

HEYTENS '00 BECOMES VIRGINIA SOLICITOR GENERAL

TOBY J. HEYTENS '00 became solicitor general of Virginia on Feb. 21 after Virginia Attorney General Mark Herring tapped him for the post in January.

The Office of the Solicitor General represents Virginia in the U.S. Supreme Court, the Supreme Court of Virginia, and federal circuit courts in non-capital cases that call into question the constitutionality of a state statute or that bear on policies of the commonwealth. The office also assists other divisions of the Office of Attorney General with constitutional and appellate issues.



"I'm thrilled that we are able to add someone of Toby's caliber and experience to our team," Herring said. "His work as a clerk to Justice [Ruth Bader] Ginsburg, in the U.S. Solicitor General's Office, as an advocate in the Supreme Court and as an educator on the law will make him an outstanding solicitor general."

Heytens succeeds another alumnus, **STUART RAPHAEL '89**, who is now a partner at the law firm Hunton & Williams. UVA Law is well-represented in such positions nationwide: The school is No. 5 among law schools in the number of graduates serving as state attorneys general and solicitors general.

Heytens will take a leave of absence from the Law School for the duration of his term. He previously took leave from the faculty from 2007 to 2010 to serve in

the U.S. Solicitor General's Office, where he argued six cases before the U.S. Supreme Court.

The Law School has a long tradition of faculty and former students serving the public, including the commonwealth of Virginia. The state will benefit greatly from Heytens' renewed public service, Dean Risa Goluboff said.

"It is difficult for me to imagine a better solicitor general for the commonwealth than Toby," Goluboff said. "The same analytical clarity and love of the law that make him an award-winning teacher also make him a virtuoso appellate advocate. He is as smart as they come and deeply committed to advancing justice and equality."

Heytens said he is excited to participate in government legal advocacy at the state level.

"I've never worked in state government, so this is a really cool opportunity," he said. "I love being a teacher and being a practicing lawyer. Whenever I spend a long time doing just one I miss doing the other."

Prior to beginning his state service, Heytens argued *City of Hays, Kansas v. Vogt* before the U.S. Supreme Court in February. The Supreme Court Litigation Clinic, of which he was an instructor, brought the case.

Heytens most recently served as the David H. Ibbeken '71 Research Professor of Law.

—Mary Wood



KERRY ABRAMS will become dean at Duke Law School on July 1 (see p. 14). She is publishing "The Rights of Marriage: *Obergefell*, *Din*, and the Future of Constitutional Family Law" in the 2018 volume of the Cornell Law Review. Abrams taught a new class this year, Lawyering for In-House Counsel, which focused on professional skills that are important for in-house lawyers, including contract drafting, client interviewing and counseling, and policy development.



ADITYA BAMZAI presented papers at a symposium on "Defining the Constitution's President" at the University of Richmond School of Law in October and at a symposium on "Administrative Lawmaking in the 21st Century" at Notre Dame Law School in November. He also presented at the Hoover Institution in Washington, D.C., in September on regulatory developments at the Supreme Court and in the courts of appeals, and at an American Bar Association event on administrative law in January.

On Jan. 5, the Supreme Court granted his motion to present oral argument as an amicus curiae on a jurisdictional question in *Dalmazzi v. United States* (see sidebar). Eleven days later, on Jan. 16, he argued the case. A decision is expected by the summer.



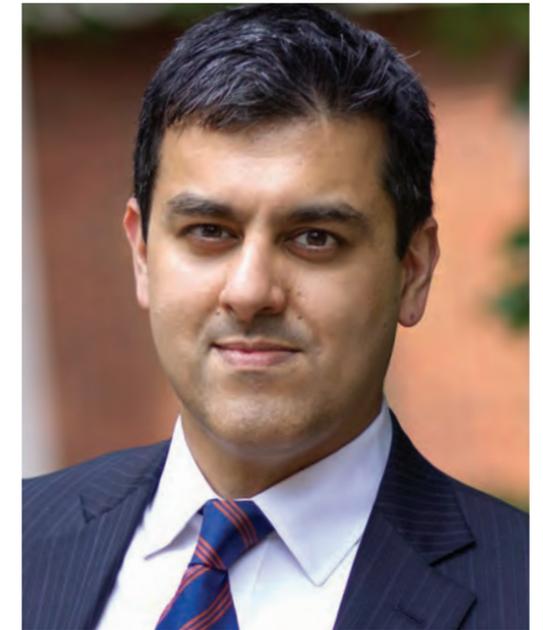
In the fall, **CHARLES BARZUN '05** presented an essay, "Three Forms of Legal Pragmatism," as part of a book symposium at Washington University in St. Louis. The paper will appear in a forthcoming publication of the Washington University Law Review. He also gave a presentation Oct. 31 with his brother, Matthew Barzun, former U.S. ambassador to the United Kingdom, in honor of their grandfather, Jacques Barzun, as part of a conference about Martin Luther titled "The Age of the Individual: 500 Years Ago Today," hosted by the Center on Capitalism and Society at Columbia University. More recently, he helped organize a conference, "Rethinking Legal History," in March in Helsinki, Finland. He was also invited to give talks at the universities of Alabama and Colorado law schools. This spring, his article "Justice Souter's Common Law" will be published in the Virginia Law Review.



