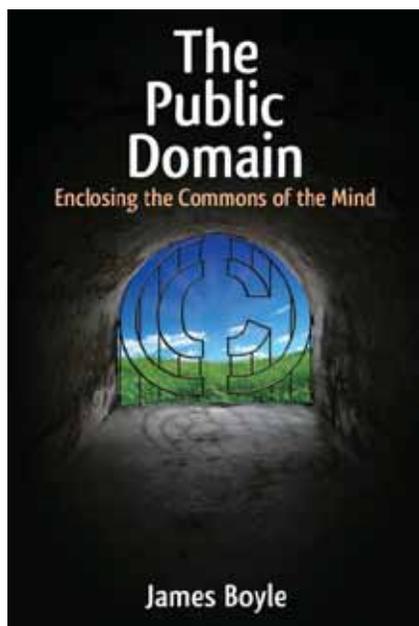


edited by Susan M Shirley



THE PUBLIC DOMAIN: ENCLOSING THE COMMONS OF THE MIND. JAMES BOYLE. NEW HAVEN (CT): YALE UNIVERSITY PRESS; 2008. 315 PAGES. HARDBACK \$28.50. ISBN: 978-0-300-13740-8.

With his new book, James Boyle hopes to convince general readers that they should care about copyright law. If he had his way, copyright would be on the country's radar just as the environment is now. Boyle ends the book with a call for "environmentalism for information". Where he may fail as a sloganeer, he succeeds as a thinker. *The Public Domain* is no *Silent Spring*, but then Boyle's position on copyright is too tempered for lyrical polemic.

A professor of law at Duke University, Boyle is not a radical of the "copyleft". He believes that copyright law should remain part of the US Code. The problem, says Boyle, is that copyright law now favors copyright owners too much. A protectionist trend of recent decades has put too many teeth into copyright protection. As a result, the balance of interests between current owners and would-be creators has tipped in favor of the former and against the latter.

The term of ownership is now so long (and retroactively applied) that it pauperizes the public domain. Under its current terms, copyright law keeps the lion's share of 20th-century cultural production, from 1924 onward, out of the public domain. Much of what Americans would consider their popular culture—*Gone with the Wind*, *Steamboat Willie*, "Happy Birthday to You"—remains private property under copyright law.

But the real cost, says Boyle, comes not from the copyrighted works we know but from the many more we don't know—the obscure majority of "orphan works", so called for their being out of print and having uncertain copyright status. Because permission to reproduce them may be impossible to secure, orphan works are legally hazardous to reprint or digitize. These unnumbered multitudes crowd archives and libraries around the country, largely unused and forgotten. Boyle would have us feel the pang of unborn creation: How much science, art, and literature do we lose when potential creators have no contact with so vast a store of inspiration?

However wistful one may feel about what might have been, Boyle does not pin

his argument on pathetic appeal alone. One of the book's merits is that Boyle insists we look to empirical evidence to justify adjustments in copyright law.

His appeal to empiricism is best displayed in "An Evidence-Free Zone", a chapter in which he compares US and European approaches to copyrighting databases. US case law excludes informational databases (the information compiled, not the software) from copyright protection; but starting in 1996, the European Union made it legal to copyright databases. The theory was that legal protection would spur more innovation and thus increase the European market share in the industry. Unexpectedly, the opposite occurred. In 1996, European production of new databases trailed US production by a 1:2 ratio; in 2004, years after the change in law, the gap had widened further to 1:3. Europe lost ground under the mistaken assumption that legal protection would promote innovation.

For Boyle, that case carries lessons for US lawmakers: They should question the presumption that greater copyright protection leads to more innovation, and they should hesitate to pass any copyright amendment presuming a correlation (between a policy and its socioeconomic effects) that is unsubstantiated by empirical evidence.

