



## GOODBYE MIKE, HELLO JUDGE: MY JOURNEY FOR JUSTICE

BY MYRON H. BRIGHT

North Dakota Institute for Regional Studies Press,  
Fargo, ND, 2014. 174 pages, \$30.00.

### Reviewed by Dennis M. Kelly

Judge Myron H. Bright was appointed by President Lyndon Johnson in 1968 and is now the longest serving judge on the U.S. Court of Appeals for the Eighth Circuit. Still active at age 96, he has heard more than 6,500 cases in more than 46 years on the bench. His autobiography is a fascinating account of the often contentious process behind some of his major decisions. It is also a compelling story of a soldier, lawyer, and judge, told with the wisdom of almost a century of life.

Born in 1919, the son of Jewish immigrants, Bright was raised on the Iron Range of Minnesota. He spent his early years working in his father's store in Eveleth, Minnesota, where he learned to appreciate the ethnic diversity of a community of immigrants who worked in the mines. In 1939, he enrolled at the University of Minnesota Law School but soon interrupted his studies for service in the U.S. Army Air Corps in India.

As one of the increasingly fewer members of the "greatest generation," Bright shares his remarkable personal recollections of his World War II days. Many of his experiences involved courts martial, such as the one of a soldier charged with using a military vehicle without permission. The soldier, whom Bright defended, said that he had responded to a request for help in retrieving a stranded vehicle, thus supporting a defense of implied consent to use the military vehicle in an emergency. The soldier, however, did not remember the name of the person who had sought his help. So Lt. Bright placed a notice on a billboard and waited for the witness to come forward. The witness quickly appeared, and the soldier was found not guilty. Some months later, Bright learned that the testimony had been false, that it was "a put-up job." He couldn't believe

that he had been so easily deceived. But the lesson served him well over the years: "Don't trust your client or his witnesses to tell the truth; they may lie. Dig out the facts. Find the truth."

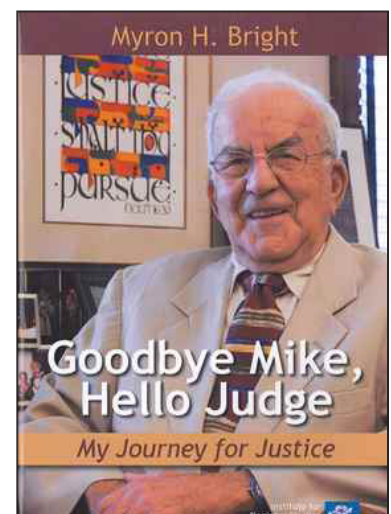
Bright completed law school after the war and began a successful career as a trial lawyer in Fargo, North Dakota. The first five years was a learning period of trying and often losing cases despite long hours and careful preparation. "By losing cases, I learned," he writes. He adds that a lawyer should not tell a jury what to do. "Show them the road. Let them decide. Statements such as 'is that reasonable?' or, after mentioning an important fact, 'what do you think?' often got the jury agreeing with me."

Bright and his wife, Fritzie, were liberal Democrats in historically Republican North Dakota. Having established a reputation as a trial lawyer, Bright, with Fritzie's strong support, jumped into the world of politics in the late 1950s, an endeavor for which Fritzie possessed a natural flair. They were essential in bringing about the close and unexpected election to the U.S. Senate of Democrat Quentin Burdick in 1960, and the election of a Democratic governor, William Guy. In 1960, they also led the charge in Fargo for John F. Kennedy for President. Those were exciting times, and, more than 50 years later, Bright remembers even seemingly insignificant events. One involved North Dakota's blue laws, which barred the sale of alcohol on Sundays. Candidate Kennedy liked to have two bottles of Heineken beer with his dinner, but his Fargo hotel could not provide them on Sundays. Fritzie's trip to a local store on Saturday solved the problem, and Kennedy's visit was a great success.