After release of the consensus report on the opioid epidemic that he chaired for the National Academies of Sciences, Engineering and Medicine, **RICHARD J. BONNIE '69** spoke to diverse University audiences throughout the fall about the magnitude of the problem and policy initiatives needed to address it. He also addressed meetings convened by the National Academy of Medicine to

facilitate a coordinated response by private and public stakeholders. In his role as chair of an expert panel on mental health reform in Virginia, Bonnie also helped the 2018 session of the General Assembly close gaps in mental health services, including wider use of tele-mental health and investments in supportive housing and in intensive alternatives to hospitalization.

Aside from his ongoing public service activities, Bonnie participated in a symposium in Auckland, New Zealand, in October on "fitness" for criminal adjudication in the common law world. His paper addressed "The Emerging Significance of Decisional Competence in the United States." Bonnie and colleagues from the MacArthur Research Network on Neuroscience and the Law published an empirical study in the *Vanderbilt Law Review* titled "Decoding Guilty Minds: How Jurors Attribute Knowledge and Guilt." In the field of medical ethics, Bonnie co-authored two articles in *Neurology*. The first paper stated, on behalf of the American Academy of Neurology, that decisions regarding "physician-hastened death should be left to professional conscience in those states where it is lawful." The second paper reaffirmed the concept of "brain death" and the validity of the academy's guidelines for conducting brain death examinations in the face of recent litigation challenging both the definition and the guidelines. He also led a team of international medical ethics experts charged with developing guidelines for conducting research on medical records in state-run hospitals. These guidelines were sought jointly by the government of Ukraine and human rights advocates in



BAMZAI DEBUTS AT SUPREME COURT AS INDEPENDENT AMICUS

ADITYA BAMZAI made his debut at the U.S. Supreme Court on Jan. 16 after a rare decision by the justices to allocate argument time to an independent amicus curiae.

The court granted him 10 minutes to present along with parties representing sides in three consolidated cases—*Dalmazzi v. U.S.*, *Cox v. U.S.* and *Ortiz v. U.S.*

The cases involved challenges to the appointment of various judges who serve on the U.S. Courts of Criminal Appeals for the military services. The challenges were rejected by the U.S. Court of Appeals for the Armed Forces, an adjudicating body housed within the executive branch.

In his brief, Bamzai argued that the Supreme Court did not have jurisdiction to hear the cases.

Professor Dan Ortiz, director of UVA Law's Supreme Court Litigation Clinic, said it's "extremely uncommon" for the justices to grant speaking time to an amicus who isn't siding with either party and wasn't appointed by the court. In fact, this is the first time since at least the 1940s that the court has granted a law professor's request to argue in a case, Bloomberg Law found.

"I'm pretty sure they chose him because he made a very compelling argument in his motion for oral argument that the parties were overlooking an important issue," said Ortiz, who also argued at the court this term. "The court must also have been impressed by the quality of his brief."

Bamzai is a former attorney with the Department of Justice and previously clerked for Justice Antonin Scalia. His primary teaching and research interests are in the fields of civil procedure, administrative law, federal courts, national security law and computer crime.

—Mike Fox

response to controversies regarding public access to medical records of victims of repression during the Soviet era.



In November, **MAUREEN BRADY** presented a work in progress, “From Rocks to Rods: The History and Theory of Metes and Bounds Demarcation,” at the Private Law Workshop at Harvard Law School. This work was also selected from a call for papers and featured in January at the AALS Annual Meeting in San Diego on the property section panel, “Structural Facilitation of Property Markets.” She presented the same article in March at the Cardozo School of Law Faculty Workshop.

Also in March, Brady was invited to participate in the Pepperdine Law Review symposium on “Federalism: Past, Present, and Future.” Additionally, she served as a panelist discussing the validity of aesthetic judgments in land use law at the Association for the Study of Law, Culture, and the Humanities annual conference held at Georgetown Law. This winter, Brady acted as a discussant at the North American Workshop in Private Law Theory held at the USC Gould School of Law. She was interviewed on the Eminent Domain Podcast by Locke Lord LLP and presented on the federalism implications of the Supreme Court’s most recent interpretations of the Takings Clause at the 2018 ALI-CLE Eminent Domain and Land Valuation Conference in Charleston, South Carolina.



GEORGE COHEN reprised his ethics lecture on “Compensating Fact Witnesses” on Feb. 3 at the UVA Law conference “Shaping Justice in an Age of Uncertainty.” Last fall he presented to the Judicial LL.M. Class of 2002 on “Law and Economics in the Courts: Recent Cases.”



ASHLEY DEEKS gave a presentation in November to UVA’s Human and Machine Intelligence Group titled “War by Robot?” In December, Deeks spoke at the Council on Foreign Relations about the U.S. foreign policy response to Russian election hacking, and she made a presentation to the State Department’s Advisory Committee on challenges posed by lethal autonomous weapons systems. At the 2018 AALS Annual Meeting, she appeared on a panel about President Donald Trump’s national security policies.

