Legal Scholarship Introduction

John Sanchez∗

LEGAL SCHOLARSHIP INTRODUCTION

JOHN SANCHEZ*

In 1960, Daniel Bell wrote about the end of ideology.¹ On April 8, 1966, the cover of Time Magazine asked, “Is God Dead?”² In 1992, Francis Fukuyama pronounced the end of history.³ The worst financial crisis since the Great Depression that occurred a couple of years ago brought forth eulogies for American-style capitalism. Grant Gilmore wrote of the death of the contract,⁴ and my own favorite as a teacher of Remedies, Douglas Laycock announced the death of the irreparable injury rule.⁵ Into this mix, we have Professor Pierre Schlag proclaiming that “legal scholarship is dead—totally dead.”

In 2006, Professors David Kennedy and William W. Fisher published a book, “The Canon of American Legal Thought,” in which they cite twenty law review articles they regard as the most influential in shaping American legal thinking and reasoning.⁶ Twelve were published before 1964 and only one came out after 1988.⁷ If this list is to be believed, 1974-75 would stand as the high water mark of legal scholarship since four of the top twenty articles were published in that short period of time. Perhaps this fact alone supports Professor Schlag’s claim that the golden era of legal scholarship is over.

Of course, debates over the end of ideology, history, capitalism, and of legal scholarship are parlor games played by intellectuals with perhaps too much time on their hands. In response to Professor Schlag’s bold pronouncement, Nova’s own David Cleveland and Olympia Duhart accepted the challenge and in the following pages put forth powerful arguments to the effect that rumors of the death of legal scholarship are vastly exaggerated.


7. See generally id.
My only hope is that this edition of the Nova Law Review comes out before December 21, 2012, which some say will mark the end of the world.