books in print

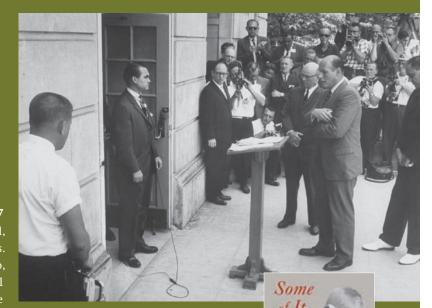
Government For and By the People

Nicholas deB. Katzenbach Some of It Was Fun: Working with RFK and LBJ W.W. Norton & Company, 2008

In 1960, Nicholas deB. Katzenbach '47 watched the presidential election from Geneva, Switzerland, with the sense of anticipation that gripped many Americans. On leave from his faculty position at the University of Chicago, Katzenbach was an academic, having taught at Yale Law School prior to joining Chicago. He was not a government man, and he had no connection to the Kennedys. But when John F. Kennedy won the presidency, Katzenbach became anxious to get involved—he felt sidelined in Switzerland and was eager to play a role in what he considered to be an administration with potential to change the world.

In short order, friends, former classmates, and colleagues of Katzenbach began to work with the Kennedy administration and Katzenbach grew even more restless from his station in Switzerland. When former classmate Byron White '46 was appointed deputy attorney general, Katzenbach's wife, Lydia, urged him to give White a call. Within a day of that phone call, Katzenbach was on a plane to Washington and joined White (as well as fellow YLS graduates Burke Marshall '51, Louis Oberdorfer '46, and later Norbert Schlei '51) in the Department of Justice.

Katzenbach, of course, served as a trusted aide to both Bobby Kennedy and Lyndon Johnson, acting as legal counsel and deputy attorney general under RFK and then as attorney general and under secretary of state for LBJ. His time with those two leaders is the subject of his new book, *Some of It Was Fun: Working with RFK and LBJ.* A key participant in watershed moments of the 60s, including the confrontation with segregationist George C. Wallace during the integration of the University of Alabama, Katzenbach takes his readers back to the time period of 1961 to 1969 in this 352-page memoir. He describes Washington in 1961 as a time and place of "collective optimism, full of energy and determination on the part of many of us, mostly World War II veterans."



Was

Fun

RFK

LBJ

NICHOLAS dell

Some of It Was Fun is simultaneously backward and forward looking. As a memoir, it allows its reader access behind the doors of some of the most important meetings of the 1960s. But, ultimately, Katzenbach uses his book as a lens to reexamine the trajectory of politics today. "I was motivated to write the memoir because I felt that we

were losing sight of government for and by the people in a wave of greed and ideology which was divisive and often irrational," Katzenbach explained. "WWII veterans had experienced what this country can do when we all work together for the common good, and I wanted to share with young people the belief that even the most difficult problems have solutions if we are willing to seek them together."

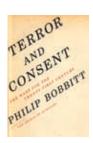
Among the things *Some of It Was Fun* laments about contemporary politics: partisanship.

"I think there are lessons from this period that are applicable today," Katzenbach writes. "Our most important legislation then depended on bipartisan support, and of the hundreds of calls I made on members of both houses of Congress, I can recall very few that were not discussions centered on the merits of the legislation, whether it dealt with civil rights, immigration, prison reform, or federal criminal law...I hope young people will have the passion for government I had many years ago (and still have). It is, after all, their future that is at stake."

Here's just a sampling of the many other books recently written or edited by our alumni, faculty, staff, and students. We welcome your submissions. If possible, please send us two review copies of your book: one for the Lillian Goldman Law Library and one for the Alumni Reading Room.

Philip Bobbitt

Terror and Consent: The Wars for the Twenty-First Century Knopf, 2008

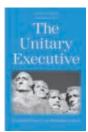


Bobbitt '75 contends that the world is in transition from nation states to "market states" whose strategic reason for being "is the protection of civilians, not simply territory or national wealth or any particular dynasty, class, religion or ideology." This shift, he argues,

has huge implications for counterterrorism, because future terrorists—particularly if they possess nuclear or biological weapons—may threaten the legitimacy of the market state.

