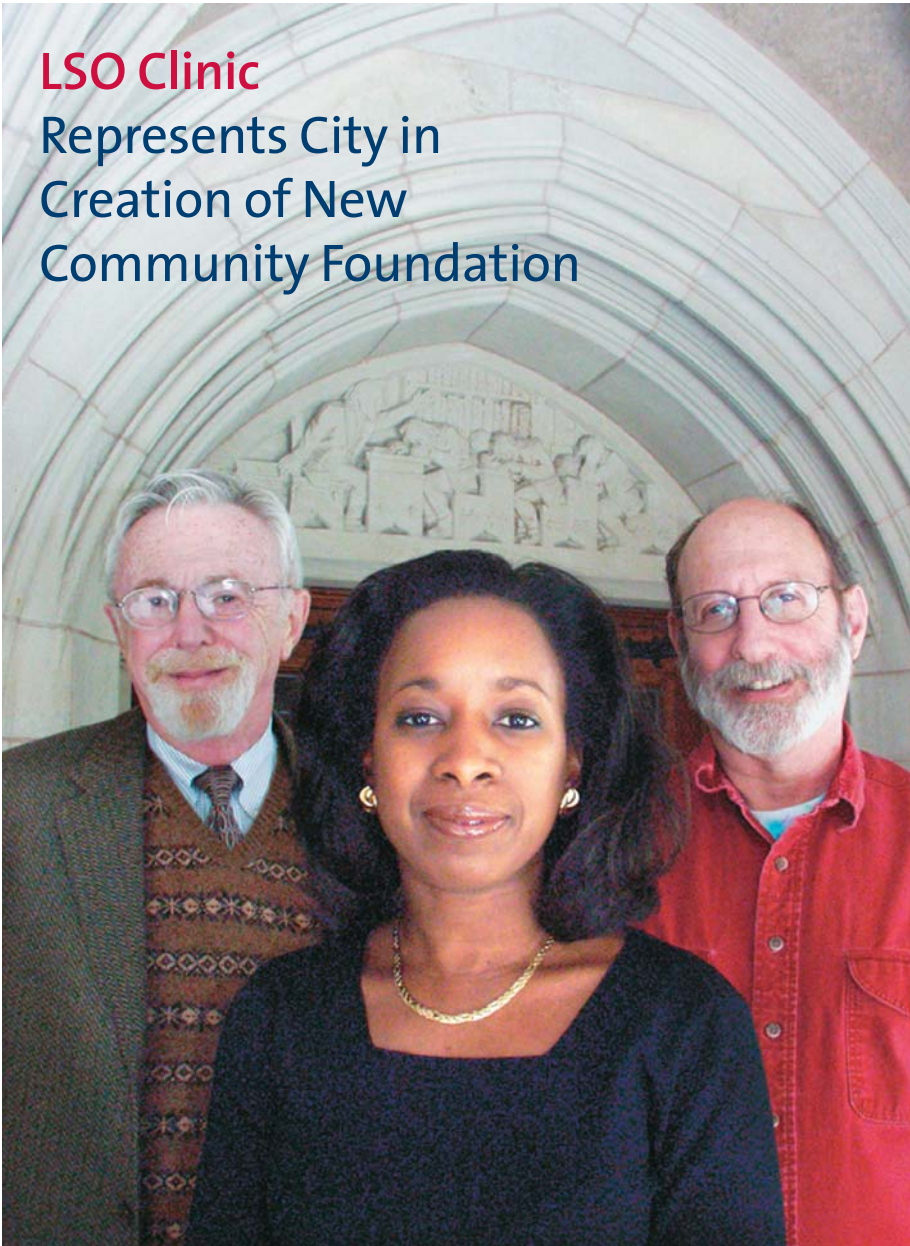


# News in Brief @ Yale Law School

## COMMUNITY

### LSO Clinic Represents City in Creation of New Community Foundation



The leadership team that helped create a new community foundation in New Haven: (from left) Harvey Koizim '51, Peggy Delinois Hamilton, and Robert Solomon. (Not pictured: Cantwell F. Muckenfuss III '71)

WHAT DO YOU HAVE to do to be named “Best Bank Arm Wrestlers” by the staunchly contrarian *New Haven Advocate*?

