

**Crime: Stories**

By Ferdinand von Schirach; translated by Carol Brown Janeway

Alfred A. Knopf, New York, NY, 2011. 188 pages, \$25.00.

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REVIEWED BY HENRY COHEN

Are these crime stories truth or fiction? The book does not say, but the stories feel true, because they are so strange. As Mark Twain said, “Truth is stranger than fiction, but it is because Fiction is obliged to stick to possibilities; Truth isn’t.” If I were to summarize the plots of the stories in *Crime: Stories*, you might say that they are not possibilities. Reading the stories, however, might convince you that they happened just as Ferdinand von Schirach tells them.

The puzzlement arises because von Schirach is a German criminal defense attorney, and so is the book’s nameless narrator, and we don’t know to what extent they are the same person. Are Ferdinand von Schirach’s 11 stories “plucked from his legal career,” as the review of the book in the *New York Times* claimed, or does von Schirach have an extraordinary imagination? It could be both: he could be embellishing ordinary cases that he has handled. But as fantastic as the cases seem, they do not appear embellished, because von Schirach tells them in such a straightforward way. It was only occasionally that I was so struck by the artistry of a passage that I had to stop to reread it. For example, Feldmayer, who is one of von Schirach’s narrator’s clients, has just committed a crime. “Then,” the narrator tells us, “something strange happened. It seemed to Feldmayer that the blood in his veins changed color, it turned bright red. He felt it surge and pulse from his stomach, spreading throughout his body, all the way to the tips of his fingers and toes, illuminating him from inside.” Feldmayer is having a psychotic episode, and he is not the only criminal in this book who suffers from mental illness.

Although the narrator of these stories is a criminal defense attorney who represents the accused in each story, the narrator focuses on the crimes more

than on the law or on the trials that occur. For the most part, the reader need know nothing about German law to appreciate the stories fully. Von Schirach does include a four-paragraph afterword to explain some differences between German and American law, and this afterword should have been an introduction, because it gives away nothing about the stories and would help the reader on the few occasions when the stories refer to German criminal procedures. Among the differences between German and American law is that the prosecutor in German criminal proceedings is not on the side of the state but is obliged to be impartial. The defense attorney, by contrast, acts solely in the interests of his client and must preserve his client’s confidences. In addition, Germany does not use juries, but, for larger trials, uses three career judges and two lay judges, who are ordinary citizens appointed for a specific term.

The crimes that *Crime: Stories* describes are not ordinary—there is not a single drug deal among them—and some of them are gruesome. To protect his girlfriend, a man dismembers and carries away the body of a man he finds in her bed, not knowing that the man had died of a heart attack and that she had left the scene for fear of being arrested as an illegal immigrant. A jealous boyfriend apparently kills his girlfriend, not knowing that she has prostituted herself in order to raise money for him, and he has already had a finger cut off by a creditor to whom he still owes money. A man robs a bank and then sits down and waits to be arrested. But von Schirach’s narrator portrays all his clients as human beings and enables us to understand how their situations drove them to violence.

I am not going to ruin any of the plots for you, and will conclude by saying only that all 11 stories are vivid and engrossing. The narrator engages in no polemics and no philosophizing; these stories do not have deeper meanings. They just show us sides of life that we do not ordinarily see. **TFL**

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*Henry Cohen is the book review editor of The Federal Lawyer.*

**America Aflame: How the Civil War Created a Nation**

By David Goldfield

Bloomsbury Press, New York, NY, 2011. 632 pages, \$35.00.

**The Union War**

By Gary W. Gallagher

Harvard University Press, Cambridge, MA, 2011. 215 pages, \$27.95.

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REVIEWED BY HENRY S. COHN

These two books, published on the 150th anniversary of the beginning of the Civil War, reach conclusions with which many scholars would disagree. But let’s start by quoting from a book review that historian James McPherson published in the April 12, 2001, issue of *The New York Review of Books*:

From the 1930s to the 1950s the most influential interpretation of the causes of the Civil War was that put forth by the “revisionist” school of historians, whose leading figure was Avery Craven. The revisionists denied that sectional conflicts between North and South were genuinely divisive. ... Such minor disparities did not have to lead to war; they could have, and should have, been accommodated peacefully within the political system. ... The war was brought on not by genuine issues but by extremists on both sides, especially abolitionists and radical Republicans, who whipped up emotions and hatreds for their own self-serving partisan purposes.

McPherson added, however, that, “[s]ince the 1950s most professional historians have come to agree with Lincoln’s assertion that slavery ‘was, somehow, the cause of the war.’” By implication, then, the Civil War became inevitable after Abraham Lincoln was elected president, because Lincoln was not going to allow slavery to expand

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into the territories, and, as Jefferson Davis said in an effort to justify secession, the slave states were not going to abide excluding slavery from the territories. In March 1861, Confederate Vice President Alexander H. Stephens said that slavery was “the immediate cause of the late rupture and present revolution” of Southern independence, and in their declarations of secession, the Southern states acknowledged that the preservation of slavery was the reason they were seceding.

But James McPherson was correct in 2001 that only “most” professional historians agreed that slavery was the cause of the war, and he remains correct today. For David Goldfield, once a graduate assistant to Avery Craven, is clearly in the revisionist school of historians that McPherson described. In his smoothly written book, *America Aflame*, Goldfield argues, as did the earlier revisionists, that it was clearly possible for the North and the South to settle their disputes, and Goldfield blames the disruptive abolitionist agitation of Northern evangelical Christians for making such a settlement impossible.

The title of the book, *America Aflame*, alludes not only to the Civil War but also to the burning by Protestants of an Ursuline convent in Massachusetts in 1834—an incident that Goldfield sees as a precursor to the hatred of Catholics and immigrants and the anti-sectionalism of the evangelicals in the 1840s and 1850s. To Goldfield, the anti-Catholic Lyman Beecher and his children, Henry Ward Beecher and Harriet Beecher Stowe, are the figures most responsible for the Civil War.

Goldfield repeatedly attacks Henry Ward Beecher for his dramatic sermons advocating the abolition of slavery. After the *Dred Scott* decision, Beecher proclaimed to 3,000 worshippers, “If people obey this decision, they disobey God.” Evangelicals proudly called Beecher’s church in Brooklyn the Church of the Holy Rifles, perhaps because Beecher had raised money to purchase weapons for anti-slavery settlers in Kansas to defend themselves from Missouri ruffians. Harriet Beecher Stowe comes under Goldfield’s fire, of course, for writing *Uncle Tom’s Cabin*. Although Goldfield

notes that the Fugitive Slave Law motivated Stowe to write the book, he also sees *Uncle Tom’s Cabin* as Stowe’s “channell[ing] her grief [for the death of her son Charley] into a cause greater than herself.” Stowe wrote that “[i]t was at his dying bed and at his grave that I learned what a poor slave mother may feel when her child is torn away from her.” Goldfield finds *Uncle Tom’s Cabin* filled with rhetoric against those who did not follow Stowe’s evangelist doctrine.

