Abraham Lincoln

By James M. McPherson

Oxford University Press, New York, NY, 2009. 79 pages, $12.95.

Lincoln: The Biography of a Writer

By Fred Kaplan

HarperCollins, New York, NY, 2008. 406 pages, $27.95.

Reviewed by Henry Cohen

I have read many books about Abraham Lincoln and would not have bothered with a new introductory biography with only 65 pages of text had it not been by James McPherson, the author of *Battle Cry of Freedom* and our leading historian of the Civil War. His new *Abraham Lincoln* does not disappoint. Perfectly written, it relates how the son of illiterate parents became our greatest President. More than half the book is devoted to Lincoln's presidency, and its brief summary of the Civil War is superb. The back cover of the dust jacket contains blurbs from other Lincoln biographers calling this book the best brief biography of our 16th President, and I see no reason to doubt them. *Abraham Lincoln* will serve as a great introduction to or refresher on Lincoln's life.

Writing, Lincoln wrote, "is the great invention of the world," and, in *Lincoln: The Biography of a Writer*, Fred Kaplan adds that "Lincoln was unable to conceive of political discourse as separate from the written word." Lincoln was "the one president who was both a national leader and a genius with language at a time when its power and integrity mattered more than it does today," and he was also the one "president, with the exception of Jefferson, [who] ... wrote every word to which his name is attached."

The subtitle of Kaplan's book—*The Biography of a Writer*—accurately conveys that the book is the biography of a man with an emphasis on his writing, and not, like Douglas Wilson's superb *Lincoln's Sword: The Presidency and the Power of Words*, primarily an analysis of Lincoln's great writings. *Lincoln: The Biography of a Writer* is a chronological biography of Lincoln not only as a writer but also as a youth, lawyer, husband, politician, and President. Kaplan also discusses Lincoln as a reader—of the King James Bible, Shakespeare, Burns, and Byron in particular—and shows how his reading influenced his writing. As a teenager, Lincoln immersed himself in Lindley Murray's *The English Reader*, an anthology that "articulated the mainstream Protestant program," admonishing its readers to "cherish sentiments of charity to all men" and to be allied "[t]o angels on their better side." Kaplan hears echoes of these words in Lincoln's "with malice toward none; with charity for all" in his second inaugural address, and in "the better angels of our nature" in his first inaugural address. Kaplan also writes that *Hamlet* "became a permanent part of [Lincoln's] consciousness" and that some of Lincoln's speeches, such as his second inaugural address, "were to be Shakespearean soliloquies of a sort."

A virtue of Kaplan's *Lincoln* is its focus on some of Lincoln's lesser-known writings, such as his poems, his 1838 speech to the Young Men's Lyceum of Springfield, his 1842 address to the Washington Temperance Society of Springfield, and his 1852 eulogy for Henry Clay also delivered in Springfield. In fact, Kaplan devotes more space to these speeches than to some of Lincoln's most famous ones, such as the Gettysburg Address, presumably because those speeches have received so much attention in other biographies of Lincoln. Kaplan quotes Lincoln generously. It is a pleasure to read such well-formed and blunt writing as this passage from Lincoln's 1854 Peoria speech: "[On the] larger question of domestic-slavery, I wish to MAKE and to KEEP the distinction between the EXISTING institution, and the EXTENSION of it, so broad, and so clear, that no honest man can misunderstand me, and no dishonest one, successfully misrepresent me." Although Lincoln always hated slavery, he believed, until well into the Civil War, that the Constitution protected it in the states where it existed, but not in the territories. If slavery could be kept out of the new territories, they would enter the Union as free states and diminish the power of the slaveholding states. Slavery would eventually die out. Fearing this outcome, the South felt that it had to secede when Lincoln became President.

Kaplan includes much about Lincoln besides his reading and writing, but his choice of material exhibits no pattern. Admittedly, all biographies must be selective in the information they include, but it seems arbitrary to have Lincoln become President only in the last 30 or so pages of the book and to devote more of those pages to Lincoln's actions with respect to Native Americans than to any of the traditionally emphasized aspects of his presidency. Still, the material on Native Americans is interesting, as is an example Kaplan provides earlier in the book of the younger "honest Abe." When he was in his twenties and still a land surveyor, Lincoln visited a prostitute. "When they were naked," Kaplan writes, "Lincoln remembered to ask the price. It was two dollars more than he had. 'I'll trust you, Mr Lincoln, for $2.' He mulled it over. 'I do not wish to go on credit—I'm poor & I don't know where my next dollar will come from and I cannot afford to Cheat you.' He got dressed 'and offered the girl the $3.00, which she would not take, saying—Mr. Lincoln—you are the most Conscientious man I ever saw.'"

