Book Review

James R. Hackney, Jr., *Legal Intellectuals in Conversation: Reflections on the Construction of Contemporary American Legal Theory*, New York: New York University Press, 2012, pp. 255, $49.

Reviewed by Paul Horwitz

In an unpublished paper a few years ago, law professor Daniel Ortiz gave a wonderful performance of a traditional generational move. Call it the "kids today" complaint. "The last 40-odd years have been tumultuous—within both American culture and legal theory,"[1] he wrote. "In both realms, conflict has fragmented consensus, unsettled many certainties, and set friends and colleagues against each other. It was nasty[.]"[2]

But, Ortiz made quite clear, it was also terrific. "[L]egal theory pushed a critical agenda" from a variety of positions, all "challeng[ing] orthodoxy—from somewhat different angles, of course."[3] It was a time of outrage and excitement,[4] "a time when reading law reviews was sometimes exciting and when many of us thought we were finally getting down to first principles, as uncomfortable as that can be."[5] There was a sense of intellectual ferment. More important, there was a sense that these ideas mattered, that there were actual high stakes involved in legal scholarship.[6] Bliss it was in that dawn to be alive—but to be tenured was heaven itself.[7]

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1. Daniel R. Ortiz, Nice Legal Studies 1 (Sept. 16, 2009) (unpublished manuscript) *available at* http://ssrn.com/abstract=1474402.
2. *Id*.
3. *Id*.
4. *See id*. at 2; *see also* Marin Roger Scordato, Reflections on the Nature of Legal Scholarship in the Post-Realist Era, 48 Santa Clara L. Rev. 353, 355–58 (2008) (to the same effect).
5. Ortiz, *supra* note 1, at 1–2. *See also* Laura Kalman, The Strange Career of Legal Liberalism 1 (Yale Univ. Press 1996) (noting the author's discovery in the same period that law reviews no longer worked as a sedative for her because they were "too interesting").
6. *See, e.g.*, Scordato, *supra* note 4, at 357.
7. *Cf.* William Wordsworth, William Wordsworth—The Major Works: Including the Prelude 550 (Stephen Gill ed., Oxford Univ. Press 2008).

All that is gone. Exhaustion set in, temperatures cooled, the stakes got lower. And "[a]s critical turned tired, legal theory turned nice."[8] The word positively drips with disappointment, even contempt. Kids today!

As a law student at Yale in the late 1980s, James R. Hackney, Jr.,[9] experienced the same sensation of excitement,[10] albeit from a "transitional" generational perspective—"old enough to have been a student at the tail end of some of the clamorous debates, but too young to have been involved in the initial formations or amid the more rancorous disputes" (3). In *Legal Intellectuals in Conversation*, a tremendously readable book and a treat for those who like biographically oriented intellectual history, Hackney has gone back to kick over the traces of the past and read the detritus for clues about the future.

Legal Intellectuals in Conversation consists of a series of ten interviews conducted with some of the leading figures in legal theory who rose to prominence in the 1970s and 1980s. They represent a broad swath of constitutive (or disruptive) theories of the era, including law and economics, critical legal studies, law and feminism, critical race studies, law and society, and postmodern thought. One may quibble with the selections but it is still an extraordinary cast of characters.

Nor should we neglect the interlocutor. Hackney has done an excellent job on two fronts. First, he's a good interviewer, leading the conversation just enough but giving his subjects ample room to expand on their views and experiences and take their proper role at center stage. Second, and in productive tension with the first point, he's no potted plant. He has a pointed set of questions here and a point of view about those questions. They are good questions, and he's admirably clear about his own perspective. He gives his subjects something to respond to and push back on. That sharpens the interviews and makes them something more than mere exercises in self-flattery.