Goldfield’s accusations against the evangelists are not new. Such charges emerged in the South as early as 1866 in the popular writings of George Lunt, a Northerner who theorized that the evangelists and their abolitionist allies were guided by anti-American principles, and that the Southern states seceded to protect the traditional American way of life. Unlike Goldfield, however, standard 20th-century revisionists did not blame solely the evangelists for the Civil War but, more sensibly, looked to multiple factors for the Union’s disruption. As David Donald summed it up in his 1978 book, *Liberty and Union*, “[B]y the 1850s the reservoir of goodwill and compassion that Americans [in both the North and South] had hitherto shared was being drained.”

Goldfield’s dislike for the North continues in his treatment of the war itself. Several battles were unspeakably brutal, but Goldfield relates that Lincoln, with the support of evangelicals, was shown in the newspapers of the day to have little compassion for the suffering of the troops on either side. Goldfield describes the costly battles of Shiloh, Antietam, and Gettysburg (accompanying them with grisly photographs of dead soldiers) and blames Lincoln for failing to engage in peace negotiations. The author relates that Horace Greeley contacted John Hay, Lincoln’s secretary, with the information that Confederate agents in Canada were interested in negotiations, but that Lincoln did not pursue talks to end the bloodshed.

After the war, Goldfield writes, the evangelists abandoned any social conscience that before the war had driven them to spread their disruptive anti-slavery message. Harriet Beecher Stowe could be found resting comfortably in

the Florida sunshine and writing about household management. Evangelical ministers gave up their strong message and mingled with leading entrepreneurs and politicians. Goldfield also shows that the triumph of capitalism in the decade after the Civil War did little to improve the lot of former slaves or other minorities, such as Native Americans. He praises Mark Twain’s satiric picture of Northern capitalists, amassing enormous wealth and living like European royalty. Goldfield completes his book with a view of the Centennial Exhibition in Philadelphia, featuring the enormous Corliss engine and new American inventions, such as the telephone.

*America Aflame* is inadequately researched. Goldfield repeats as fact the legend that Lincoln greeted Harriet Beecher Stowe as the little woman who wrote the book that started the Civil War. Goldfield’s discussion of the Centennial Exhibition should have included Hartford’s Joseph Roswell Hawley, the chairman of the 1876 celebration. Hawley was both an evangelical Protestant and a founder of the Republican Party. He made sure that the exhibition was closed on Sunday. Hawley favored equal rights for blacks and immigrants and never compromised on these issues after the Civil War. Goldfield praises the Reverend Joseph Twichell, also from Hartford, because, as a chaplain at Gettysburg, Twichell wrote of the suffering that the soldiers endured in the war. Goldfield’s effort would have been improved with a fuller discussion of Twichell, who was just as much an evangelical as Henry Ward Beecher. *America Aflame* appears to be an attempt to shake up studies of the Civil War by stressing religion as one of its major causes, but, in the end, the book is one-sided and unsatisfying.

Whereas Goldfield concentrates on religion as a cause of the Civil War, Gary W. Gallagher, a history professor at the University of Virginia, focuses less on causes and more on motives for fighting. In *The Union War*, Gallagher assumes that the breakup of the country occurred for a variety of reasons, including the abolitionists’ push to abolish slavery. His goal, however, is to address why the North chose to fight for

four years to achieve an unconditional victory. This, in turn, leads to a study of the central role of the Union Army in the Northern triumph.

Gallagher's first chapter serves as a preliminary to his main theme. It depicts the "Grand Review" of the troops that converged on Washington, D.C., on May 23 and 24, 1865, six weeks after Lee surrendered at Appomattox. Gallagher notes that many well-known military figures, including Grant and Sherman, took part in the Grand Review. But there were notable absentees. Other army commanders were still stationed at battlefield sites, and, of course, tragically, Lincoln was not there, having been assassinated in April. Soldiers participated as survivors of the brutal conflict, with Maj. Gen. George A. Custer's cavalry division colorfully donning long red neckties. Finally, hinting at his ultimate thesis, Gallagher notes that "black troops, who made up nearly 10 percent of the Union Army at war's end," were apparently excluded.

Why did the soldiers who were celebrating at the Grand Review in May 1865, and, indeed, those who were either dead at the time or otherwise not present for the festivities go to war in the first place? Gallagher's answer, unlike that of other historians whose work he carefully analyzes, is that the soldiers were determined to preserve the Union, and that this remained their primary motivation for fighting even after Lincoln issued the Emancipation Proclamation on Jan. 1, 1863. Other historians have downplayed this motive, arguing that the troops fought to end slavery more than to save the Union. Gallagher is not prepared to accept that there was any change in soldiers' attitudes following the Emancipation Proclamation.

Gallagher documents his objections to any theory that fails to understand the power that the Union held in the 19th-century mind. He points to the popular acceptance of Daniel Webster's oratory—"Liberty and Union, now and forever, one and inseparable!"—as well as to Lincoln's public letter to Horace Greeley, in which Lincoln placed the goal of freeing the slaves below the goal of preserving the Union. In the 1864 election, Lincoln and his running mate, Andrew Johnson, stated that they were the "Union Party," not the Republican Party. As a demonstration of

the Union's democratic values, Union soldiers were allowed to vote in that election. Envelopes were adorned with patriotic motifs, and the most popular song of the time, "The Battle-Cry of Freedom," urged the soldiers to "rally round the flag."

Gallagher views the Emancipation Proclamation as only a war measure, used, as one military man said, "to hurt traitors and kill rebellion." Similarly, Lincoln's call for a "new birth of freedom" at Gettysburg was ignored by the troops; they were looking only to crush the rebels. Although many slaves escaped on their own and served as Union soldiers, Gallagher sees the soldiers of the Union Army as deserving the major credit for emancipation, because their military campaigns in the South broke up the structure of slave society.

*The Union War* concludes with a tribute to Ulysses S. Grant. Unlike the typical European officer, who was an aristocrat, Grant rose to success from humble, democratic origins. He was a fighter who gave no quarter and ensured that the Union cause triumphed. He also understood that, in the aftermath of the war, reconciliation of all sections of the nation was essential. He was a natural successor to Washington and Lincoln.