Deeks wrote an essay on secret treaties and the role of government lawyers, which appeared this winter in the online supplement to the *American Journal of International Law*. The essay argues that many secret agreements are substantively consistent with international law, in part because of the role that government lawyers played in crafting those commitments. In March, she spoke about national security and international law at the 2018 Harvard International Law Journal symposium.



KIM FERZAN was a visiting professor at the London School of Economics in November. While in the United Kingdom, she presented “The Means Principle and Optimific Wrongs” at the University of Warwick’s Centre for Ethics, Law, and Public Affairs, and at the Moral Philosophy Seminar in Oxford University’s Philosophy Department. She also presented “Risking Other People’s Riskings” at the University of Edinburgh Law School’s Criminal Law Seminar Series and at LSE Law’s Criminal Law and Criminal Justice Theory Forum. She gave a public lecture at LSE titled “Distributing Retributive Desert.” She also took part in a roundtable on the nature of rights held at Churchill College, Cambridge, and sponsored by the University of Illinois Law School and Cambridge University.

In December, Ferzan’s paper, “The Bluff: The Power of In sincere Actions,” was published by the peer review journal *Legal Theory*.

In February, Ferzan gave a lecture titled “Puzzles for Retributive Punishment” at Cleveland Marshall College of Law as part of its Criminal Justice Forum.



BRANDON GARRETT will join the Duke Law School faculty in July. His wife, **KERRY ABRAMS**, was named the next dean at Duke.

Garrett convened the advisory board for the Laura and John Arnold Foundation grant to

study the law and science of eyewitness memory, and hosted a panel discussion with several of the advisers Sept. 14 at an event sponsored by the *Virginia Journal of Criminal Law*.

He gave his chair lecture as the White Burkett Miller Professor of Law and Public Affairs on Nov. 10, and spoke about his new book, “End of Its Rope: How Killing the Death Penalty Can Revive Criminal Justice,” published by Harvard University Press in September. He also gave talks about the book at Washington and Lee School of Law on Sept. 21; Columbia Law School on Oct. 11; George Washington Law School on Oct. 27; University of Pennsylvania Law School on Nov. 8.; at the Cardozo School of Law at Yeshiva University Innocence Project on Oct. 16; and at the Visual Arts Center in Richmond on Nov. 29. Garrett spoke about the book at the University of North Carolina on Feb. 26, and was slated to speak about the book at Harvard Law School on March 19; at the Virginia Festival of the Book on March 22; at the University of Houston Law Center on March 29; and at the University of Texas on March 30.

In Italy, Garrett delivered a keynote on “Convicting the Innocent” at the European Innocence Network Conference at Roma Tre University, Rome, on Oct. 16. He spoke about “End of Its Rope” with law faculty of the University of Bologna on Oct. 17, and spoke about his book “Too Big to Jail: How Prosecutors Compromise with Corporations” to the economics faculty. Garrett discussed “Too Big to Jail” at the European University Institute in Florence on Oct. 18.

Garrett presented “The Public Interest in Corporate Settlements” at Washington and Lee School of Law at a con-

ference Oct. 22. He spoke to NYU Asia Law Society visiting scholars Oct. 10, to the New York Office of the Appellate Defender on Nov. 16, on a panel on forensic science at a conference on the 25th anniversary of the Innocence Project on Nov. 17, and about the law and science of eyewitness memory to the Virginia Indigent Defense Commission criminal investigators conference Nov. 2.

Garrett presented an essay, “Evidence-Informed Criminal Justice,” at a George Washington University Law School conference Oct. 27. He hosted the second UVA Corporate Compliance Roundtable on Nov. 4-5. On Nov. 18, he spoke at the American Criminology Society conference on research on life without parole sentences. Garrett participated via Skype in a death penalty scholars conference in Bangkok, Thailand, on Nov. 28.

Garrett is planning a March 26 conference on Forensic Science, Statistics and Law, sponsored by the CSAFE Center for Excellence, in which UVA Law participates, in conjunction with the Virginia Journal of Criminal Law. He is scheduled on April 2 to give a faculty workshop at Tulane Law School, and on April 6 will give a book talk at Yale Law School and speak at a Masters Tea in Stiles College, also at Yale. He is slated to present at the Criminal Justice Roundtable at Harvard Law School on May 4 and speak at the Virginia Association of Criminal Defense Lawyers annual conference on UVA Law on April 20. That month, Garrett and **JOHN MONAHAN** are presenting research as part of the Virginia Criminal Justice Police Project to the Virginia Sentencing Commission.

Garrett recently published “Constitutional Reasonableness” in the *Minnesota Law Review*, “The Public Interest in Corporate Settlements” in the *Boston College Law Review* and the “The American Death Penalty Decline,” with Alexander Jakubow and Ankur Desai, in the *Journal of Criminal Law and Criminology*. Garrett also recently published a chapter, “Actual Innocence and Wrongful Convictions,” in “Bridging the Gap: A Report on Scholarship and Criminal Justice Reform,” edited by Erik Luna. His short piece, “The Global Evolution of Corporate Prosecutions,” appeared in the *Law and Financial Markets Review*, and a book review, “The Boom and Bust of American Imprisonment,” was published in the *Texas Law Review*, reviewing Eugene Soltes’ “Why They Do It,” Samuel Bell’s “Capital Offenses” and **DARRYL BROWN ‘90S** “Free Market Criminal Justice.”