Hackney's basic thesis or narrative is certainly not novel,[11] but it is expressed well in his useful and short introduction. Stated as an equation, it would be, more or less, "Wechsler + Warren + Woodstock = Weber."[12]

8. Ortiz, *supra* note 1, at 2 (emphasis added).

9. Professor of Law and Faculty Director for Research, Northeastern University School of Law.

10. *See* James R. Hackney, Legal Intellectuals in Conversation: Reflections on the Construction of Contemporary American Legal Theory 1 (N.Y.U. Press 2012) ("I attended Yale Law School between 1986 and 1989. It was truly an exciting time to be at Yale, which had more of the feel of a think tank than a law school."). It is difficult to tell, but it appears the description is meant as a compliment to Yale.

11. With variations, it is treated especially well in Kalman, *supra* note 5.

12. "Woodstock" here stands in, badly but alliteratively, for the events of the 1960s. If there was a Dionysian strand in the generation of legal scholars that make up the subjects of Hackney's book, it is not apparent here. Perhaps its clearest example, Charles Reich, was really a member of an earlier generation, although there are traces of a wilder spirit, whether tragic or religious or both, in the writing of Arthur Allen Leff and a couple of Christian-influenced critical legal scholars. On the whole, however, Dionysianism fell on dry

Several elements made up the explosion in legal theory in the 1970s and 1980s. First, there was legal realism, specifically "the realist insight that law is infused with political interventions"[13] (5). "All jurisprudential positions post-legal realism," he writes, "are in some way a response to the central penumbra ascribed to the legal realists" (5).

The realist insight was seemingly put under the halter and turned to productive use during the heyday of the legal process school. That school's leaders, contemporaries and exemplars of the end-of-ideology school of the early Cold War intellectuals,[14] shared most of the broad liberal goals of the Warren Court and helped midwife it. But their dedication to craft values, and their primary focus on the issues of the prior generation, made them uneasy at best about the Warren Court's activism, sloppiness, and focus on new issues such as civil rights. In the long run, they became critics of that court.[15]

The confluence of the prominence of the legal process school, the rise of the Warren Court and the civil rights movement, and the eruptions of the 1960s prepared the ground for a super-charged Oedipal moment (7). A generation of future legal scholars entered law school in a state of "uncritical adoration" for the Warren Court[16] and found their elders morally lacking for failing to feel the same way.[17] Vietnam and the events of 1968 further radicalized the new generation. Morton Horwitz recalls: "I think that for the first time in Harvard

ground in the law schools and failed to flower—to my mild regret. A little more "whim and frenzy" might have produced some interesting ideas. *Cf.* William Powers, Jr., Romanticism, Liberalism, and the Rule of Law, 69 Tex. L. Rev. 977, 988 (1991) ("In short, law is Apollonian rather than Dionysian: it is rational rather than emotive; it seeks to control social conditions rather than submit to them; and it values form over substance, calculation over whim and frenzy, and dominance over submission.").

13. Of course, whether that was "the" realist insight, and how novel it was to the realists, is an ongoing subject of debate. *See, e.g.*, Brian Z. Tamanaha, Beyond the Formalist-Realist Divide: The Role of Politics in Judging (Princeton Univ. Press, 2009). Little turns on this for present purposes, so long as it was the lesson that others took from the realists. Hackney is careful to refer to the law/politics insight only as an idea "ascribed to the legal realists." Hackney, *supra* note 10, at 5 (emphasis added).

14. *See, e.g.*, Jerold S. Auerbach, Unequal Justice: Lawyers and Social Change in Modern America 260 (Oxford Univ. Press 1976) (describing the legal process school as a "school of jurisprudence . . . that was perfectly attuned to the end-of-ideology politics of the Cold War"); Neil Duxbury, Patterns of American Jurisprudence 276 (Oxford Univ. Press 1995) (to same effect).

15. *See, e.g.*, Kalman, *supra* note 5, at 35–42; Stephen M. Feldman, From Modernism to Postmodernism in American Legal Thought: The Significance of the Warren Court, *in* The Warren Court: A Retrospective 324 (Bernard Schwartz ed., Oxford Univ. Press 1996).