In 1997, Gallagher wrote a classic book, *The Confederate War*, in which he described the motivations of the Confederate troops; now he forcefully explains that the sole reason for the valiant military service by men of the North was their desire to save the Union. Of course, Gallagher's emphasis on the centrality of the Northern military has not been uniformly accepted. He has been criticized by Columbia University professor Eric Foner, for example, as taking too rigid an approach to the soldiers' intentions. In a review of *The Union War* in the April 29, 2011, issue of the *New York Times*, Foner wrote that Gallagher's discussion of motives should also have credited "the surge of egalitarian sentiment [as the war progressed] that inspired the rewriting of the laws and Constitution to create, for the first time, a national citizenship enjoying equal rights not limited by race." **TFL**

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## ***Railroaded: The Transcontinentals and the Making of Modern America***

By Richard White

W.W. Norton, New York, NY, 2011. 660 pages, \$35.00.

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REVIEWED BY CHRISTOPHER C. FAILLE

Richard White, a professor of history at Stanford University, made a name for himself with books about the American West. Perhaps his best-known work is still *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815* (1991), though he has also won acclaim for "*It's Your Misfortune and None of My Own*": *A New History of the American West* (1991), which covers even more ground, both geographically and chronologically, than *The Middle Ground*.

By the standards of those two books, White's latest, *Railroaded*, is narrowly focused. He writes here about the push of the railroads west of St. Louis and Chicago to the Pacific. The book is not especially about the laying of track (the "golden spike" at Promontory Summit and all that) about which there is, as he says, "already a vast literature." Rather, his concern is with the entrepreneurs who founded railroad lines, the men they employed, their political maneuvers, and the sorts of opposition they excited. He tells the story as a transnational one, for "the American roads were so tightly linked to the Canadian Pacific and the railroads of northern Mexico that they cannot be unhooked."

### **Without Patents**

One of White's points is that the skilled workers on the railroads were not powerless in the face of their employers, however low they might have been on an organizational chart. They were able to push back because they knew their engines better than anyone else; indeed, they had often designed the engines in significant respects. Most of the railroad's technical developments in the 1870s and 1880s were the outcome of what White calls "a process of developing and passing on innovations without patents" that

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was akin to the open-source software of the early 21st century.

Mechanics tinker. They do so out of habit and love, even when the monetary payoff of their tinkering is by no means obvious. In the great period of western railroad expansion, mechanics redesigned locomotives to such an extent that they became very individual machines beyond the intentions of the “original builders of locomotives in eastern factories.”

This point resonates with me, because I am one of the grandsons of the late Henry Comstock, who (well before he had any grandchildren) had been the editor of *Railroad Magazine* in the final years of his beloved steam engines: the late 1940s, just before diesel drove them from the tracks. Grandpa Hank would later write and illustrate a book on the history of the steam locomotive.

His fascination was always with the history of these machines as a complex knot of engineering and mechanical challenges and with the way that solving one challenge created a new one. Thus, with the reader's indulgence I will tell an apposite story from the period White covers; it is a story that appears in Comstock's *The Iron Horse: America's Steam Locomotives* (1971).

In the 1870s, a manufacturer in the British Isles sent a locomotive to Colorado for the use of the Denver & Rio Grande line. John Moulton, a representative of the builders, arrived in Colorado along with the engine to do the final assembly work. This engine was a “Fairlie,” a model designed by an Irishman of that name for use on narrow gauge lines, which were those in which the rails were separated by just a meter. Narrow gauge lines were necessary amidst the twists and turns of Rocky Mountain routes, so the western United States seemed a natural market for Fairlies.

Moulton fell in love with the Rockies and wanted to stay. So he took the job of running the engine that he had just assembled, appropriately named the *Mountaineer*. He and the engine were soon doing helper duty at La Veta Pass. One day Moulton got in trouble with his boss and received a 30-day suspension. Thus it was that he ended up explain-

ing the workings of the *Mountaineer's* different controls to the fellow who was to replace him for the month. The controls were more complicated than was customary for engines in that neighborhood, and his presumptive replacement's eyes glazed over. He ended up telling Moulton, “You keep the engine running and I'll take the thirty days.”

That story supports White's point in two ways. First, it shows that the connection between a skilled employee and his machinery was a very personal and idiosyncratic one, so much so that it became difficult to replace someone who did the kind of job Moulton did. Second, it shows why the foreign Fairlies never caught on in America. The Western subculture consisting of such workers was not going to be imposed upon by distant planners who might think they knew better, even if the planners were, in rare cases, just as disposed to “go native” as Moulton had been. Other ways of moving freight and passengers along the narrow gauge routes came about, largely through the patent-free process of innovation from below that White describes.

#### Importing Labor

White has a commendable devotion to writing history from below, rather than writing it in the traditional way, from above—whether “above” is defined by power, wealth, or social standing. A traditional history of the development of the transcontinental railroads might focus on such figures as, say, President Chester Arthur, who in 1882 signed an act imposing a moratorium on the immigration of Chinese into the United States for 10 years. One might write about the diplomatic and partisan aspects of that law and simply presume that it greatly complicated the labor practices of the Western railroads.

History from below, however, notes that the exclusion act didn't bring an end to the Chinese labor supply for unskilled tasks. The law didn't even restrict it as much as one might think. Rather, it “created a new category of illegal alien that thrust the Chinese into a netherworld.” Also, the act encouraged the less direct movement of labor—from the same

origin to the same end. Chinese workers frequently entered the United States both from Mexico and from Canada in the years after the passage of the exclusion act, especially after the work was done or as it neared completion in either of those countries—the Canadian Pacific in the one case and the rail work in Sonora in the other. There are lessons there that today's lawyers and policy makers might want to contemplate, but they seem rather too obvious to require my elucidation. Whereof one need not speak, one may be silent. **TFL**

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#### **Citizenship and Its Exclusions: A Classical, Constitutional, and Critical Race Critique**

By Ediberto Román

*New York University Press, New York, NY, 2010.  
209 pages, \$45.00.*

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#### REVIEWED BY ARTHUR RIZER

Professor Ediberto Román's *Citizenship and Its Exclusions* examines citizenship from antiquity to the Dark Ages, to the birth of nation-states, and to the United States today. Román also considers approaches to citizenship within various philosophical, legal, and racial contexts. His ultimate goal, however, is to identify and evaluate what citizenship means in the United States, and he finds that, in this country, the benefits of citizenship continue, as they did throughout history, to be accorded to some people more than to others. Those most often excluded from the benefits of United States citizenship—minorities and women—are often those most in need of its protection.