Steven G. Calabresi and Christopher Yoo

The Unitary Executive: Presidential Power from Washington to Bush Yale University Press, 2008



This book undertakes a detailed historical and legal examination of presidential power and the theory of the unitary executive. This theory—that the Constitution gives the president the power to remove and control all policy-making subordinates in the executive

branch—has been the subject of heated debate since the Reagan years. Co-authors Calabresi '83 and Yoo argue that all presidents have been committed proponents of the theory of the unitary executive, and they explore the meaning and implications of this finding.

Hugo Cyr

Canadian Federalism and Treaty Powers: Organic Constitutionalism at Work

Peter Lang, 2008

Using the Canadian federation as its starting point, this case study illustrates a range of factors to be considered in the appropriate distribution of treaty powers within a federation. Cyr '99 LLM shows how the Canadian constitution has "organically" developed a tight-knit set of rules and principles responding to these distributional factors.

Marian Wright Edelman

The Sea is So Wide and My Boat is So Small: Charting a Coarse for the Next Generation Hyperion, 2008



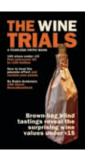
In America today, the gap between the rich and the poor is the greatest ever recorded—larger than any other industrialized nation. As founder and president of the Children's Defense Fund, Edelman '63 knows all

too well the suffering of so many of the nation's children. In her newest book, Edelman asks difficult questions about what we truly value, and looks hard at what we can—and must—do to build a nation fit for all children.

Robin Goldstein

The Wine Trials

Fearless Critic Media, 2008

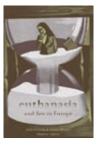


Goldstein '02 has gone around the country serving 6,000 glasses of wine from brown paper bags to experts and everyday wine drinkers around America. Here are the results, including fullpage reviews of the 100 wines that beat \$50 to

\$150 bottles in the blind tastings.

John Griffiths, Maurice Adams, and Heleen Weyers

Euthanasia and Law in Europe
Hart Publishing, 2008

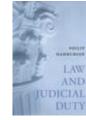


Griffiths '65 and his co-authors emphasize recent legal developments and new research, and include a full treatment of Belgium, where euthanasia has been legal since 2002. In addition, the book includes short descriptions writ-

ten by local specialists of what is known about actual practice in a number of other European countries (including the UK, Switzerland, France, and Spain).

Philip Hamburger Law and Judicial Duty

 $Harvard\ University\ Press,\ 2008$



Hamburger '82 traces the history of what is today called "judicial review," drawing on previously unexplored evidence. He explains the common law ideals of law and judicial duty, calling into question the modern assumption

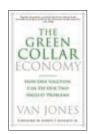
that judicial review is a power within judges' control.

(Opposite) On June 11, 1963 Federal Deputy Attorney General Nicholas Katzenbach faced off against Governor George C. Wallace at the University of Alabama. Wallace had blocked the University's doorway in an attempt to prevent two African-American students from registering for classes. Photograph by Shel Hershorn

Van Jones

The Green Collar Economy: **How One Solution Can Fix** Our Two Biggest Problems

HarperOne, 2008



Jones '93 presents his plan for solving the issues of a failing economy and a devastated environment, arguing that we can invent and invest our way out of the pollution-based grey economy and into the healthy new green economy. Built by a broad coalition

deeply rooted in the lives and struggles of ordinary people, this path has the practical benefit of both cutting energy prices and generating enough work to pull the U.S. economy out of its present downward spiral.

Zachary Kaufman and Phil Clark, Eds.

After Genocide: Transitional Justice, Post-Conflict Reconstruction, and Reconciliation in Rwanda and Beyond

Columbia University Press, 2009



In these essays, leading scholars analyze the political, legal, and regional impact of events in post-genocide Rwanda within the broader themes of transitional justice, reconstruction, and reconciliation. Kaufman '09 and Clark also incorporate contributions

from Rwandan academics, practitioners, and senior government officials who have rarely been heard from in the aftermath of the genocide.

Duncan Kennedy

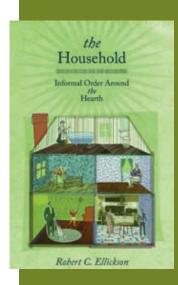
Legal Reasoning: Collected Essays The Davies Group Publishers, 2008



This collection of four essays written by Kennedy '70 over a twenty-year span presents an account of legal reasoning by judges, lawyers, and legal academics. Kennedy assembles in a systematic way the insights of American legal realism with Continental phenomenology and semiotics.