The Jerome N. Frank Legal Services Organization’s Housing and Community Development Clinic represented New Haven Mayor John DeStefano and the City of New Haven in negotiations with the New Haven Savings Bank, producing an innovative settlement that could lead to a new community-based bank in New Haven.

New Haven Savings Bank recently converted from a mutual bank, essentially owned by its depositors, to a public company and merged with two other Connecticut-based banks to become NewAlliance Bank. But as part of the process, the bank agreed to give \$25 million to an independent foundation, as well as to commit \$27.5 million to targeted lending programs in greater New Haven.

The clinic’s involvement started in the summer of 2003, after DeStefano first heard that NHSB might demutualize. He strongly opposed this move, seeing it as a threat to New Haven’s community-owned assets. DeStefano invited Robert Solomon, clinical professor of law and director of clinical studies, and Peggy Delinois Hamilton, Robert M. Cover Clinical Teaching Fellow and Selma M. Levine Community Development Fellow, to a meeting on the subject. Clinic students drafted a strategy memo that became central to planning to oppose the bank’s maneuvers, and the clinic was formally retained by the mayor and the board of aldermen to represent the city.

With the valuable assistance of

Cantwell F. Muckenfuss III '71 at Gibson, Dunn & Crutcher, LLP, and former bank organizer and CEO Harvey Koizim '51, the clinic filed objections to the bank's conversion and merger plan with the Connecticut State Banking Commissioner, the FDIC, and the Federal Reserve Bank of Boston. And, according to Solomon, "We were committed to litigation, and we were committed to testing a question that has never been resolved in Connecticut, which is not only the rights of depositors in a mutual, but...the right of a community in a mutual." Simultaneously, New Haven citizens and depositors in the bank voiced opposition to the plan, with hundreds of people showing up at public hearings on the issue.

Mayor DeStefano, with the clinic's representation, reached a compromise with the bank in January 2004. DeStefano agreed to withdraw his complaints and not to oppose the bank's plan in court. Just as importantly, he committed to, in Solomon's words, "start the healing process" between the New Haven community and the bank.

The bank will contribute \$25 million over the next several years to a new foundation, along with an additional \$40 million to its own foundation. The new independent foundation will be overseen by a board of community representatives; this is the first

able housing." This new community bank will be for-profit, but committed to socially responsible lending and business practices.

According to Solomon, "The work has just started... It turns out to be not so easy to get twenty-five million dollars in a tax-

**"MY HOPE AND THE MAYOR'S HOPE ...  
IS THAT WE WILL BE CREATING AN ENTITY THAT  
IS GEARED TOWARD INVESTMENT IN NEW HAVEN"** *Robert Solomon*

time a bank has given money to create a foundation it doesn't control. "The foundation is not the brass ring," says Solomon. "The foundation will hopefully capitalize a new community development bank." And the clinic will continue to support this effort.

"My hope and the mayor's hope... is that we will be creating an entity that is geared toward investment in New Haven—toward home ownership for low- and moderate-income people, toward small business, and toward suburban development of afford-

exempt fashion. ...And exactly how to govern the money, who holds the money, and how you assure control three years down the road and five years down the road are very complicated questions. Thankfully we have the assistance of YLS professors Michael Graetz and John Simon '53."

Solomon hopes this precedent for a mutual's responsibility to the community in which it does business will raise the bar for similar deals in the future. The process has also created a unique experience for students in the clinic, who have worked on issues from bank regulation to marketing the new institution.

Solomon points out that other clinicians "think that what we do is crazy," since the project is far-reaching and unconventional. But, he adds, "We have always tended to be opportunistic, and if we see something that is interesting, exciting, and within our capacity, we believe we should try it. And the incredible talent of our Yale Law School students enables us to make these choices." ∞

## RECOGNITION



**Anthony T. Kronman**, dean of Yale Law School from 1994 until June 30, 2004, was recently appointed Sterling Professor of Law by Yale University President Richard C. Levin. The Sterling Professorship is the highest honor bestowed on Yale faculty.

## YLS Professor **Bruce Ackerman** Receives French Order of Merit



Bruce Ackerman '67, Sterling Professor of Law and Political Science, received the Insignia of Commander of the French Order of Merit from the Republic of France at a ceremony at Yale Law School on March 1.

