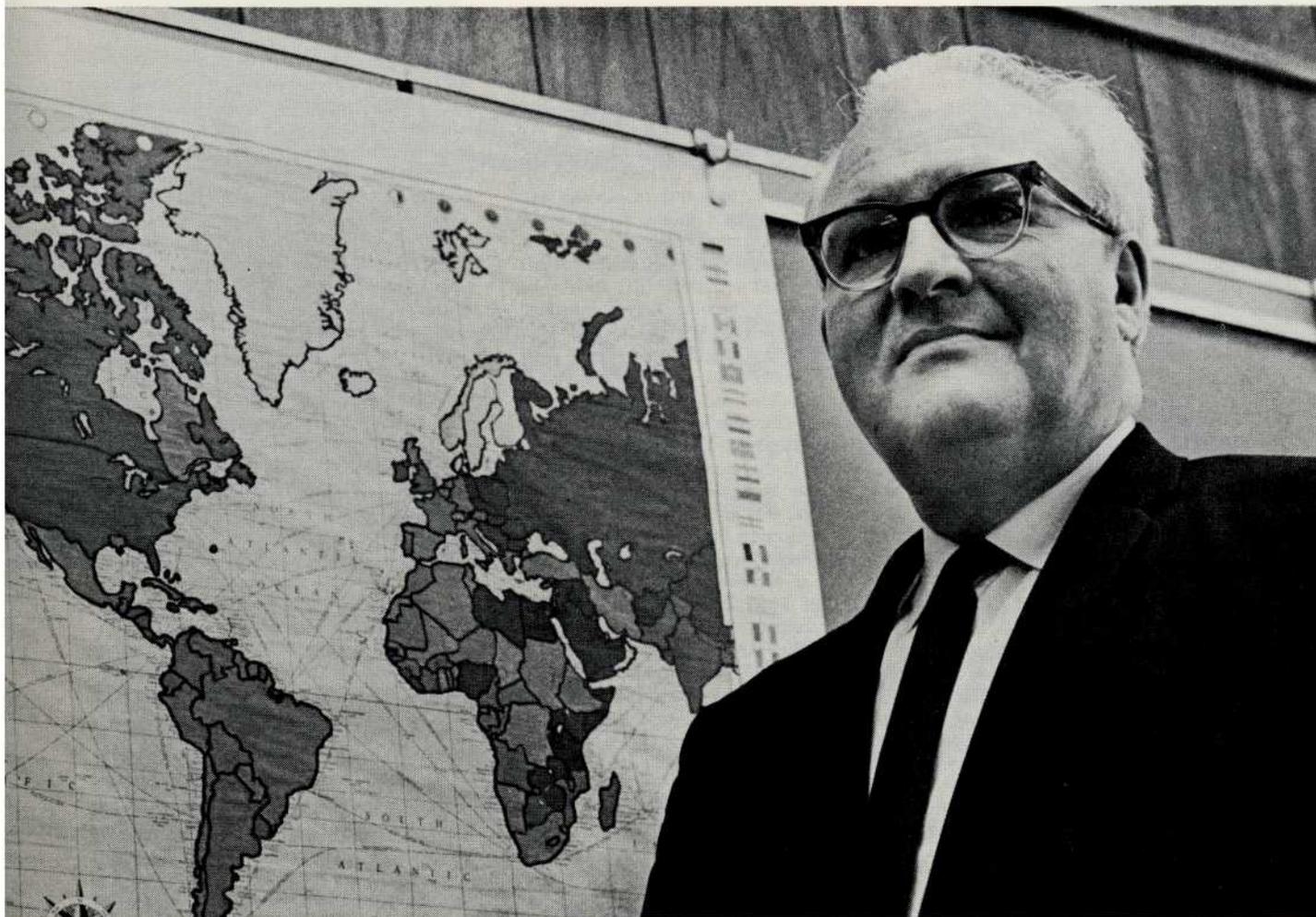
Probably the question of whether a state has a coastline is academic in this day and age. A dramatically shrinking world is perhaps an even more compelling factor. "The rapid expansion of travel and the relatively easy accessibility of one country with another have also inspired an interest in foreign law," Dr. Vliet says.

The reasons, of course, vary with each individual. Four years ago in preparing an address that he delivered at the Parker School of Comparative and Foreign Law at Columbia University, Dr. Vliet polled several of his former students about their decisions to enter the field. Answered one: "I'm sure there were several reasons which

prompted me to pursue graduate study in comparative law (an aspect of international law), and I doubt I can identify the most predominant. Travel? Yes. Travel had whetted my appetite and was a contributing factor though it was not among the most important. . . . An inborne desire to see the world in a larger perspective? I don't know whether the desire was inborne, but this was one of the most important factors. At least I thought so. I had worked in an Oklahoma City law firm for several months as a student and felt that helping an oil man save on his taxes was not among the highest callings for a young man, especially in our troubled world. This 'larger perspective' rationale was the stock explanation I used when asked why I was studying useless foreign law.