With Senator Burdick's strong support, President Johnson nominated Bright to the Eighth Circuit. He recounts in detail his 1968 meeting at the White House with Johnson and Burdick—the Rose Garden tour; the room with three portable television sets, each tuned to a different network; and the quintessential Johnsonian advice: "[W]hen you're a circuit judge, while you can't be active in politics, you better get your cousins and kinsmen to remember the man who got you where you are."

*Goodbye Mike, Hello Judge* centers on Bright's career on the bench. He brought to the court a liberal judicial philosophy and a determination to "stand up and be counted" when he knew he was right. Often in the minority, particularly in later years, he has left a lasting imprint on the law, in cases such as *Reserve Mining Co. v. EPA*, 514 F.2d 492 (8th Cir. 1975), which balanced a scientifically uncertain rush to close a Minnesota mine for environmental reasons and the hardship to potentially displaced workers, whose plight he knew all too well from his years on the Iron Range.

"Having known of and felt unfair discrimination myself, I have a concern that I should do all that I can do to limit or eradicate wrongful discrimination under law." In *Green v. McDonnell Douglas Corp.*, 463 F.2d 337 (8th Cir. 1972), Bright formulated the rule that the U.S. Supreme Court unanimously adopted in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). Once the plaintiff in a Title VII case demonstrates that he belongs to a racial minority; that he applied and was qualified for a job for which the employer was seeking applicants; and that, despite his qualifications, he was rejected and the employer continued to seek applicants, then the burden shifts to the employer to articulate some legitimate, nondiscriminatory reason for the rejection and to show by competent evidence that the reasons were not pretextual. *Green* was a criti-



cal step in the fight against employment discrimination and truly deserves the appellation “landmark case,” having been cited more than 132,000 times by courts throughout the country.

Bright tells the remarkable story of James Dean Walker, who was wrongfully convicted of the 1963 murder of an Arkansas police officer and sentenced to death. Walker was freed in 1985 because of Bright’s refusal to give up when he knew he was right. *Walker v. Lockhart*, 763 F.2d 942 (8th Cir. 1985). Bright comments, “I don’t know anybody who can get any more pleasure than I did from feeling that there was a life saved.” A South Dakota prisoner—a habitual offender sentenced to life without parole for passing a bad check—also benefitted from the judge’s refusal to tolerate injustice. *Helm v. Solem*, 684 F.2d 582 (8th Cir. 1982). Although it was his seventh nonviolent felony, the penalty did not fit the crime. Against the existing precedent, Bright found the sentence cruel and unusual. He writes: “An imaginative judge seeking to do justice in a case even when precedent seems against a proper result must and should find a way to do justice within the law.” Bright was vindicated and surprised when the Supreme Court affirmed that decision in *Solem v. Helm*, 463 U.S. 277 (1983).

Given his aversion to unjustifiable prison sentences, it is not surprising that Bright’s biggest disappointment is the lack of progress pushing back on the federal sentencing guidelines, particularly as they apply to Native Americans, who are subject to federal penalties for crimes committed on reservations that may be vastly disproportionate to state court sentences. He wrote a series of opinions demonstrating the unreasonableness of the guidelines, which in this book he calls “part of a topsy-turvy world of sentencing.” He complains that many district court judges still follow them, even though they are now merely advisory.

*Goodbye Mike, Hello Judge* is a highly readable account of a life that witnessed almost a century of our country’s history. Bright reveals a profound appreciation of our American system of justice and a compassionate idealism. He may serve as a model for the legal profession for many years to come. ☺

*Dennis M. Kelly is a retired partner of Jones Day, where he spent his entire career after he clerked for Judge Bright in 1968–69.*

## THE EMBATTLED CONSTITUTION

EDITED BY NORMAN DORSEN  
WITH CATHARINE DEJULIO

New York University Press, New York, NY, 2013.  
376 pages, \$55.00.