Robert C. Ellickson '66, Walter E. Meyer Professor of Property and Urban Law

Princeton University Press, 2008



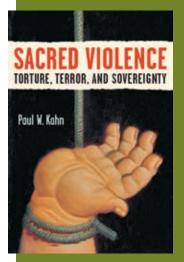
ELLICKSON EXPLORES the internal dynamics of the home in his new book *The Household: Informal* Order Around the Hearth. Writing for an audience of sociologists, economists, lawyers, and individuals interested in the fundamentals of domestic life, Ellickson applies transaction cost economics, sociological theory, and legal analysis as he examines how the home is ordered. The Household illustrates how households are formed and how they choose to govern themselves. Ellickson considers division of labor, homeownership issues, and the handling of domestic misconduct.

Using historical sources and statistics, the book compares traditional family-based households to more complex arrangements such as those in medieval English castles, Israeli kibbutzim, and modern housing communities.

"Most of the rules that govern the hearth," Ellickson argues, "are not derived from law but rather are household-specific norms that evolve from the repeated interactions of household participants."

Paul W. Kahn '80, Robert W. Winner Professor of Law and the Humanities and Director, Orville H. Schell, Jr. Center for International Human Rights

> Sacred Violence: Torture, Terror and Sovereignty The University of Michigan Press, 2008



"IF WE ARE quite willing to kill, why not torture?" So begins Kahn's newest book, Sacred Violence: *Torture, Terror and Sovereignty.* To answer that question Kahn offers a broad philosophical and historical inquiry into the nature of political violence. The problem with torture, he argues, is neither its violence nor its immorality. As a nation we remain deeply committed to forms of political violence that are even more destructive and arguably just as immoral. To understand torture we must compare it not to law, but to combat, for torture emerges as a response to that particular form of combat that is terror.

Exploring the place of torture in the political imagination offers Kahn a new opportunity to develop a modern political theology-the project

that has been the subject of his last two books: Putting Liberalism in its Place and Out of Eden. Together, these works challenge our easy assumptions about the place of the rule of law in American political life. Kahn sees law and sacrifice as dual sources of political meaning that are literally at war with each other in American reactions to the attack of 9/11.

Timothy D. Lytton

Holding Bishops Accountable: How Lawsuits Helped the Catholic **Church Confront Clergy Sexual Abuse** Harvard University Press, 2008

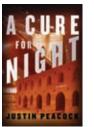


In a story of the tort system as an engine of social justice, Lytton '91 reveals how pleadings, discovery documents, and depositions fueled media coverage of the Church scandal. This book shows how the litigation strategy of plaintiffs' lawyers gave rise to a

widespread belief that the real problem was not the actions of individual priests, but rather the Church's massive institutional failure.

Justin Peacock

A Cure for Night Doubleday, 2008

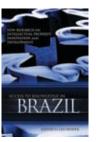


In his first novel, Peacock '02 tells the story of Joel Deveraux who has been ejected from his job at a white-shoe law firm and has slid down the corporate ladder to the Brooklyn Public Defenders' office. When Deveraux's boss offers him the second chair to the savvy Myra

Goldstein in a high-profile murder case, he eagerly takes it. The defendant is Lorenzo Tate, an African-American pot dealer from the projects who is charged with the murder of a white college student in a street shooting; and the tabloids have sunk their teeth into the racially tinged trial.

Access to Knowledge in Brazil: New Research on Intellectual Property, Innovation, and Development Information Society Project, 2008

Lea Shaver, Editor



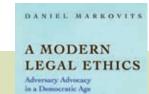
The first in a series, this book focuses on current issues in intellectual property, innovation, and development policy from a Brazilian perspective. Edited by Shaver '06,

each chapter is authored

by scholars from the

YALE LAW REPORT winter 2009

Fundação Getulio Vargas law schools in São Paolo and Rio de Janeiro and examines a policy area that significantly impacts access to knowledge in the country. These include: exceptions and limitations to copyright, free software and open business models, patent reform and access to medicines, and open innovation in the biotechnology sector.



Saadia M. Pekkanen

Japan's Aggressive Legalism:

Law and Foreign Trade Politics

Beyond the WTO

Stanford University Press, 2008

The ways in which law has

interests to reshape Japan's

foreign trade politics at the

start of the twenty-first cen-

tury can best be character-

ized as aggressive legalism.