The award was presented by Madame Noelle Lenoir, France's Minister for European Affairs in the Ministry of Foreign Affairs. The French National Order of Merit rewards distinguished merit in a public post, civilian or military, or in the exercise of a private activity. The prestigious award was established by General de Gaulle in 1963, and is given at the discretion of the French president.

In receiving his award, Professor Ackerman remarked: "I have been an active participant in the ongoing debate on the European Constitution, and I am deeply honored by this token of recognition. This is a particularly good time to reaffirm the deep bonds linking France and the United States. They were forged centuries ago. They will endure centuries into the future."



## APPOINTMENTS

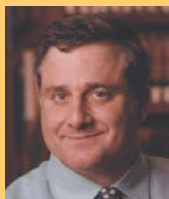


### **John J. Donohue III** Appointed Professor of Law

John J. Donohue III was appointed professor of law in spring 2004. Donohue has taught at Stanford Law School since 1995, most recently as the William H. Neukom Professor of Law. He also served as academic associate dean for research for two years.

After graduating from Harvard Law School in 1977, Donohue clerked for Chief Judge T. Emmet Clarie, U.S. District Court, then worked as an associate at Covington & Burling. He then commenced study leading to a Ph.D. in economics at Yale University, while maintaining a part-time private practice in New Haven. Donohue taught at Northwestern University School of Law for several years before moving to Stanford. Donohue has written dozens of papers, including "Legalized Abortion and Crime" (*Quarterly Journal of Economics*, 2000) and "The Changing Nature of Employment Discrimination Litigation" (43 *STANFORD L. REV.* 983, 1991), and serves on the boards of several journals. He will teach Law and Economics

(Directed Research) in both terms, a first-year Torts class in the fall term, and Empirical Law and Economics in the spring.



### **Jonathan R. Macey** Appointed Professor of Law

Jonathan R. Macey joins YLS as a professor of law from Cornell Law School, where he was the J. DuPratt White Professor and director of the John M. Olin Program in Law and Economics.

Macey graduated from YLS in 1982 and also holds a Ph.D. from the Stockholm School of Economics. He clerked for Judge Henry J. Friendly, U.S. Court of Appeals, 2nd Circuit. He taught at Emory School of Law and the University of Chicago Law School before becoming the DuPratt Professor. He was a visiting professor at YLS last year.

He is the author of several books, including *An Introduction to Modern Financial Theory* and *Insider Trading: Economics, Politics, and Policy*, and a number of casebooks, including *Macey on Corporation Laws*. He will teach Banking Law and Regulation in the fall

term and Business Organizations and Major Topics in Law and Finance in the spring.



### **Alec Stone Sweet** Appointed to Faculty

Alec Stone Sweet was appointed professor of law, politics, and international studies. Stone Sweet has an M.A. in international relations from Johns Hopkins School of Advanced International Studies and a Ph.D. in political science from the University of Washington. He served on the faculty of Middlebury College and then the University of California, Irvine. In 1998, he was named official fellow and chair of comparative government at Nuffield College, Oxford University. Stone Sweet has written dozens of academic articles and several books, including *Governing with Judges: Constitutional Politics in Europe* (2000) and *On Law, Politics, and Judicialization* (2002), with M. Shapiro. He will teach two courses this fall: European Union Law, and Proportionality Balancing and Global Constitutionalism. ∞





Senator Hillary Rodham Clinton '73, flanked by Dean Anthony Kronman '75 and the student organizers of the *Brown v. Board of Education* conference.

**“Yale Law School must always be a community of commitment dedicated to the simple, just idea that we cannot rest until the promise of *Brown*, and the aspirations of the courageous people who fought for it, have truly been fulfilled.”**

*Harold Hongju Koh*

## COMMEMORATION

# Yale Law School Commemorates *Brown v. Board of Education*

IN CELEBRATION of the 50th Anniversary of the 1954 *Brown v. Board of Education* decision, Yale Law School sponsored a conference on April 1–3, bringing together scholars, practitioners, and educators, as well as those intimately involved with the landmark decision, to commemorate *Brown*, discuss its legacy and limitations, and explore its implications for the future of democracy.