Ultimately, Boyle hopes for a reversal in the trend that has led to overprotective copyright. As digital technology has made it easier and cheaper to reproduce and distribute intellectual property, Congress, in response, has fortified copyright law to make piracy harder and prosecution of infringement easier. That response, says Boyle, has been premature and undue. Consequently, copyright law has become a distortion of its original formulation in this country. Boyle looks to Thomas Jefferson as the original authority on copyright and an antidote to its present hypertrophy: Jefferson "does not see intellectual property as a claim of natural right"; for him, "it is a temporary state-created monopoly given to further innovation."

Readers of this review may wonder where publishers and editors fit into Boyle's vision

of reduced copyright. Although Boyle himself does not say much about publishing, the copyright page of his book is revealing: “Copyright © 2008 James Boyle. All Rights Reserved.” Below that notice one reads that the author has made an online version of the book available under a Creative Commons license. (Creative Commons is a nonprofit organization that Boyle helped to found in 2001; it provides free licenses to creators wishing to assign select rights from the bundle conferred by copyright.)

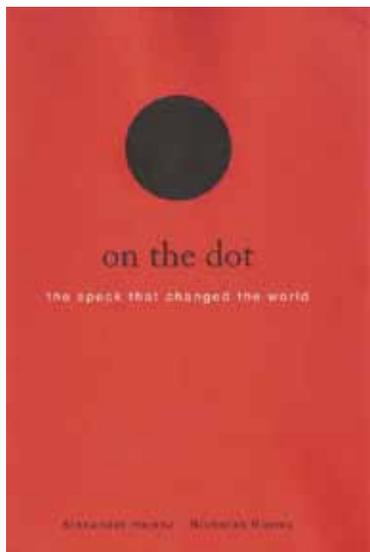
Do those facts of the book’s publication suggest anything about Boyle’s attitude toward publishers? (To his credit, Boyle later acknowledges the arrangements.) In my opinion, they do suggest a certain disregard for the publisher’s financial stake in copyright. An author like Boyle, whose primary income is his faculty salary, gains more from having his book widely known than from collecting royalties. Presumably, both Boyle and his publisher,

Yale University Press, hope that making the book available online will stimulate sales. But Boyle would be hard pressed to predict that on solid empirical evidence. And the publisher stands to lose far more than Boyle if the online version winds up cannibalizing the printed book. (If I owned a Kindle 2, I could transfer the online PDF to my reader for 30 cents—paid to Amazon.) Traditionally, copyright has provided publishers with the legal recourse they need to assume the financial risks of publication. But with its nonexclusive license to the book, Yale University Press has no legal right to sue for copyright infringement. If you read Boyle’s book, and I do recommend it, begin with the copyright page.

**Robert Brown**

ROBERT BROWN recently completed a certificate in scholarly publishing at Arizona State University, where he also works as a copyeditor in the Office for Scholarly Journals.

## Book Notes



**ON THE DOT: THE SPECK THAT CHANGED THE WORLD.** ALEXANDER HUMEZ AND NICHOLAS HUMEZ. NEW YORK: OXFORD UNIVERSITY PRESS; 2008. 256 PAGES. HARDCOVER \$24.95. ISBN: 978-0-19-532499-0.

In a companion volume to *Winnie-the-Pooh*, A A Milne wrote about “James James Morrison Morrison Weatherby George Dupree [who] took great care of his mother, though he was only three”. His mother got lost. King John put up a notice: “Last seen, wandering vaguely: quite of her own accord . . . .”

The same might be said of *On the Dot*. “An entertaining account”, the jacket flap says. True and not true. The Humez brothers clearly love language and have far more than a passing acquaintance with it and its history and a great more besides. Their touch is deft, clever, and engaging.

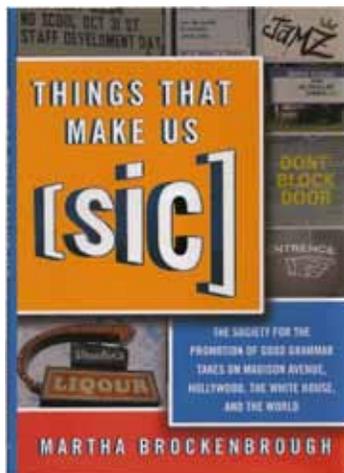
*On the Dot* is less about the evolution of punctuation and more about the whimsy of communication (whether chiseled, printed, scored, or digital), things social, things

cultural, things historic and historical, and etymology. It is not a reference book. I had thought it might be.

