Lawyers' Poker: 52 Lessons That Lawyers Can Learn From Card Players

By Steven Lubet
Oxford University Press, New York, NY, 2006. 275 pages, $28.00.

Reviewed by Jon M. Sands

Once the World Series of Poker was televised on ESPN, once celebrity poker became a fixture on Bravo, once poker columns began appearing in mainstream newspapers, once professional poker players became household names, and once families started to log onto poker Web sites, it seemed inevitable that a book using poker to discuss legal tactics and strategies would appear. It seems that everyone is playing poker these days.

I picked up *Lawyers' Poker* with trepidation. The good news I discovered is that the author, Steven Lubet, is a law professor and knows what he is talking about when it comes to trial tactics. He even seems to know poker strategy. The book is an easy, enjoyable read. Whether it will make you a better lawyer—or a better poker player—is debatable, but you will learn something and gain some understanding of why some tactics work in the courtroom and why some do not work at the poker table.

At this point, the reader of this review probably expects to see litigation described with poker metaphors. So let's get it out of the way and quote from the book's introduction:

> Almost every case begins with negotiation, when you really have to "keep your cards close to your vest." Of course, you will make a reasonable offer "for openers," realizing that you might eventually have to "sweeten the pot." Your opponent, however, might try to "raise the stakes" by implying that she has an "ace in the hole." Still, you will probably be willing to "ante up," figuring that you can "buck the odds" if you "play your cards right." After all, a "four flusher" like your opponent might well be "drawing to an inside straight," in which case you will have to "call her bluff."
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> If no one "folds," you will eventually end up in court. That's okay with you, as long as you can get a "square deal" (but heaven help you if the judge is taking something "under the table"). Anyhow, you'll have to "play the hand you are dealt," even if your star witness is a "joker." You can handle the cross-examination of the opposing party, though she might turn out to be a "wild card," just so long as your opponent doesn't have "something up her sleeve." It's too late to "pass the buck," so you'd better hope you have a "winning hand" (and that you aren't playing with a "stacked deck"). Even if you are tempted to "bet the farm," it is probably better to keep your "poker face" and "stand pat." Just make sure that everything is "above board" and that no one is "dealing from the bottom of the deck." But however much money there is "on the table," there is no reason to "tip your hand" until the "showdown."

The book is divided into the four "suits"—"diamonds" relates to maximizing your winnings, "clubs" deals with controlling the opposition, "spades" discusses digging for information, and "hearts" concerns ethics and character. Each suit is broken up into 13 "lessons" corresponding to the cards in each suit, and each lesson generally starts with a poker story or a strategy for playing poker, which Lubet then applies to the law. In one lesson, for example, Lubet introduces us to Herbert O. Yardley (1889–1958), poker's "prophet" of "tight play." A brilliant mathematician and spy, Yardley was a lifelong poker player. He worked as a cryptologist for the government and had the infamous distinction of having a book he wrote, *Japanese Diplomatic Secrets*, banned by an act of Congress (the only time Congress voted to censor a specific book). In 1957, Yardley published *The Education of a Poker Player*, which set forth certain rules that are still followed today.

One of Yardley's rules is, "Assume the worst, believe no one, and make your move only when you are certain either that your hand is unbeatable or that the odds are strongly in your favor." Lubet writes, "Lawyers (not to mention clients) are usually far more risk averse than card players, especially at high stakes." Therefore, Yardley's poker advice—to play it safe and conservatively—resonates in trial strategy, especially in cross-examination, where the attorney does not ask a question unless he or she knows the answer and the odds are overwhelmingly positive that there will be a favorable reply. Yet, as poker players recognize, a "super-tight" style usually wins only small amounts. Experienced players "recognize a 'rock' when they see him" and "fold their own hands whenever he bets strongly." Sometimes, therefore, it pays to take a chance, whether it is in poker or in law. "Even the most sophisticated witnesses," Lubet writes, "can often be baited into mistakes if the cross-examiner is willing to take a few calculated risks." As an example, Lubet launches into the old chestnut of Clarence Darrow's examination of William Jennings Bryan in the 1925 Scopes "monkey" trial.