Elaine R. Jones, president and director-counsel of the NAACP Legal Defense & Educational Fund, gave the conference’s keynote address. Panels included “The Road to *Brown*: Law and Politics in the 1940s and 1950s”; “What *Brown v. Board of Education* Should Have Said”; “Beyond *Brown*: Courts, Congress and Civil Rights”; “Equal But Separate? The Shape of Public Education in America Today”; “Affirmative Action: Where

Are We Now?”; “*Brown* as Icon: Discussing the Largeness of *Brown*”; and “Perspectives from the Frontline: A Conversation with *Brown* Litigators Hon. Constance Baker Motley and Hon. Robert Carter.”

In an address to the conference, Dean-Designate Harold Hongju Koh said, “Yale Law School must always be a community of commitment dedicated to the simple, just idea that we cannot rest until the promise of *Brown*, and the aspirations of the courageous people who fought for it, have truly been fulfilled.”

Reflecting on the event, Dean Anthony T. Kronman said, “This conference has been a conference of many moments and moods...but through it all there has been one mood that has dominated all the others and has marked the conference from start to finish. And that has been a

mood of hopefulness, which, of course, is the mood of *Brown* itself.”

New York Senator Hillary Rodham Clinton '73 gave closing remarks at the conference, speaking eloquently about her travels across America and her first-hand views on the promise of *Brown*. “This fiftieth anniversary gives us a chance to measure whether the promise of *Brown* has been fulfilled,” Clinton said, as she spoke to a packed Levinson Auditorium. “To take stock of the progress we’ve made towards racial equality and...to recognize the work we still have to do.”

The conference was sponsored jointly with Howard University School of Law and was held in two parts, with the Howard conference taking place in February. To view conference videos, visit [www.law.yale.edu/brownconference](http://www.law.yale.edu/brownconference).

AWARDS

## YLS Student Wins First *Legal Affairs* Writing Contest

LEGAL AFFAIRS MAGAZINE announced the winners of the First Annual *Legal Affairs* Writing Contest for Law Students in April. The Marbury Institute of Piper Rudnick LLP sponsored the contest, which was open to students from all accredited law schools in the U.S.

The annual writing competition provides a unique opportunity for law students to be published in a highly regarded general-interest magazine. *Legal Affairs* launched the contest to help engage students in writing for a general readership and to raise awareness of the links that clear, intelligent writing about

the law can forge between the legal world and the broader society.

Kate Andrias '04 was selected as the first-place winner of this year's contest for her entry, "Locked Out." In it, she argues that employers are curtailing workers' rights by requiring them to sign arbitration agreements that bar pursuit of their interests in court. Second place also went to a Yale Law School student, Tom Saunders '04. He won for his paper, "Ballot Box Budgeting: Why Voters Should Tie Their Own Hands to Keep Their States Out of Court."



Lincoln Caplan, editor and president of *Legal Affairs*, said, "The judges were impressed with the quality of the submissions, the time and thought that went into them, and the broad range of topics

SYMPOSIUM

## University of Maryland Symposium Honors Calabresi's *The Costs of Accidents*



(From left) Judge Richard A. Posner, Judge Guido Calabresi '58, and Alan J. Weisbard '77

The symposium, "Calabresi's *The Costs of Accidents: A Generation of Impact on Law and Scholarship*" was held at the University of Maryland School of Law on April 23 and 24. The goal of the symposium was to assess the influence of Guido Calabresi's *The Costs of Accidents* since its publication nearly thirty-five years ago.

Respected judges and lawyers, including Judge Calabresi '58 and Judge Richard Posner, explored how this book contributed to the field of law and economics, and transformed the way the legal community thinks about the law of torts. Maryland Professor Oscar S. Gray '51 introduced Judge Calabresi at the conference, by placing him in the context of the Yale torts tradition as the prize student of Fleming James, Jr.

Many YLS graduates played integral roles at the conference. Professor Jules Coleman '76 MSL presented a paper, as did Professor Cathy Sharkey '97 of Columbia.

University of Maryland Associate Dean Richard Boldt '82 and Professors Richard Booth '76 and Jana Singer '81 moderated panels. Dean Boldt and Professor Singer also had collected stories from other Yale graduates in law teaching and presented a lunchtime tribute to Judge Calabresi as a teacher. In addition, there was a brief written message read from Judge Jon O. Newman '56 of the United States Court of Appeals for the Second Circuit regarding Judge Calabresi's contributions as a judicial colleague.

Among the many panelists and participants from the ranks of YLS alumni were Kenneth S. Abraham '71, Anita Bernstein '85, Morton P. Fisher, Jr. '61, Jon D. Hanson '90, and Anthony J. Sebok '91.