### Reviewed by Paul Vamvas

*The Embattled Constitution* is the fourth volume of the James Madison lectures given at New York University Law School by U.S. Supreme Court justices and federal judges. Justice Hugo Black gave the first lecture in 1960. Professor Norman Dorsen has directed the series since 1977 and is the editor of this collection, which is drawn from lectures given between 2002 and 2013.

Dorsen writes that each of the four volumes’ titles reflects the period in which it was published. The first volume, *The Great Rights*, reflected, Dorsen believes, “the only period in American history when a majority of Justices were determined to expand civil liberties in many spheres, including free speech, religious liberty, racial justice, privacy, and criminal justice.” The second volume, *The Evolving Constitution*, included talks “that looked forward to the judicial protections eventually accorded women and, much later, homosexuals; and there was analysis of statutory rights accorded the elderly and physically disabled.” Next came *The Unpredictable Constitution*, addressing “limits on Congress’s power to legislate under the Commerce Clause” and “other difficult and uncertain issues.” And now arrives *The Embattled Constitution*, which Dorsen believes “appears at a time when the two wings of the Supreme Court have become more intensely divided, with the four Justices in each camp locked in on certain types of cases.”

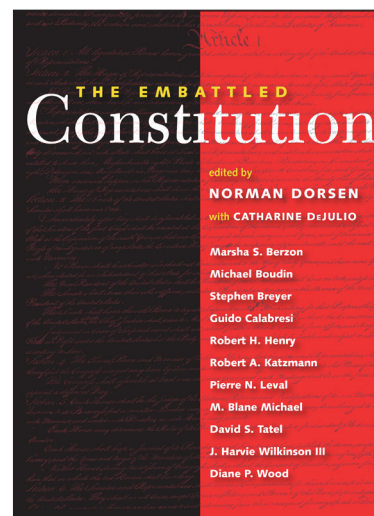
Two of the 11 lectures in *The Embattled Constitution* have been expanded into books. Justice Stephen Breyer’s lecture, here titled “Our Democratic Constitution,” became the basis for his book *Active Liberty*. And Judge Robert A. Katz’s lecture, here called “Statutes,” was expanded upon and published in 2014 as *Judging*

*Statutes*, which I reviewed in the March 2015 issue of *The Federal Lawyer*.

Two other lectures are paeans to great jurists: Justice John Marshall Harlan and Judge Henry Friendly of the U.S. Court of Appeals for the Second Circuit. Both are movingly written and, in addition to paying tribute to the judges, make larger points about the nature of judging and finding the balance between tradition and adaptation.

The remaining seven lectures offer views, analyses, and arguments about a broad range of topics concerning judges, courts, and the Constitution. Although these lectures were written years apart, they have some common themes and constitute what might be viewed as almost a conversation across the years among the various authors. One question that several of them raise is the proper role of the courts.

Judge David Tatel looks at the question of “activist judges” through the lens of two of the Supreme Court’s post-*Brown v. Board of Education* school desegregation decisions. He begins by criticizing the term “activist judge” as a misnomer usually used to describe a jurist who has reached a decision the critic doesn’t like and that seems to the critic to suggest a political agenda on the judge’s part. Tatel argues that the true measure of whether a judicial decision is legitimate is much more complicated. The variables in his judicial algorithm include whether the decision was consistent with principles of stare decisis, faithful to the constitutional and statutory text and to the intent of the drafters, applied the proper standard of review to lower court fact-finding, limited



the issues resolved to those raised by the parties, avoided unnecessary dicta, and, finally, openly and rationally explained its results. Even following these rules assiduously, Tatel concedes, won't standardize judicial decision-making, but it will help federal courts avoid intruding on the policymaking function.

Such intrusion is what Tatel charges the Court with in the two post-*Brown* decisions: *Board of Education v. Dowell* (1991) and *Missouri v. Jenkins* (1995). He concludes that the majority in both cases failed to explain why it (1) overruled the precedent it did, (2) discarded lower court fact-finding and (3) engaged in fact-finding of its own. In short, it violated a number of the variables in his algorithm.