"Some other motivation? I'm sure there were several. Before graduating from law school, I was not certain I was heading for a meaningful life. I was dissatisfied with the values I encountered in my environment, lacked confidence in my own fuzzy values, and felt I had to escape from my environment to find oxygen. . . . In a sense the necessarily drab subject matter of some law courses had a reverse effect and impelled me to escape, somehow, from a life where the latest Oklahoma Supreme Court decision on, say, mortgages was supposed to be important to me. I don't mean that the





courses at OU were dull or poorly taught. I mean I either wanted to leave a world of dull, workaday matters or achieve a deeper understanding of that world so that I could live meaningfully in it. Comparative law offered this possibility."

Whatever the reasons, Dr. Vliet is delighted, if somewhat mystified, by the showing OU has made. A portly, distinguished gentleman and an outstanding teacher, as his Boyd professorship attests, Dr. Vliet advocates a strong program in the international field at OU. At present he teaches the sole course offered in the curriculum, a two-hour introduction in comparative law, and his is the manner of a gardener nurturing a delicate and beloved plant. The seed was first placed in the soil eight years ago, and since then, through Dr. Vliet's efforts, a modest library has been collected. Much more is needed. "If we could get \$10,000, we could have a sound library of English language books in the field. Last summer I was in Europe and continually came across many valuable volumes which we need so very much. I felt like a child in a candy store with no money." Unfortunately, this is often the case; international law goes begging in many institutions.

Some law schools are forced to look upon offerings in international law as a luxury. Often it is difficult, as at OU, for budgetary reasons, to convince the powers-that-be that

a law college has the need for a professor whose specialty lies in that field. It is also difficult to attract such a person. There is simply not a bountiful supply of qualified teachers, because industry quickly snaps up such persons at larger salaries than most schools are prepared to pay. "Our faculty was conscious of the need for adding some offering in this area to our curriculum, but

Those who have studied international law at the graduate level and who are pursuing careers in the field include the following: *R. Lee Jenkins*, '52ba, '56Law, NYU; *Jack H. Gardner*, '52bus, '56Law, NYU; *Tom Kenan*, '53ba, '58Law, NYU, now practicing in Oklahoma City; *Max N. Berry*, '58ba, '60Law, Georgetown; *Vincent Nathan*, '59ba, '61Law, Indiana; *Wayne Gallop*, '59Law, NYU; *Richard Lee Bohanon*, '60Law, NYU; *Robert Coleman Copeland*, '61bus, '63-Law, California at Berkeley; *Joseph Crosby*, '61ba, '63Law, George Washington; *Milton Andrews*, '63Law, George Washington; *Mont Hoyt*, '64Law, Chicago; *Bill Little*, '65Law, NYU; *Duane Wall*, '65Law, NYU; and *Dale O. Johnson*, '65Law, Texas. This list is restricted to the past ten years and thus does not include a number of OU graduates who are specialists in the field.

to do so meant retreading some old warhorse, and I was he," says Dr. Vliet.

The "retreaded old warhorse" was not without qualifications. He was an authority in the conflict of laws, which is in many ways related to the field of comparative law. He was widely traveled, and his interest in international law began during his days as a student in the OU College of Law. He was the second student in the nation to be chosen for graduate study in foreign law on a fellowship program established in the late 30's by a wealthy, believe it or not, plumbing magnate. The first recipient today is America's leading authority in Soviet law. Dr. Vliet, for reasons which he nows feels were inadequate, declined. He has, however, been active among the field's coterie of professors and has been recognized for his work in teaching comparative and foreign law. In 1961-62 he was a Fulbright professor of law at the University of Helsinki. He is presently a member of the International Faculty of Comparative Law of the International University of Comparative Science at Luxembourg, where he taught last summer. He is a member of the committee representing the United States at the Congress of Comparative Law at Upsala, Sweden, and was a delegate to the 53rd Congress of International Law at Helsinki last year.

The importance of having a suitable program in comparative and foreign law seems

obvious to Dr. Vliet. As the world grows smaller, the need for persons trained in international law grows larger. More and more American firms are doing business on a worldwide scale. Many Oklahoma firms, particularly in oil, are involved in other countries. The nation's law schools will be called upon to provide more and more graduates to meet the demand.

A student who decides on a career in international law can choose from a number of schools with advanced programs in the field. The usual procedure is to specialize in a particular legal system used by a particular country or area.

Dr. Vliet uses a special map with five colors representing the five general systems employed in the world to illustrate the different methods. There is the common law green which encompasses England, Ireland, the United States, Canada, India, and other former British colonies scattered about the globe. There is civil law orange bathing western Europe, Greece, Turkey, Iran, all of Latin America, Quebec in Canada, many nations in Africa, and Japan. There is the Scandinavian legal system, colored yellow, covering Denmark, Norway, Sweden, Finland, and Greenland. There is the Muslim blue imposed on some African countries and in the Arab states of the Middle East. And there is the red of the Soviet legal system sweeping across the vast stretches of the Soviet Union, China, and eastern Europe.