Román argues that, in order to understand the concept of citizenship today, one must understand its history in the Western world, because aspects of the concept today may be traced to classical and subsequent eras. Román therefore

begins by exploring Greek and Roman ideals of citizenry, focusing on conflicts between citizens and noncitizens. He then explores the evolution of citizenship in the Dark Ages and in Europe's nascent nation-states. He next examines the teachings of Enlightenment philosophers, and, finally, he explains the creation and evolution of citizenship in the United States. Actually, Román is misleading in stating that he will "trace, somewhat briefly, world historical developments that were central to the development of the concept of citizenship." In fact, of the book's 157 pages of text, 81 trace historical developments. (In fairness, this is apparent from the table of contents.) Although most readers should thoroughly enjoy the historical discussions, others may get impatient and want Román to get to the point.

Román notes that, "[f]or Aristotle, the citizen was a male of known genealogy, a patriarch, a warrior, and the master of the labor of others (typically slaves)." Citizens, Aristotle wrote, "must not lead the life of artisans or tradesmen, for such a life is ignoble and inimical to excellence." In Sparta, *periokoi*, or free noncitizens, "may have actually outnumbered Spartan citizens." Thus, Román states, "the belief in the exclusive and exclusionary nature of the term 'citizen' was apparent from the very first extensive conceptualization of citizenship."

The Roman Empire was also instrumental in the classical construction of citizenship. "[T]he success of the Roman Empire, its broad territorial expansion, its ideology, including the construction of citizenship as a concept, has affected almost every region of the world." Under Roman rule, citizenship was more malleable and inclusive than it was under the Greeks. As under the Greeks, there were different levels of citizenship, but the Romans "developed a precise and complex system of differentiation. ... [T]he poor, the plebeian, the peasant, the weak, the artisan, the merchant, the slave classes, and those who lacked property" were subordinated.

Medieval Europe adopted Rome's exclusionary ideals of citizenship. Focusing on 13th-century theologian St. Thomas Aquinas and 14th-century pro-

fessor of law Bartolus of Sassoferrato, Román adeptly describes how European states drew heavily from Aristotle and Roman law to rejuvenate their discriminatory ideals of citizenship.

Román asserts that, notwithstanding the influence of ancient Greco-Roman constructions of citizenship, the legacy of the medieval Europe, and the writings of early pre-Renaissance theorists, contemporary citizenship has its strongest roots in the Enlightenment. He notes that Hobbes, Locke, Rousseau, and Montesquieu developed the concept of a social contract between the people and the government and laid the foundation for constitutional democracy in the United States. Although these philosophers "are largely credited with championing democratic theory," Román notes that the framers imported these philosophers' "biased beliefs that keep some members of society in a subordinate position and on an unequal footing. In other words, citizenship's dark little exclusionary secret is perhaps a function of the lesser-known, but equally damning, bias held by its great philosophical champions."

The historical backdrop that Román provides is clear and thorough, and sets the stage for his primary thesis: that citizenship in the United States is exclusive, even if it appears inclusive. From the founding of the nation to the present day, citizenship in the United States has featured both "*de jure* subordinates" and "*de facto* subordinates." Román notes that "African Americans only became *de jure* full members after a civil war and a constitutional amendment that declared them to be citizens. Despite this grant, the question still exists for many whether they still are less than full citizens."

Román finds the Supreme Court responsible for injustices by having issued numerous decisions giving Congress plenary power over questions of immigration and citizenship for people who did not clearly fall under the protection of the 14th Amendment by being born in the United States. He argues that the Court created "legal fictions when racial and ethnic minority groups sought equal and full membership rights. ... Despite the formal termination of political inferiority for some of the *de jure* subordinates ... i.e.,

African Americans and women, some of the *de jure* subordinates still exist in their inferior status. This shameful and unfortunate fact applies to the millions of citizens and nationals who are residents of the United States' overseas possessions."

Román then turns his attention to *de facto* subordinate citizenship and argues that, despite legal equality having been granted to all, regardless of race, creed, or gender, the legacy of subjugation still casts its shadow on a host of underprivileged citizens today. Román sums up the situation perfectly, stating that, "although the citizenship concept is largely viewed as inclusive, the thousands of years since the concept's development demonstrate a practice of it being an exclusive and exclusionary tool for Western democracies to define and control themselves."

Román argues that the concept of citizenship can be saved, and he offers a model that establishes a baseline for human rights and extends those rights to all citizens, thereby eliminating the class structure that still exists among citizens today. He concludes that "it is not enough for emancipated people to hold the title of citizen; they must enjoy all the rights associated with the title."

I have some criticisms of *Citizenship and Its Exclusions*. Although Román does an excellent job of outlining historical discrimination among citizens and articulating the discriminatory elements of United States citizenship, his examples of this discrimination today are scant. One finishes the book thinking that, because African-Americans were second-class citizens for most of American history, they must still be so today, but Román does not adequately make the case that they are. Similarly, he leaves the reader thinking that, because Congress did not place certain territories onto paths to statehood following the Spanish-American War, the entire system of citizenship must be corrupt. Román uses Puerto Rico as an example of how not all citizens have been afforded the full rights of citizenship. Yet most commentators agree that, if the people of Puerto Rico wanted to obtain statehood or to declare their own sovereignty, they

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could do so. Román also cites the treatment of Muslim citizens following the September 11 attacks as a manifestation of the class system within citizenship. He compares the treatment of Muslim citizens today with the internment of Japanese-Americans during World War II. Such a far-fetched comparison hurts the credibility of the overall argument. Japanese-Americans were placed in concentration camps, whereas President Bush pleaded with the people of the nation not to take out their anger on Arab-Americans. Moreover, since Sept. 11, 2001, the Justice Department's Civil Rights Division has investigated more than 800 incidents involving violence or threats against Arab-Americans or Americans who are or are perceived to be from the Middle East. It is true that the government detained Muslim foreign nationals without trial, but they are not citizens, so that is a different issue.

*Citizenship and Its Exclusions* provides an excellent history of citizenship and gave me great insight into the origin of the concept of citizenship in the United States. Moreover, Román is an exceptional writer and researcher; his book is easily digestible and its endnotes back up the facts he presents. Although some may feel unsatisfied with Román's scarcity of modern examples (as well as with his flawed solution, which I have not discussed, for the problems of unequal citizenship in the United States today), Román's historical analysis more than makes up for these shortcomings. **TFL**

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### **Popular Crime: Reflections on the Celebration of Violence**

By Bill James

Scribner, New York, NY, 2011. 482 pages, \$30.00.