Kaplan's emphasis on Lincoln as a reader and a writer is sometimes artificial. He writes that Lincoln "appreciated the inherent danger to effective government in political parties: the manipulation of language to advance their agendas. Political campaigns embodied the inevitable discord between the linguistic nuance of rational discussion and the blunt rhetoric of partisan politics." Yet surely Kaplan does not mean to suggest that, in the absence of political parties, politicians would not manipulate language to advance their agendas, but would consistently display an appreciation of linguistic nuance. Kaplan also writes that, "[a]s a reader of Shakespeare, he [Lincoln] had learned empathetic identification with

a wide range of human feelings and thoughts." But Kaplan cannot know that there was a cause and effect here. Another example of an artificial use of Lincoln's writing is Kaplan's comment that, in 1861, "the immense obstacles to a successful presidency were so different from those any other president had faced that they came close at times to making even his great language skills inadequate." This is true, but all of Lincoln's other skills—and all the other skills of any other opponent of slavery who might have been elected President in 1860—would probably have been inadequate to prevent the Civil War.

Although Kaplan's *Lincoln* is worth reading (the *Washington Post* named it one of the five best nonfiction books of 2008), it is flawed by some sloppy writing. Kaplan discusses Lincoln's term in Congress from 1847 to 1849, but at another point he writes that, "in the two decades prior to 1860 he [Lincoln] held no office at all." Elsewhere, Kaplan discusses an essay that Lincoln wrote about his 1848 visit to Niagara Falls. Kaplan mentions that, as a boy, Lincoln "had read Oliver Goldsmith's description of the Falls" and adds that "British and French eighteenth-century writers about beauty and nature, such as Goldsmith, had not needed to visit the New World to find Niagara a wondrous embodiment of the aesthetic of the sublime." This leaves unclear whether or not Goldsmith visited Niagara Falls. In any case, Kaplan remarks, "Lincoln's fascination with Niagara Falls had of course numbers of sources." "Numbers"? If Lincoln had more than one source, English speakers would typically say that he had "a number" of sources. At another point, Kaplan writes that Lincoln "carried hardly any baggage, both literally and materially." Apart from the fact that, with reference to baggage, "literally" and "materially" mean the same thing, Kaplan happens to be referring solely to Lincoln's figurative political baggage.

Although the writing in *Lincoln* is generally clear, it contains occasional unwieldy sentences: "Words mattered so much, if you will, whether the occasion of expression was public or personal, that his autobiographical sketch inevitably became an exemplification of the existential self, its style and focus part of a self-definition that even a self-serving situation could not entirely undermine." Other sentences are too abstract to convey gainful information: "The power of language resides, Lincoln believed, in its honest and particularized use, its persuasiveness determined by its adherence to the linguistic ground rules of a moral lexicon."

The book also contains a substantive failing. Kaplan discusses the sole case that Lincoln argued before the U.S. Supreme Court in March 1849, shortly before his term as a congressman ended. In *Lewis v. Lewis*, 48 U.S. (7 How.) 776 (1849), Lincoln represented the defendant, who had been sued for selling a parcel of land that he did not own, and the question before the Court was when the statute of limitations had begun to run. Chief Justice Roger Taney, writing for the Court, found for the plaintiff, and Justice John McLean dissented. Kaplan notes that Taney (who, eight years later, wrote the *Dred Scott* decision) was pro-slavery, whereas McLean was anti-slavery, and that the decision "strengthened the Court's power in relation to state legislatures and Congress in order to protect Southern interests." In fact, Kaplan sees protecting slavery as the chief justice's "agenda" in the case, but Kaplan does not explain how he reaches this conclusion. He also states that the case's "deep background distantly referenced" (whatever that means) the question of whether South Carolina's law allowing slavery could be applied in the federal territories. But no connection is apparent between the question of statutory construction raised in *Lewis* and the question of the legality of slavery in the territories, and it is not clear whether Kaplan mentioned South Carolina as an arbitrary example of a slave state or for a more specific reason. Perhaps Kaplan or his publisher was overly concerned about getting the book out before Lincoln's bicentennial this month. **TFL**

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An Honest Calling: The Law Practice of Abraham Lincoln

By Mark E. Steiner

Northern Illinois University Press, DeKalb, IL, 2006. 272 pages, $42.00.