In his 2005 lecture, Judge Pierre Leval of the U.S. Court of Appeals for the Second Circuit attacks what he says has become the habit of judges when they cite precedent of treating dicta as holdings. Why does that matter, he asks? Because he believes "that courts are more likely to exercise flawed, ill-considered judgment, more likely to overlook salutary cautions and contraindications, more likely to pronounce flawed rules, when uttering dicta than when deciding their cases." This, he adds, "increases the likelihood that the law we produce will be bad law." Echoing some of Tatel's concerns, Leval says that citing dicta as if they were holdings undermines the important role of *stare decisis*. That, in turn, reduces the consistency of the law that is at the heart of the judiciary's role under the Constitution to decide only cases and controversies. Without the chain of reasoning reaching back through the case law, the courts' authority to establish law does not exist. Leval compares a court's deciding a case based on dicta to its publishing a compendium of rules to govern a particular type of case. That's not its job.

Judge Diane Wood's 2003 contribution is brief but significant. Her focus is on nothing less than the role of "Our Eighteenth-Century Constitution in the Twenty-First-Century World." "Is this eighteenth-century document, along with its eighteenth-century Bill of Rights and its other seventeen Amendments still up to the job," she asks? And she answers immediately that "[o]ne's answer depends critically on which model of constitutional interpretation one chooses: the originalist approach or the dynamic approach."

If it were interpreted literally in the 21st century, Wood argues, our 18th-century Constitution would not be up to the job; it would be "a woefully inadequate document for the American people today." Historical change, such as the rise of the administrative state during the New Deal era, has required the Constitution to evolve in a dynamic fashion. "The literal Constitution," Wood writes, "would require a radical restructuring of the administrative state, placing a nearly unbearable legislative burden on the Congress to specify in detail exactly what powers it was conferring on executive branch agencies and to monitor the minutiae through some kind of oversight mechanism." If we did not take a dynamic approach to interpreting the Constitution, we would have to make constant amendments to it that "would ultimately devalue the Constitution and make it the same kind of repository of special interest rules that one can observe in all too many state constitutions." But the existence of the debate between the originalist and dynamic approaches to constitutional interpretation, Wood writes, "does not imply that one side's position is illegitimate, unpatriotic, or otherwise unworthy, while the other side's position is foreordained." Indeed, she believes that the debate is inevitable.

I'll briefly mention three other contributions to this volume. Judge Guido Calabresi argues for restoring a workable balance between state and federal courts. Judge M. Blane Michael asks whether "the Fourth Amendment—designed in the musty age of paper—[can] offer any meaningful privacy protection today for personal electronic data." Judge Marsha Berzon suggests that the "federal courts have conflated the sensible desire for clear legislative direction with respect to enforcement of federal laws with the more dubious proposition that similar congressional authority is required for judicial enforcement of constitutional guarantees."

*The Embattled Constitution* is an intellectual feast for those with an appetite for intelligent analysis of broad constitutional issues. Although you never know what you are going to get when you turn the page, you can be sure that it will be satisfying and filling. ☺

*Paul Vamvas is a lawyer with the federal government in Washington, D.C.*

## A HISTORY OF THE TWENTIETH CENTURY IN 100 MAPS

BY TIM BRYARS AND TOM HARPER

The University of Chicago Press, Chicago, IL, 2014.  
240 pages, \$45.00.

Reviewed by Henry S. Cohn

It has been said that history is nothing more than chronology and geography. Two British specialists in antiquarian maps, Tim Bryars and Tom Harper, aim to prove this point with their book, *A History of the Twentieth Century in 100 Maps*, setting forth maps that serve as historic markers of the 20th century. Bryars and Harper acknowledge, however, that, as Susan Schulten showed in *Mapping The Nation* (which I reviewed in the August 2013 issue of *The Federal Lawyer*), the term "map" today encompasses more than the "metes and bounds" map of earlier eras. Maps today may translate data into visual form, and they may be thematic rather than geographical. Instead of mapping locations, they may map, for example, crime, disease, or temperature. As Schulten wrote in her book, maps may serve as "tools of spatial analysis, inquiry, administration, and control."

