

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).
doi:10.1017/S073824801900021X

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.

Chapter 1, “The Students,” centers on those who began the sit-in movement. Although there had been sporadic sit-in demonstrations for at least two decades, the actions of four African American students—Ezell Blair, Jr., Franklin McCain, Joseph McNeil, and David Richmond—from North Carolina Agricultural and Technical College in Greensboro on February 1, 1960, began a concerted movement. Following their sit-in, others followed in Greensboro, then in neighboring cities, and then across the South. Scores of demonstrations were held and hundreds of people were arrested. Initially, the students took direct action to circumnavigate the courts, whose slow-moving performance in implementing the *Brown v. Board of Education* (1954) school desegregation decision was all too apparent.

Chapter 2, “The Lawyers,” focuses on the role played by the National Association for the Advancement of Colored People (NAACP), and more specifically its legal arm the Legal Defense Fund (LDF) under the leadership of Thurgood Marshall. LDF attorneys were not at first optimistic about their chances of defending students in the area of law that their attacks on segregation had targeted. Much of the civil rights movement had been fought on the Fourteenth Amendment’s equal protection clause. Such a strategy required “state action”—the complicity of the state—in denying civil rights. The sit-ins entered the more contentious realm of private property rights. Nonetheless, as the sit-in movement developed, the LDF began to warm more to the legal possibilities they embodied.

Chapter 3, “The Sympathizers,” outlines the reason why the lawyers began to come around. The sit-in movement received widespread sympathy and support nationwide. The fine-line legal distinction between public and private jurisdictions was lost on the average citizen. Indeed, the sit-in movement blurred this further by holding sit-ins at both public and private facilities. What was the difference between being denied service on the basis of race at a public facility or at a private facility, they posed? Were not both equally as oppressive and demeaning? This common sense approach—which Schmidt refers to as “popular constitutionalism” (12)—appeared to have its own self-evident logic.

In Chapter 4, “The Opponents,” Schmidt identifies two types of segregationist opposition to the sit-ins. One was the “segregation must be preserved at all costs” variety. The other took a more sophisticated legal approach that asserted the “right to discriminate.” This libertarian argument privileged the right of business owners to exercise control over their private property above the right of those demanding service. Yet the emphasis on individual private rights made segregation at lunch counters harder to defend in practical terms than, for example, segregation in public schools where the state was clearly involved and its apparatus could be mobilized. Legal defenses of private businesses relied on the owners of those businesses actually prosecuting

demonstrators, which they were often reluctant to do for fear of garnering unwanted attention and publicity.

In Chapter 5, “The Justices,” we see what happened when the United States Supreme Court had to grapple with these legal questions. A divided court persistently looked to sidestep the central constitutional issue. Some justices strongly backed the rights of the public to nondiscriminatory service, whereas others backed the right of individual private property owners to discriminate. Through a series of cases, the court fastidiously looked for evidence of state action as a basis to rule in favor of arrested students without having to decide the private property question. This became increasingly difficult to do, and the court had to find ever more ingenious ways to lever state action into the equation.

In the end, as Chapter 6, “The Lawmakers,” describes, it fell to Congress to break the deadlock. Congress was also reticent to side against private property rights on the basis of the Fourteenth Amendment. The Kennedy administration, and later, the Johnson administration assisted by taking a different track and using the Constitution’s Commerce Clause as the instrument to achieve nondiscrimination in public accommodations. By using the regulation of interstate commerce to defend the right to public service, Congress in the Civil Rights Act of 1964 was able to appease popular opinion without having to extend the reach of the Fourteenth Amendment. The courts subsequently backed this approach.

Schmidt’s careful and informed dissection of the many complex legal issues involved is both accessible and insightful. This should ensure a wide multidisciplinary and interdisciplinary audience for the book, which will be essential reading for anyone interested in learning more about one of the most important protest movements of the twentieth century. It will also help guide future historical research into the bumpy paths of social and legal reform movements.

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