Reviewed by Henry S. Cohn

In the Nov./Dec. 2008 issue of *The Federal Lawyer*, I reviewed Brian Dirck's *Lincoln the Lawyer*. The year before *Lincoln the Lawyer* was published, University of Houston law professor Mark E. Steiner's engaging *An Honest Calling: The Law Practice of Abraham Lincoln* was published. It made use, as did *Lincoln the Lawyer*, of the DVD set, *The Law Practice of Abraham Lincoln: Complete Documentary Edition*, published by the University of Illinois Press in 2000.

In *An Honest Calling*, Mark Steiner has an excellent chapter on the ignorance displayed by both 19th- and 20th-century writers as to the true nature of Lincoln's law practice. William Herndon, Lincoln's law partner in Springfield, in his biography of Lincoln published almost immediately after the assassination, encouraged hero worship of Lincoln's great courtroom feats. More recent historians have also been guilty of this; according Steiner, they have tended to focus only on Lincoln's last years of practice, citing a few well-known cases but not reporting as much on his early career in Springfield or his ineffectiveness in defending clients who were obviously in the wrong. Bar associations, Steiner writes, have also "expropriat[ed] the positive cultural image of Lincoln, … extoll[ing] the honesty and virtue of lawyer Lincoln as emblematic of the entire profession." In the 20th century, as "[t]he solo practitioner was supplanted by the development of large law firms, ... the image of Lincoln the country lawyer had a reassuring, nostalgic function for lawyers." Steiner recommends David Herbert Donald's biography, *Lincoln*, published in 1995, as giving a more balanced picture of Lincoln as a lawyer. (Donald had access to a draft of the University of Illinois DVDs in writing the book.)

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Steiner also devotes a chapter to Lincoln's training for the bar. Lincoln took an unusual path to the bar in that he was entirely self-taught. He did not clerk for an attorney or attend law school but, in keeping with his life story, was a self-made attorney. Steiner finds the depth of Lincoln's legal knowledge impressive, and, as evidence, lists American legal treatises that Lincoln cited in his cases as well as English legal treatises and legal digests he cited.

Although Steiner's book naturally has similarities to Dirck's study, Dirck emphasized Lincoln's collection cases, whereas Steiner points out that Lincoln took on the usual 19th-century general practice of law, including debtor/creditor rights, land disputes, ownership of horses and hogs, slander, and arrests after drunken brawls. Lincoln's delving into the facts behind legal claims contributed to his ability to grasp the details of battles and of troop movements during the Civil War, as he spent mornings at the War Office pouring over telegraph messages received from his commanders in the field. A new book by James McPherson, *Tried by War: Abraham Lincoln as Commander in Chief*, also demonstrates Lincoln's strategic abilities.

Steiner becomes truly original in his picture of Lincoln as having "embodied the Whig reverence for law and order." For Whig lawyers, Steiner writes, the outcome of a dispute "was less important than the fact that it was resolved through peaceful, orderly means." Therefore, even though Lincoln's practice is often portrayed as having been "aligned with business corporations and railroads … , he was also regularly fighting *against* corporations and railroads throughout his career."

A strict regard for legal ethics as well as orderly procedure was the standard belief held by not only Lincoln but also by other Whig attorneys of the time. Steiner begins his book with a quotation from Lincoln's "Notes for a Law Lecture" that acknowledges "a vague popular belief that lawyers are necessarily dishonest" but admonishes that "no young man, choosing the law for a calling, for a moment yield to the popular belief. Resolve to be honest at all events; and if, in your own judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer. Choose some other occupation rather than one in the choosing of which you do, in advance, consent to be a knave."