Today, Japan's aggressive

any one multilateral, regional, or bilateral

forum. In the shifting landscape of global

and regional realities, Pekkanen '04 MSL

attempt by Japanese actors to structure

favorable outcomes in international trade.

as the most cohesive and legitimate

argues, aggressive legalism has emerged

legalism is not confined to

interacted with concrete



Daniel Markovits '00 A Modern Legal Ethics:

Adversary Advocacy in a Democratic Age Princeton University Press, 2008

IN A MODERN LEGAL ETHICS, Markovits proposes a wholesale renovation of legal ethics, one that contributes to ethical thought generally.

Markovits reinterprets the positive law governing lawyers to identify fidelity as its organizing ideal. Unlike ordinary loyalty, fidelity requires lawyers to repress their personal judgments concerning the truth and justice of their clients' claims. Next, the book asks what it is like—not psychologically but ethically—to practice law subject to the self-effacement that fidelity demands. Finally, A Modern Legal Ethics reintegrates legal ethics into political philosophy in a fashion commensurate to lawyers' central place in political practice.

"One of the book's main aims is to connect ethical theory to the actual practice of adversary advocacy, including both the positive law governing lawyers and the lived experience of lawyering," Markovits explains. "The book is designed to be accessible to a general audience and especially to students as they try to make sense of the law that they learn in their professional responsibility courses."

Daniel J. Solove

Understanding Privacy
Harvard University Press, 2008



As rapidly changing technology makes information increasingly available, scholars, activists, and policymakers have struggled to define privacy. Solove '97 offers an overview of the difficulties involved in discussions of privacy. He argues that no single defi-

nition can be workable, but rather that there are multiple forms of privacy, related to one another by family resemblances. Drawing on a broad array of interdisciplinary sources, Solove sets forth a framework for understanding privacy.

CORPORATE

GOVERNANCE

PHONISES MEPT, PHONISES BROMEN

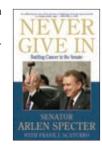
JONATHAN R. MACEY

governance."

whistle-blowers.

Arlen Specter

Never Give In: Battling Cancer in the Senate Thomas Dunne Books, 2008



Jonathan Macey '82, Deputy Dean

and Sam Harris Professor of Corporate Law,

Corporate Finance, and Securities Law

Corporate Governance:

Promises Kept, Promises Broken

IN CORPORATE GOVERNANCE: Promises Kept, Promises Broken, Macey argues

the prospect of enforcement is the focal point of a successful system of corporate

This timely book examines different mechanisms of corporate governance

and ultimately argues that market-driven mechanisms of corporate governance

According to Macey, reliance on the Sarbanes-Oxley Act is badly misplaced,

and heightened government oversight has put a stranglehold on the market.

(i.e., trading and takeovers) are more effective solutions than non-market devices

that promises (rather than contracts) are at the heart of a successful system

of corporate governance. In Macey's words, "trust rather than reliance on

such as boards of directors, shareholder voting, credit-rating agencies, and

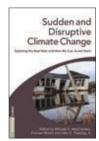
In early 2004, Specter '56 was in the midst of the most difficult election in his quarter-century career in the Senate.
But his feelings of exhaustion and fatigue were found to have a far more serious cause.
Specter was diagnosed

with Hodgkin's disease, Stage IVB, the most advanced stage. In this book, he describes the treatment he received and offers his advice on how to handle the side effects, both visible and private.

John C. Topping Jr., Michael C. MacCracken, and Frances Moore, Eds.

Sudden and Disruptive Climate Change: Exploring the Real Risks and How We Can Avoid Them

Earthscan, 2008

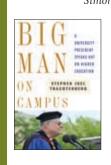


While changes in emissions and atmospheric concentrations of greenhouse gases are generally projected to be slow and smooth, there are increasing indications that the intensity and impacts of climate change on the environment and soci-

ety could, at least on a regional basis, be abrupt and bumpy. In a series of essays, Topping '67 and his co-authors explore the possibilities of such changes and their significance for our society, as well as our ability to limit climate change.

