

proto-citizens. As Jones puts it in a striking passage, “When they entered the courthouse, what transpired was not at all what lawmakers had intended. Black petitioners looked more like rights-bearing people than the degraded subjects they were intended to be. They took part in courthouse culture. . . . On the city’s streets, with court-issued papers in their pockets and pouches, black Baltimoreans looked more and more like persons with rights” (71). To the extent that Jones is making a general claim here, one might raise questions. Is the gap between “degraded subjects” and “rights-bearing people” unbridgeable? What is the relationship between “looking like” a rights-bearing subject and being one? What is the relationship between being a rights-bearing subject and being a citizen? Are there limits to this strategy? Is Jones perhaps too sanguine about the possibilities inherent in clothing oneself with the accoutrements of the law? After all, human history is littered with instances in which “looking like” a rights-bearing subject has not prevented dramatic and shocking losses of rights. Nowhere is this clearer than in the case of free blacks themselves, whose situation in many states, notwithstanding their attempts to “look like” rights-bearing subjects, worsened between the late eighteenth century and the Civil War. I raise such questions not because I doubt Jones’s insight, but because I want to believe it.

*Birthright Citizens* is an immensely readable book that makes a major contribution to the historiography of race, slavery, and American citizenship. As the foregoing suggests, it also raises fundamental questions about legal subjectivity, how it emerges, and how it can be sustained. It deserves a wide readership.

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Lucy E. Salyer, *Under the Starry Flag: How a Band of Irish Americans Joined the Fenian Revolt and Sparked a Crisis over Citizenship*, Cambridge and London: The Belknap Press of Harvard University Press, 2018. Pp. 328. \$29.95 hardcover (ISBN 9780674057630).  
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*Under the Starry Flag* is a wonderfully rich account of truly consequential events in the history of American citizenship. It recounts the ill-fated attempt in 1867 of a group of Irish-American men to sail from the United States to Ireland in order to join a planned rebellion to free Ireland from British imperial

rule. The men were part of a larger movement of Irish nationalist “Fenians,” a term that was linked to the legend of mythical Irish warriors known as the *Fianna*. Upon landing in Ireland, some of the sailors and would-be revolutionaries were caught, imprisoned, and tried by British authorities. They called on their status as American citizens to protect them, beginning a series of negotiations, protests, and legal skirmishes on both sides of the Atlantic. All of the rebels who took that ill-fated journey were eventually freed, but not until Congress passed the Expatriation Act in 1868 and American diplomats began negotiating treaties with various countries to protect the right of expatriation, which allows citizens to give up their old citizenship and take on a new one.

Salyer does not exaggerate the importance of this heretofore little-known episode; the book is convincing in its portrayal of the Fenian cause as the prime change agent in this aspect of the law of citizenship. What at first glance sounds like an obscure and insignificant nineteenth century incident of transnational meddling turns out to be the key stimulus for a transformation in the law of expatriation. As Salyer aptly writes, “[b]ent on freeing Ireland, the Fenians sparked a revolution in the law of citizenship instead” (6).

The American Revolution was premised on the idea of “volitional citizenship”: the idea that subjects had the right to shed their allegiance to a monarch and declare independence. But most nations still adhered to the idea of “perpetual allegiance”: once a subject, always a subject. This meant that those foreigners who became naturalized American citizens were not necessarily freed of their former allegiances; for them, traveling abroad brought with it many dangers, such as military impressment or imprisonment by a foreign power. American naturalization policies implied a right of expatriation, but domestic law said nothing directly about the contours of this right, nor did it provide any explicit means for the government to defend its citizens against the claims of other nation states. Salyer shows how England’s imprisonment of the Fenian rebels sparked an outcry among a wide swath of the American populace, forcing lawmakers and diplomats to confront these gaps in protection for citizens abroad.

The Fenian episode was not the first to raise the issue of expatriation in American politics, nor would it be the last. Salyer recounts the salience of the issue in the War of 1812, as well as the efforts already underway before 1867 to protect the right via treaty. It is certainly possible that the United States would have eventually found ways to protect the right of expatriation without the Fenian movement, but the issue likely would have continued to be dealt with piecemeal, on a country-by-country basis. Instead, because of the timing and nature of the episode, Congress could not avoid addressing the matter more comprehensively.

The book is divided into three main sections. The first lays out the history of the ill-fated journey of the rebels and their subsequent capture, describes the

devastating impact of British colonial rule on the Irish, and discusses the political and social realities of the Irish immigrant community. The second section focuses on the trials of the Fenians and the legal and diplomatic efforts to sway their outcomes. The third and final section delves more explicitly into the citizenship question itself and the passage of the Expatriation Act, connecting the discourse on expatriation to debates over the membership rights of blacks, women, and Chinese immigrants in the Reconstruction era. The book concludes by explaining how nation states subsequently undermined the right of expatriation through bars to emigration. Salyer also discusses how “marital denationalization”—the automatic stripping of a woman’s citizenship once she married—“went hand in hand with the expansion of expatriation for men” (210). An expansion of rights for men meant a contraction of rights for married women.

*Under the Starry Flag* is intentionally narrative in framework. Specialists in the area may find themselves hoping for a bit more in-depth analysis of the concepts and terms. But what the book lacks in analysis it more than makes up for in story. Salyer creates a beautifully written portrait of an era, artfully weaving together many strands of nineteenth century history alongside personal biographies of historical figures both familiar and obscure. It should be required reading for those studying the history of American citizenship and is also an excellent book to assign to students of nineteenth century history in general.

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Christopher W. Schmidt, *The Sit-Ins: Protest and Legal Change in the Civil Rights Era*, Chicago and London: The University of Chicago Press, 2018. Pp. 256. \$30.00 paper (ISBN 978-0-226-52244-9).  
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Historians have examined the student lunch counter sit-in movement of the 1960s through local studies that document the circumstances and details of individual protests, and social scientists have examined the sit-ins’ shared characteristics and dynamics. But the legal and constitutional context of the sit-ins has too often been overlooked. Schmidt’s excellent book provides a corrective, arguing persuasively that the law and constitutional meanings of freedom and equality were at the very heart of the story.