In pointing to the area under the Soviet system, Dr. Vliet emphasizes the need for more Americans trained in this form of law. We are faced with a particularly acute shortage. "With expanding trade with the Soviets and the relaxation of tensions, it behooves us to know as much as possible about their legal system," he says. "Most of us have a general reaction when we think of the legal system of the Soviet Union: 'It is chaotic, bureaucratic, a kind of decision-making to

carry out party policy. The judges are party hacks.' There is some historical basis for these reactions, for after the 1917 Revolution those trained in law were ousted, for the most part. Party members served. But this situation has long since passed. We haven't caught up with our understanding, however. Their system is highly sophisticated. They have well trained lawyers and judges. And though a person raised in our common law system, based on capitalism, would feel uncomfortable in theirs; nevertheless, we must recognize that it is valid and attempt to become better informed about its workings."

Of the five systems depicted on the map, two—the Soviet and the Scandinavian—are closely related outgrowths of civil law, which with common law and Muslim law, constitutes the basic three legal systems. It is difficult to be completely accurate in a map of this kind, however, because there is an increasing overlapping of systems. Japan, for instance, once had an Oriental system unto itself, then it incorporated a German form of civil law in the early 20th century. After 1945, it has borrowed heavily from our common law.

The Muslim law is based largely on the teachings of the Koran with a predominant philosophy of an eye for an eye. Civil law grew out of the Roman system to a great extent and is based on legal codes. In theory no precedent is recognized, only the interpretation of the code. A prior decision may be persuasive because of its logic, but it is followed theoretically, not because it sets forth a precedent. The court decides without jury in all civil matters. There is an inquisitorial system by the judge, and the right of cross examination is practically nonexistent.

Common law is based on customary law augmented by statutes. It has as its guiding theme the theory of *Stare Decisis*: Once a case is decided, the law is binding on all

inferior courts—a legal system based on precedents.

There are three aspects of international law. One is the sector of *public* international law which regulates nation-to-nation relationships and is involved with such things as boundaries, shoreline activities, sea rights, international waters, and war. Another is *private* international law, called "conflict of laws" when applied to U.S. laws, which is concerned with individuals and businesses. Those who specialize in this area attempt to determine which law governs the rights of the parties involved in a legal action. Because of the differences among the legal systems and laws of nations, cases can become incredibly complex. For instance, when an Oklahoman driving through France collides with an auto driven by a German, matters tend to get a wee bit complicated. In our country this is the most dynamic area of law because of the mobility of our citizens and the differences in laws and interpretations among the states.

The remaining aspect is *comparative* law, which is more a technique than an area of law. The terms "foreign law" and "comparative law" are frequently combined as a single sector of study. In studying the various legal systems of the world, a comparativist must develop the facility for finding how they work, and he must explore the differences and similarities of each.

Whether a person enters graduate study toward specialization in international law or not, Dr. Vliet feels a basic knowledge made available during law school is invaluable. "I have had several of my former students tell me that they were able to use the understanding they had acquired from comparative law in their practices even in small Oklahoma cities." So whether one's practice is in Paris, France, or Prague, Oklahoma, it is desirable to have the tools to investigate properly the field of international law.

## Of Squidgets and Aunt Sterna

*There are numerous examples which can be used to illustrate the scope and complexity of international law. The four which follow show how both individuals and businesses may have the occasion for counsel with training in the intricacies of this field.*

1—The employee of an American corporation doing business in Saudi Arabia through negligence injures a visiting U.S. citizen, who subsequently returns home and sues the corporation in an American court which must determine his rights and the corporation's obligations on the basis of Saudi Arabian law.

2—An Oklahoman buys a ticket from a local travel bureau to fly to France on a French airliner. The plane crashes during landing in Paris due to the negligence of a French control tower operator, killing the Oklahoman. The customary rule of law is the law of the coun-

try where the accident occurs determines the rights of the party. But is this a tort (a wrongful act for which a civil act will lie except one involving a breach of contract) or is it a question of breach of contract of safe carriage? Whether it's a tort or an action in contract may well depend on the French law. Likewise, there's the problem, if action is brought in the United States, concerning recovered damages: Would they be based on U.S. or French law? If the latter is the case, how does an American jury determine the damages by French law whereas if the trial were in France, there would be no jury in the first place.

3—You are president of an Oklahoma corporation which manufactures a handy little apparatus called the Squidget, which you wish to sell in Japan. Since it is an item you have copied from the Japanese and can make cheaper

and smaller than they can, you feel there will be a strong market. How do you go about determining the steps to do business in that country? What about licenses? Tax law? Labor law? Do you subject yourself to jurisdiction of Japanese courts if suits arise there or elsewhere? Is it necessary to become incorporated in Japan just to do business there? What liability do your American shareholders have in a Japanese corporation?

4—Rich, eccentric old Aunt Sterna, who has resided in Italy for the last twenty years, has died and made you sole heir to her fortune, bless her heart. What steps do you take to receive your inheritance? Is probate of the will necessary under the law of that country? Are you or are you not held liable for any debts Aunt Sterna might have? How do you go about having her body moved to the United States for burial?