Garrett’s recent op-eds include: “When are Defendants Entitled to Experts in Death Penalty Cases?” in *The Washington Post* on Oct. 30; “The Moral Problem of Life-Without-Parole Sentences” in *Time* on Oct. 26; “What’s Behind the Decline in the Death Penalty” in *The Marshall Project* on Oct. 2; and “The Problem of Innocence in Death Penalty Cases” in *The Washington Post* on Aug. 28.

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In October, **MICHAEL GILBERT** presented a paper, “Optimal Entrenchment of Legal Rules,” at the Comparative Constitutional Law Roundtable at James Madison’s Montpelier. In November, he pre-



DEAN, VICE DEAN ELECTED TO AMERICAN LAW INSTITUTE

Dean **RISA GOLUBOFF** and Vice Dean **LESLIE KENDRICK ‘06** were recently elected members of the American Law Institute.

Goluboff is the 12th, and the first female, dean of UVA Law. She is also the Arnold H. Leon Professor of Law. She is a nationally renowned legal historian whose scholarship and teaching focuses on American constitutional and civil rights law, and their historical development in the 20th century. Her most recent book, “Vagrant Nation: Police Power, Constitutional Change, and the Making of the 1960s,” received several scholarly prizes.

Kendrick joined the faculty in 2008. Her work focuses on torts, property rights and freedom of expression, particularly the scope and structure of free speech rights. She teaches courses in torts, property and constitutional law. She is a 2017 recipient of the All-University Teaching Award.

There are now 25 members of the UVA Law faculty currently affiliated with ALI. Goluboff and Kendrick joined 44 new members inducted in December nationwide.

The institute is the leading independent organization in the United States producing scholarly work to clarify, modernize and otherwise improve the law. The organization includes judges, lawyers and law professors from the United States and abroad, selected on the basis of professional achievement and demonstrated interest in improving the law.

—Mike Fox

sented a paper, “Transparency and Corruption: A General Analysis,” at the University of Chicago. In December, Gilbert and professor Robert Cooter at the University of California, Berkeley, completed a paper, “Constitutional Law and Economics,” which is forthcoming in the edited volume “Research Methods in Constitutional Law: A Handbook.” Gilbert continues to work with Cooter on a textbook on public law and economics. In the fall, he presented chapters from the book in Ecuador, first at La Universidad Espíritu Santo in Guayaquil and then at La Universidad San Francisco in Quito. Gilbert participated in a constitutional law roundtable at George Washington University in March, and he presented research at the University of Illinois in April.



RISA L. GOLUBOFF’S “Vagrant Nation: Police Power, Constitutional Change, and the Making of the 1960s” received two additional book awards: the Littleton-Griswold Book Award from the American Historical Association and the John Phillip Reid Book Award from the American Society for Legal History.

She published, with **RICHARD SCHRAGER**, “Obama’s Court?” in “The Presidency of Barak Obama,” edited by Julian Zelizer (Princeton University Press, March 2018).

Goluboff was elected to membership in the American Law Institute. She was a participant in the conference “Celebrating Bob Gordon’s ‘Taming the Past’” at Stanford Law School in January. She was the dinner speaker at the

National Trial Advocacy College in January. She was a participant in “Challenges of 21st Century Democracy: Race, Religion, and Gender Panel,” sponsored by the Women’s Global Leadership Forum as part of UVA’s bicentennial in November. She was the moderator for “Forward Together,” sponsored by UVA’s Lifetime Learning in November.



In the fall, **RACHEL HARMON** gave a talk on maintaining the momentum for policing reform at the NAACP Annual Civil Rights Training Institute.

Harmon served as a law enforcement expert for the Independent Review of the 2017 Protest Events in Charlottesville, which published its report on the summer’s events in November. She helped assess the actions of local and state law enforcement agencies and develop recommendations for future preparation for civil disorders. She has since spoken to various groups on the lessons law enforcement agencies can learn from Charlottesville and on policing protests more generally, including at “The First Amendment Under Fire: A Symposium on Speech, Protest, and the Role of State Actors” at William & Mary Law School in February.

In January, Harmon presented on the relationship between proactive policing and *Terry v. Ohio* at the Association of American Law Schools annual conference in San Diego. The talk for a panel on “*Terry v. Ohio* at 50: On the Books and On the Ground” follows the publication of her article, “Proactive Policing and the

Legacy of *Terry*,” with **ANDREW MANNS ‘17** in November in the *Ohio State Journal of Criminal Law*.

In February, Harmon presented her draft article “Lawful Orders,” which considers the legal rules governing police commands, in faculty workshops at the University of Texas and the University of Georgia, and in April at the University of Michigan Law School.

