Q and A with Guido Calabresi

GUIDO CALABRESI ’58 is Sterling Professor Emeritus at Yale Law School and a senior judge on the United States Court of Appeals for the Second Circuit. A preeminent legal scholar, Calabresi served as dean of the Law School from 1985 to 1994 prior to his appointment on the Second Circuit. He began teaching at the Law School in 1959 at the age of 26, and is widely acknowledged as a leading figure in the field known as law and economics.

Yale Law Report

In your view, what is the lawyer’s unique role in changing, or even bettering, economics and economic theory? Lawyers are like institutionalists. They’re people of the world. When we look at the law, we see how the world has treated some situations. That enables us to see whether a theory—be it economics, philosophy, or another theory—really fits the world. And that gives us insights that are particularly useful to whatever theoretical field we’re addressing.

The group of economists known as institutionalists argued that that’s what should be done in economics. Ronald Coase was one of them, as was Walton Hamilton, who taught at Yale Law School. So why is it not their job to look at economic theory from the standpoint of the world and say what is wrong with it? Traditionally, institutional economists came from the left, and they were treated with suspicion by economic theorists for that reason. There was always the thought that they might say that the world doesn’t fit for ideological reasons rather than for empirical reasons.

In his latest book, Sterling Professor Emeritus Guido Calabresi ’58 discusses the nuances found within the law and economics movement, a theoretical mode of analysis that Calabresi himself pioneered in the mid-twentieth century.

Described by the University of Chicago’s Sam Peltzman as “a collection of original essays by one of the towering figures in the development of the economic analysis of law,” The Future of Law & Economics posits that there are two separate areas within the discipline, most clearly identified with the English philosophers Jeremy Bentham and John Stuart Mill. The Benthamite strain, according to Calabresi, understands that the law should be understood merely in the light of economic theory, and suggests ways in which economics might improve legal effectiveness. Such a theoretical mindset, he says in the book’s first essay, “casts doubt upon, and often seeks reform of legal reality.” The Millian strain, however, places economics and the law on more egalitarian footing. Coming from a more realistic and less theoretical understanding, this perspective is one of bilateralism, allowing for economic theory to be just as correctable as the law. It is this approach—from the legacy of Mill and in opposition to Bentham—for which Calabresi most clearly advocates.

The series of essays that follow arise from this distinction, and Calabresi discusses related topics such as altruism, merit goods, and the liability rule. Though ultimately a work of historical and contemporary legal-economic analysis, The Future of Law & Economics is decidedly forward-looking. In the concluding words of the book, Calabresi thoughtfully notes: “Economists, working with legal scholars, can, by making economic theory richer and more nuanced, make that theory more capable of responding to both these needs. They can do so without abandoning those limits that economics has traditionally, and understandably, placed on itself in order to retain its rigor. Law and Economics scholarship has done this to wonderful effect in the past. But there is much still to be done, and it is this that makes the future of Law and Economics so bright and exciting to me, an early tiller in the field.”

Guido Calabresi

The Future of Law & Economics: Essays in Reform and Recollection

Yale University Press, 2016

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Lawyers are institutionalists but come from every possible point of view, and so one can’t attack lawyers that way, which makes us much, much more useful.

That puts lawyers in a position to question any theory. I happen to be interested in questioning economic theory because that’s what I’ve worked on, but also because it’s been such a dominant part of legal scholarship in the last fifty or sixty years. The first thing that the lawyer does when looking at the world and seeing that the theory doesn’t fit is to make demands of the theory: Why doesn’t it fit? Is it the world that should be changed or is it something that’s wrong with the theory? By making demands, it asks the theorists to rethink their theory.

In my recent book, I say: Isn’t it interesting that economists seem to treat most goods either as a means of getting from here to there? Is it a useful way of delivering healthcare? Is it an efficient way of getting from point A to point B? Or they look at goods as ends. We want this. I like this. That’s something I would like to have.