Whig lawyers also strongly supported settling cases rather than bringing them to court. Steiner mentions a slander case that I discussed in my review of Brian Dirck's *Lincoln the Lawyer*, in which the defendant had called Lincoln's client, who was the defendant's brother-in-law, "a negro." Although the jury awarded $600 in damages, Lincoln and his client, Steiner writes, "agreed to 'release' $400 of the verdict in exchange for the defendant releasing 'all errors which may exist in the record.'"

According to Steiner, Lincoln fits nicely into the Whig tradition for the most part, but Steiner cites two exceptions. The first has been debated by historians for many years: How could Lincoln, the future "Great Emancipator," have agreed in 1847 to represent Robert Matson, a slaveholder from Kentucky, who sought to prevent an Illinois law that provided that slaves became free when they were brought into Illinois from applying so as to free a slave and four of her children whom he had brought to Illinois? Matson eventually lost the suit and his slaves were resettled in Liberia.

The other departure from Whig tradition in Lincoln's career was his decision in 1853 to enter into an agreement with the Illinois Central Railroad to decline to accept any client who planned to sue the railroad. He appeared only on Illinois Central's behalf from that time on until he left the practice of law in 1860. This was a difficult decision for Lincoln and was obviously required by financial interest, and he always regretted his decision.

Steiner, like Dirck, has used the University of Illinois Press DVDs, to make significant points about Lincoln's law practice, not recognized previously by his biographers. Steiner shows the pressures on Lincoln as he coped with issues of black people's freedom and industrialization, problems that would concern him and his fellow attorneys during the Civil War and into Reconstruction. **TFL**

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"Work Hard, Study … and Keep Out of Politics!"

By James A. Baker III; with Steve Fiffer

Northwestern University Press, Evanston, IL, 2008 (first published by G.P. Putnam's Sons in 2006). 485 pages, $19.95.

Cheney: The Untold Story of America's Most Powerful and Controversial Vice President

By Stephen F. Hayes

HarperCollins, New York, NY, 2007. 578 pages, $27.95.

Reviewed by John C. Holmes

Until he was 40, James A. Baker III was a very successful lawyer, who had followed his grandfather's advice and worked hard, studied, and stayed out of politics. For the next 35 years, however, James Baker devoted nearly all his waking hours to laboring for Republican Presidents or presidential candidates, despite his prior Democratic leanings and voting record.

Few others have gained as much respect and influence in politics without running for office. Born in 1930, Baker's political career was initiated through his friendship with George H.W. Bush, whom he supported in a successful congressional election in 1966. In 1970, Baker was actively involved in Bush's losing Senate race against Democrat Lloyd Bentsen. After that, Baker served as undersecretary of commerce in the Ford administration, White House chief of staff for Presidents Reagan and George H.W. Bush, secretary of the treasury under Reagan, and secretary of state under George H.W. Bush. He was also campaign manager for three different candidates in five elections.

In this memoir, Baker, with wit and wisdom, describes the many political battles in which he fought, the issues and causes he faced in office,

and the characters and personalities of those with whom he dealt. An autobiography, of course, in nearly every instance attempts to burnish the image of it author, and this one is no exception. Rather than "kiss and tell," Baker states that he "would not violate the principles by which I gained and held the trust of Gerald Ford, George H.W. Bush, Ronald Reagan and George W. Bush, and many others, and by which I served them." Nevertheless, Baker appears to be scrupulously honest in relating events and his opinions, and he acknowledges his mistakes as well as his triumphs.

Baker also discusses nonpolitical matters. He reports that he found sporadic but welcome relief from his duties by enthusiastically pursuing bird-hunting and fly-fishing when opportunities arose. He describes his longtime religious faith and its influence on his life. He discusses the tragic death of his first wife, Mary Stuart, from breast cancer in 1970, and his marriage three years later to their mutual friend Susan Winston. He and Susan became the combined parents of seven children, and she, a devout Republican, encouraged him to pursue a political career. Finally, Baker reveals that he recently discovered that he was related to James Otis Baker, an African-American, and that the families of the two James Bakers have become good friends.

Cheney

Not having buckled down to his studies, future Vice President Richard Cheney was asked to leave Yale University during his sophomore year. Jumping ahead to 2006, three weeks after he had inadvertently shot a fellow quail hunter in the face and chest, Cheney's approval rating with the American public stood at 18 percent. Between these two undistinguished occasions, however, Cheney's life has been a remarkable history of dedication to duty, successful service in significant appointive and elective governmental and private positions, and major accomplishments.

