

## Remember the Titan

*Reviewed by Benjamin Wittes*

AT MORE THAN 900 PAGES, Melvin Urofsky's biography of one of the U.S. Supreme Court's titanic figures is a doorstop. Merely to describe its contents will no doubt have many prospective readers running for the exits. Brandeis (1856–1941) was a man of uncommon diversity, so to read about the fullness of his life requires not merely an interest in Supreme Court history but in Progressive Era politics, antitrust policy, Zionism, railroads, turn-of-the-century labor-management disputes, savings bank life insurance (a particular passion), the Woodrow Wilson administration, and countless reform projects in which Brandeis played a major role. Such is the scope and detail of Urofsky's project—and of Brandeis's activities that remain of interest today—that not until page 460 does the book's hero sit on the high court, in 1916, at the age of 59.

Yet Urofsky's book is something of a page turner. To be sure, an editor keen to ensure that those who began the book finished it could have trimmed a goodly number of pages without sacrificing much. But Urofsky, a historian at Virginia Commonwealth University, does a remarkable job of sucking the reader into the various worlds in which Brandeis lived and worked.

Brandeis—who grew up in Louisville and made his career in Boston—is one of those figures in American legal history whose influence is so profound and pervasive that he is difficult to classify. To this day, he personifies, along with Thurgood Mar-

LOUIS D.  
BRANDEIS:  
A Life.

*By Melvin I. Urofsky.*  
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Louis D. Brandeis

shall, the liberal ideal of a justice who champions social justice. He did battle with conservative forces, both on and off the Court. And along with Oliver Wendell Holmes Jr., he stood against the constitutionalization of probusiness policies by his judicial colleagues. Franklin Delano Roosevelt called him "Isaiah"—a reference both to his Judaism and to his having, in the view of many New Dealers, prophetically warned of the social ills that would trigger the Great Depression. And, of course, he famously created the notion of a right to privacy, an idea he articulated in a landmark 1890 law review article. He is thus justly a liberal icon.

Yet Antonin Scalia probably owes Brandeis as much as Ruth Bader Ginsburg does. Brandeis's attack on the aggressive judicial conservatism of his day helped shape modern judicial conservatism's creed of restraint. He opposed investing the constitutional protection of due process with substantive rights; at the time, that meant opposition to the right of business to operate free of regulation, though now it would mean, among other things, opposition to constitutionally protected abortion. Brandeis was a committed believer in the right of states to experi-

ment with policies; he mistrusted bigness in government almost as much as he loathed it in business. And he vigorously insisted on the jurisdictional limits of the federal courts—a position commonly opposed by today's judicial liberals and embraced by conservatives.

Urofsky's exhaustive exploration of Brandeis's pre-Court years goes a considerable distance toward squaring this apparent circle. Brandeis's hands were seemingly in everything, from the resolution of Boston's transportation issues to the running of the American Zionist movement, from the advising of President Wilson to the mediation of major labor

disputes. He helped build up Harvard Law School. He wrote muckraking pamphlets and lasting works of legal scholarship. He helped invent the notion of pro bono legal work.

Oddly, however, Urofsky's treatment of Brandeis's jurisprudence itself is not especially rich. The book is weighted in favor of lengthy discussions of intra-Zionist politics and railroad regulation in New England at the expense of the great jurisprudential arguments during Brandeis's service on the Supreme Court. Urofsky does an excellent job explicating Brandeis's role in the shift away from the legal classicism of the turn of the century, but the sheer volume of other material downplays his role on the Court.

The book has other quirks. For example, Urofsky seems to make a point of de-emphasizing anti-Semitism as a factor in Brandeis's life—even where its role is glaringly obvious, such as in the ugly battle that preceded his confirmation to the Court. In the main, however, the book takes on a sweeping set of subjects in the person of Louis Brandeis and offers, through him, an often-moving tour of a period of great change and tumult in the law.

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## Ghosts of the Heartland

Reviewed by Sarah L. Courteau

A SIGN ON THE OUTSKIRTS of Jewell, Iowa, greets visitors with the homey slogan, "A Gem in a Friendly Setting." By the railroad tracks that bisect Main Street, a grain silo stands as a totem of the soybean and corn fields that tickle the yards at the town limits. The population recorded by the census of 1990—the year after my family moved to Jewell when I was 13—was 1,106. South Hamilton High School, housed in a low building at the edge of town,

**HOLLOWING OUT THE MIDDLE:**  
The Rural Brain Drain and What It Means for America.

By Patrick J. Carr and  
Maria J. Kefalas.  
Beacon. 239 pp. \$26.95

**METHLAND:**  
The Death and Life of an American Small Town.

By Nick Reding.  
Bloomsbury.  
255 pp. \$25

launched me into the world every way it could, even hiring me as an office assistant to give me a little spending money. My calculus teacher tutored me during her free period. My English teacher directed me on independent study projects. The guidance counselor coached me through the college application process and, at one point, put me up in his home while my family was out of town. The summer after I graduated, my family moved away, and I left for an East Coast college. I've been back once.

I am what husband-and-wife sociologists Patrick J. Carr and Maria J. Kefalas, authors of *Hollowing Out the Middle*, term an "Achiever," and I'm part of a big American problem: a rural brain drain that siphons educated young people from "flyover country" into the urban centers they've seen on television sitcoms. In 1940, the authors note, only one in 20 Americans possessed a college degree, and professionals such as doctors and lawyers were scattered around the country fairly evenly. In 1970, five years after President Lyndon B. Johnson signed legislation that created a federal financial aid system, five percentage points separated the most- and least-educated regions of the country. By 2000 the "regional education gap" had more than doubled, to 13 percentage points, reinforcing "a level of uneven development not seen since the Civil War." Carr and Kefalas moved to a small town in northeastern Iowa, which they dub "Ellis" to preserve its anonymity, and interviewed hundreds of young Iowa natives to try to pin down the factors that influence a person to stay, leave, or return.

Increased educational opportunities are only a part of the story. As journalist Nick Reding documents in his brilliant and hard-won book *Methland*, a new economy has fundamentally altered the rural landscape, even as many of us continue to harbor Mayberry images of Main Streets populated by salt-of-the-earth types, the kind of people who represent "America's backbone" in political commercials. Over the course of four years, Reding spent countless hours with the residents of Oelwein, a town of less than 7,000 that, like Ellis, is located in northeastern Iowa, to document the methamphetamine epidemic that is devastating rural working-class communities. The problem has