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REVIEWED BY JON M. SANDS

Bill James revolutionized how we think about baseball. His analysis of what really matters in baseball games, through objective empirical evidence, spawned sabermetrics. James' obscure ways of detailing batting, pitching, and offensive production, such as by OBP (on-base percentage), made broad measurements such as batting averages and won-lost records seem not only quaint and uninformative but somewhat deceptive as to a player's real value. Because of James' advocacy of the importance of data, baseball general managers now regard fresh-faced, newly graduated statisticians as essential as grizzled veteran scouts for appraising talent and even for in-game strategy. The most noteworthy practitioner of sabermetrics is the general manager of the Oakland Athletics, Billy Beane, who was the subject of Michael Lewis' best seller *Moneyball* (which I reviewed in the January 2004 issue of *The Federal Lawyer*) and who is portrayed by Brad Pitt in the film of the same name. Sabermetrics has made celebrities of its major league practitioners and has made James himself a senior adviser to the Boston Red Sox.

But even James can make an error, throw a wild pitch, and strike out. In his new book, he does all three. *Popular Crime* is not only shockingly analytically weak but also downright wacky. It reads like a diatribe by a curmudgeonly conservative relative at a holiday dinner, who becomes cranky and starts to pontificate on subjects far afield from his own expertise. In baseball parlance, James is a pitcher who deliberately throws at left-leaning batters and rightfully should get tossed from the game.

James' principal subject is infamous crimes and celebrity criminals. "This book is about three things. First, it is about famous crimes, and in particular

about famous crimes which have happened in the United States since about 1880. Second, it is about *crime*. ... And third, it is about crime *books*." He proposes, interestingly enough, to examine how famous crimes influence popular culture, public opinion, and, ultimately, the law. He ranges over the centuries, using examples of notorious crimes and criminals, and accusers and victims, including Lizzie Borden, the Lindbergh baby case, the Boston Strangler, O. J. Simpson (the alleged murders, not his more recent robbery), and JonBenét Ramsey. James also seeks out examples that are obscure to us now but that were sensational decades or even centuries ago, bringing compelling if unsavory characters back from the shadows and crevices of our history. He is democratic in his rogues' line-up, presenting lowlifes and highlifes, men and women, crimes of passion and crimes of cold blood, urban stalkers and rural drifters.

Things go wrong with the book pretty fast, however. For example, in justifying his approach, James begins by bashing "the NPR crowd," who supposedly are aghast at the attention the media give to crime stories; then he bashes "American intellectuals and opinion-makers," who are supposedly afraid of the subject; and finally he bashes "self-important lawyers," who shush nonlawyers (such as James) who try to get a word in edgewise. But James will let the public in on the conversation. The following example will give a sense of his belligerence: "I said that no one writes about these issues, which is not literally true. I am sure that in some corner of the academic world there hides an intellectual who knows vastly more about these issues than I do and has written 208 published articles about them, which none of us have ever heard of, probably because he writes like a troll, or, not to be sexist, she writes like a troll or trollette. I am not here to bash intellectuals, either; I'm just a sarcastic bastard by nature." Well, yes.

This tone, coming in the first chapter (!), was cause for concern. It soon got worse. James starts most chapters of *Popular Crime* with a story of a crime. His retelling of the crime is engaging, makes some interesting points, and

then goes completely off the rails. In chapter 9, for example, James extols some colorful criminal defense lawyers for saving “legions of murderers with hardly a loss.” He laments the decline of trials—a legitimate position. He also wonders why there are now more convictions in the cases that do go to trial than there supposedly were in the past. He then asks how and why this change occurred. He does this all with scant evidence, research, or review of the voluminous scholarship on the issue (possibly some of his hidden intellectual’s 208 scholarly articles?). James proposes that, in the past, trials took place in rural communities, where the juries knew the defendants, witnesses, and lawyers, and engaged in rough justice, but then the legal profession became professionalized. He believes that bar associations reined in effective counsel, even while they stopped jury tampering, judge bribing, and witness intimidation (as if these things no longer occur).

For James, however, the most important reason that there are more convictions these days is pretrial discovery. Yes, pretrial discovery. “[B]y far the largest change in American criminal trials over the last 100 years has been the accumulation of layers of pretrial discovery. In a series of landmark cases beginning with *Mooney v. Holohan* (1935) and culminating in *Brady v. Maryland* (1963), the Supreme Court ruled that defendants had the right to know in advance what testimony would be introduced against them at trial.” James continues: “After *Brady v. Maryland* in 1963, the real action moved from the trial to the foreplay, the pretrial discovery. There were always defendants who entered pleas; there was always some possibility of negotiating a plea in return for a negotiated sentence. After *Brady* this process exploded, and the ratio of trials to accused criminals began to shrink.” Seriously? Really? This explanation is so misguided and ignorant that I will not comment, except to say that the increase in pleas is a complex question that has seen a great deal of research, with which James is clearly unacquainted. Suffice it to say that it is an accommodation required by the increase in cases and the strapped resources of

the criminal justice system. *Brady* is a constitutional requirement mandating disclosure of exculpatory evidence, and is not responsible for the burgeoning number of pleas. (A question that I ask the law students I teach at Arizona State University is whether, in a hypothetical criminal justice system, they would permit plea bargains. The answers cover the spectrum, and they are always interesting.) James ends the chapter by stating that we would be better served with more trials that are shorter and cheaper. That well could be, but I cannot accept his conclusion based on his arguments. Chapter after chapter is like this.

James has a visceral dislike of the Warren Court and liberals. He argues that books from the late 1960s and 1970s that decried the placing of procedural handcuffs on police reflected popular opposition to the Warren Court’s activism. He believes that the enlightened attitudes of Eisenhower’s America toward criminals and prisoners (!) suffered a setback because of the Warren Court’s activism, and he holds the Warren Court and the supposedly liberal lower courts responsible for the upsurge in crime that followed. The Warren Court’s focus on the rights of the accused and other procedural protections unleashed the floodgates of violence. James makes the following argument:

Even today, old liberals try to explain the explosion of violence in this country between the mid-1960s and the mid-1970s in terms of demographic shifts. These explanations are logically preposterous. The damned foolishness of the Warren Court unleashed upon us a torrent of criminal violence which pitched the nation back into atavistic attitudes about crime and punishment. We have yet to regain our footing. We will not regain our footing, I would argue, until Liberals stop making excuses for the Warren Court, and accept responsibility for the tragic consequences of the Warren Court’s runaway enthusiasm for essentially good ideas.

In other chapters, however, James acknowledges and even expresses con-

cerns over false confessions and misidentifications. He can try to distinguish a concern with an accused’s rights from a concern with getting the police investigation right, but he does not seem to connect the two. Nor does he seem to want to. In another chapter, James argues for better treatment of prisoners. But this enlightened attitude seems to clash with his disdain and hostility toward defendants’ rights. One can be for better treatment of prisoners, but it would help to ensure that prisoners had due process beforehand.

