

## BOOK REVIEWS

DAVID E. KYVIG. *The Age of Impeachment: American Constitutional Culture Since 1960*. Lawrence: University Press of Kansas, 2008. 500 pp. \$34.95 (cloth).

Impeachment, not completely democratic as a true action of the populace and not entirely akin to a coup, is the instrument used by elected representatives to remove federal governmental officials for the higher purpose of preserving the polity. David E. Kyvig's new book chronicles the evolution of impeachment from the mid-1960's to the present. Although use of impeachment has occurred since the establishment of the Constitution, Kyvig declares the increased referral to impeachment in congressional action and popular culture as the central political instrumentality defining the 1960s to present as the "age of impeachment" (p. 2).

The book's purpose, the Preface asserts, is to recount historical facts to uncover "broad patterns of our time," so the reader may decide whether constitutionally mandated impeachment needs repair, substitution, or replacement (p. ix). Kyvig concludes "impeachment functioned more or less as the founders desired" (p. 405), whether actual impeachment proceedings occurred or were merely threatened. Given Kyvig's conclusion, pronouncement of an "age of impeachment" appears unwarranted as adherence to constitutional procedure rather than use of impeachment as a political or cultural tool occurred during the historical period recounted in the work.

The book begins with an overarching history of impeachment beginning in England and ending with early American experiences with impeachment as a constitutional device. Overall, the introductory chapters assist the work, but are too cursory to legitimately engage the reader in a detailed comparison between early republican use of impeachment and employment of the device in the 20th century.

Striking is the lack of actual impeachment proceedings described in the book. Kyvig explains the lack of formal impeachment in these episodes illustrates the rediscovery of impeachment as a tool to assist politicians in effecting the removal of governmental officials by instigating their resignation rather than complete the impeachment process. Following the introductory chapters are accounts of several abortive attempts—often never even leading to consideration of Articles of Impeachment in the House of Representatives—of Supreme Court justices and Vice President Spiro Agnew.

Kyvig contends the Supreme Court's internal opinion assignment process was affected by the abortive campaign to impeach Justice William O. Douglas, which resulted in Douglas not authoring the seminal *Roe v. Wade* decision. Looking to Justice Douglas' opinion in *Griswold v. Connecticut*, Kyvig asserts Douglas would have found the right to abort a pregnancy in the overarching constitutional right of privacy. Kyvig asserts the Agnew example illustrates the discretionary nature of impeachment because, despite the Vice President's request to be impeached rather than face criminal prosecution, Congress refused to impeach Agnew.

The centerpiece of the book is the attempted impeachment of President Richard Nixon, which Kyvig expounds as the impetus for substantial legislative reforms to bureaucratize impeachment. Kyvig goes into considerable detail concerning the immediate aftermath of Nixon's resignation before the House of Repre-

sentatives voted on the Judiciary Committee's Articles of Impeachment and documents the legal and cultural implications of Watergate as a revelation of the mechanism of impeachment as an accepted tool of politics.

Description of the Nixon Watergate saga is followed by a recounting of President Ronald Reagan's Iran-Contra Affair. Kyvig argues the lack of vigor to initiate impeachment proceedings against Reagan, despite alleged noncompliance with congressional mandates and unconstitutional expansions of presidential foreign policy powers, permitted future presidents to engage in similar conduct.

Over half way through the book, Kyvig finally addresses actual cases of impeachment where articles were approved by the House of Representatives and submitted to the Senate for trial. The narrative recounts the impeachments of several federal judges and of President William Clinton. Kyvig asserts judicial impeachments served to acquaint sitting members of Congress with the impeachment process. The impeachment of President Clinton illustrated the ability of a majority party in Congress, with the aid of an independent counsel, to initiate, maintain, and prosecute an impeachment lacking significant public support.

The work concludes with homage to a *Washington Post* cartoonist, evidencing how the media shaped public perception of impeachment, a description of abortive efforts to instigate an impeachment of President George W. Bush, and a final concluding chapter.

Although the chapters on Nixon and Clinton will leave readers seeking a more detailed discussion about these seminal events, and excluding chapters focused on impeachment's cultural impact, Kyvig's book produces a good overview of the events covered and succeeds in consolidating disparate impeachment events into a singular volume, thereby assisting future researchers in gaining an overall impression of the historical facts surrounding the use of impeachment. Readers seeking detailed narratives concerning specific impeachment episodes will need to refer to existing sources providing original exposition.

DANIEL H. ERSKINE  
*Member of the Connecticut Bar*