Bryars and Harper take the reader through a variety of 20th century maps—both traditional and unconventional. The maps they selected are printed on a variety of materials: on standard paper, a cloth handkerchief, a book's endpapers, a greeting card, or a postcard. The maps may be issued by a government or a commercial enterprise. The maps' topics range from official planning documents to tourism recommendations. *A History of the Twentieth Century in 100 Maps* is a joint publication venture of the British Library and the Chicago Press, and most of the maps have a British perspective.

As one might expect in light of the bellicosity of the 20th century, the majority of the maps have some link to war or terrorism. The earliest of these is a 1900 map of Bloemfontein, the capital city of the Orange Free State, South Africa, at the time of the Boer War. Several maps are from World War I, including one from the first day of fighting at the Somme. A propaganda document entitled "What Germany Wants," which was aimed at a British audience in 1916, highlights Germany's far-reaching territorial claims.

A colorful map of the time shows breeds of dogs and other animals representing each European country. The map maker chose the bulldog for Britain, the poodle for France, the dachshund for Germany, and the bear for Russia. A map that is not in the book but is on the cover of the Nov. 30, 2014, issue of *The New York Times Book Review* distorts each country into a shape of a caricature of a person from that country.

A map from the Spanish Civil War and a map offering Nazi suggestions for a tour of Nuremberg portend the approach of World War II. To illustrate the war, the authors have chosen, among others, a Japanese map used in the Pearl Harbor attack, a German map of occupied Paris, a Luftwaffe map of bomb damage in London, a D-Day map for the invasion of Caen, and a map of occupied Berlin.

After World War II, wars became more regionalized, and the book includes maps of the Suez invasion of 1956, the 1961 Bay of Pigs incident, Margaret Thatcher's 1982 war to retake the Falkland Islands, and the 1991 Gulf War. The book's postscript contains an excellent map drawn a few days after Sept. 11, 2001, showing the destruction, building-by-building, at Ground Zero, as well as the progress in removing the debris.

Bryars and Harper also pay attention to the international efforts to redefine countries' boundaries that occurred after various wars. These include an unsuccessful proposal in 1920 to expand Greece's boundaries at the expense of Turkey. In 1947, an effort was made to resolve a crisis on the border of India and Pakistan in the Bengal region. Two maps illustrate the

British Mandate in Palestine, one showing land settlement and immigration in 1930 and another showing Jerusalem in 1942, cleverly drawn on the palm of a hand.

Scientific innovation and discoveries also marked the 20th century. As to these, the authors set forth maps relating to nuclear testing and the dangers of nuclear power plants, including the Chernobyl meltdown. They include a map of Sir Ernest Shackleton's 1914 expedition to the South Pole, the path of a solar eclipse from 1927, and a photograph of the moon's surface from 1968. A color map from 1995 shows early Internet traffic.

Several maps relate to English royalty. In 1936, when Edward VIII was awaiting his coronation, a fabric map of the king's dominions was manufactured with a flag background and a photograph of the anticipated king. When the map became available to the public in 1937, it was obsolete, because Edward had resigned before he officially accepted the crown. Bryars and Harper also include a map from 1977, issued for Queen Elizabeth's Silver Jubilee and pointing out where beacon fires were to be lit in celebration. These fires were to recall similar fires set in 1588 to warn of a possible invasion by the Spanish Armada. Perhaps the saddest of these royal maps dates from 1997, setting forth the details of Princess Diana's funeral procession. The authors argue that maps are not always cold, lifeless documents but can also bring out warm, human emotions.