But when one looks instead at the world of law, one realizes that most goods are both ends and means. We like caviar because we like it, but it also feeds us. And almost everything is, to some extent, both. And this being “both” is something that economists haven’t really thought about. It helps us to explain altruism. It helps us to explain any number of things. It asks economists to think about the theoretical implications of this more broadly. And that’s why this book raises some deeper theoretical questions for economics. For example, once one talks about ends and means both, one looks at people like the great free market scholars F. A. Hayek and Milton Friedman and one realizes that they not only think that the market is an efficient way of delivering goods and services, but that they like it. Of course they like it, and that’s one of the reasons they push for it. Conversely, Trotsky didn’t just think command was an efficient way of delivering goods and services, he liked it!

The book also discusses the importance of looking at how not just the people who are negotiating something react—the person who is selling health care, or the person who would like to sell blood or a kidney to somebody else, and the person who wants to buy it—but how third parties react, whether they are offended. Economic theory traditionally does not take into account what, in their own terms, they call third-party utilities. But one cannot discuss any number of things—why we prohibit the sale of blood or why we do things about healthcare or education—without realizing that the third party’s values are part of the game, too.

YLR Your new book sketches the distinction between the Benthamite (“economic analysis of law”) and the Millian (“law and economics”) traditions of economic-legal analysis. Given your long scholarly history of advocating for Mill’s approach, what do you think Bentham’s analysis can offer to the continuing conversation about law and economics?

Calabresi The Benthamite tradition is very useful, first, for questioning, for demanding change. It says, “The past isn’t necessarily right. It has to prove itself.” And the second thing that the Benthamite tradition does is to ask, “Are people of the world looking at the world as it is, or are they missing something?”

Bentham was famous for pushing for reform. The theory demands change. The theory looks at what was there before and says, hey, this doesn’t seem to work. And that’s very powerful. One has a theory that is believed, whether it is Bentham or it is Chicago or is Marxist—but it looks at the world and it says there is something wrong. Being able to question what has been before is fundamental. It is what the “law and...” movements all began as. They didn’t want to take law as a given, as necessarily right, rather than as the history of exploitation or as rules that make no sense, so it is a tremendous engine for or one has a tyranny of revolution because at a certain point people have had enough and they explode. “Écrasez l’infâme” was the French phrase: Destroy the infamous, the indecent. And create a wholly new, revolutionary structure that rules thereafter.

When a theoretical Benthamite approach looks at the world, and the world doesn’t fit, the second question it asks us to ask is: Am I actually seeing the world? Or is something about where I am looking from causing me to miss what is going on? The theory says something should be happening. It doesn’t seem to be happening. But is it really not happening? Am I only looking through blinders? For instance, am I looking only at appellate cases, and ignoring all that is decided administratively?

YLR What are the other scholarly disciplines that you could imagine as being important to strengthening the law and economics framework, with an eye toward the future development of and work within the field?

Calabresi When one does the law and economics approach, the Millian approach,
and one says the theory is not complex or nuanced enough to help explain what goes on, one asks a field to change itself. Sometimes that field, such as economics, can change itself. For example, Coase said if markets were costless, there would be no firms. There are firms. Is it really impossible for economic theory to treat markets as costing something? No, it’s not impossible. It’s a little more complicated, but it isn’t that hard. And economic theory adjusted with tremendous help to it and to what it could say about the world.

I think the same is true about ends and means. I think the same is true about values. Third-party utilities are harder for economists to deal with. I would like them to try. But there are some things that are too difficult for that field.

What does it mean to say “too difficult for that field”? It means that it asks economists to do some things, which, if they did them, would no longer make economics the powerful discipline that it is. It would ask economics to make certain problematic assumptions, to be uncertain about certain things, not to be as rigorous as it is. At that point, economists can do one of two things. They can just throw their hands up and say, too bad. We’re still going to try. But there are some things that are too difficult for that field.

When considering your book’s subtitle, “Essays in Reform and Recollection,” how would you relate your own experiences as a student and scholar of law to the writing of this book?