Where is the analytical James? He does make sporadic appearances. In one chapter, he tries to set forth the elements that catapult a crime story to widespread and intense public awareness. He characterizes the various elements, which include bizarreness, celebrity, innocence, and a killer on the loose, and then he assigns them a point value and tabulates them. He even coins an acronym for analyzing the suspect, MMO (motive, means, and opportunity), although something tells me that this is not exactly new. James’ analysis smacks of pseudo-science and is not very convincing. In any case, James is looking backward, so it is hard to predict whether his system would work in the present media age. Analyzing crimes, trials, and convictions is not the same as analyzing balls, strikes, and outs in baseball.

This book was so bad that I looked afresh at the blurbs on the back and was astonished at who praised it. This leads me to conclude they hadn’t read the book, or hadn’t cared, or that I should reconsider their work. I am also quite astonished that Scribner published this book. There was a breakdown in the editorial screening process.

At roughly the same time that *Popular Crime* was published, James also came out with *Solid Fool’s Gold: Detours on the Way to Conventional Wisdom*. It is everything that *Popular Crime* is not: interesting, unconventional, witty, and well-argued. James’ baseball essays on predicting RBI output or examining the pitchers’ duels of the 1980s are vintage James. His other forays are also worth reading. I call special attention to an essay, “Justice McReynolds and Buck

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O'Neil." It turns out that McReynolds was a distant cousin of James'. Now, McReynolds is widely considered one of the worst, if not the worst, justices to have served on the Supreme Court and is loathed for his prejudices and biases. A racist and an anti-Semite, he seemed to have hated everyone who was not white and Protestant. James acknowledges this, places him in his time, notes some attitudes that are favorable today (he detested smoking and tobacco use), points out that Justice Holmes and Justice Douglas had nice things to say about him, and asks whether we should accept him as representative of his time. James concludes that we should not: we cannot forgive McReynolds for his bigotry; a Supreme Court justice should be held to a higher standard than the conventions of his time. James, a Kansas City native, then wonders what another Kansas City native, the late Buck O'Neil, would have made of McReynolds. O'Neil was a well-regarded Negro League baseball player and unofficial ambassador of the game and an effective champion against racism. James believes that O'Neil would have advocated reaching out before condemning and hating racism but not the racist. James reminds us that a desire to condemn others might be "a kind of self-righteousness, an effort to deny our own sins by talking loudly about others."

The essays in *Solid Fool's Gold* reveal that James still has his baseball acumen, which is a relief. How then to explain *Popular Crime*? It clearly is a topic James has thought about and has something to say about. In his baseball analysis, James uses past performance to predict the future and to explain how to win games. In *Popular Crime*, by contrast, James looks back, with too few glances and no vision, toward the future; the book resembles a Rush Limbaugh rant. It may be deeply impassioned and entertaining to some, but it doesn't bear up to scrutiny. Like a fan whose favorite player is traded to an opposing team, I will continue to respect James for his work, but I am done with rooting for him. **TFL**

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**Running the Books: The Adventures of an Accidental Prison Librarian**

By Avi Steinberg

*Nan A. Talese/Doubleday, New York, NY, 2010. 399 pages, \$26.00.*

REVIEWED BY JON M. SANDS

The Library of Congress' gift shop sells a book of postcards titled "For the Love of Libraries." Leafing through its collection of public and private libraries, I was struck by the number of prison sites and the number of black-and-white photos of inmates hungrily reading in tough places. This tradition of inmate rehabilitation and transformation through libraries and of turning a new page in one's life by reading worn copies of books is a venerable one. Malcolm X is the most famous prisoner who did so; Wilbert Rideau is a more recent example of an inmate who was changed by books. (See my review of Rideau's book in the September 2010 issue of *The Federal Lawyer*.) So, what books should inmates read in a prison library?

There is even a prison library at Guantánamo. We know the reading list for one Guantánamo detainee, Omar Khadr, a Canadian citizen. In anticipation of his repatriation back to Canada after eight years as a result of a plea deal, his lawyer has provided him with classics, such as Shakespeare, and with the works of contemporary novelists, such as Cormac McCarthy. In addition, the Department of Defense stocks the library at Guantánamo with its own approved reading material, which, in addition to Islamic religious texts, includes works such as the *Harry Potter* books and self-help manuals such as Stephen R. Covey's *The 7 Habits of Highly Effective People*. As reported by a spokesperson for the Department of Defense, about half of the prison population there has read Covey's book. It gives one pause to envision these designated terrorists poring over such texts. Will it help get them released sooner? And to what end?

I raise these questions because of the experiences of Avi Steinberg, a Yeshiva dropout and Harvard graduate, who ran

the library at Boston's South Bay (or Southie) prison for a couple of years. His stint as a prison librarian is the subject of *Running the Books*.

Having written a senior thesis on the meaning of Bugs Bunny, and wanting to avoid the alphabetic gauntlet of the LSATs, GREs, or MCATs, Steinberg decided to become a writer. This was easy enough to do, but, as he lamented, he lacked experiences to write about, and he had bills to pay. Hence, he answered an ad for a position as a librarian and creative writing teacher in a prison. Oh yes, the job included health benefits. To his amazement, he got the job. Now what? *Running the Books* chronicles his learning curve, which required different skills from the book learning he was used to or the grading curve he previously aced.

The library in Southie is definitely not like most. The collection is expansive and seems to rival that of a good progressive high school; perhaps it is because generations of librarians have used their meager funds to the fullest by sorting through yard sales and used bookstores to add to the collection. Southie's library also benefits from the rule that, although inmates could order books from publishers (they could not receive them from private addresses), they could keep only six at a time in their cells. The excess books usually get donated to the library or sold to other prisoners (the latter transaction illegal). The biggest source of books, not surprisingly, given the highly educated community surrounding the prison, are donations by individuals. "For the most part," Steinberg writes, "prison library reading tastes tended to match those of the wider American population": "Oprah's Book Club selections, James Patterson, Dan Brown, James Frey. ... Inmates also loved reading books on real estate and starting small businesses." Other popular subjects were dream interpretation, astrology, and true crime. Other frequently requested books were *The Art of War* by Sun Tzu and *The Prince* by Machiavelli, the latter requested "[t]hanks to slain rapper Tupac Shakur, a.k.a. 'Makaveli,'" who, in his song, "Tradin War Stories," sang, "Machiavelli was my tutor." The majority of inmates returned *The Prince* slightly disappointed, finding it not as



user-friendly as they'd hoped.