Judge Calabresi wrapped up the two-day event with concluding remarks about *The Cost of Accidents*, which he had written as a young man, from the perspective of someone who is now a senior judge and professor and a former dean.

chosen by the students. We believe the contest will reinforce the idea that it's possible to write about legal issues in a manner that's sophisticated and well-informed, as well as engaging and appealing to the general public."

## Professor Katz Receives Lifetime Achievement Award



Jay Katz, Elizabeth K. Dollard Professor Emeritus of Law, Medicine, and Psychiatry and Harvey L. Karp Professorial Lecturer in Law and Psychoanalysis, received the Friends

Research Institute 2003 Research Ethics Award, presented annually to acknowledge the contributions of "a leading scholar with moral courage in the area of research ethics." Katz has served on many commissions, including the

## "Choices have to be made between the relentless pursuit of medical progress and the protection of individual inviolability."

Ad Hoc Advisory Panel of the Tuskegee Syphilis Study in 1972, and his 1972 *Experimentation with Human Beings* is still the leading textbook on human experimentation law and ethics. The passage below, from a lecture he delivered at a conference commemorating the fiftieth anniversary of the Nazi doctors' trial at Nuremberg, exemplifies his rigorous approach to the protection of human research subjects.

"Vulnerable subjects are compelled by their necessitous circumstances to place their trust in physicians whom they consider caregivers, not investigators. The problem of 'trust' surfaced in one of the studies conducted by the President's Advisory Committee on Human Radiation Experiments during the Cold War, in which we assessed attitudes toward research

among many hundreds of patient-subjects who as recently as 1994 were enrolled in research projects. We discovered that patient-subjects believed that 'an [experimental] intervention would not even be offered if it did not carry some promise of benefit for them,' and that therefore the consent process was 'a formality' to which they need not give much thought.

"The lesson to be learned from our findings is clear: Consent will never be truly informed or voluntary unless patient-subjects are disabused of that belief. Their rights can be protected only if physician-investigators acknowledge that their patient-subjects view them as physicians and not investigators, and that they, the doctors themselves, have the responsibility to challenge that trust in research settings....

"This is a formidable undertaking and a consequential one, about which I have written extensively. It takes time, may impede research because of too many refusals, and may thereby make some

experiments impossible to conduct. Choices have to be made between the relentless pursuit of medical progress and the protection of individual inviolability. The latter, however, will be given the weight it deserves only if doc-

tors learn to respect patient-subjects as persons with minds of their own and with the capacity to decide for themselves how to live their medical lives. Their choices may or may not include a willingness for altruistic self-sacrifice, but such choices must take precedence over the advancement of science."

## YLS Announces Chubb Prize Recipients

Yale Law School announced the winners of the first annual Joseph A. Chubb Competition Prize awarded for legal draftsmanship.

First prize was awarded to Raj Nayak '03 and Julie Robie '04 for their work on seven

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# FAREWELLS

## James Thomas Retires after 35 Years



After thirty-five years as the gatekeeper to the most exclusive law school in the country, James A. Thomas '64 retired this year. "It's been a great ride," he says. After nearly

four decades spent in its halls, his enthusiasm for the School is undiminished, and he calls the Law School "a wonderful place. I think this School is just the best place to work that you could think of."

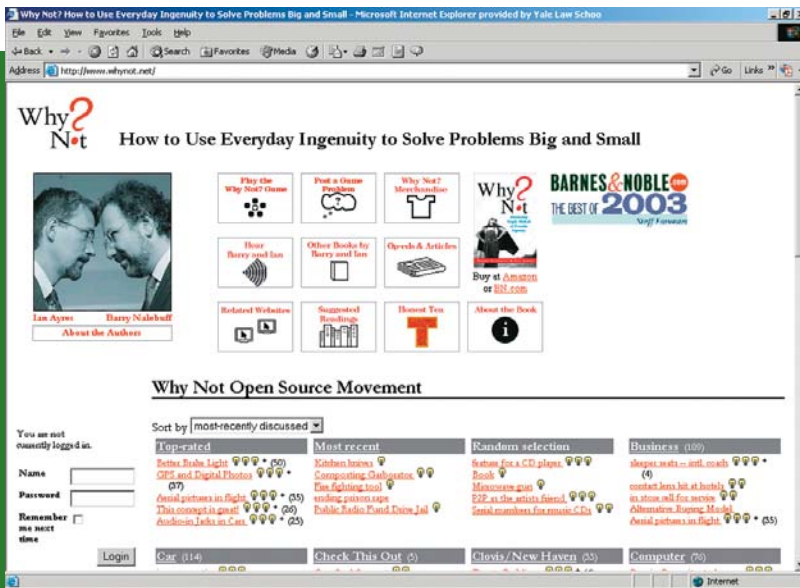
Thomas first came to Yale in 1961, as a member of the Class of 1964. He returned in 1969 as an assistant dean and became associate dean in 1971. His few years away from the School were spent working for the Civil Rights Division of the Justice Department, the Iowa Civil Rights Commission, and the Equal Employment Opportunity Commission.