Calabresi: That takes us back a long way. The beginning of this is this kid (me) who had studied economics and had fallen in love with the most theoretical sides of economics. This theoretical side of economics seemed to me to be fun but not to explain the world adequately, not to be really useful. So I kind of faute de mieux came to law school. And I found myself in Jimmy James’s [Fleming James, Jr.] torts class where all sorts of questions were being raised that Jimmy, as a great teacher, said we don’t know the answers to, but which economic analysis of law gave the answers to as easily as could be. Now the reason that was so was because the materials that Jimmy James had put together derived from materials that had originally been put together by Walton Hamilton, an institutionalist economist, and Harry Shulman. Shulman, really, knew no more economics than James but the materials had been put together, by Hamilton, I think, to ask the questions. So that’s how I started looking at torts law from an economic analysis point of view. And economics was able to explain things that most legal scholars had said could not be explained, like master-servant liability. Everybody in torts said there was no explanation for master-servant liability. Instead, from an economic analysis point of view, it was the easiest thing in the world to explain. But then immediately after, I saw that there were some things in that same theory, which when applied to law didn’t explain the governing rules. I had been a little unhappy with economic theory from a realistic point of view, so that led me to say, “Is that theory necessarily right?” So, at the very beginning, I was both applying economic analysis of law and doing law and economics. I did this in my first year in law school.

I wrote the article “Some Thoughts on Risk Distribution and the Law of Torts,” which came out a few weeks before, and independently of, Coase’s great article, “The Problem of Social Cost,” in 1960/1961. I had first written it in my second year in law school as my comment for a journal officership, from what I’d learned in torts. I got an officership, but the editors of the Law Journal didn’t really like the comment because it was so new. Kids didn’t understand it, and so I didn’t publish it then. This was very lucky because if I had published it as a student piece, nobody would have read it. When I came back to teaching two years later, I published it as my first article. And since it came out at the same time as Coase, the whole place exploded and, among other things, I got tenure! That was the start.

The next thing that happened which pushed me in the direction of what I’m doing now, was the European reaction to the law and economics and economic analysis of law that I was doing. Europeans were very troubled originally. The thing that bothered them was: Aren’t you really putting law in a subsidiary position? Doesn’t law have something to offer on its own? The European tradition had been very much that “law must be right,” that law can’t be changed. And so, the notion, not only of looking at law from an outside theory perspective and thinking reform, as Bentham had advocated, but that reform would be dictated by a theory outside of law was something that was very troubling to people in Europe.

Well, I’m also European. From the very beginning, I started going back to Italy, where I was born. And I started feeling this sense of unease, fear, which interestingly, this particular book has in many Europeans kind of laid to rest. This book says law, and your notion that law has had something to tell us for a very long time and still does, is true. It discusses this in a systematic way by talking about law and economics, rather than economic analysis of law, and says the two things work together. This traditional European notion that law had things to say about the unanalyzed experience of the human race, and economic

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Jim Douglas
The Toughest Peace Corps Job:
Letters from Somalia, 1969
Inkwater Press, 2016

Douglas ’73 describes his Peace Corps experience in Somalia in 1969, drawn from his letters and correspondence of the time. From trying to plow with a camel and walking across the bush in flip flops to introducing dodgeball in a kids’ prison, these letters and journal chronicle the experiences of a young man pushed to the limits of his idealism, inviting readers to ask: Are good intentions ever enough?

Lawrence Douglas
The Right Wrong Man:
John Demjanjuk and the Last Great Nazi War Crimes Trial

Douglas ’89 explores the complicated history of John Demjanjuk, the man at the center of the lengthiest Nazi war crimes case to arise from the Holocaust.

Cory Booker
United: Thoughts on Finding Common Ground and Advancing the Common Good
Ballantine Books, 2016

U.S. Senator Booker ’97 examines his own life trajectory—including his days at Yale Law School followed by his years of public service—in order to argue that empathy, responsibility, and action are the virtues needed to attain a common good for the future. Booker shares his understanding of not only the issues that are most important to him (such as the injustice of mass incarceration and the need for environmental care), but also the individuals throughout his life who played significant roles in shaping his civic vision.