I now ask, on behalf of legal readers, that writers of trial strategy books refrain from using such well-worn examples as Darrow's defense in the "monkey" trial, or Max D. Steuer's approach in the Triangle Shirtwaist fire prosecution of 1911, or any other example that is more than 50 years old or that violates the rule against perpetuities. These writers should stop trotting out the same old war horses and put them out to pasture for a while. But Lubet does provide more up-to-date examples, ranging from the Bush's lawyer's decision not to "show his cards" in the *Bush v. Gore* litigation, to

the glove demonstration in the O.J. Simpson trial, to the debatable strategy not to put Martha Stewart on the stand. In *Bush v. Gore*, an expert employed by the Gore camp had concluded that "the large number of undervotes in Palm Beach County was so anomalous that it could only have been caused by machine malfunctions." The Bush team, however, discovered a mistake that the Gore expert had made, which "completely undermined" his case. At a deposition, Bush's lawyer, rather than confronting the Gore expert "at the first opportunity, hoping to unnerve him before he testified at trial," did not bring up the matter. Instead, Bush's lawyer waited for trial and sprang it on the Gore expert during cross-examination. Lubet exaggerates the importance of this incident (I believe that the Supreme Court's midnight ruling was somewhat more significant), but it provides a useful lesson.

Lubet also makes extensive use of films to highlight aspects of poker and the law, but a problem with this approach is that movies, such as *My Cousin Vinny* or *Rounders*, age quickly. The big hit of last year is available on Netflix this year and all but forgotten next year. This can be true of books too, and *Lawyers' Poker* may be meant to ride the wave of poker enthusiasm, which even now may be waning as Sudoku's popularity rises.

If you are a poker player wannabe, you will learn much from this book. For those who do not know "Texas Hold'em," the book's glossary will help them grasp poker's lingo, such as "pocket cards," "flop," "turn," and "river" (or variations like "fifth street"), so that they can converse with fellow lawyers after hours at the next seminar or firm retreat. Speaking of those retreats, when the cards come out and the chips are stacked, lawyers may be forgiven for believing that they can be great poker players. As a matter of fact, though, one lawyer can make that claim. He is Greg "Fossilman" Raymer, a patent lawyer at a pharmaceutical company who, on the side, played serious poker. He entered the 2004 World Series of Poker and won more than $5 million—and this was one award he did not have to share with his client or his partners.

Lubet informs us that one lawyer who was a formidable poker player was Richard Nixon, who used his poker winnings to finance his first campaign for the U.S. House of Representatives. Nixon's decision to stonewall in Watergate, as Lubet sees it, was a bluff that was called. When the Supreme Court forced Nixon to disclose his secret tapes, he had nothing left to bet.

One attractive aspect of *Lawyers' Poker* is its emphasis on ethics and character. The closing chapter compares lying, cheating, and other unethical conduct in poker and law. It may be all right in poker to affect a mannerism that leads your opponent to believe that you are not paying attention or are tipsy. But it is ethically and legally wrong for a lawyer to employ actors to pose as family members in order to influence a jury.

The best poker players do not gamble; they play for money, but they rely on the odds. They know that, over the course of hundreds of games and thousands of hands, certain combinations will come up more frequently than others will, and that, if they make the statistically right move, they will win over the long haul. Litigation, by contrast, is not as repetitive as poker is. Each client's case is unique, and the lawyer plays his or her hand for that client alone. Thus, even though a certain legal hand may go down to defeat more often than not, it might be just the hand to play in a particular case. For a client facing a long sentence or a sizable verdict, should the lawyer risk going to trial or should he take the sure thing—the plea bargain or settlement offer? Although an institutional client who regularly appears in court may do better to play the odds with the long haul in mind, most clients, as Lubet notes, are at the table only once.

Lubet does not take himself too seriously, which makes this book entertaining. Reading the book will not ensure that you win in Las Vegas or Atlantic City—or in the courtroom—but it will be enjoyable reading on your way to your next game. **TFL**

Jon Sands is the federal public defender for the District of Arizona.