Thomas's primary responsibility all along has been admissions, though he also served as dean of students and dean of financial aid at various times. He illustrates the radical changes in admissions during his tenure, by pointing out that his class had only two women and five minority students. Classes in recent years have been nearly one-half female and one-third minority. "One of the things I think I'm most proud of is the fact that, when it come to the diversity in our classes, it's as good as anywhere," says Thomas.

Thomas retains the title of Jack B. Tate Senior Fellow and Decanal Adviser, and will continue to serve on the boards of two local companies, as well as the Yale-New Haven Hospital and the Mystic Aquarium & Institute for Exploration, but he really looks forward to the opportunity to travel with his wife, Deborah Thomas, who was

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## Why Not? Idea Proliferating

IAN AYRES AND BARRY NALEBUFF'S incisive approach to problem solving has become a practical tool for the management of YLS and Yale University. Ayres '86, William K. Townsend Professor of Law, and Nalebuff, Milton Steinbach Professor of Management at the Yale School of Management, began their search for innovative new ideas in a column in *Forbes* magazine which became a book, both called *Why Not?* (see YLR Winter 2003). They developed an online forum ([www.whynot.net](http://www.whynot.net)) to accompany the book, and this winter both YLS and the University created Why Not? message boards to solicit suggestions to improve operations. So far, the message boards have generated thousands of ideas, a number of which have already been put into practice.

► Chubb Prize continued from page 7

predatory lending cases filed in the Connecticut Superior Court, Judicial District of New Haven and transferred to the Complex Litigation Docket. The submission included complaints and memoranda seeking to redress the rights of low-income homeowner victims of a predatory lending scheme.

Second prize went to Elizabeth Brundige '03 for her human rights work in the matter of *Krim M. Ballentine v. United States of America*. The submission was an amicus brief promoting the rights of self-determination for the people of the Virgin Islands. Also included was Elizabeth's article "Genocide in West Papua, and the Workings of the Court of Chancery."

The Joseph A. Chubb Competition Prize was established by a gift from Joseph A. Chubb '66 and is awarded annually to one or two students or a team of students for legal draftsmanship.

### Mark LaFontaine Named New Associate Dean



Mark LaFontaine was named Associate Dean in charge of development, replacing the departing Carroll Stevens (see *opposite page*). A longtime resident of Connecticut and the New Haven area, LaFontaine was most recently the Vice President for College

Advancement at Connecticut College. LaFontaine has a J.D. from Creighton University School of Law and practiced law in both private and corporate settings before entering the development field. He also spent ten years in Yale University's development office, holding positions including Director of the Yale College Annual Fund and Programs, and Associate Director for Major Gifts at Yale. LaFontaine's development expertise and familiarity with Yale's central development office helped him "hit the ground running" when he assumed his position on July 1.

### Professor Hathaway Named Carnegie Scholar



Oona A. Hathaway '97, associate professor of law, was one of fifteen scholars chosen for this year's class of Carnegie Scholars. The Carnegie Scholars Program provides research support of

up to \$100,000 for a period of up to two years, and is intended to celebrate original and creative thinking on a wide array of social issues.

Hathaway will work on a project titled "Between Power and Principle: A Political Theory of International Law." She intends to put forward a theory of international law that builds upon existing international legal and political science scholarship, yet moves beyond it in emphasizing the role of domestic institutions and non-legal incentives, as well as the reciprocal influence of states' commitment decisions on their compliance behavior. She will collect and analyze data to test her theoretical prediction, and use her findings to write about how international law can be designed more effectively.