16. *See* Justin Driver, The Constitutional Conservatism of the Warren Court, 100 Cal. L. Rev. 1101, 1108 (2012); *see* Feldman, *supra* note 15, at 1103–04 (arguing that on this point, little has changed in decades: "Now as then, liberal law professors overwhelmingly sing the Warren Court's praises.").

17. Hackney's interview with Morton Horwitz is illustrative. *See, e.g.*, Hackney, *supra* note 10, at 68 ("Henry Hart is a wonderful example of what was wrong with Harvard Law School and one of the most brilliant of its representatives.").

Law School's history there was contempt for professors as apolitical pedants, if not worse. The Vietnam War and the civil rights movement produced a major political reaction among the students" (68). The reaction was even more intense at Yale.[18]

Developments in legal theory over the next two decades were "in many ways an extension of the sometimes-tumultuous social forces and legal developments that marked the 1960s" (2). A range of theories and theorists responded in one way or another to the law/politics distinction, to the politics of the time itself, and to the perceived failure of the normal science of legal process to explain, encompass, or guide legal developments.[19] To this was added "an unprecedented demographic diversification of law school faculty," which introduced women, people of color, and others who would first join and then reject the existing critical movements and launch movements of their own. There were also more conventional liberal or conservative voices, with their own reactions to these reactions. Everything was fierce, vivid, and grand.

The last part of Hackney's conventional narrative is the Weberian part, the denouement. The fermented brew of legal theory settled. Legal scholarship has become not only disenchanted, but bureaucratic and specialized.[20] The work has become more technical, more "siloed" (16). If there is a reigning perspective in the legal academy today, it is more likely to be shallow pragmatism than high theory (13, 16). We are back in an era of normal science, done by normal legal scientists isolated by the partitions between them. "No one makes a claim for an overarching theory" (60). The post-1960s era was alive with a "conversation across perspectives, even if it at times came in the form of angry shouting" (16). The shouting's over now. Echoing Ortiz, Richard Posner tells Hackney, "Today things are much blander. . . . I hesitate to say this because it's an old person's sort of reaction but I do think academic law is

18. *See generally* Laura Kalman, Yale Law and the Sixties: Revolt and Reverberations (Univ. of N.C. Press 2005). Further to my earlier, somewhat wistful point about the emerging critical generation of legal scholars being finally more Apollonian than Dionysian, John Henry Schlegel's review of Kalman's book nicely summarizes "two quite contrasting things" that happened at Yale in the late 1960s: "In early spring 1969, a group of law students known as Cosmic Labs began sponsoring vaguely hippie activities in the Law School Quadrangle, including a visit of the Hog Farm commune. At the same time, other students began to press forward on questions of school governance," including questions of grades. John Henry Schlegel, Those Weren't "The Good Old Days," Just the Old Days: Laura Kalman on Yale Law School in the Sixties, 32 Law & Soc. Inquiry 841, 845 (2007). The figures featured by Hackney were much more likely to be the grading reformers—and sometimes grade-grubbers—and not the freaks.

19. *See, e.g.*, Steven L. Winter, Indeterminacy and Incommensurability in Constitutional Law, 78 Cal. L. Rev. 1441, 1464 (1990) (linking the legal process school to the Kuhnian phase of "normal science").

20. *See, e.g.*, Richard A, Posner, The Problematics of Moral and Legal Theory, 111 Harv. L. Rev. 1637, 1638, 1687-88 (1998) (questioning the usefulness of moral theory, especially its application to legal theory, and "relat[ing] this thesis to one of the big and somewhat neglected stories of our time: the rise of professionalism in a sense illuminated by Max Weber's concepts of rationalization and disenchantment").

less exciting [today] than it was in the late sixties and early seventies" (60–61). That makes it all the more important, to Hackney, to go back and ask what the shouting was all about—although Duncan Kennedy captures an equally understandable motivation for such a project: simply to ask, "Wow, I wonder what that was like?" (45).