It is of course structured on punctuation—specifically the dot—but the anecdotes and the discussion meander until one is nearly lost. And not until the final two chapters—“Bang! The Dot Meets the Family” and “Period: The End Point”—was my naive expectation of arcane exploration into punctuation as punctuation met. All that said, I will certainly read *On the Dot* again, but not in one sitting or even five. I will read it piecemeal, when the spirit strikes. This is a book to be read at leisure, whether in a hammock with a cool drink or curled up on a sofa or chair near a fireplace. This is information to savor, not to devour.

**Helen Glenn Court**

HELEN GLENN COURT is a manuscript editor in the Washington, DC, metro area.



**THINGS THAT MAKE US [Sic].** MARTHA BROCKENBROUGH. NEW YORK: ST. MARTIN'S PRESS; 2008. 256 PAGES. HARDCOVER \$19.95. ISBN-13: 978-0-312-37808-0.

In this contribution to the educational humor genre of Walsh's *Lapsing into a Comma* and Truss's *Eats, Shoots & Leaves*, Brockenbrough takes examples (not always G rated) from pop culture to demonstrate incorrect grammar, misspelling, improper usage, and erroneous punctuation. Sprinkled throughout are letters received by her Society for the Promotion of Good Grammar that excoriate presidents, royalty, sports teams, and musicians for their grammar and spelling errors. She chastises the Toronto Maple Leafs for not using the correct plural form "leaves" in their name, and she sends Justin Timberlake to a mythical rehabilitation center called Each Day I Try (EDIT) for his grammatically incorrect lyrics. After a chapter of silliness, Brockenbrough offers entertaining and useful chapters on usage, spelling, punctuation, parts of speech, verb tense, and clichés and jargon. She tackles evil and

fraternal twins (words that look or sound alike but have different meanings) and vampires ("made-up words that grow with use until, in some cases, they make it into the dictionary as 'nonstandard words'" like irregardless and disorientated). Although she recommends using English words, her chapter on common Latin terms and phrases is a good reference. Brockenbrough often suggests clever mnemonics, such as "example given" for "e.g." and "in essence" for "i.e.," as aids for proper usage. You know those strings of punctuation marks (maledicta) used in comic books to indicate foul language? She proposes a key that pairs each mark with a letter that would allow us to translate exactly the obscured naughty words. Brockenbrough concludes with a discussion of how English grammar has changed in her closing salvo, "Rules That Never Were, Are No More, and Should Be Broken".

Susan M Shirley

SUSAN M SHIRLEY is a freelance science editor in Corpus Christi, Texas.

## Book Alert **New Editions**

**DICTIONARY OF SCIENCE.** 3RD ED. M J CLUGSTON, EDITOR. NEW YORK: PENGUIN BOOKS; 2009. 744 PAGES. PAPERBACK \$18.00. ISBN: 978-0-141-03796-7.

This comprehensive and accessible dictionary includes 7000 entries in chemistry, physics, molecular biology, biochemistry, human anatomy, mathematics, astronomy, and computing. Entries have been updated and expanded, and factual details have been rechecked.

**ON BEING A SCIENTIST: A GUIDE TO RESPONSIBLE CONDUCT IN RESEARCH.** 3RD ED. NATIONAL ACADEMY OF SCIENCES, NATIONAL ACADEMY OF ENGINEERING, AND INSTITUTE OF MEDICINE OF THE NATIONAL ACADEMIES. WASHINGTON, DC: NATIONAL ACADEMIES PRESS; 2009. 82 PAGES. PAPERBACK \$11.65 ISBN: 978-0-309-11970-2. ALSO AVAILABLE ONLINE AT WWW.NAP.EDU

The book describes the ethical foundations of scientific practices and the personal and professional issues that researchers encounter in their work. It applies to all forms and disciplines of research. The third edition incorporates developments since the publication of the second edition in 1995.