Harmon spoke on the “State of Community Policing and the Future of Police Reform” at a panel discussion sponsored by the UVA School of Continuing and Professional Studies, also in February.

As a member of the National Research Council’s Committee on Proactive Policing, Harmon helped author “Proactive Policing: Effects on Crime and Communities,” recently published by the National Academies of Sciences.

Harmon also serves as a subject matter expert for the team monitoring Baltimore Police Department’s consent decree with the U.S. Justice Department and as an associate reporter for the American Law Institute’s Principles of the Law, Policing project.



In October, **ANDREW HAYASHI** co-organized a conference on behavioral law and economics with Paige Skiba at Vanderbilt University Law School, where he presented his paper, “The Simple Economics of Bad Intentions.” The paper explores how standard theoretical results in the law and economics literature change when people are motivated by animus. In late 2017, Hayashi



JEFFRIES '73 WINS UVA'S THOMAS JEFFERSON AWARD FOR SCHOLARSHIP

Former Law School Dean **JOHN C. JEFFRIES JR. '73** received the University of Virginia's Thomas Jefferson Award for excellence in scholarship at the Fall Convocation on Nov. 3.

UVA President Teresa A. Sullivan presented the award to Jeffries. The Jefferson Awards are the highest honor given to members of the University community.

Jeffries' scholarly contributions include showing that limiting the personal monetary liability of government officials made the courts more willing to announce new constitutional rights, fundamentally changing the thinking on how constitutional rights evolve.

He changed thinking about burden-of-proof issues in criminal cases and what substantive questions must be answered before criminal punishment may be constitutionally imposed.

Jeffries also wrote a biography of U.S. Supreme Court Justice Lewis Powell, for whom he clerked, offering insightful accounts of the many significant events in which Powell participated, including mid-20th century politics in Richmond; the desegregation of the American South; and the Supreme Court's struggle with social issues such as affirmative action, abortion, and gay and lesbian rights.

He holds a David and Mary Harrison Distinguished Professorship, the most prestigious endowed chair the Law School offers.

—Matt Kelly

published "Savings Policy and the Paradox of Thrift" in the *Yale Journal on Regulation* and "A Theory of Facts and Circumstances" in the *Alabama Law Review*. In January, he presented "Countercyclical Tax Bases" at the NYU Tax Policy Colloquium. This paper explores how differences in state and local tax bases (whether income, property, or the sale of goods and services are taxed) affect how resilient the local economy is to recessions.



DEBORAH HELLMAN published "Discrimination and Social Meaning" in "The Routledge Handbook of the Ethics of Discrimination," edited by Kasper Lippert-Rasmussen (Routledge Press, 2017), and a book review of Tarunabh Khaitan's "A Theory of Discrimination Law" in the journal *Ethics*. Hellman also presented her paper "The Epistemic Commitments of Nondiscrimination" at three workshops: Columbia Law School's Legal Theory Workshop on Nov. 27; University of California, Irvine's Law and Philosophy Colloquium on Dec. 7; and University of British Columbia's workshop on Moral and Pragmatic Encroachment from Jan. 20-21. She delivered the keynote address at the inaugural Conference on Fairness, Accountability, and Transparency in Machine Learning on Feb. 23 in New York.



CALE JAFFE '01 was invited to speak at the Georgetown Environmental Law Review's 30th anniversary symposium April 13. He will be speaking about his paper, "Melting the Polarization Around Climate Change Politics," which will be published by the Georgetown Environmental Law Review this spring. Jaffe also guided students and pro bono volunteers with the Environmental and Regulatory Law Clinic in several matters over the course of the spring semester: arguing two cases before the Virginia State Corporation Commission; litigating a Clean Water Act-related petition in Poquoson, Va.; and engaging in regulatory processes before the U.S. Environmental Protection Agency and the Virginia Department of Environmental Quality on proposals related to climate change, the Regional Greenhouse Gas Initiative and the Obama administration's Clean Power Plan.



JOHN C. JEFFRIES JR. '73 just completed two years as chair of the Strategic Investment Evaluation Committee, a group of faculty from across the University who evaluate proposals to the University's Strategic Investment Fund. Ultimate decisions are made by the University's Board of Visitors. Among the proposals approved so far are matching funds for private endowment of scholarships and professorships

and major public health programs in diabetes and Alzheimer's disease.



LESLIE KENDRICK '06 was elected to the American Law Institute in December. Her article "Free Speech as a Special Right" appeared in *Philosophy & Public Affairs* last fall. Her article "Are Speech Rights for Speakers?" appeared in the *Virginia Law Review* in December, and "Use Your Words: On the 'Speech' in 'Freedom of Speech'" appeared in the *Michigan Law Review* in February. She has pieces forthcoming in the *Columbia Law Review* and *Law & Philosophy*. Kendrick recently participated in a higher education conference at Harvard University, a workshop at Vanderbilt Law School and a symposium at Columbia Law School. She also continues to speak about current free speech issues both locally, at institutions such as the University and Congregation Beth-Israel, and nationwide. She will soon speak at Haverford College, at Yale Law School and at the upcoming Virginia State Bar annual meeting in Virginia Beach.