The prison authorities had their own views of the library. "Some thought it was a sham that, at best, served no function; at worst, coddled the inmates and gave them a place to plan and commit crimes. Some thought it was an effective way to numb inmates to the reality of captivity, to calm their nerves. The library made the prison safer for everyone, [Steinberg] was told. One senior officer mentioned that it was a good place to gather information from inmates who didn't realize they were being watched." An inmate who was known to like the library is James "Whitey" Bulger, the recently nabbed Boston mob boss. He supposedly refined his tactics and brutal crimes by a careful study of military history while he served time. The FBI's wanted poster for Bulger said that he was "an avid reader with an interest in history. He is known to frequent libraries."

Inmates were allowed to check out no more than three books from Steinberg's library, although the check-out system was of limited value because the library rarely imposed fines for late or unreturned books. Also, despite having a clientele that "included the largest concentration of thieves of any library in the world," the library lacked an alarm system. Steinberg did not collect fines because "it was simply too common for checked-out books to disappear—either removed by a vindictive or indifferent officer or stolen by a friendly inmate. Fining for lost books would discourage even honest people from borrowing them." But books did tend to turn up eventually. Where could they go?

Library "rules" were a mix of the usual—respect and quiet—and the unusual—no weapons allowed (or perhaps this one is not so unusual after *Heller*). Steinberg gets "volunteer" help from inmates, which is not surprising because working in the library is considered an elite and cushy job. "Pimps make the best librarians. Psycho killers, the worst. Ditto con men. Gangsters, gunrunners, bank robbers—adept at crowd control, at collaborating with a small staff, at planning with deliberation and executing with contained fury—all possess the librarian's basic skill set. Scalpers and loan sharks certainly have a role to play. But even they lack that something, the *je ne sais quoi*, the elusive *it*. What would

a pimp call it? Yes: the love."

The inmates no doubt checked out books with their booking names and registration numbers, but a better form of identification might have been the nicknames they called one another, including "Flip, Hood, Lil Haiti, Messiah, Bleach, Bombay, K\*Shine, Rib, Swi\$\$, Tu-Shay, The Truth, Black, Boat, Forty, Fifty (no Sixty), Giz, Izz, Rizz, Fizz, Shizz, Lil Shizz, Frenchy, P-Rico, Country, Dro, Turk, T, Africa." Steinberg himself occasionally gets called Bookie, but mostly he is called Arvin (a distortion of his real name, Avi) or Harvey (perhaps short for Harvard).

Steinberg was in charge not only of the library but also of writing classes at Southie. He started a creative writing class with some creative reading; his first assignments were "poems by Philip Larkin, Amin [*sic*] Baraka, and a passage from *Beloved* by Toni Morrison." He assigned one student a story by Kafka called "The Animal in the Synagogue"—certainly not the usual book club reading. As homework, which one inmate said should be called "cellwork," he assigned a short story by Flannery O'Connor. One student demanded to see a picture of her first to determine if she could "read" her face. Steinberg flipped to a portrait he found in the back of a book. The prisoner examined the photo and agreed that O'Connor was worth reading. What made her decide that, asked Steinberg. "I dunno," she said. "She looks kind of busted up, y'know? She ain't too pretty. I trust her."

Steinberg instructs his class to write what they know, to be interesting, and to be real. Steinberg followed his own instructions in writing this book. He nicely sketches the inmates, guards, and his fellow employees, including a befuddled friend and cynical psychologist. The prison guards can be bored, marking their days to retirement as obsessively as the inmates mark the days of their sentences; or the guards can be dictatorial, lording over their charges because they can. The guards' meanness comes from their pettiness, as they suddenly change the rules or enforce those that have been ignored. Steinberg clashes with one guard who had taken on the role of a Nurse Ratched. The weapons in their duel are bureaucratic incident reports.

But the focus of the book, and its power, comes from the inmates. They are sad, scary, lost, crafty, sneaky, angry, and tragic. There's Coolidge, the jailhouse lawyer, convinced that the system gave him a raw deal, and if a court would just read his writs, he would be sprung. (A court finally does, and he is.) There is Chudney, who, planning to better himself, fills out stacks of school applications, including a most unusual admission essay, only to be gunned down soon after his release. And there is Jessica, who attended Steinberg's class, only to stare outside the window. Why? She wants to catch sight of her son, also an inmate, who is also in for drugs. Steinberg gets her interested in reading, and she is drawn to Sylvia Plath, which turns out to be an ominous choice. Steinberg is truthful enough to recognize that most inmates are unfazed and untouched by his efforts. He even wonders if his efforts mattered at all, though he would like to think that they did.

As with most prison books, this one's descriptions of the closed culture, with its own language, customs, and rituals, surprise and intrigue. A unique aspect of this book is its discussion of "kites." The word "kites" is used here not to mean write-ups by the guards, as it does in other institutions, but to refer to messages left by one inmate for another in a book. Of course, kites are disallowed, and catching them is a cat-and-mouse game or maybe an example of a reader literally catching the meaning of a writer as it falls out of a book. Steinberg is forced to try to intercept kites, as well as e-kites left on computer desktops, and feels bad doing so, because "[o]ne never knows what's behind a silly letter, what the context is." Steinberg regarded the kites as "some of the best reading on the library shelves. Some were masterpieces of the genre, contenders for the Great American Kite." One was written in the voice of God, though the lesson to be taken from this kite was that, if one presumes to write in the voice of God, it helps to use correct spelling (and not write "for I shall reek vengince"). Another kite displayed bilingual personalities, "sweet and conciliatory" in Spanish and a "raging lunatic" in English. There was even one kite,

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Charles T. Williams Jr.  
Gerri O. Williams  
Jack M. Williams  
Allen S. Willingham  
Mary I. Wilson  
David D. Winters  
Charles W. Wirken  
Robert M. Wolff  
Brian A. Wood  
David R. Woodcock Jr.  
Miriam L. Wu  
Scott T. Wyland  
Anthony P. Zana  
Milton Y. Zussman

**New Members—May**

Stephanie Ames  
Lindsay M. Andrews  
Rudolph F. Aragon  
Alexandra Arneri  
Atmore Baggot  
William Bailey  
Lisa S. Barkley  
Dawn M. Barrios  
Anne B. Beaumont  
Samuel Berman  
Allison C. Binney  
William Bly  
Gabriel I. Bombara  
Daniel W. Bower  
Matthew W. Boyd  
Valerie J.M. Brader  
Kevin F. Brady  
Benjamin H. Brodsky  
Deborah Ann Broken Rope  
Carol J. Brown  
Annie W. Campbell  
Eric D. Capron