The fifteen Scholars were selected in a highly competitive process from an initial pool of 144 nominees. Proposals were evaluated for academic excellence, as well as for relevance to the goals of the Carnegie Corporation.

## CONFERENCE

## YLS's First Entertainment and Sports Law Conference

Yale Law School's first ever Entertainment and Sports Law Conference brought more than twenty distinguished entertainment and sports industry insiders to an all-day, student-run conference on April 23, held with support from Shearman & Sterling LLP. Each of the panelists offered a unique perspective on how law intersects and influences the business of sports and entertainment.

The day's first panel, "The True Hollywood Story—Real Experiences from Entertainment Litigators," featured several prominent entertainment litigators and was moderated by YLS graduate Tania Krebs '03. The second panel, entitled "It's a Wrap! The Ins and Outs of Lawyering in the Entertainment Industry," showcased transactional entertainment attorneys, including YLS alumnus Neil Rosini '76 and Yale College alumnus John Breglio, in fields ranging from film and television, to music and theater. A panel entitled "The Real Heavy Hitters—Baseball Insiders Discuss the Future of the Game," introduced the audience to the most pressing issues in Major League Baseball from the perspective of top player agents, a current general manager, and attorneys specializing in all facets of the game. The fourth panel, "I Love this Game—Top Tier Practioners on the Legal Affairs of the NBA," featured player agent Lon Babby '76, a union representative, and a former general council of the NBA. The topics ranged from marketing strategies for the league to contract negotiations and disputes between the NBA and player representatives.

The conference culminated with "Executive Decisions—Management and Law in the Entertainment and Sports Industries." This panel illuminated the business objectives and strategies of successful sports and entertainment lawyers. It featured Yale College Alumni Bruce Cohen (film producer) and Tad Low (TV producer), a current MLB general manager, a media financier, and a prominent sports and entertainment transactional attorney. ∞

## FAREWELLS

► Thomas continued from page 7

until recently an associate secretary at the University. "We have lots of places to go, and we hope to get to some of them now with no responsibilities for recruitment." (See page 86 for more about Jim Thomas.)

## Carroll Stevens Departs YLS for Stupski Foundation



Longtime Associate Dean Carroll D. Stevens will be leaving the Law School to join the leadership team of the nonprofit Stupski Foundation, established by Joyce and Larry Stupski '71 to provide access for all children in America to a high-quality public education.

Stevens explained that he has had a lifelong passion for education reform, from efforts early in his career to help lead Georgetown College to excellence as one of the South's leading small colleges, to his more recent role as a co-founder and board member of Amistad Academy, New Haven's award-winning charter middle school.

Though Stevens was the Law School's chief fund-raiser, his work by necessity took place in private meetings, often away from the school and behind the

scenes. But in a message to the Law School community, Dean Anthony Kronman '75 lauded Stevens's contributions and explained how his work helped to "knit our far-flung family together and...maintain and strengthen the ties that link our graduates back to their alma mater in New Haven."

And Guido Calabresi '58, who recruited Stevens seventeen years ago, seconded Kronman's praises, saying that "one can attribute the success of the Yale Law School over the last twenty or so years to many causes. As far as I am concerned, though, no one is as important as Carroll."

Stevens spoke briefly about his fund-raising philosophy: "Fund-raising isn't about the money, really," he explained. "Yale Law School is a school with high moral ambition built on a fragile economic model. We are a school with few students, but a very large agenda. Fund-raising is not about the totals. It's about the preservation of the school's mission, its ideas and ideals."

Stevens said that "nothing can compare to the good work we're doing here at Yale Law School," but he sees the challenging new position at the Stupski Foundation as a natural outgrowth of his experiences at YLS and elsewhere.

Stevens will continue to serve as a senior fellow at Yale Law School. "I'm as loyal to Yale Law School as any graduate," said Stevens, referring to himself as a "naturalized citizen" of the school that he has loved and served so well. ∞

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**Michael J. Graetz**, Justus S. Hotchkiss Professor of Law, was named a Fellow of the American Academy of Arts and Sciences in May. Professor Graetz was recognized for his work in taxation, health law, and income security law and policy. He joins twenty other YLS professors who are already members of this distinguished organization.