The book brims with maps that depict the development of 20th-century society. These include E.H. Shepard's 1926 map of the Hundred Acre Wood from the endpapers of *Winnie-the-Pooh*, and a map reducing the stories of the *Lord of the Rings* to one page. Maps show railroad tours of England to various inns in 1949 and similar tours made by automobile in 1981. A 1974 map assisted tourists who were looking for early Beatles sites in Liverpool.

The 1918 "Ancient Mapped of Fairyland" places many children's stories in a countryside format. The authors observe that this map might have been drawn to lift the spirits of people who had suffered in bomb-blasted Europe. A cartoon map of continental Europe, published by the British satire publisher, *Viz*, at the end of the 20th century, takes a no-holds-barred look at Europe, with its public nudity and

pill-popping, and the authors find that some aspects of contemporary life now overstep the line of good taste. *A History of the Twentieth Century in 100 Maps* succeeds in showing how maps depict the brutalities and wonders of the last century. ☺

*Henry S. Cohn is a judge of the Connecticut Superior Court.*

## **BECOMING STEVE JOBS: THE EVOLUTION OF A RECKLESS UPSTART INTO A VISIONARY LEADER**

BY BRENT SCHLENDER AND RICK TETZELI

*Crown Business, New York, NY, 2015.*

447 pages, \$30.00.

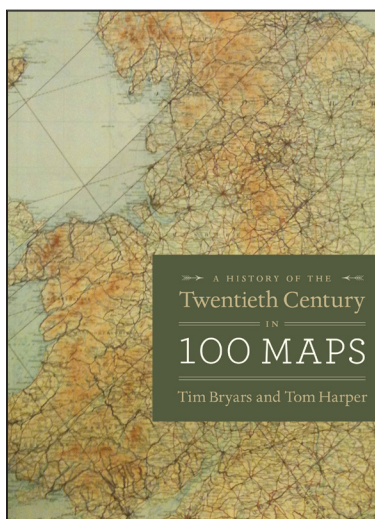
### **Reviewed by Christopher Faille**

Our own day has seen a revival of a debate once thought to have been settled—even dismissed from further respectable discussion: the debate over the role of extraordinary individuals in the broad movement of history.

The English sage Thomas Carlyle kicked off this debate in 1840 with his book, *On Heroes, Hero-Worship, and the Heroic in History*. He believed that history is in essence a series of biographies, and he offered capsule versions of several. The heroes he discussed included Mahomet (his spelling), as well as Shakespeare, John Knox, Rousseau, and Napoleon.

Thirty-two years later, Carlyle's view brought a riposte from Herbert Spencer. Spencer, who at the peak of his own renown might have been considered a fit addition to lists of heroes, criticized the whole notion that extraordinary individuals shape history. "Before he can remake his society," Spencer wrote, "his society must make him."

In 1880, William James entered this fray, with a lecture to the Harvard Natural History Society titled "Great Men, Great Thoughts, and the Environment." James, answering both Spencer and Spencer's Canadian disciple, Grant Allen, said that the chief reason that a community changes from one generation to the next is indeed to be found in the "accumulated influences of individuals, of their examples, their initiatives, and their decisions ... the Grants and the Bismarcks, the Joneses and the Smiths."



## Remember Jones and Smith

There is a difference between James' individualism and Carlyle's. James' use of those Anglo-American paradigms of anonymity, Jones and Smith, was his way of acknowledging, I submit, that individuals who don't get into the history books nonetheless play a part in the transformations that it is the duty of a historian to record, and that part of a historian's role is to uncover and chronicle the obscure folks of whom this is so. Despite this difference, James was in important respects closer to Carlyle than to Spencer.

As for Grant and Bismarck, the obvious comment to make is that these were quite contemporary references: The latter was the chancellor of Germany when James gave his lecture, and the former had stepped down as President of the United States three years before. But that isn't the whole reason for the coupling. In his lecture, James didn't bother mentioning the *incumbent* President, Rutherford B. Hayes, at all. Some Presidents move their world more than others.