DOUGLAS LAYCOCK filed an amicus brief in *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, and spoke to four different student groups on various topics. He recently published "Churches, Playgrounds, Government Dollars—and Schools?" in the *Harvard Law*

Review, and "Opening Essay: Protecting Religious Liberty in the Culture Wars," in "Deep Commitments: The Past, Present, and Future of Religious Liberty," published by the Cato Institute.



MICHAEL A. LIVERMORE was one of the moderators at "Taking Stock/Moving Forward," a daylong workshop and alumni event focused on contemporary environmental issues that was held at the Law School in October. The event, with nearly 100 alumni and students in attendance, highlighted the success of the Law School's environmental law program. Speakers on the all-alumni panels on renewable energy, conservation and toxics regulation included Vanderbilt Law School professor **MICHAEL VANDENBERG '87**; **ERIC JORGENSEN '83**, managing attorney for the Earthjustice Alaska regional office; and **STEPHEN BYRD '98**, head of Morgan Stanley's North American Research for the Power & Utilities and Clean Energy industries.

In November, Livermore moderated a discussion by law professors Hannah Wiseman of Florida State University and Caroline Cecot of George Mason University as part of a symposium hosted by the *Virginia Environmental Law Journal* at the Law School on federalism and environmental issues. Livermore, along with environmental and regulatory law clinic director **CALE JAFFE '01**, is currently at work on a manuscript on the same topic to be published by Cambridge University Press. The book will explore how the allocation of power over envi-

ronmental issues shifts depending on legal factors, the problem being addressed and political contexts. In March, Livermore served as a panelist at the Society for Benefit Cost Analysis' annual conference in Washington, D.C. He discussed the role of economics in regulatory decision-making in the new administration.



RUTH MASON presented a law review article on state aid at faculty workshops at the University of Houston and BYU law schools. She also published the final two installments in her six-part series on state aid for Tax Notes. Writing with Michael Knoll in an article for *State Tax Notes*, Mason also argued that after the Supreme Court's decision in *Wynne v. Maryland Comptroller*, it is clear that New York's tax-residence rule violates the dormant Commerce Clause.



In the fall, **GREGORY MITCHELL** was a participant on a panel (along with **CARL HAHN '91** and Joseph Azam) discussing innovative approaches to compliance at ACI's 34th International Conference on the Foreign Corrupt Practices Act.

This spring, Mitchell was a participant on a panel discussing implicit bias research at the 21st Annual NYU Workshop on Employment Law for Federal Judges.

Mitchell's recent publications include "An Implicit Bias Primer" in

the *Virginia Journal of Social Policy & the Law*, "Measuring Situational Bias or Creating Situational Bias?" in *Psychological Inquiry*, and an entry on "External Validity" in "The Sage Encyclopedia of Educational Research, Measurement, and Evaluation."



JOHN MONAHAN has recently published articles on criminal sentencing, victimization and the neuroscience of violence risk assessment, appearing in the peer-reviewed journals *Law and Human Behavior*, the *American Journal of Public Health*, and *Trends in Cognitive Sciences*, as well as in a chapter in "Modern Scientific Evidence: The Law and Science of Expert Testimony." The ninth edition of his casebook with professor emeritus Laurens Walker—"Social Science in Law"—has been released.



JOHN NORTON MOORE reports that the Center for Oceans Law and Policy, which he directs, is busily planning the 23rd session of the Rhodes Academy for Oceans Law and Policy that will take place in Greece in July. The three-week intensive program, taught by world-class faculty, attracts students from around the globe and is organized by the center. The Rhodes Academy was singled out for praise by the U.N. General Assembly for its important contribution to the field of the law of



MASON TO TAKE ON A TOP TAX ROLE IN AMSTERDAM

The International Bureau of Fiscal Documentation, based in Amsterdam, has named **RUTH MASON** its 2018 professor in residence.

Mason will be the first woman and youngest scholar to hold the professorship since it was first offered in 2013. She said she is honored by the appointment.

"I look forward to working with permanent staff and postdocs on a variety of projects in Amsterdam," said Mason, the Class of 1957 Research Professor of Law. "I applaud the IBFD's efforts to build relationships among tax scholars from different regions of the world, and I am privileged to participate in the IBFD's cutting-edge work."

The bureau, a resource for scholars and professionals seeking expertise on cross-border taxation, hosts a leading non-European scholar on international taxation each year. Mason will lend her expertise during her one-year term there starting in May.

Mason's research focuses on international, comparative and state taxation. Her recent scholarship has examined European Union taxation issues, including how tax nondiscrimination laws affect cross-border commerce in common markets.

This year, Mason prepared UVA Law's second-ever team to compete at the International and European Tax Moot Court competition in Belgium. The team became the first Americans to win the competition in its almost 15-year history.

—Mike Fox

the sea.

The Center for Oceans Law and Policy will hold its 42nd annual conference in Beijing in May. The two-day conference will discuss “Cooperation and Engagement in the Asia Pacific Region.” A proceedings volume, co-edited by Moore, will be published next year.