Hackney gives us a good sense of what it was like. Each interview does a neat job of setting up the personal and educational background of the subject, although some are more forthcoming than others. Each does an excellent job of discussing why the subject went into particular areas of thought and explaining something about his or her ideas. (It's not a crib sheet, though. The explanations are too broad in some parts and too specific in others to serve as much of a general introduction to each theory or method.) The subjects nicely discuss how their ideas stood in relation to their predecessors and what they made of the competing approaches that were flourishing in the legal academy at the same time. Finally, Hackney presses his subjects—perhaps too hard—to offer their views about where, if anywhere, things are going next.

It is unnecessary in this short review to summarize everything that is said. My real recommendation is that you read the book for yourself. But it is worth making some general observations about the interviews, many of which touch on similar issues, albeit in divergent ways.

The subjects' background is one interesting piece of those stories. It is not a major piece of everyone's interviews. Kennedy and MacKinnon, for instance, were both born fitted for the academy,[21] and they don't devote much time to their origins. For others, those backgrounds still feel fresh: Morton Horwitz, the son of a cabdriver in the Bronx, coming to City College of New York, already past its heyday as the "poor kid's Harvard" (64–65); Austin Sarat, a "first-generation college student" whose family wondered why on earth he would go to graduate school (89); Charles Fried as the scion of an émigré family reborn to success in the New World (189–90); Jules Coleman, a New York Jew and first-generation college student, with enough youthful angst to fuel an early Philip Roth novel (206–07).

Motivation is also interesting here. In some cases, it is refreshingly earthy and mundane. It is useful to remember that even the leading legal theorists might have chosen law school because "poets don't make money" (248) (Drucilla Cornell), or because they were novelists manqué who discovered they had "the knack for being a law student" (19) (Duncan Kennedy), or because law schools paid better than philosophy departments (206) (Jules Coleman).

In other cases, what is interesting is the sense that joining the legal academy represented politics by other means: that legal theory was meant first and foremost to be a vehicle for political change. Thus, for Duncan Kennedy, the early divisions among critical legal studies scholars had to do with "how to understand the role of theory . . . in diagnosing what was wrong with the system

21. *See, e.g.*, Hackney, *supra* note 10, at 23 ("I grew up in Cambridge in a milieu where people prided themselves on their cosmopolitanism.") (Duncan Kennedy).

and in establishing one's utopian project for the future" (30). For Catharine MacKinnon, theory was in a sense secondary to action; feminist theory was really about supporting and advancing the feminist movement (130–31). Most emphatically, for Drucilla Cornell, "the point of philosophy was not to study the world but to change it" (146).

Related to that, of course, is the 1960s. That decade occupies a key role here for many of the interviewees. Not for everyone: some were too busy or too uninterested, at least on a professional level, to consider it much of a motivation for their scholarly work. For others, the 1960s were everything—and perhaps still are. This manifests itself in different ways. For the Critical Legal Studies (CLS) figures, the 1960s are a more or less unmediated direct influence. For others, the "rioting" and "disorder" of the 1960s supplied the push toward conservatism (56) (Richard Posner). In other cases, the influence is more indirect. Feminist theory and critical race theory were responses to issues that some of the decade's leading figures neglected. And Bruce Ackerman's liberal project—his effort to "consider whether it is even possible to imagine a world regulated by liberal dialogue"—is described as an attempt to "situate liberalism as a coherent philosophy" in response to both the crits and the economists and "their skepticism about the aim of creating a world in which we could talk to one another" (170).

Two things are noteworthy about this contextualization of legal theory in the 1960s. First, there is the sense of the generational divide it created. Kennedy describes himself as "part of a collective generational movement" and describes the failure of the CLS movement to "bond or link up with people who were born before 1940" (23, 28). It is interesting to reflect on the differences between the way that generation responded to its predecessors and the way ours has. That generation reacted to its elders by rejecting them sharply. Our generation has adopted a perhaps crueler response: we have repaid our elders, not with opposition, but by taking them for granted. Having completed the long march through the institutions, they are treated as . . . institutions. What if one's reward for wanting to change the world is simply to be embalmed in a "See generally" footnote?