Concerning his aborted stay at Yale, Cheney said, "I hadn't given any serious thought to why I was there, why I wanted to go to Yale." He was more interested in athletics and in partying and heavy drinking with his rough Western buddies than he was in studying. Returning to Wyoming, he landed a job constructing transmission lines for a utility company, but his partying continued, and, on the night that his former classmates graduated from Yale, he was in jail on a charge of driving under the influence of alcohol.

Cheney's turnabout was motivated by his wife-to-be, Lynne, who made it clear that she would not marry an electrical worker who was in trouble with the law. Cheney entered the University of Wyoming, applied himself diligently to studying political science and other subjects, and graduated with honors. He worked for Wisconsin's Governor Warren Knowles, then for Bill Steiger, a Republican member of the U.S Congress from Wisconsin, after Cheney was turned down for a similar job with a Republican congressman from Illinois, Donald Rumsfeld. Later, during the Nixon administration, Rumsfeld was appointed to head the Office of Economic Opportunity, and he took a second look at Cheney and hired him. Their alliance as Washington insiders continued into the George W. Bush administration.

Stephen F. Hayes, the author of this biography of Cheney, writes that Cheney's initial approach to national politics was procedural, methodical, and detached; it was aimed at how things were done and at which policies worked and which didn't. His experience in the Nixon administration confirmed his Wyoming views of the wisdom of self-reliance, individualism, and skepticism of large government programs, which he believed often did more harm than good.

Hayes chronicles in detail Cheney's ascendancy through the ranks of public service and at partisan politics. After his job in the Nixon administration, Cheney served as an assistant to President Ford, then as Ford's White House chief of staff. Cheney was elected to Congress in 1978 and served five terms, rising quickly to leadership positions and being seriously considered as a presidential candidate in 1996. His dedication to duty as well as his keen intelligence, ability to organize and communicate, and wise decisions, Hayes believes, should be an inspirational standard for others in high government positions. However, even though Cheney was well received as George W. Bush's vice president initially, his increasingly defiant—but calm—demeanor served as a lightning rod for critics of the Bush administration.

This thoroughly researched, objective, and well-written book will undoubtedly do little to change Cheney's unfavorable public image, but the book is of real value to those who want to review the man and his actions as well as the events that occurred in the years that he served as vice president. **TFL**

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Making Your Case: The Art of Persuading Judges

By Antonin Scalia and Bryan A. Garner

Thomson/West, St. Paul, MN, 2008. 245 pages, $29.95.

Reviewed by David F. Herr

Another book on advocacy? One's immediate reaction is that the world needs another book on advocacy even less than it needs another article on e-discovery. How could anyone add something new and important to the abundant literature on the age-old art of advocacy? It is not as if there have been breakthroughs in the science of argument.

Having felt that initial skepticism, it was a wonderful surprise to read—and reread—this treasure of a book. *Making Your Case* doesn't pretend to report on some new discovery in persuasion—Justice Scalia and Bryan Garner build their work on the foundation laid by Aristotle, Quintilian, and their successors—but, in relatively few pages, this book says more than many longer ones. Its brevity is in keeping with its message, and this helps make the book a pleasure to read. It is destined to become a classic in the literature of advocacy.

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It helps to be a Supreme Court justice to take on this topic. The Court sees some of the best of the appellate bar, as well as a steady stream of lesser advocates. This experience gives Justice Scalia a superb background for writing about how to persuade a judge. Bryan Garner, an authority on legal writing in the United States, also has thought a lot about how to persuade judges. And both Scalia and Garner also know how to fail to persuade judges.

Making Your Case is well organized, dealing in turn with general principles of argumentation, legal reasoning, briefing, and oral argument, each comprising several sections headed by a black-letter rule, of which there are 115 in the book. Two good rules are "Cite authorities sparingly" and "Quote authorities more sparingly still"; another rule is to banish acronyms. Lawyers would find it useful to place a list of the book's 115 rules into their trial or appeal notebooks.