“Legal Order in the World’s Oceans: UN Convention on the Law of the Sea,” the proceedings from the center’s recent New York conference held at the United Nations co-edited by Moore, is now available. The volume he edited for the series American Classics in International Law, “Common Resources: Law of the Sea, and Antarctica,” has also just been released.

The Center for National Security Law, which Moore directs, sponsored the panel “The Arctic: National Security and Oceans Law for the New Maritime Frontier” at the American Bar Association’s 27th Annual Review of the Field of National Security last November in Washington. Moore was a speaker on the panel.

That month the center also sponsored the symposium “Cyber Operations: Is It Possible to Apply 20th Century International Law to 21st Century Cyber Capabilities?” at the Law School.

In March, the center held a one-day conference “Jus Ad Bellum: Use of Force Principles for the 21st Century.” Moore chaired a panel that examined the International Court of Justice and its decisions on use of force.

The center is also planning for its 26th National Security Law Institute, at which Moore will teach several classes. It will be held June 3-15 at the Law School. Applications are now being accepted.



THOMAS NACHBAR taught a new course on the use of surrogate forces in warfare over the January term. In February, he presented a paper at a conference on “Antitrust and the Constitutional Order” held at William & Mary Law School.



FREDERICK SCHAUER published “Law’s Boundaries” in the bicentennial issue of the Harvard Law Review and spoke about the article at the Harvard Law School’s bicentennial celebration in October. He published “Preferences for Law?,” a response to comments by six scholars on his book “The Force of Law” in Law & Social Inquiry. “The Force of Law” has now been the subject of this symposium, another symposium in Ratio Juris, a forthcoming symposium in Jurisprudence, an exchange in the Harvard Law Review and some number of other reviews.

Schauer published “Second-Order Vagueness in the Law,” in Keil & Poscher, “Vagueness and Law: Philosophical and Legal Perspectives” (Oxford, 2017); “Free Speech, the Search for Truth, and the Problem of Collective Knowledge” (the Roy Ray Lecture) in the SMU Law Review; “Free Speech and Obedience to Law” in Constitutional Commentary; and “On the Nature of Legal Reasoning,” a response to commentaries on his book “Thinking Like a Lawyer,” in “Materiali



NICOLETTI PUBLISHES NEW BOOK: ‘SECESSION ON TRIAL’

Why wasn’t Confederate President Jefferson Davis ever tried for treason?

According to a new book, it’s because the Union thought there was a strong possibility that his case would raise troubling questions about the constitutionality of secession, and that a possible acquittal would signal that the Union’s war effort had been unjustified.

CYNTHIA NICOLETTI, a legal history professor, looks at such questions in “Secession on Trial: The Treason Prosecution of Jefferson Davis,” published in October by Cambridge University Press.

Nicoletti said she was fascinated by the unresolved issues she explores in her book. Throughout the process of researching and writing, she was determined not



Secession on Trial
The Treason Prosecution of
Jefferson Davis
CYNTHIA NICOLETTI

to take a definitive stance on the question of whether secession was illegal.

“I don’t take a position,” she said. “It’s really important for me to treat it as a question that can go either way. I think that might be surprising to a reader, because today talking about the legality of secession seems so far-fetched, but I want to introduce them to the arguments on both sides. And there wasn’t a clear answer one way or another. This is a place where the Constitution is silent.”

Ultimately, she lets the reader decide how the canceled trial might have influenced history.

“I think it’s totally an open question of whether Davis would have been convicted,” Nicoletti said.

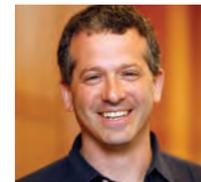
Nicoletti, who earned her J.D. from Harvard Law School, also holds a B.A., M.A. and Ph.D. from the University of Virginia. She joined the UVA Law faculty in 2014.

—Eric Williamson

per Una Storia Della Cultura Giuridica.” He wrote a commissioned paper, “The Hostile Audience Revisited,” substantially in response to the August 2017 events in Charlottesville, for the Knight First Amendment Institute at Columbia University.

He spoke on “Law-ness” at Washington University in St. Louis in October; on “The Theory of Rights” at the University of Salzburg in November and at Goethe University in Frankfurt in December; on “Free Speech and the Hostile Audience” at Penn State University in January; and in “Law as an Artifact” at the University of Belgrade, Serbia, in March.

The French translation of “Thinking Like a Lawyer” was published by Editions Dalloz in Paris in March as “Penser en juriste: nouvelle introduction au raisonnement juridique,” and was officially presented at a symposium in Paris at which Schauer, the translator, and three French scholars were the speakers.