Second is Austin Sarat's suggestion that "the legal academy in general . . . hasn't gotten over the fall of communism. And by that I mean there's nothing left for any good leftie to believe in" (107). Surely that conclusion applies to good righties too. Indeed, there is a general sense in the interviews that things slowed down or stopped around the mid-1990s, and that the last few years of that period, dynamic as they were, were really just a final canter around the track.[22] No doubt some of this is just an artifact of aging—of the fact that Hackney's subjects belong to a prior generation and not the current one. It cannot be surprising that one's interest in current scholarship wanes as one

22. *See, e.g.*, Hackney, *supra* note 10, at 42 ("There's a sense in which all these dramatic events were sort of over by the early [1990s]. Posner's Holmes lectures [in 1997], with the reactions of Dworkin and other senior rights theorists, were a kind of last gasp, a fascinating reliving or restaging of a drama from the recent past.") (Duncan Kennedy).

achieves emeritus status and sees that there is nothing new under the sun. But maybe the fall of the Berlin Wall in 1989, and the "end of history" it was briefly thought to herald, mean more than that. Here is another reason, perhaps, for the change in sensibility, the return to normal science, that so fascinates Hackney.

Another important note sounded throughout the book is the one with which this review began: a sense of the high stakes involved in this period of legal theory. Consider, again, Kennedy's description of the goal of "establishing [a] utopian project for the future" (30), or the strain throughout MacKinnon and Cornell's interviews of a deep connection between theory and political change—of the need to "change the world in a just direction"[23] (147). In a somewhat different vein, the sense of the importance of the theory project is there in Richard Posner's description of law and economics and its goal of identifying "the real stakes in the case and the real consequences" (53). It is present as well, albeit in a more piecemeal way, in Bruce Ackerman's various democratic reform projects (179–87).

It's not clear that the ostensible goals have changed so very much in modern legal scholarship. There are still plenty of normative proposals out there. Most law review articles still end with an address to an imaginary audience of lawmakers, no matter how fanciful that may be. Nor would it do to romanticize the past too much. For one thing, the people interviewed here were also doing paid jobs and busily making professional reputations for themselves: they were always making careers and not just change. Moreover, Hackney interviewed the greats of that period, and the survivors. We don't hear from the scholars who did normal legal science in the 1970s and 1980s, or didn't take themselves so seriously, or concluded early on that the "high stakes" were anything but.

Still, the sense here of high stakes for those involved is striking. To a much greater degree, it is absent in the legal academy today. For those, like Patricia Williams, who were in the vanguard of demographic change and became deeply involved in struggles within their own law schools as students and junior professors, it is understandable that the stakes seemed higher then and that today's critical race groups seem more like "networking vehicle[s]" (124). One can understand the sense of nostalgia (although one assumes the earlier groups were also networking vehicles). Whether it ultimately mattered or not, an article "mock[ing] the formal conventions of law reviews" had a sense of serious play to it (116).

Legal scholars today still play with conventions, but it is just play; it is far too late in the day to take it very seriously. Conversely, the more formally "serious" today's law review articles are—the more stuffed the abstracts and

23. Indeed, one gets a sense that MacKinnon resists the very interview process: that she refuses to let what she sees as a serious, action-centered endeavor be reduced to a mere passing historical or intellectual story. *See, e.g.*, Hackney, *supra* note 10, at 134 ("You know, it is kind of wild to be asked to recapitulate work that it took years and volumes to properly articulate. If it could be explained right in a few sentences, I would have done that in the first place.").

introductions are with grandiloquent claims of novelty and importance—the more obvious it is that they are aimed not at judges, lawyers, or even other legal academics, but at the 24-year-old gatekeepers of the highly ranked journals. Even yesterday's nihilists seem more serious than today's reformers.[24] After God and God's death, what's left but Mammon?

That's not necessarily a bad thing, I hasten to add. War stories have an important thing in common: they are told by the people who managed to live through them. The corpses might see things differently. The nastiness of the fights of the 1970s and 1980s may well have exceeded the importance of the debates. From a distance, that makes the costs of those wars—no deaths, to be sure, but plenty of bad blood and blocked appointments—seem simultaneously tragic and farcical. The combatants were willing to put up with a lot of broken eggs to get their paltry few omelets. One can understand the nostalgia without wishing to relive the carnage.

