

for permanent residency and those admitted under other kinds of arrangements, many of them more resolutely contractual in spirit.

Despite this perhaps inevitable tension however, Motomura's work elegantly reveals a crucial lesson of the history of citizenship in the U.S., namely that the relationship between juridical citizenship status and political participation is an entirely conventional one, borne out of the positive law of a given period rather than any essential truths about political communities. Though not primarily a work of archival research, Hiroshi Motomura's *Americans in Waiting* is one of those all too rare books that has something to offer historians as well as political theorists and legal scholars. The work successfully engages the past of U.S. law not only to illuminate the contingency of its present, but also at the same time to render already possible its more generous future.

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David E. Kyvig, *The Age of Impeachment: American Constitutional Culture since 1960*, Lawrence: University Press of Kansas, 2008. Pp. 554. \$34.95 (ISBN 978-0-7006-1581-0).

In *The Age of Impeachment*, Bancroft prize winning historian David Kyvig attempts to reorient the second half of twentieth-century national politics around the process, culture, and results of impeachment. Noting that this period has as many impeachment episodes as the entire period before it since the adoption of the Constitution, he concludes that this is the proverbial "canary in the mineshaft" (ix). In other words, the increasingly "toxic" nature of American politics, the disappearance of moderates, and the disturbing uptick in partisanship go hand in hand with the resort to impeachment processes (ix). Interestingly, Kyvig also sees the absence of foreign policy in the various impeachment charges as evidence that presidents have become increasingly powerful during this period. Contrary to the popular wisdom that saw a decline in the "imperial presidency," the growth in the impeachment culture has made presidents more likely to try to evade legal restrictions, thus damaging the Constitutional order.

Kyvig amasses a great deal of evidence in his fourteen chapters and over four hundred pages of text. With wit and verve, he covers all of the significant impeachment episodes from the less serious and original call of the John Birch Society to "Impeach Earl Warren" to the more serious campaigns against fellow Supreme Court Justices Abe Fortas, then William O. Douglas; the presidential impeachments of Richard Nixon, Ronald Reagan, and Bill Clinton, and Vice President Spiro Agnew, and five federal judges. Though only three of the twelve impeachment calls actually led to trial, conviction, and removal, all twelve had a serious impact in their distinct area and showed the growing vituperation of American political culture.

Little known details come to light in these thoughtful, thorough expositions of the infamous, sometimes laudable, and occasionally forgotten, such as the fact that

Justice Douglas's embroilment in an impeachment inquiry may have caused him to pass on the writing of the majority opinion in *Roe v. Wade* (1973). A Douglas guided majority opinion would have been far more likely to base *Roe* on the right to privacy rather than Justice Harry Blackmun's more doctor-patient oriented, trimester formulation. Then, there is the entrance of impeachment in American popular culture through film, debate, and political cartooning, just to name a few.

But, does the increasing resort to impeachment truly indicate an increasingly "toxic" political culture? Further, does the impeachment culture really diverge from the intended Constitutional order? Last, has the decision to pursue impeachment led to an implicit grant and encouragement to presidential authority? These are heavy claims to sustain even for such a large book. While it is impossible to quarrel with the clear rise of impeachment cases and language in the U.S. after 1960, one can add a few caveats to the uniqueness of such a phenomenon.

After all today's political culture is no more toxic, perhaps less so, than that between the Federalists and the Democratic-Republicans, the Democrats and the Whigs, the Democrats and the Republicans of the 1850s when actual bludgeons emerged, the Republicans and Democrats of the Gilded Age, the Populist revolt of the 1890s, the Red Scares of the 1920s and early Cold War, and, finally, last but not least, the vicious back and forth over integration in the South. These contests are the story of American politics.

The halcyon days of bipartisanship prior to 1964 were a very brief episode, an exception, not the rule. The same is true of presidents attempting to evade the niceties of law to have their way with foreign policy. James K. Polk arranged for war with Mexico. Wilson set the U.S. on a course for entry into World War I. Franklin D. Roosevelt made U.S. involvement in World War II inevitable. George W. Bush was far from the first president to cover up and hide behind executive privilege. We might be tempted to conclude rather cynically that the current president is only the latest president to engage in such high jinks. One might in fact wonder why impeachment became the device of choice after 1964 rather than associate it with increasing rancor.

Kyvig does give us the answer to this mystery, but leaves us with a cautionary plea. He concludes that the increasing use of impeachment came from experience and a sequence of individual circumstances within the boiling pot of an increasingly scandal-driven, fast paced media age. At the same time the U.S. regained an important tool for correcting its government officials, it brought the tool to the limits of its usefulness. Like all power, used without regard for its destructiveness impeachment can do more damage than it is worth. We should heed Kyvig's warning as it is based on an excellent study of recent U.S. history.

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