Vanessa Carlo  
Michael S. Carlson  
Peter F. Carr  
Renee L. Caubisens  
Michael Chase  
Kevin C. Collins  
Jason W. Connell  
Eric Contre  
Santosh V. Coutinho  
Nathan A. Crane  
Elliott C. Crawford  
Nicholas Cunningham  
Samir B. Dahman  
Leah J. Donaldson  
Melissa N. Donimirski  
Michael D. Dortch  
David P. Draigh  
Gerald F. Dusing  
Trent A. Echard  
Marsha Edelman  
Robert Edwards  
Donna Eng  
R. Matthew Feller  
Wilfredo Fernandez  
Patrick S. Field  
Lindsey S. Fields  
Santino Finizio  
Lisa Finn  
Michael D. Finn  
Emily Fisher  
J. Craig Fong  
Ronald A. Fonseca  
Seth T. Ford  
J. Shawn Foster  
Michael Fraggetta  
Brian T. Frees  
Brianna Fuller  
Elloree A. Ganes

Dominick Gattuso  
Kevin W. Geer  
Mary Gillmarten  
Jeffrey D. Gram  
Vincent L. Greene  
Lisa C. Guffey  
Kathryn C. Haertel  
Constance S. Harvey  
Mac D. Heavener  
Edgar Hernandez-Sanchez  
R. Jeremy Hill  
Guy M. Hohmann  
E. David Hoskins  
J. R. Howell  
Eileen M. Hunter  
John H. Iglehart  
Randall L. Jackson  
Laura Jennings  
Christa J. Jewsbury  
Malika Kanodia  
Zahra S. Karinshak  
Waheed U. Khan  
Steven H. Koval  
Jessica Kronstadt  
John J. Kulewicz  
Kristina V. Legan  
Lisa Leontiev  
Amanda G. Lewis  
Craig R. Lewis  
Janet D. Lewis  
William B. Long Jr.  
Aaron Lykling  
John A. Mackechnie  
David O. Markus  
Talbot M. Martin  
Vanessa C. Maync  
Christopher Mays  
Louise M. Mazur

Aaron M. McClain  
Aaron G. McCollough  
Roy B. McCoy Jr.  
Dina M. McKenna  
Jeffrey D. McMahan  
Greg Metcalfe  
Jeffrey S. Michaelson  
Donald A. Migliori  
Marijana Mileiko  
Emily H. Montgomery  
Jane W. Moscowitz  
Aaron Murphy  
Joseph L. Murphy  
Kirk Myers  
Charlotte F. Newsom  
Tyler K. Olson  
Amelia M. O'Neil  
Morgan T. Osterloh  
Ramon A. Pagan  
Ajeet Pai  
David Samuel Panzer  
William Pauls  
Joseph J.W. Phelps  
David Pierce  
Matthew Poliner  
Rixon C. Rafter  
David E. Ralph  
Susan Ramos  
Thomas J. Rode  
Michael G. Rousseau  
Randall P. Ryder  
Michael T. Sansbury  
Michele W. Sartori  
Tyler B. Sarver  
Daniel A. Saunders  
Paul J. Schilling  
Gregory S. Schneider  
Myles A. Schneider

Brian M. Schwartz  
Robert I. Schwimmer  
Devera B. Scott  
Catherine A. Seagle  
David P. Shouvin  
Douglas A. Steinberg  
George J. Stengel  
Sarah M. Stephens  
Shawn Stuckey  
Barry Sufrin  
Lenore Suzyn  
Stephen H. Swart  
Cynthia M. Talton  
Cara M. Tangaro  
Rebecca S. Tavitas  
Nicole Thomas  
Brent W. Thompson  
Samuel T. Towell  
Dylan M. Tuggle  
Barry S. Turner  
Dylan C. Utley  
Leigh Vandiver  
Karla M. Villanueva  
Elizabeth E. Waldow  
Charissa Walker  
Christina J. Weis  
Thaddeus W. Wendt  
Sylvia L. Wenger  
David B. Wiles  
Amanda J. Winston  
Mona S. Womack  
Jason T. Wright  
Alexander M. Wu  
Rachel M. Yazbeck  
Betsy Zedek  
Tara Lynn R. Zurawski

**REVIEWS** *continued from page 71*

which dropped out of an economics textbook, that Steinberg hailed as possibly “the voice America has been waiting for: the diesel-fueled lesbian hybrid of Saul Bellow’s *Augie March* and Snoop Dogg’s *Doggystyle*.” Steinberg finds that kites teach him “a great deal about the language and culture” of his workplace.

A word about the book itself. First, kudos to the cover designer for the portrait created from stamped due dates. However, the book itself sorely misses an index. Although the book unfolds roughly chronologically, it has enough jumping around, flashbacks, and digressions—to say nothing of the books that it mentions—that would have made an index helpful.

Let’s talk about Steinberg. He is engaging and annoying; empathetic and a bit conceited. He is capable of keen insights, as when he discusses Puritan concepts of punishment, and the changing penological philosophies in America, with an emphasis on New England. He displays his education throughout the book, sometimes showing off, and he wears his liberal leanings on his sleeve, every bit as prominently as Hester Prynne wore her scarlet letter. (He quotes from the

first chapter of *The Scarlet Letter*, which is called “The Prison Door,” in which Hawthorne “describes, or imagines, how this very same institution, the Boston prison, appeared in its earliest incarnation, the very first prison in the New World.”) Yet, Steinberg is less interesting when he stops observing and talks about himself: his fall from grace (or at least orthodox Judaism), his family, and his search for meaning. Sorry, but in light of the people portrayed in the book who are doing time and who are all too often from impoverished and wretched backgrounds, Steinberg’s mini-Bildungsroman is a bit too self-indulgent.

I don’t mean to be too hard on Steinberg. *Running the Books* is engaging and entertaining. Steinberg’s interactions with inmates, even the most mundane exchanges, always have a tinge of danger or farce. The library is no paradise; things can go wrong fast. Steinberg finds that he can never do enough. One day, in a park, he recognizes a former inmate who had frequented the library. It would be nice to report that the meeting revealed the power of the written word, or that the library proved a means of the inmate’s betterment. But that

would be fiction. The meeting proves awkward; there is no “thank you” from the inmate, just grumbling about what wasn’t provided, and Steinberg is wary of the man. At the book’s end, Steinberg would like to think that he made a difference, and so would we. He certainly got through to a few, but to what effect, and for what purpose, one wonders.

After two years, Steinberg leaves the prison. I am glad that he served his time, and I hope that he writes other engaging books. But I also hope that he does not forget about the inmates, and I do not mean just sending the library complimentary copies of *Running the Books*. America incarcerates more of its citizens than any other nation. Currently one in 100 adults is serving time. Prisons are overcrowded and dangerous, and their budgets are being slashed. Sentences stretch. What do prisoners do with their time? What do they read, and what do we teach them? **TFL**

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