The "kids today" aspect of the book—the observations of both Hackney and his subjects on the state of legal theory today—is also interesting, although not entirely illuminating. Although there are still plenty of reform proposals in the law reviews, there is much less grand unified theory. Today's general scholarly work occupies an uncomfortable middle ground. It is neither highly theoretical nor strictly doctrinal. It is just sort of there, crunching just enough cases and taking on board just enough theory to get the (unspecified) job done. It all begins in medias res. There is less—and less heated—disagreement between legal scholars on foundational issues.

Hackney's view, one that is shared by many of his subjects, is that this is the result of increasing sophistication and specialization in the legal academy: "We have experts within narrowly defined fields talking to one another. . . . They are very teched up, and they talk among themselves but they don't have to listen, or be listened to, with regard to others" (233).

That's surely an important part of the story, but it's not the whole story. There are many more doctorate holders in the legal academy, but they are not the majority and not all of them do highly specialized work all the time. A good deal of today's lowered temperature may be put down to careerism. Much of it, surely, may be laid at the feet of the subjects of this book themselves—at the exhaustion they caused and the factionalism and lack of collegiality they engendered, with a resulting refusal to be drawn into such fights today.[25]

24. This takes things one step further than Walter Sobchak, who observed, "Nihilists! Fuck me. I mean, say what you like about the tenets of National Socialism, Dude, at least it's an ethos." The Big Lebowski (Polygram 1998). The nihilists of the legal academy in the 1970s and 1980s may be more attractive, in their possession of a certain kind of serious ethos, than today's slightly dull, careerist, "normal science"-practicing law professors. (Although some of the nihilists were surely also consummate careerists.)

25. *See, e.g.*, Hackney, *supra* note 10, at 106 (interview with Austin Sarat) (suggesting that later groups of law and society scholars got tired of the "big fights" and "meta-critique[s]" that characterized earlier Law and Society Assn. conferences).

But the results may be more interesting than the reasons—and not always salutary. Hackney describes things fairly positively, if with a certain sense of what has been lost. Although he argues that a brand of thin pragmatism is the prevailing view in the legal academy today, he also observes: "My reading of the contemporary landscape of the legal academy is that we live in a pluralistic universe with no dominant theoretical framework" (84). Kennedy's response to this strikes me as important: "Most people are just eclectic. That's not pluralism. . . . [Law professors draw on] a toolkit that is very divorced from the context in which the tools were developed, and it's not necessary to be particularly proficient with any of the tools" (44–45).

Kennedy makes an important point here. Genuine methodological or ideological pluralism is one thing. It takes hard work and deep commitment to do it right. It takes a supporting theory, too, even if it's a low-level theory. The kind of eclecticism Kennedy is talking about is another kettle of fish. It allows for the kind of conversation across the legal academy whose loss is lamented by almost everyone in this book. But in its lack of commitments or theory, it risks being shoddy and question-begging. Its desire to escape the political nastiness of the prior generation renders it susceptible to the charge that it is little more than an effort to avoid politics altogether, or conceal the author's own politics, without confronting the political or theoretical questions that legal scholarship still unavoidably raises.[26] It risks having no "there" there. Hackney worries too much, I think, that specialization in the legal academy will result in "no conversation . . .just separate worlds" (85). There are still plenty of generalists around, attempting to hold conversations across the academy. He should worry more that those generalists, by being everything and nothing at the same time, are having conversations that won't be worth remembering.

But we should hesitate before reaching this conclusion too strongly. And we certainly should not leave the final word on this to the past generation and its casual observations of the present. Nostalgia is a lousy lens from which to judge current events if we are to judge the present state of the legal academy fairly. *Legal Intellectuals in Conversation* may cry out for a sequel in which contemporary figures get their own chance at bat.