RICHARD SCHRAGGER was the keynote speaker at Governing Magazine’s 2017 Summit on Financial Leadership held in New York City. He also presented his article, “The Attack on American Cities,” at the Annual State and Local Government Works in Progress Conference at the Golden Gate University School of Law, and at the Northwestern Pritzker School of Law. “The Attack on American Cities” will appear in the Texas Law Review this summer. Schragger participated in a panel at UVA titled “Do Cities Have Free

Speech Rights?” His lecture, “What Powers Do Cities Have? Confederate Monuments, Sanctuary Cities, and Other State-Local Conflicts,” was part of Congregation Beth Israel’s Legal Ethics series. His article “When White Supremacists Invade a City” was published in the Virginia Law Review Online. His essay “City versus State: Is it time for a new home rule movement?” appeared in the Boston Review. Schragger also authored a book chapter with **RISA GOLUBOFF** titled “Obama’s Court?,” which appears in “The Presidency of Barack Obama: A First Historical Assessment,” published by Princeton University Press.



In November, **MICAH SCHWARTZMAN '05** presented a paper, “The Costs of Conscience,” at a symposium on “Religious Exemptions and Harms to Others” sponsored by the Kentucky Law Journal. In December, he gave a paper called “Jews, Not Pagans,” at a conference on “Pagans and Christians in the City” at the University of San Diego School of Law. Schwartzman has a forthcoming book chapter on the question, “Must Laws be Motivated by Public Reason?,” which will appear in a volume on “Public Reason and Courts” published by Cambridge University Press. He also continues to co-author a casebook on constitutional law and religion.



GIL SIEGAL was appointed a member of the Israeli National Committee on Developments of Technologies, Models and Products Using 3D Printers. He lectured on “Protecting the Public Subject in Research” at the “Regulating Human Subject Research” annual meeting in Tel Aviv in February and spoke on “Malpractice in Otolaryngology” at the American Otolaryngology Head and Neck Surgery Association Annual Meeting in Chicago in September. He recently authored “Treating Hunger Strikers in Israel” in the Israel Medical Association Journal; co-authored (with **JULIA MAHONEY**) the paper “Gene Editing,” forthcoming in Law & Contemporary Problems; and co-authored articles on shared decision-making in Israel and the medical malpractice implications of clinical practice guidelines.



BARBARA A. SPELLMAN spoke about “Alternative Suggestions for Communicating Forensic Evidence” at the “Symposium on Experts, Inference, and Innocence” at Seton Hall University last fall. The paper “Communicating Forensic Evidence: Lessons from Psychological Science” will appear in the Seton Hall Law Review. She gave a workshop on her paper “Law: The Broad(er) Relevance of Psychological Science” at the University of Connecticut School of Law. In addition to several talks on

how to improve science at the Society of Personality and Social Psychology Conference, she gave a plenary lecture titled “Challenges for Journals—Encouraging Sound Science” at the Conference on Research Integrity and Trustworthy Science: Challenges & Solutions at the University of Minnesota. In February, she began her four-year term as secretary of the Psychology Section of the American Association for the Advancement of Science.



At the invitation of Brig. Gen. Patrick Huston, commandant of the Judge Advocate General’s Legal Center and School, **A. BENJAMIN SPENCER**—a captain in the U.S. Army Reserve—served on a panel of captains to discuss the future of the Army JAG Corps at the 2017 Worldwide CLE. Spencer’s presentation focused on the Reserve Component of the JAG Corps. In attendance were the senior leaders of the Army JAG Corps, including the judge advocate general of the Army, Lt. Gen. **CHARLES PEDE '87**. Pele awarded Spencer his personal coin in recognition of his contribution.

Spencer also recently published updates to four volumes of the Wright & Miller “Federal Practice and Procedure” treatise, of which he is now an author. He will be producing a new volume 5A of the treatise for publication at the end of this year. He also published an op-ed on the recent racial unrest in Charlottesville in the October edition of the National Law Journal.

Spencer attended his first meeting of the Civil Rules Advisory Committee and was appointed

to a subcommittee that will look into specialized rules for social security disability appeals.



PAUL STEPHAN '77 was in Israel in December with a delegation of international lawyers and international relations specialists, meeting with both Israeli and Palestinian spokesmen to get a better appreciation of the current situation in light of recent developments.

In early November, he presented a paper at Georgetown Law School as part of a symposium on “Foreign Relations and the Constitution.” The articles, including Stephan’s “Inferences of Judicial Lawmaking Power and the Law of Nations,” will be published in the Georgetown Law Journal.

“Comparative International Law,” co-edited with **PIERRE-HUGUES VERDIER** and **MILA VERSTEEG**, which includes Stephan’s essay “Comparative International Law, Foreign Relations Law, and Fragmentation: Can the Center Hold?” was recently published.

Stephan’s article “Overlapping Sovereignty and Laws’ Domains” should appear in the Pepperdine Law Review before April.



ANDREW VOLLMER '78 published two pieces in 2017: “A Rule of Construction for the Personal Benefit Requirement in Tipping Cases” in the NYU Journal of Law & Liberty and “Investor-Friendly Securi-

ties Reform To Increase Economic Growth” in Securities Regulation & Law Report with Bloomberg BNA on June 5.



G. EDWARD WHITE presented a paper, “A Lost Search for a Generic Tort Action Promoting ‘Peace of Mind,’” at the Torts Section of the annual meeting of the Association of American Law Schools in San Diego on Jan. 5. At Stanford Law School on March 10 he presented “The American Legal Academy and Jurisprudence: From Process Theory to ‘Law And.’”