It is not fair to fault a book like this for restating some old rules—they are true today and still important. The book would be short indeed were it limited to truly original observations. Scalia and Garner explain why the classic rules make sense and also suggest why many of the rules deserve to be broken. In the process, they offer valuable insight into how a lawyer can be both effective and original in approach. For example, they state the general rule not as "Lead with your strongest argument" (the oft-stated formulation), but as "If possible, lead with your strongest argument," and they explain why it is not always best to begin with your strongest argument. And they encourage a thoughtful approach that makes for effective, forceful, and nonformulaic briefs.

The authors do not agree between themselves on everything, and that adds perspective to this book. Garner is a strong advocate of eschewing any substantive content in footnotes, whereas Scalia takes a more reasonable view, pointing out that the solicitor general's briefs in the Supreme Court regularly relegate to footnotes substantive material that is not crucial to the justices as they read the briefs but that is helpful for clerks doing deeper research into the issues raised in the briefs. Similarly, the authors disagree on the use of contractions in briefs, with Scalia adhering to Garner's one-time view that they have no place in briefs, and Garner now of the opinion that they may make a brief more readable. The authors' dialogue is helpful and informative and should encourage thoughtful—rather than automatic—use of the rules included in the book.

This book is also noteworthy for its breadth. As an experienced appellate lawyer, I found myself taking notes and underlining key points. And the book underscores these points with short practical examples. In addition, *Making Your Case* offers practical advice on some of the more elusive aspects of preparing briefs: planning the brief; understanding the different roles of opening, responsive, and reply briefs; and recognizing the role played by the mandated sections of briefs.

The book's discussion of oral argument is similarly insightful. It contains advice that would help prepare for a major argument before the Supreme Court but that is just as valuable for any appeal or motion argument. The authors stress preparation (as any writer on this subject must) but also advise how to schedule it—the best time to start, the steps to take, ways to organize, and the virtue of conducting a moot argument—and proceed to give practical advice on how to do a good job at the lectern. I would add to their pointers: *Reread pages 161 through 206 of this book during the weekend before your argument.*

Making Your Case will be in the bookcase beside my desk, alongside a small number of other indispensable guides for my legal practice. Like Strunk and White's *Elements of Style*, I will take *Making Your Case* out periodically and read it again—there isn't stronger testimony I can offer as to this book's value. If you read it once, you will consult it frequently again. TFL

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Jingle Jangle: The Perfect Crime Turned Inside Out

By Jim Rix

Broken Bench Press, Zephyr Cove, NV, 2007. 468 pages, $39.00.

Reviewed by Daniel L. Kaplan

We all should have a cousin like Jim Rix. Better yet, we should have a justice system that is too reliable to convict an innocent man of murder twice. Failing that, a cousin like Jim Rix can be quite handy.

Rix didn't think much of it when his mother casually said to him, "You have a cousin on death row, and he's innocent." But Rix was curious and wrote to his cousin, Ray Krone. In response Rix received Krone's facially compelling account of having been wrongly convicted and sentenced to death. Krone's case quickly turned into a sort of hobby for Jim Rix—although using the word "hobby" here is a bit like using it to describe Lance Armstrong's cycling.

Ray Krone was an Air Force veteran and postal worker, who had never before had so much as a traffic citation. Yet, he was convicted of having brutally raped and murdered a female employee at a bar that he frequented. As a result of a car accident and reconstructive surgery, his left front tooth was noticeably lower than his right one, and when the detective leading the investigation came to see Krone shortly after the murder (mistaking Krone for an entirely different "Ray" who had been dating the victim), he stared at Krone's wayward tooth throughout the whole interview. The officer then brought in styrofoam plates and had Krone bite into them. The officer held the plates

up next to a bite mark on the victim and eyeballed them. Apparently the patterns struck the officer as similar enough to generate the mental black hole that experts in wrongful convictions have dubbed the "confirmation bias." From that point forward, the question was not whether Ray Krone was guilty, but how to *prove* that he was guilty.

Once the black hole has formed, every new piece of information is sucked into its vortex—reflexively spun with one purpose in mind: how to use this information to confirm the guilt of the suspect, and, if it can't be used for this purpose, how to downplay or discount the information. The most glaring signs of innocence are ignored, while the most ordinary facts and circumstances are made sinister. Even something as innocuous as a pack of condoms in Krone's dresser drawer became evidence of his guilt—not because the package had tissue or DNA on it (there was no tissue or DNA linking Krone to the victim), but because the package "proved" that Krone was "a cold-blooded killer with the presence of mind to don a condom before committing the rape."