Stephen Joel Trachtenberg

Big Man on Campus:
A University President Speaks Out
on Higher Education
Simon & Schuster, 2008



An insider's look at the current state of higher education in America, from Trachtenberg '62, who spent 19 years as president of The George Washington University. This book brings together Trachtenberg's years of experience, wisdom, and

wit to reveal what goes on behind the scenes in the difficult and rewarding challenge of running a university.

website 💢

Details about upcoming alumni and faculty book tours are now available at www.law.yale.edu/alumni. If you'd like your book tour listed on the site, please email Director of Alumni Affairs Abigail Roth '94 at abigail.roth@yale.edu. If you'd like to hear authors discuss their work, be sure to check out the site!

Robert L. Tsai

Eloquence & Reason:

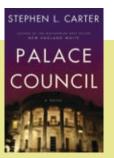
Creating a First Amendment Culture

Yale University Press, 2008



Tsai '97 presents a theory of the First Amendment's development. During the twentieth century, Americans gained trust in its commitments, turned the First Amendment into an instrument for social progress, and exercised their rhetorical freedom to create a common language of rights. Tsai explains that the

guarantees of the First Amendment have become part of a governing culture and nationwide priority. Examining the rhetorical tactics of activists, presidents, and lawyers, he illustrates how committed citizens seek to promote or destabilize a convergence in constitutional ideas.



Stephen L. Carter '79, William Nelson Cromwell Professor of Law

Palace Council Knopf, 2008

CARTER'S LATEST novel begins in the summer of 1952, when twenty prominent men gather at a secret meeting on Martha's Vineyard and devise a plot to manipulate the President of the United States. Soon after, the body of one of these men is found by Eddie Wesley, Harlem's rising literary star. When Eddie's younger sister mysteriously disappears, Eddie and the woman he loves, Aurelia Treene, are pulled into what becomes a twenty-year search for the truth. As Eddie and Aurelia uncover layer upon layer of intrigue, their odyssey takes them from the wealthy drawing rooms of New York through the shady corners of radical politics, all the way to the Oval Office.

Philippa Webb and Hirad Abtahi

The Genocide Convention:
The Travaux Préparatoires
Martinus Nijhoff Publishers, 2008



This two-volume work gathers together the records of the multitude of meetings that, in the context of the newly-established United Nations, led to the adoption of the Convention on the Prevention and Punishment of the

Crime of Genocide in December 1948. Webb '04 LLM and Abtahi give academics and practitioners easy access to the Genocide Convention's travaux préparatoires. The foreward to this collection is written by Rosalyn Higgins '62 JSD, President of the International Court of Justice.

ALSO OF NOTE

Ian Ayres '86 and Richard E. Speidel Studies in Contract Law, 7th ed.

Foundation Press, 2008

Henry M. Hoyt '40, Translator

Eugene Onegin:

A Novel in Verse (by Alexander Pushkin)

Dog Ear Publishing, 2008

Harold Hongju Koh, Detlev F. Vagts, and William S. Dodge

Transnational Business Problems, 4th ed.

Foundation Press, 2008

Harold Hongju Koh

Transnational Litigation in United States Courts

Foundation Press, 2008

Nicolas Kuonen '06 LLM

La responsabilité précontractuelle Schulthess, 2007

D.G. Martin '68

Interstate Eateries: A Guide to Down-Home Cooking Along North Carolina's Interstates, 2nd Ed. Our State, 2008

Edward McWhinney '51 LLM, '53 JSD

Self-Determination of Peoples and Plural-Ethnic States in Contemporary International Law

Martinus Nijhoff Publishers, 2007

W. Michael Reisman '64 LLM, '65 JSD and Guillermo Aruilar Alvarez

The Reasons Requirement in International Investment Arbitration: Critical Case Studies Hotel Publishing, 2008

Alec Stone Sweet and Helen Keller

A Europe of Rights: The Impact of the ECHR on National Legal Systems Oxford University Press, 2008

Stephen Joel Trachtenberg '62 and Gerald B. Kauvar, Eds.

Letters to the Next President: Strengthening America's Foundation in Higher Education The Korn/Ferry Institute, 2008

Mark C. Weber '78

Special Education Law and Litigation Treatise, 3rd ed. LRP Publications, 2008

Luzius Wildhaber '65 LLM, '68 JSD

The European Court of Human Rights: 1998–2006 History, Achievements, Reform

N.P. Engel, Publisher, 2006



website www.law.yale.edu/podcasts