was to stall. Often by dragging out a case for months or years they could get a favorable out-of-court settlement. Railroad lawyers also moved cases from state courts to more conservative federal courts. Moreover, railroads began to use expert testimony from doctors and engineers. Despite these new methods, however, personal-injury awards increased dramatically in the 1890s.

Railroad attorneys often blamed hostile state governments and public opinion for their problems in court. Southern legislatures began to regulate railroads, especially their freight rates, in response to a growing agrarian protest and a fear of monopoly power. Thomas shows that in order to fight regulatory legislation, southern railroad attorneys took on a new role—that of lobbyist. They began to testify before legislative committees and regulatory commissions and also worked behind the scenes to prevent hostile legislation or to weaken its effect. In addition, railroads bought newspapers in order to get more favorable publicity.

After the turn of the century, railroad lawyers faced more aggressive federal regulation and a strengthened ICC. Thomas argues that southern railroad lawyers did not immediately grasp the advantage of federal regulation and fought against it. By 1908, however, many had come to believe that uniform regulation at a national level was better than chaotic and often contradictory, and sometimes obnoxious, state legislation. For example, Thomas has an interesting section on how southern segregation laws caused many problems for interstate railroads.

Thomas shows that by the early twentieth century the modern, corporate law firm had become a fixture of the New South. He supports his thesis with an impressive amount of research. There are, however, important questions that Thomas does not ask. Who were these lawyers? He would have offered valuable insights into the character of the New South had he told us about the socio-economic and educational backgrounds, age, religion, and the politics of this new generation of lawyers. Also, which lawyers were likely to work for a railroad and which to bring personal-injury suits? Was there a rural/urban conflict within the bar? Despite these questions, Thomas has made a significant contribution to our understanding of the emergence of a New South and the evolving practice of law.

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This small but arresting book should fascinate the undergraduate audience for which it was designed. It is not a complete history of the Supreme Court during the Chief Justiceship of Earl Warren (1953–1969). What Horwitz has written instead is an interpretive essay. His book is less a chronicle than an explanation of the Warren Court’s significance, less an analysis of its decisions than an examination of connections between constitutional law and the political and social history of the 1950s and 1960s.
It consists of seven short chapters. The first examines the Justices of the Warren Court and the second its first great case, *Brown v. Board of Education*. Then come chapters on the Warren Court’s interactions with the civil rights movement and McCarthyism and its contributions to the development of democracy and a democratic culture, followed by a short conclusion.

“Beginning with its first major decision declaring racial segregation unconstitutional in *Brown v. Board of Education* (1954),” Horwitz contends, “the [Warren] Court regularly handed down opinions that have transformed American constitutional doctrine and, in turn, profoundly affected American society” (3). He credits the Warren Court with initiating a revolution in race relations, expanding the reach of the Fourteenth Amendment’s Equal Protection Clause, enhancing the protection afforded to freedom of speech and press, eliminating unequally apportioned legislatures, massively expanding the procedural safeguards afforded to criminal defendants, and recognizing a constitutional right of privacy. Some might accuse him of overstating the benefits of its civil rights decisions, but he makes a strong case for the Warren Court’s significance and the importance of its rulings.

Less convincing are Horwitz’s efforts to give the Warren Court credit for *Roe v. Wade* (1973) and post-1969 decisions prohibiting gender discrimination. *Roe* does rest doctrinally on the right to privacy it created in *Griswold v. Connecticut* (1965), but the Warren Court did absolutely nothing to promote sexual equality. Indeed, in *Hoyt v. Florida* (1961) it upheld a statute that exempted women from jury duty unless they specifically asked to serve. Horwitz tries a bit too hard to make the Warren Court a champion of everything that Twenty-first Century liberals endorse.

His determination to deal with it as a cultural phenomenon also warps his account. This book’s focus on the social significance of the Warren Court is both its greatest strength and its greatest weakness. It has led Horwitz to devote a substantial percentage of his 137 pages to subjects rather far removed from the activities of the Court. For example, his chapter on *Brown* contains about five pages of background on the race problem, which includes extended discussions of matters, such as lynching and the successes of African-American athletes, that have nothing directly to do with the case. Because Horwitz devotes so much space to topics of this nature, he has too little left to do justice to the Warren Court’s decisions. Its rulings revolutionizing criminal procedure get a mere seven pages. He discusses *Baker v. Carr* (1962) and *Reynolds v. Sims* (1964) but omits all of the other reapportionment cases. The school prayer and Bible reading decisions are never really discussed at all, receiving only passing mention in expositions of other subjects. The Warren Court’s many important rulings in such non-constitutional fields as labor and antitrust law go entirely unmentioned.

Although it is a very incomplete history, Horwitz’s little book does a superb job of capturing the essence of the Warren Court. This was, he emphasizes, “the first Supreme Court in American history to champion the legal position of the underdog and the outsider in American society” (13). He sees it as “an expression of both the spirit and the contradictions of liberal American jurisprudence” (112). His interpretation is compelling, but his emphasis on the Court’s liberalism introduces imbalance, for example by producing longer biographical sketches of liberal Justices than of conservative ones. Liberal William Brennan was clearly (at least...
after 1962) the Court’s most influential and creative Justice, but Horwitz’s treatment of him sometimes borders on hero worship.

His explanation for the Warren Court’s liberalism, although provocative, is not entirely persuasive. Horwitz attributes it to the fact that the members of the liberal majority were “outsiders” who shared “socially marginal origins” (11). Most of them did come from humble and sometimes difficult backgrounds. Thurgood Marshall was black and others were, by virtue of their ethnicity, religion, and/or the fact that they were from immigrant families “cultural outsiders.” The problem with this explanation for the Warren Court’s liberalism is that the same things could be said of Felix Frankfurter and Tom Clark, two of its leading conservatives.

Specialists will find other points with which to quibble. For example, Dennis v. United States (1951) did not raise “the question of whether individuals could be convicted for mere speech” (57); it was a prosecution for conspiracy to teach and advocate the violent overthrow of the government, a distinction that mattered a great deal, at least to Justice Robert Jackson. Only a few Pollyannas will agree with Horwitz that “it would be mistaken to dismiss the [Warren] Court’s efforts to deal with the constitutionality of obscenity as a failure” (104).

The merits of his book far outnumber such minor flaws. It is, for example, excellent at explicating the interaction between the Warren Court and the civil rights movement. Horwitz illuminates most effectively the philosophical issues underlying the Court’s internal debates over the sit-in cases. He also makes the controversy over the “countermajoritarian difficulty” comprehensible to readers without a background in constitutional law and explains in a way they can understand why the conception of democracy relied on by proponents of judicial self-restraint, such as Frankfurter, is simplistic. Horwitz is particularly good at elucidating the relationship between democracy and the protection of minority rights.

He sought, he says, to write a book for those who wish “to acquire some introductory knowledge of the historical significance of the Supreme Court without being distracted or intimidated by legal technicalities” and to “show the general reader how interesting and exciting the intense study of a particular, focused historical era of the Supreme Court can be” (xi). Horwitz has achieved his objectives. He has written a book about the Warren Court that would make a valuable addition to the reading list of any constitutional history course or any class on the post–World War II period.

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In an appendix to his The Common Law Tradition, the Legal Realist Karl Llewellyn offered a devastating critique of the idea that judges could decide cases sim-