Anne L. Alstott
A New Deal for Old Age: Toward a Progressive Retirement
Harvard University Press, 2016

ANNE L. ALSTOTT ’87, the Jacquin D. Bierman Professor in Taxation, argues in her new book, A New Deal for Old Age, that the creation of Social Security in the 1930s was a profound achievement worth preserving—but that the program has fallen out of step with the current realities of work and aging. Social Security once promised dignity in old age for rich and poor alike, but today that egalitarian promise is failing. Alstott recommends a progressive change that would shift retirement age depending on a worker’s lifetime income and type of work. She also suggests a more equitable version of spousal benefits.

“The past fifty years have wrought a dramatic change in the experience of old age,” Alstott says. “As a group, older Americans live longer, enjoy better health, and pursue a variety of work and retirement options. But old age unfolds very differently for the poor than for the rich.” The gap is more than a matter of money: lifetime low earners face shorter life spans, worse health, higher rates of disability, and worse job options.

Alstott posits that without thoughtful reform, Social Security will fail Americans who find themselves on the wrong side of the new inequality. Alstott urges progressives to stop treating Social Security as untouchable. She believes the program already contains the seeds of progressive reform: contrary to popular belief, reforms can maintain universal retirement security while also directing extra benefits to the worst-off.

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. Please contact us: lawreport@yale.edu.
In his new book, *The Functions of Law*, Kenneth M. Ehrenberg '97 reviews critical theories of legal philosophy, posing the question, "What is the nature of law and what is the best way to discover it?" Ehrenberg posits that law is best understood as institution and artifact: as the former, it’s designed to be an essential arbiter in the management of status within a social contract, and as the latter, a tool of human creation that is designed to signal its usability to people who interact with it.

Chaihark Hahn and Sung Ho Kim

*Making We the People: Democratic Constitutional Founding in Postwar Japan and South Korea*, 2016

Hahn '87 LLM and Kim combine constitutional scholarship with political theory in order to understand just what it means to say "we the people" in the context of establishing a new constitution. By re-examining the politics of postwar Japan and Korea, the authors put forth that the eponymous phrase can only come about by means of constitutionalism; in other words, the author of that document is just as constitutive as the political tendencies that underlie its broader democratic foundations.

Robert D. Blackwill and Jennifer M. Harris

*War by Other Means: Geoeconomics and Statecraft*, 2016

Harris '09 and Blackwill describe how the United States, in failing to embrace the mode of statecraft in which economic instruments are employed to achieve geopolitical goals, is faltering as a world power. Through an analysis of American history, systems, bureaucracy, and foreign policy since the end of World War II, they attempt to demonstrate that if the United States keeps turning toward military force instead of geoeconomic warfare, its decline as a world power will be even more difficult to reverse.

Ellen Harvey

*Museum of Failure*, 2015

*Museum of Failure* is Harvey's '93 first major retrospective publication, exploring her vast array of artistic work from the past two decades. Taking its title from an ongoing project featured in the 2008 Whitney Biennial, the book examines the artist's painting, photography, and installations (among her other artistic media).

Michael J. Graetz


This book by Michael J. Graetz, Justus S. Hotchkiss Professor Emeritus of Law, collects the author's essays written over the past two decades that examine issues surrounding international income taxation. Publicity about tax avoidance techniques of multinational corporations and wealthy individuals has moved discussion of international income taxation from the backrooms of law and accounting firms to the front pages of news organizations around the world. In *Follow the Money: Essays On International Taxation*, Graetz reveals how current international tax policy came into place nearly a century ago, critiques the inadequate principles still being used to make international tax policy, identifies and dissects the most prevalent tax avoidance techniques, and offers important suggestions for reform.