Aviation Law: Cases, Laws and Related Sources

By Paul B. Larsen, Joseph C. Sweeney, and John E. Gillick

Transnational Publishers Inc., Ardsley, NY, 2006. 939 pages, $165.00.

Reviewed by Bernard F. Diederich

In *Aviation Law*, the authors, three experts in transportation law, provide the aviation law bar with a tool to make life a little easier and more pleasant. Starting with an overview of the evolution of the aviation industry, the authors cover both domestic and international law, making all the important stops at economic and safety regulation, crimes involving aircraft, carrier liabilities to passengers and shippers, ticketing, aircraft manufacturers' product liability, security, airport law, insurance, governmental immunity, aircraft ownership and financing, and labor relations. The reader, whether a first-year law student or salty senior partner, receives a good dose of not only black-letter law but also a listing of primary source materials and key case reviews and citations.

I have more than 35 years of aviation law experience and yet have already consulted the copy of *Aviation Law* in the Department of Transportation's law library several times to refresh my memory about the nuances of aviation law. You'll learn something from the book even if you think you know it all: for example, the incisive description of the recent changes in the Federal Aviation Administration's treatment of the Part 135 carrier or the explanation of the doctrine of *dépeçage*.

The subject of aviation law, dating back almost a 100 years, is broad, transversing state, national, and international regimes. This hornbook's coverage ranges from basic corporate matters, such as stock, bond, tax, and labor law; through regulatory oversight by the Department of Transportation, Federal Aviation Administration, Transportation Safety Administration, Department of Homeland Securi-

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ty, National Transportation Safety Board, and National Mediation Board; to unique service issues, from baggage loss to accommodation of people with disabilities. Aviation law, far from being settled, has come through the major changes of airline deregulation, 9/11 security issues, a spate of bankruptcies, and traumatic adjustments surrounding labor costs. Although aviation law is vast and ever-changing, *Aviation Law* is a handy, up-to-date desk reference—a must read! **TFL**

Bern Diederich is a senior attorney in the Office of General Counsel at the U.S. Department of Transportation in Washington, D.C. He is quite familiar with Professor's Larsen expertise from their joint practice of aviation law at DOT spanning 20 years, and he knows Professor Gillick from numerous professional contacts over the years. The views expressed in this review are Diederich's alone.

Oxford Companion to the Supreme Court of the United States, Second Edition

Edited by Kermit L. Hall

Oxford University Press, New York, NY, 2005. 1,239 pages. $ 65.00.

Encyclopedia of the Supreme Court

Edited by David Schultz

Facts on File, Inc., New York, NY, 2005. 562 pages, $85.00.

Reviewed by George Costello

Two single-volume reference works on the Supreme Court and constitutional law were published in 2005. One, the second edition of the *Oxford Companion to the Supreme Court*, is a wonderful reference volume that contains authoritative and readable essays on the history and inner workings of the Supreme Court and the development of constitutional law; it has been updated to reflect many developments since the first edition was issued in 1992. The *Encyclopedia of the Supreme Court*, by contrast, is for the most part neither authoritative nor readable and is unworthy of serious attention.

Excellent selection of entry headings, detailed indexing, and generous cross-referencing make the Oxford Companion handy to use.

As I summarized in my review of its first edition (40 *Fed. Bar News & J.* 243 (May 1993)), the *Oxford Companion* contains a variety of entries, from biographies of every justice who has served on the Court and every rejected nominee, to summaries of the Court's major decisions, essays on constitutional law concepts and historical trends, and descriptions of the nuts and bolts of the Court's day-to-day functions. Excellent selection of entry headings, detailed indexing, and generous cross-referencing make the *Oxford Companion* handy to use.