It is a plausible hypothesis that it was not in fact by virtue of his presidency that Grant made James' short list. Grant was there as the fellow who had sat at the winner's side of the table at Appomattox in 1865. His name is coupled here with Bismarck's because Grant as a general had reunited a nation a decade before Bismarck brought together a passel of German-speaking principalities and made of them a nation-state in the center of Europe, taking the word "center" in every sense. Each was a standout in the broad trend of nation-state consolidation.

Notwithstanding James' answer to Spencer, something akin to Spencer's view prevailed over the following decades. By 1943, when Sidney Hook published *The Hero in History*, the debate was essentially over. Hook's concern was with the self-defined heroism of the fascist leaders of his day. Hook sought to place in context the way that Hitler and Mussolini saw themselves as storming the heavens, presuming that all one needs to do that is, in Hook's phrase, "a good will or a strong one." Such heaven-storming and its consequences had cast a rather unflattering retrospective light upon Carlyle's conceptions of a century before.

## An Old Issue in a New Guise

Since then, the question of the role of the individual in history has been resurrected. The publication of two thick and serious volumes about Steve Jobs within

four years of Jobs' death in October 2011 tells us something about the form the debate may now take. We nowadays look for extraordinary individuals at some distance from political capitals or battlefields. But we still, or again, see the development of new technologies and industries, and the rise and fall of multinational corporations within those industries, as the consequence of the contributions of individuals.

With all that as preface, I come at last to the book under review: *Becoming Steve Jobs: The Evolution of a Reckless Upstart into a Visionary Leader*, by Brent Schlender and Rick Tetzeli. Schlender and Tetzeli seek to improve Jobs' reputation, which in their view was unfairly maligned by the first biography of him, *Steve Jobs*, by Walter Isaacson, which I reviewed in these pages in July 2012. Isaacson contributed to a view of Jobs as a sometimes loathsome human being whose intense focus on product development nonetheless made a great and creative contribution to contemporary life as well as a lot of money for him and Apple stockholders. Schlender and Tetzeli agree about the positives there, but want to dial way back on Isaacson's portrayal of Jobs-as-jerk.

Schlender and Tetzeli seek to improve Jobs' reputation by making a distinction between the early and the late Jobs. The early Jobs, the founder of Apple and its product-development guru during the early years (1976 to 1985), was in fact the man Isaacson portrays: both a visionary and a jackass. The birth in 1978, when Jobs was 23, of his daughter Lisa to girlfriend Chrisann Brennan was, Schlender and Tetzeli write, a "clarion call to accept adult responsibility," a call that Jobs rejected, "as fully as he rejected" Lisa herself. In this incident, the negative aspects of his personality were "out of control."

But there was more life to be lived. Jobs became a changed man (runs this new account) after and in part because he was fired from Apple by way of two emotionally charged boardroom confrontations in March and May of 1985. This firing was traumatic, because Jobs was a proud man who was known to the world as one of the founders of Apple and whose self-image was bound up with that identity.

If, as we're often told, "pride goeth before a fall," the fall can goeth before a reconstruction. That, according to Schlender and Tetzeli, is what happened. Jobs recreated

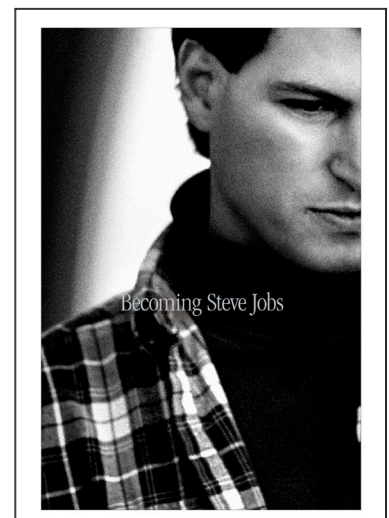
himself after the trauma largely through another corporate vehicle, the innovative motion picture animator Pixar.