One last thing is worth noting about the book. While it's not clear it has any important intellectual implications, one of the features that makes the book so interesting and enjoyable is its high mensch quotient. Perhaps unsurprisingly, it is most evident in the interview subjects who see their careers as a product of accident and curiosity, not as a deeply political "project," with the loss of personality and humility that implies. It is simply a pleasure to spend time with people like Austin Sarat and especially Jules Coleman, who are alive with

26. *See, e.g.*, Hackney, *supra* note 10, at 84 ("You can actually see [during job talks] the ways in which both faculties and the applicants collaborate in avoiding the political perspective. The simple point there is that if we actually all appointed on politics it would be a disaster. That insight produces all of these efforts to theorize at an intermediate level of methodology at which you won't have to get to the politics of it.") (Morton Horwitz).

humor and self-deprecation. Even on the printed page, it's a joy to be in their company.

I might close on a somewhat personal note. Most law students who get something out of the intellectual experience of legal studies find different ways of mining their education for points of connection that enliven their studies. For some, the path is through case-crunching and reading of primary materials. For others, it is through clinical and other practical legal work. For still others, it is through activism.

For me, it was through intellectual history. After a discontented first semester, I only began to find my own footing in the law in the spring of my first year of law school, when I began to spend my evenings in the sub-basement of the Columbia Law School library. It was a wonderfully dark and lonely place with most of the lights operated by timers and the shelves filled with the ghosts of main collections past.

It was there that I discovered and read—often in lieu of my assigned reading, alas—a host of biographies, histories, and other narrative descriptions of the Supreme Court and the legal academy in the 20th century. My background was in journalism, so it's not surprising that I was rescued from rootlessness by finding a narrative of modern legal history. That narrative led me to some of the canonical works in legal theory and to some more journalistic accounts of contemporary debates.[27] Those books helped me find my own place in the narrative and gave me a context in which to situate and enjoy the primary legal materials I read for class.

Hackney's book is a worthy successor to those accounts, albeit one that focuses only on the academy, unlike many of the histories, of the 20th century Supreme Court and its bottled scorpions that entertained me late at night in the darkened recesses of the library. More historically oriented than the primary theory texts themselves, but more intellectually serious than the more journalistic accounts, it occupies a useful place between the two.

I fear that fewer students today find the way into the law that I found as a student. I see many students studying in the bowels of my own law school's library. But they are browsing the Web, not the stacks. If they are ever off of Facebook, they are on Westlaw. There, one sees disembodied search terms, not trends or developments. There is little distinction there between the old and the new, little motivation to look to the past and imagine what it was like or to browse physical copies of new law review issues and get a sense of what is happening now. Perhaps they get some of that sense from legal blogs. But most blogs are driven by current news events, not by intellectual currents in law schools. There's not much sense of a "there" there—just an endless "here" and "now." I fear that we have given birth to a generation that has instant access to

27. *See, e.g.*, Richard D. Kahlenberg, Broken Contract: A Memoir of Harvard Law School (Univ. of Mass. Press 1992); Eleanor Kerlow, Poisoned Ivy: How Egos, Ideology, and Power Politics Almost Ruined Harvard Law School (St. Martin's Press 1994). The latter, mostly unread book, is both especially interesting and incredibly flawed.

everything—except a sense of history and place. Perhaps I'm wrong. Maybe a few law students out there, lost and lonely, will put down their laptop screens now and then and just browse in the stacks, somewhere in a sub-basement of their own. If so, I hope they will find Hackney's book.

What they will make of it is a different story. Will they find a model to emulate among these subjects? Will they conclude that it takes a theory to create a useful conversation and that a little nastiness is well worth it to say things that are worth saying? Will they long for higher-stakes battles of their own? Or will they conclude that the true genius of the 1960s generation lay in its capacity for self-mythologizing, that its fights were mostly silly and we are well rid of them, that "the death of legal theory" (44) is a net gain, and that there is more to be gained from normal science than from grand attempts to shift the paradigm? We must leave it to the next generation of readers in the stacks to decide.