The second edition of the book, of course, contains new biographical entries for Justices Ginsburg and Breyer, who joined the Court after the first edition was published, as well as revised and updated entries for the other justices who remained on the Court from 1992 through 2005. (Biographies of Chief Justice Roberts and Justice Alito will have to wait for the third edition.) In addition, the book offers more than 60 new entries on important Supreme Court decisions issued during the intervening years. Among the notable additions to the second edition is an update to the original 12-page essay entitled "Federalism" that describes the Rehnquist Court's "federalism revival." One might have hoped for a similar addition to the multiauthored series of essays on the history of the Court, but that excellent series still ends with Stephen Wasby's section on "rights consciousness in contemporary society," which is largely a recap of the Warren era. Updating this series is another task for the third edition.

To include the *Encyclopedia of the Supreme Court* in the same review as the *Oxford Companion* can be viewed as a disservice to the latter. The contrast between the two works is stark. The *Encyclopedia*'s authoritativeness is suspect. Its editor, David Schultz, is a professor in the Graduate School of Management at Hamline University. Contributors' credentials are listed only by educational institution, with no indication whether these individuals are faculty members, graduates, students, or dropouts. Some of the writing is sophomoric. Many of the suggested additional reading entries are case books. The book contains some glaring inaccuracies: a biographical account of Justice John Marshall Harlan II is accompanied by a photo of his grandfather, Justice John Marshall Harlan; the summary of *Bowers v. Hardwick* substitutes "and" for "or" in quoting the Georgia sodomy statute, so that the prohibited contact is between "the sex organs of one person and the mouth *and* anus of another"; the topic sentence under "war powers" states that the term refers "to the ability of the president and Congress to commit troops abroad …"; and the book's "American Court Systems Flow Chart" is misleading and, in some respects, inaccurate ("[i]f a case [in state court] involves a right protected by the U.S. Constitution, a party may appeal to the U.S. Circuit Court of Appeals").

Mistakes happen, and proofreading is never foolproof. Better proofreading, however, would have resulted in throwing out many of the *Encyclopedia*'s entries. *The New Yorker* used to have a filler category called the "letters we never finished reading" department. Several entries in the *Encyclopedia* could have qualified. Here's the topic sentence under the entry for Robert Bork: "Born March 1, 1927, Robert H. Bork is a renowned legal scholar having earned a law degree at the University of Chicago in 1953." Other examples are: "Punitive dam-

ages occur as the result of someone committing a tort against another" and "Overturning Supreme Court decisions refers to those constitutional exceptions to the finality with which Supreme Court rulings are ordinarily invested."

Enough said. Not all the entries in the *Encyclopedia* are so poorly written (the book actually includes an essay on the constitutional amending process by the established scholar John R. Vile), but there is far too much bad writing for the volume to be recommended. **TFL**

George Costello recently retired as an attorney with the Congressional Research Service, where he was editor of The Constitution of the United States: Analysis and Interpretation.

The Reagan Imprint: Ideas in American Foreign Policy From the Collapse of Communism to the War on Terror

By John Arquilla

Ivan R. Dee, Chicago, IL, 2006. 272 pages, $26.00.

Reviewed by John C. Holmes

John Arquilla, a professor of defense analysis, appears not to be a true believer in President Ronald Reagan's conservative philosophy but is nevertheless a convert to Reagan's foreign policy accomplishments. Arquilla seems almost in awe of Reagan's success in leading the "controlled crash" of the Soviet Union, which he credits less to Reagan's constructive military build-up than to his strategic use of the military and to "what Ronald Reagan came to call information strategy, the controlled use of communications techniques to shape others' perceptions and persuade them to accept our views." Arquilla also credits Reagan with taking steps to bankrupt and bleed the Soviet economy. Reagan, Arquilla writes, had elevated the importance of the Defense Department's Office of Net Assessment and agreed with its conclusion that, contrary to official Central Intelligence Agency estimates and conventional wisdom, the Soviet economy was not growing but was teetering on the edge of collapse.

Arquilla notes that besting a great empire at the height of its powers is extremely rare historically. The U.S.S.R.'s fall is comparable only to the swift demise of the Assyrian Empire in the seventh century B.C. Most empires took many years to disintegrate—it took the Byzantine Empire 1,000 years to fall, and the nomadic Mongols of the 13th century a few hundred years. By contrast, Napoleon's empire lasted only a decade, but its defeat required enormous carnage. Similarly, defeating Nazi Germany, Imperial Japan, and Italy cost untold casualties.