In theory, experts are objective scientists who can provide a check against the power of the confirmation bias. In reality, these experts' minds are often just as prone to black holes as everyone else's mind is. And the role of experts at trial is to amplify the pull of these holes, sucking the jury in. The jury in Ray Krone's first trial was obviously impressed with the video presentation prepared by a forensic odontologist that purported to show how perfectly Krone's teeth matched the bite mark. The jurors asked to see the tape again during their deliberations, then convicted Krone in less than two hours. Rix himself was impressed with the apparent match, and initially he was hesitant to visit his cousin. But then Rix had the bite mark analysis reviewed by another expert, who noted that one of the supposed tooth marks was actually a mole and that an entire range of Krone's teeth was missing from the bite pattern on the victim. This expert concluded that the bite mark *excluded* Krone as the perpetrator. Rix eventually conducted a telling experiment: He sent a model of his *own* teeth to a board-certified forensic odontologist and asked him to compare it to the bite mark evidence used in Krone's trial. Rix claimed that the model was taken from a fictional college student whose murder remained unsolved but hinted to the expert that he believed the source of the model was the killer. Shortly thereafter, Rix received the expert's firm conclusion that his teeth matched the bite mark from the victim in Krone's case together with a trial-ready video presentation illustrating the match. Rix mused darkly that, if the product of his little experiment were to reach the prosecutor, Krone's case might be reopened and dubbed "the case of the biting cousins."

Krone's first conviction was overturned by the Arizona Supreme Court, but, despite an aggressive defense attack on the bite mark analysis, he was convicted again. Subsequent interviews with the jurors confirmed that they had fixated obsessively on the bite mark evidence, even to the extent of voting on the match tooth by tooth. When the majority of teeth were elected "guilty," the jurors reluctantly concluded that they had to convict Krone. Krone was eventually exonerated when DNA found on the victim was matched to that of a man serving a 10-year sentence for child molestation; at the time of the crime of which Krone was convicted, the newly discovered suspect was living 300 yards from the bar where the victim had been found. Soon it was announced that this man had confessed, and the county attorney acknowledged that "[a]n injustice was done." Ray Krone was released after having spent 10 years, three months, and eight days in prison.

Having contributed countless hours and thousands of dollars to Krone's case—reviewing the evidence, researching the scientific and legal issues, chauffeuring Krone's lawyer to and from court, and crashing meetings of the American Board of Forensic Odontologists, among other adventures—Rix earned the right to walk away satisfied with this result. But by this time, he had developed his own mental black hole, theorizing that the man who had now "confessed" was also innocent. Reluctant to abandon his theory, Rix scrutinized the "confession" interview closely and found its legitimacy indeed suspect. The man had been so drunk on the night of the murder that he had no clear memory of what had happened, and he was exceptionally susceptible to suggestive questioning. He was putty in the hands of a skillful interrogator (dubbed "Svengali" by Rix), who shepherded the man into acknowledging that he had had a confrontation with the victim and awoke the next morning with blood on his hands. Rix notes that the quantity of this man's DNA on the victim was excessive, as if he had slobbered all over her shirt, which he might well have done if, as Rix theorized, the man was falling-down drunk when the victim wrestled him to his feet and out of the men's room shortly before she was murdered by someone else. Rix acknowledges that this is only a pet theory in which he became personally invested, but the shakiness of the man's "confession" gives Rix's theory momentum it might otherwise lack. As a result, the reader is left wondering whether the lawyers on both sides might have fixated on the DNA evidence just as myopically as Krone's juries had fixated on the bite mark evidence.

Other than being Ray Krone's cousin, Jim Rix has no personal investment in the justice system. He is not a lawyer but the co-owner of an Internet-based billing service for dentists. His book leaves us with powerful critiques but no recommendations. Fortunately, these issues are beginning to be addressed with some rigor, as the revolution in DNA technology has revealed the importance of understanding the phenomenon of wrongful convictions. Unfortunately, understanding our mental black holes does not make them go away. Our only remedy is to study these black holes closely enough to avoid them—a delicate process that requires constant self-examination and course correction. But it is a process that we must master, because we can always be certain of two things: law degrees and black robes will never free us from our natures, and there will never be enough Jim Rixes to go around. **TFL**

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