Jobs bought a majority stake in Pixar in 1986, buying it from George Lucas for \$5 million, and capitalizing it with another \$5 million. Pixar would both make Jobs a billionaire and give him the platform that allowed for his triumphant return to Apple. Pixar, if we may draw an analogy to the life of one of Carlyle's heroes, was Elba.

Schlender and Tetzeli (who use the singular pronoun "I" for narrative convenience and as a reference to Schlender's long, personal relationship with Jobs) write as follows:

When people list the many industries that Steve is said to have revolutionized, they often include the movies, since Pixar brought a whole new art form to the big screen. I'm not of that mind. John Lasseter and Ed Catmull are the men who brought 3-D computer graphics to the movies, and revived the art of animated storytelling.

That said, Steve did play a critical role in Pixar's success. His influence was constrained, because Catmull and Lasseter were the ones shaping Pixar, not he. But that constraint, ironically, freed him to do what only he could do best, and he did it brilliantly. ... These are the years when his negotiating style gained a new subtlety—without losing its ballsy brashness. This is when he first started understanding the meaning of teamwork as something that's far



more complicated than simply rallying small groups—without losing his capacity to lead and inspire. And this is where he started to develop patience—without losing any of his memorable, and motivating, edge.

If we think of Steve Jobs as a corporate equivalent of Napoleon, or of James' choices, Grant and Bismarck, we can think of Lasseter and Catmull, respectively a director/screenwriter and a computer scientist, as the "Jones and Smith" of the rise of Pixar, and the geniuses behind its 1995 signature hit, *Toy Story*.

I don't know whether Elba made Napoleon a new man. His second turn as emperor didn't really last long in any event. But Jobs' second turn as "emperor" at Apple was a good deal longer and had very memorable consequences.

### Conclusion

How does all this fit into the debate with which we began? A scholar studying the development of the computer industry might wonder: What would have happened to Apple after 1997 if Steve Jobs had never purchased Pixar in 1986? Suppose Lucas had held out for more money than Jobs was willing to pay, and had found another

buyer? Suppose (if the broad thesis of this book is right) that the collaboration with Lasseter and Catmull had never happened and thus had never had its transformative value? Suppose (in that universe, as in this one) that, while the Pixar team was receiving box-office gold and critical hurrahs for *Toy Story*, Apple was falling into trouble under the bumbling leadership of Gil Amelio?

Would somebody else have appeared, succeeded Amelio, and successfully restored Apple's prominence? Or would the corporate vessel have sunk to the ocean's floor? And what might have been the broader consequences of that?

Some revisionist industry historian may someday find some kind words to say about Amelio as a figure in Apple's history. But Schlender and Tetzeli find none, and in this they are at one with Isaacson. Schlender and Tetzeli write of a public presentation Amelio once gave that included the following analogy:

Apple is a boat. There's a hole in the boat, and it's taking on water. But there's also a treasure on board. And the problem is, everyone on board is rowing in different directions, so the boat is just standing still. My job is to get everyone rowing in the same direction.

The analogy left the audience puzzled, wondering why a captain would ignore the hole in the boat and focus on the rowing issue instead. It left some with the conviction that Amelio *was* the hole in the boat, and that Jobs might be the patch.

The second period of Jobs' leadership saw the radical design of the new iMac, which helped push floppy disks toward extinction, and the development of the iBooks, a new style of laptop aimed at entrepreneurs, giving them a new combination of computing power and mobility. That was just the beginning—later developments in this period revolutionized the music industry as well as the mobile telephone market. Would any of that have happened had the Lucas and Jobs' negotiations over Pixar failed?

That is the question with which *Becoming Steve Jobs* leaves us. ☺

*Christopher C. Faille graduated from Western New England College School of Law in 1982 and became a member of the Connecticut Bar soon thereafter. He is at work on a book that will make the quants of Wall Street intelligible to sociology majors.*

# Friend Us. Follow Us. Join Us.



[www.fedbar.org](http://www.fedbar.org)