Throughout *The Reagan Imprint*, Arquilla notes the seeming contradictions between Reagan's expressed opinions and his actions. "He was a champion of conservative free-market economics, yet he incurred staggering budget deficits that ought to earn him a place in the first rank of liberal Keynsians. He believed in cultivating a strong military, yet he used force seldomly—and awkwardly, as the interventions in Grenada and Lebanon showed." Reagan saw the Soviet Union as the "evil empire," yet he forged a personal relationship with the chief "evildoer," Mikhail Gorbachev—a bond that resulted in a durable peace with the Soviet Union and now Russia.

A sometimes overlooked legacy of Reagan's foreign policy was the substantial and continuing reduction in nuclear arms. While preaching and producing military superiority, Reagan's sincerely felt abhorrence of nuclear weapons enabled him, once the fear of mutual destruction had been dissolved, to work with Gorbachev to forge a workable disarmament plan.

Nevertheless, Arquilla is critical of Reagan's failure to prepare the country militarily and psychologically for the readily predictable war on terror that lay just beneath the shadow of the Cold War. In Reagan's cabinet, while Secretary of State George Shultz argued for developing special forces that could engage guerilla combatants, and Secretary of Defense Caspar Weinberger favored continuation of a high-tech conventional military, Reagan straddled these two viewpoints and failed to prepare the nation for the situation that has since developed.

Arquilla's purpose in this book, however, is to discuss the extent of Reagan's imprint on subsequent U.S. foreign policy. During the first President Bush's administration, the Muslim world, despite its religious differences with the United States, looked favorably on America and saw Saddam's attack on its weak neighbor Kuwait for the naked aggression that it was. But President Clinton, whose first instinct was to be conciliatory with an adversary, did the nation a disservice by dismembering our information and propaganda apparatus rather than adopting it to changing adversaries and changing conditions. The current President Bush has greatly enhanced the Muslim world's animosity toward the United States by apparently taking more interest in installing a new government in Iraq than in fighting a war on terror. What is worse is that the current Bush administration, whose members are among the most intelligent and experienced in global strategy ever assembled, has failed to communicate the wisdom of its policies and squandered the worldwide sympathy gained from the Sept. 11 attacks. Indeed, even would-be allies have turned increasingly critical of the United States; meanwhile al Qaeda has managed to gain sympathy and support in much of the Arab world despite its terrorist methods, partially because of its adroit use of communications.

The Reagan Imprint demonstrates an almost inexhaustible knowledge of U.S. foreign policy from the Reagan presidency onward and presents it in a clear-eyed and objective narrative. The book does not, however, suggest that there are easy answers. **TFL**

John C. Holmes recently retired as chief administrative law judge at the Department of the Interior, after having served as an administrative law judge at the Department of Labor for almost 25 years. He currently works as a mediator and arbitrator and may be reached at TRVLNTERRY@aol.com.

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The Immortal Game: A History of Chess, or How 32 Carved Pieces on a Board Illuminated Our Understanding of War, Art, Science and the Human Brain

By David Shenk
Doubleday, New York, NY, 2006. 327 pages, $26.00.

REVIEWED BY JON M. SANDS

Of all the metaphors that lawyers use to describe their profession, chess is probably the most popular: the cerebral clash of opposing sides, the strategic attacks and tactical defenses, the gambits laid, and the traps sprung—all leading to the final checkmate. The detached intellectual exercise that is chess is also ascribed to by the legal profession's gatekeepers, from the logic games of the LSAT to the emphasis in law schools on legal reasoning as opposed to clinical or skills-based programs. Chess is a metaphor that the law naturally embraces.