Michael J. Graetz and Linda Greenhouse

*The Burger Court and the Rise of the Judicial Right*, 2016

In their new book, *The Burger Court and the Rise of the Judicial Right*, Justus S. Hotchkiss Professor Emeritus of Law Michael J. Graetz and Knight Distinguished Journalist in Residence and Joseph Goldstein Lecturer in Law Linda Greenhouse '78 MSL put forth a new and comprehensive evaluation of the Warren Burger Supreme Court. Though traditionally described as a moderate or transitional court, the authors demonstrate that the Burger Court was actually a conservative one whose constitutional decisions still impact the political landscape in which we live today.

Beginning with Richard Nixon's 1968 promise to move the Supreme Court away from the liberalism of the preceding Warren era, the authors describe how the Burger Court veered far to the right of the political spectrum in areas such as criminal law, race, and corporate power. Through an examination of the legal and political roots of some of the most significant Burger Court decisions, Graetz and Greenhouse not only clarify this rightward judicial shift, but also demonstrate how these decisions affects us in the present day.
Gary Hart
The Republic of Conscience
Blue Rider Press, 2015

Former U.S. Senator Hart ’64 meditates on the ever-increasing divide between the United States Constitution’s founding principles and the landscape that currently dominates the nation’s political discourse. Because narrow special interests have dominated America’s government since the end of World War II, he notes that America and its governing institutions have fallen prey to the very corruption that the Constitution and the founding fathers sought to avoid at all costs.

Adam Haslett
Imagine Me Gone
Little, Brown & Company, 2016

In Haslett’s ’02 second novel, Margaret and John are a young engaged couple when he is hospitalized for depression in 1960s London. Her decision to marry him, despite what she knows of his condition, sets into motion their family’s reckoning with the bonds of duty, love, and loss. At the heart of the story is their eldest son, Michael, a brilliant, anxious music fanatic, and the story of how, over the span of decades, his younger siblings struggle with their mother to care for Michael’s increasingly troubled and precarious existence.

Ben W. Heineman, Jr.
The Inside Counsel Revolution:
Resolving the Partner-Guardian Tension
Oxford University Press, 2016

Heineman ’71 explores the rise of inside lawyers over the past twenty-five years. His work, grounded in his experience as GE’s top lawyer for nearly two decades, examines the transformation of inside counsel from second-class citizens in corporations to crucial members of the corporate structure. Building on this view of recent history, he describes the modern role of inside counsel, from their important functions to the values that they should hold as corporate citizens.

Zachary D. Kaufman
United States Law and Policy on Transitional Justice:
Principles, Politics, and Pragmatics
Oxford University Press, 2016

The U.S. government’s support for and opposition to various transitional justice institutions is the focus of Kaufman’s ’09 latest book. In confronting the legalist paradigm in favor of his own prudentialist theory, he explores six historical contexts—including post-World War II Japan and Germany, and the 1994 Rwandan genocide—in order to demonstrate that political and pragmatic factors overwhelmed normative beliefs in the United States’ approach to such atrocities.

Susan Rose-Ackerman and Bonnie J. Palifka
Corruption and Government:
Causes, Consequence, and Reform (2nd Edition)
Cambridge University Press, 2016

SUSAN ROSE-ACKERMAN, the Henry R. Luce Professor of Law and Political Science at Yale University, and Bonnie J. Palifka have published the second edition of Corruption and Government: Causes, Consequence, and Reform. The co-authors update Professor Rose-Ackerman’s 1999 original to include the research explosion that accompanied the fall of the Berlin Wall, the founding of Transparency International, and the World Bank’s decision to give anti-corruption policy a key place on its agenda.

The book focuses on the institutional and economic roots of corruption, both routine payoffs and “grand” corruption in contracting and privatization. It gives special attention to political corruption and to instruments of accountability. The authors have expanded the treatment of culture as a source of entrenched corruption and added chapters on criminal law, organized crime, and post-conflict societies. The authors outline domestic conditions for reform and discuss international initiatives, including both explicit anti-corruption policies supported by institutions, such as the World Bank and the OECD, and global efforts to constrain money laundering.