Chess as metaphor is one of the themes of David Shenk's book of connected, engaging, and lively essays about the game. Putting aside its overwrought title, *The Immortal Game: A History of Chess, or How 32 Carved Pieces on a Board Illuminated Our Understanding of War, Art, Science and the Human Brain* examines the history of chess and the personalities of its players as well as the game's use as metaphor and as agent of social change. The book is also a personal journey: Shenk's great-great-grandfather was Samuel Rosenthal, a celebrated French grandmaster in the 1880s. Interspersed with the essays is a move-by-move annotation of the blindingly brilliant contest played in London in 1851 between grandmasters Adolf Anderssen and Lionel Kieseritzky. The event is known as "The Immortal Game," and Shenk skillfully explains the competitors' strategies and styles of play.

How did chess begin? It is an ancient game, almost two millennia old; it seems as though chess has always been in the Western consciousness. Yet, although board games have been a feature of every civilization, few have lasted—we easily become bored with boards. In the third millennium BC, the Egyptians played a backgammon-like game called "senet." The Greeks had "petteia" and "kubeia." The Romans played "duodecim scripta" ("game of twelve markings"), which had dice and a stack of disks. The Vikings had a game called "hnefatafl," in which a king sought to evade rings of enemies to get to the board. Archaeologists know of many more board games than they do rules of how they were played. In the British Museum, for instance, scratched on the base of an ancient statue found in a Mesopotamian city, is a board game that sentries played whose rules are unknown. Chess, by contrast, after beginning in northern India, spread throughout the world, changing very little and exciting people's imagination across times and cultures.

There are many stories about the creation of chess, each revealing something about the power and resonance of the game. One story holds that chess was invented to prevent a war between two kingdoms, and another maintains that chess was used as code to link a royal father and his lost son. But the most popular tale of the origin of chess is known as the "doubling of the squares" and tells of a king who is presented with an intriguing 64-square board game by his court philosopher and is so delighted with it that he asks the philosopher to name his own reward. The philosopher demurs, saying that he does not want much but would settle for "one grain of wheat for the first square of the board, two grains for the second square, four grains for the third square, and so on, doubling the number of grains for each successive square, up to the sixty-fourth square." The king is insulted by such a meager request until he realizes that, given the power of doubling, the philosopher has requested 18,446,744,073,709,551,615 (18 quintillion) grains of wheat, which is more than existed on the entire planet. Although this tale uses chess to illustrate a mathematical principle, Shenk does go a bit overboard when he describes the use of chess as a metaphor as the "medieval equivalent of software—the PowerPoint of the Middle Ages."

The fascination of chess through the ages is a main theme in *The Immortal Game*. Shenk uses attitudes toward chess to illuminate thinkers and politicians, with special emphasis on our chess-playing founders, such as Thomas Jefferson and the chess aficionado par excellence, Benjamin Franklin; in the appendix, Shenk includes an article Franklin published in 1786, entitled "The Morals of Chess."

Chess, like law, fancies itself a meritocracy, but its merit has a style and renown. Shenk traces the family legend of his great-great-grandfather, Samuel Rosenthal, who was a Jewish immigrant from Poland who rose to celebrity status as a flashy adventurer on the board. Shenk also recounts the celebrity of other chess players in the Belle Epoch in Paris, where chess stars ranked with or above artists, composers, and actors as the toast of the town. Shenk does a nice job of describing the modes of chess theory—from the romantic style, in which chess was all slashing attacks and clever gambits, and defenses were disdained, to the "scientific" method of 1920s and 1930s, which emphasized controlling the center of the board and eking out small advantages and gaining positions that would lead inexorably to checkmate. As Shenk writes,

> Scientific players laid chess bare. They proved that even the most far-reaching combinations could be thwarted by cautious positioning. The wise player no longer aimed to captivate an audience's imagination with previously unheard-of combinations, but to induce small weaknesses in the opponent's position and gradually exploit these weaknesses to gain an advantage, eventually achieving a position sufficient for a win. Chess was now less like a parlor trick, and more like a mathematical proof.

In the present "post-modern" era, possession of the center has been supplanted by control of the center from the sides, as in the Sicilian defense and other stratagems.

The change in chess styles from romantic to scientific coincided with the ascendancy of Jewish players, which in turn led to an anti-Semitic backlash. Jewish players were criticized and accused of destroying the beauty and aesthetics of chess and replacing it with drudgery and memorization of positions. The renowned grandmaster Alexander Alekhine was especially vile in his anti-Semitic spewings, but one can admire Alekhine's games and detest the man. Shenk touches on the relationship of Jews to chess and puts forward some interesting, if overbroad, ideas linking chess to Talmudic reasoning.

Chess has also served as a means of propaganda, with nations using their success in the game to attempt to prove their superiority. Two prime examples were Nazi Germany and the Soviet Union, whose leaders embraced and rewarded champions, and whose champions pandered to leaders; during chess matches, grandmasters would consult Stalin for advice. Even in the United States, Bobby Fischer's 1972 win over Boris Spassky was used for propaganda purposes.

Speaking of Bobby Fischer, Shenk addresses mental illness and chess in his essay, "Chess and the Shattered Mind," which describes how chess can captivate and twist the imagination, and how socially inept players can be brilliant in their 64-square world. Fischer, whose virtuosity has been outstripped by his bizarre behavior and anti-Semitic diatribes, is a prime example of Shenk's insight. Less extreme, although definitely strange, was the surrealist painter, Marcel Duchamp, who gave up his career as an artist to become an adequate player, but not a champion. He married, spent his honeymoon playing chess, and was soon divorced. Paul Morphy, the American champion, became insane. Chess, along with mathematics and music, is the only discipline that has true child prodigies; these are the disciplines where brilliance can excuse bizarre behavior.

The greatest challenge to chess players today is the computer, which pits logic against imagination and creativity. Yet it's not that simple, because, given the literally trillions of possible moves, programming chess strategy requires art as well as logic. Lately, in any case, the computers have been winning. The book's essay, "We are Sharing a World With Another Species—One That Gets Smarter and More Independent Every Year," opens with a script from the movie *2001: A Space Odyssey*, in which HAL handily beats the crewmember Frank and condescendingly thanks him for an enjoyable game. Are we now there?

There has long been a debate over whether chess is a frivolous activity—a waste of time—or whether it hones intelligence and promotes discipline. One of Shenk's concluding essays discusses a chess program in an inner-city school in New York, where the study of chess has been used to motivate and inspire students. Actually, chess has been used to teach self-discipline for millennia.

Shenk personally dabbles in chess but admits that he is not a great player. Like writers of books on Scrabble and crossword puzzles (see my reviews in the July 2002 and February 2006 issues of *The Federal Lawyer*), Shenk enters tournaments but does not devote the effort required to master the game. He is content to discuss chess as a metaphor, as a symbol, and as just a beautiful thing to observe and study. He is a fan and exhibits a fan's enthusiasm, as exemplified by an appendix in *The Immortal Games* that sets out five legendary games, including Bobby Fischer's "game of the century," in which Fischer sacrificed his queen to gain space and movement that eventually resulted in his checkmating his opponent. This game is the most stunning game that I've ever studied.

Although Shenk spends many pages discussing chess in relation to kings, warriors, philosophers, and artists, playing chess requires no social rank or background. The game involves no start-up costs and calls for no expensive training—64 squares and 32 pieces are all that one needs to play. Chess is played worldwide, in prisons as well as in palaces, and even the homeless can be seen playing for survival money (betting a dollar a game) in urban parks. On Arizona's death row, board games are not allowed, yet prisoners find ways to fashion boards and pieces, risking disciplinary action to play the game. Throughout the nation, penal institutions house players (including one of my own clients) who are of championship caliber. If they want to test their mettle outside of prison, they can do so by playing the game by mail.

Wide-ranging, enthusiastic, and engagingly written, *The Immortal Game* can be read in the two hours that a competitive chess game can be played. You can read it with a chess set in front of you or in any number of parks with outside chess boards, where kibitzers give advice in stage whispers to slow players, and where dollar-a-game players slam pieces in lightning-fast moves, until one of them exultantly cries, "Checkmate!" It's your move. **TFL**

Jon Sands is the federal public defender for the District of Arizona.