“Bonnie Palifka and I sought to incorporate the most important new work on the topic, to acknowledge progress in fighting corruption at the same time as we recognize that much more needs to be done,” says Professor Rose-Ackerman. “This is a topic that is not likely to disappear any time soon as recent revelations involving the World Cup Football Association and the Panama Papers can attest.”

D. G. Martin
North Carolina’s Roadside Eateries: A Traveler’s Guide to Local Restaurants, Diners, and Barbecue Joints
The University of North Carolina Press, 2015

D. G. Martin ’68 has spent years traveling the major roadways of North Carolina, on the lookout for community, local history, and great cooking. In his new book, Martin, the host of UNC-TV’s North Carolina Bookwatch, offers a personal tour of more than 100 notable local roadway haunts that serve not only as places to eat but also as fixtures of their communities—from BBQ joints and country kitchens to Mexican restaurants and Greek diners.
Frank Pasquale
The Black Box Society: The Secret Algorithms That Control Money and Information
Harvard University Press, 2015
Pasquale ’01 explores the invasive world of corporate data-gathering, detailing the subtle ways in which Silicon Valley and Wall Street use hidden algorithms to control information, profits—and even the course of the entire economy—all while noting the inherent dangers of this troubling activity.

Jerome H. Reichman, Paul F. Uhlir, and Tom Dedeurwaerdere
Governing Digitally Integrated Genetic Resources, Data, and Literature: Global Intellectual Property Strategies for a Redesigned Microbial Research Commons
Cambridge University Press, 2016
Reichman ’79, Uhlir, and Dedeurwaerdere explore the legal framework regarding microbial genetic information, and the public research that surrounds that information. After undertaking a broad survey of these legal and scientific practices, the three authors put forth a new model for collaborative world-wide research and the easier exchange of scientific data and ideas across international boundaries.

Deborah L. Rhode
Adultery: Infidelity and the Law
Harvard University Press, 2016
Rhode ’77 undertakes a new study of the legal and social consequences of adultery. In pursuing such an examination in the form of a comprehensive academic work, she calls for an end to the criminalization and state policing of the act, by means of the repeal of archaic adultery laws and prohibitions on polygamy.

Jeffrey Rosen
Louis D. Brandeis: American Prophet
Yale University Press, 2016
Published to commemorate the hundredth anniversary of his Supreme Court confirmation on June 1, 1916, Louis D. Brandeis: American Prophet argues that Brandeis was the most farseeing constitutional philosopher of the twentieth century. Combining narrative biography with a passionate argument for why Brandeis matters today, Rosen ’91 explores what Brandeis can teach us about historic and contemporary questions involving the Constitution, monopoly, corporate and federal power, technology, privacy, free speech, and Zionism.

Michael J. Saks and Barbara A. Spellman
The Psychological Foundations of Evidence Law
Saks ’83 MSL and Spellman examine current psychological research in order to identify the choices underlying the rules of evidence. In examining the current state of the rules of evidence, the authors seek to suggest potential alternatives, grounded in psychology, that might aid the law in more successfully attaining its ultimate ends.

Barry Schaller
The Ramadi Affair
Quid Pro, 2016
In his novel, Schaller ’63 tells the story of Connecticut judge David Lawson, a decorated veteran of Iraq, now thrust onto the national stage when the press learns he’s up for an unexpected vacancy on the U.S. Supreme Court. Secrets from two decades ago in Ramadi threaten his nomination and call into question his moral judgment.

Allan Topol
The Italian Divide
SelectBooks, 2016
In Topol’s ’65 twelfth novel, a prominent Italian banker is killed by Russian assassins operating out of China. It’s up to a former CIA director and a journalist to uncover the network of corruption and deceit extant across the whole of Italy—with dire consequences on the international level.

J.D. Vance
Hillbilly Elegy: A Memoir of a Family and Culture in Crisis
Harper, 2016
A meditation on the crumbling of a white working-class culture in the United States, Vance’s ’13 memoir explores the struggles of the Rust Belt town of his childhood, as well as his family’s experience that led them there. While his poverty-stricken grandparents were able to escape the devastating confines of rural Kentucky and ultimately establish a middle-class home in Ohio, the family continued to contend with the legacy of their Appalachian past.

Ahmed White
The Last Great Strike: Little Steel, the CIO, and the Struggle for Labor Rights in New Deal America
University of California Press, 2016
White ’94 explores the events of the May 1937 Little Steel Strike and its aftermath. In examining the corporate and governmental brutality in repressing the workers’ union in the context of New Deal liberalism, he explicates the issues that industrial labor faced in the wake of the greed, steadfastness, and destructive power of the steel companies.
Also of Note

Robert C. Power and Mark C. Alexander ’92
A Short & Happy Guide to the First Amendment

Edward H. Bonekemper III ’67
The Myth of the Lost Cause:
Why the South Fought the Civil War
and Why the North Won
Regnery History, 2015

Lu-chu Chen ’62 LLM, ’64 JSD
An Introduction to Contemporary International Law:
A Policy Oriented Perspective
Oxford University Press, 2015

Lu-chu Chen ’62 LLM, ’64 JSD
The U.S.-Taiwan-China Relationship in International Law and Policy
Oxford University Press, 2016

Alan Dershowitz ’62
Abraham: the World’s First
(But Certainly Not Last) Jewish Lawyer
Schocken, 2016

Ronald W. Duty and Marie A. Failinger ’83 LLM, eds.
On Secular Governance: Lutheran Perspectives on Contemporary Legal Issues
Eerdmans, 2016

Marie Failinger ’83 LLM and Ezra Rosser, eds.
The Poverty Law Canon: Exploring the Major Cases
University of Michigan Press, 2016

Seth Frank ’58
Baker’s Dozen
New Eden Press, 2016

David Fox and Wolfgang Ernst ’82 LLM, eds.
Money in the Western Legal Tradition:
Middle Ages to Bretton Woods
Oxford University Press, 2016

Risa Goluboff ’00
Vagrant Nation:
Police Power, Constitutional Change, and the Making of the 1960s
Oxford University Press, 2016

Felipe L. Gozon ’65 LLM
An Autobiography:
How GMA Network Became No. 1
Vibal Foundation, Inc., 2014

Anne M. Heinz and John P. Heinz ’62, eds.
Women, Work, and Worship in Lincoln’s Country:
The Dumville Family Letters
University of Illinois Press, 2016

Alan Hruska ’58
Pardon The Ravens
Prospect Park Books, 2015

James S. Eustice, Joel D. Kuntz ’71, and John A. Bogdanski
Federal Income Taxation of S Corporations (fifth edition)
Thomson Reuters, 2016

Mariana Mota Prado ’02 LLM, ’08 JSD and Michael J. Trebilcock
Advanced Introduction to Law and Development
Edward Elgar Publishing, 2014

Mordecai Rosenfeld ’54
Cases I Lost and Other Injustices
Poetica Publishing, 2015

Paul W. Kahn
Making the Case:
The Art of the Judicial Opinion
Yale University Press, 2016

Drawing on thirty years of teaching at Yale, Paul W. Kahn ’80, the Robert W. Winner Professor of Law and the Humanities, writes of legal pedagogy and legal argument in his tenth book, Making the Case: The Art of the Judicial Opinion. Law, he argues, should be approached as a set of argumentative resources. Only by learning how judges actually seek to persuade each other can students learn how to write and speak about the law.

As in his other books, Kahn takes a broad, interdisciplinary approach. He brings to his analysis of the judicial opinion a concern with narrative, voice, and structure. He explores the way in which doctrine develops and declines, as well as the importance of facts in constructing a context for decision.

The book stands in the tradition of Karl Llewellyn’s The Bramble Bush and Edward Levi’s Introduction to Legal Reasoning: legal scholarship that speaks simultaneously to students and professors as well as practitioners.