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**WHY DONALD TRUMP IS *NOT* ANDREW JACKSON
(AND WHY THAT MATTERS FOR AMERICAN
CONSTITUTIONAL DEMOCRACY)**

ERIC LOMAZOFF*

In mid-February 2017, the Associated Press published a piece by Jonathan Lemire that ran in numerous online outlets: “Trump election has parallels to Andrew Jackson’s presidency.”¹ Lemire suggested that Trump, like Jackson, was an “unvarnished celebrity outsider” who prevailed in an “ugly, highly personal presidential election” over a “member of the Washington establishment looking to extend a political dynasty in the White House” by pledging “to represent the forgotten laborer.”² To burnish the case for his exercise, Lemire added that Steve Bannon—Trump’s then-chief strategist—has “pushed the comparison,” and the president “has hung a portrait of Jackson in the Oval Office.”³

None of these similarities between Trump and Jackson strike me as matters of obvious consequence for thinking about the short or long-term health of American constitutional democracy. “Outsiders” such as Ulysses Grant and Dwight Eisenhower have been elected to the presidency and completed their terms without incident. Incumbents such as Thomas Jefferson and Rutherford B. Hayes successfully governed following “highly personal” contests.⁴ Grover Cleveland defeated the grandson of a former president (who was occupying the Oval Office himself at the time), but that does not appear to have inhibited his ability to lead the executive branch responsibly. Finally, Ronald Reagan demonstrated that successful appeals to working-class voters are not always followed by severe constitutional stress.

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1. Jonathan Lemire, *Trump Election Has Parallels to Andrew Jackson’s Presidency*, AP NEWS (Feb. 20, 2017), <https://apnews.com/dc620710242649989b4fa1380986166d>.

2. *Id.* Jackson’s opponent in the 1828 election, of course, was incumbent president John Quincy Adams, son of the second president.

3. *Id.*

4. For a short and readable take on the Hayes-Tilden contest, see Gilbert King, *The Ugliest, Most Contentious Presidential Election Ever*, SMITHSONIAN.COM (Sept. 7, 2012), <http://www.smithsonianmag.com/history/the-ugliest-most-contentious-presidential-election-ever-28429530/?no-ist>.

Something in Lemire's piece *did* strike me as having constitutional import, however. He quoted Jon Meacham, author of a Pulitzer Prize-winning biography of our seventh president: "The moment is Jacksonian[,] but do we have a Jackson in the Oval Office?"⁵ The function of employing Meacham here, of course, was to ask *how far* the similarities between Jackson and Trump will ultimately run. Will the latter, for example—in a moment of deep disdain for the substantive outcomes produced by the modern administrative state—challenge the Federal Reserve's relative independence in making monetary policy in the same way that the former challenged the Second Bank's comparable autonomy in the same policy realm?⁶

I was not struck, however, by the function of the Meacham quote within Lemire's piece. I was struck by Meacham's characterization of the current moment as "Jacksonian." To liken Trump to a latter-day Jackson is simply not the same thing (at least to my mind) as suggesting that Trump is governing in a Jacksonian moment; while the former focuses on individual traits, the latter describes environmental qualities. Otherwise put (to borrow from Stephen Skowronek), Meacham was describing Trump's "governing environment."⁷

Explaining how presidential incumbents behave—or what "leadership posture[s]" they adopt—in different governing environments is the central task of Skowronek's *The Politics Presidents Make*.⁸ As such, Meacham's suggestion that Trump is governing in a Jacksonian moment led me to ask a series of nested questions: (1) For Skowronek, which features of a governing environment predict the type of leadership posture that a president will adopt? (2) Given his own governing environment, what type of posture did Andrew Jackson adopt? (3) Is Donald Trump operating in a comparable governing environment? (If so, then Meacham's characterization of the current moment is apt.) (4) If not, then in what type of environment is Trump operating, and what leadership postures have similarly situated incumbents adopted? Finally, and most importantly, (5) What is the constitutional import

5. Lemire, *supra* note 1 (quoting JON MEACHAM, *AMERICAN LION: ANDREW JACKSON IN THE WHITE HOUSE* (2009)).

6. The decision in *Humphrey's Executor v. United States*, 295 U.S. 602 (1935) notwithstanding, if the *Harvard Law Review* agreed to publish an article almost sixty years later that opened by claiming that the modern "administrative state is unconstitutional, and its validation by the legal system amounts to nothing less than a bloodless constitutional revolution[.]" then we would be wise not to dismiss the possibility of a future challenge by President Trump to the Federal Reserve's independence (in a moment of frustration with its monetary choices and/or their consequences). Gary Lawson, *The Rise and Rise of the Administrative State*, 107 HARV. L. REV. 1231, 1231 (1994) (footnote omitted).

7. STEPHEN SKOWRONEK, *THE POLITICS PRESIDENTS MAKE: LEADERSHIP FROM JOHN ADAMS TO BILL CLINTON* 367–68 (1997).

8. *Id.* at 121, 212–15, 382–85.

of discerning (or at least venturing an educated guess as to) Trump's leadership posture? That is to say, what does all of this tell us about Trump's vision of American constitutional democracy, and how other actors are likely to respond to that vision?

As the title of this short Essay suggests, I am not at all convinced that Donald Trump is governing in a Jacksonian moment. All told, I think that conclusion bodes well for the short-term health of American constitutional democracy, but it also threatens to exacerbate a longer-term problem.

* * *

On the assumption that students of American politics are increasingly familiar with Skowronek's explanation for variation in presidential leadership,⁹ I will not offer this point extended treatment. In brief, Skowronek sees governing environments—his term of art here is “political time”—as shaped by (1) the strength of the dominant governing coalition or “regime” (i.e., it is weak or strong), and (2) the incumbent's relationship to that regime (i.e., he is affiliated with it, or not).¹⁰ Presidents thus govern in one of four environments, or moments in “political time,” with incumbents in each of the four adopting a distinct leadership posture.¹¹ These four leadership postures, or the types of “politics that presidents make,” are enumerated in the table below.

9. One participant in this year's “Schmooze” has even labored to make sense of periodic departmentalist thinking by presidents with that explanation in mind. See KEITH E. WHITTINGTON, *POLITICAL FOUNDATIONS OF JUDICIAL SUPREMACY: THE PRESIDENCY, THE SUPREME COURT, AND CONSTITUTIONAL LEADERSHIP IN U.S. HISTORY* xi (2007).

10. SKOWRONEK, *supra* note 7, at 30, 34–36.

11. *Id.* at 34.

Table 1 Recurrent Structures of Presidential Authority

<i>Previously established commitments</i>	<i>President's political identity</i>	
	Opposed	Affiliated
Vulnerable	Politics of reconstruction	Politics of disjunction
Resilient	Politics of preemption	Politics of articulation

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An assessment of Andrew Jackson's governing environment, and resulting leadership posture, can be equally brief. "Old Hickory" is one of the few presidents in American history who ascended to power "in opposition to [a] weak regime[]." ¹³ Jackson took his election in 1828 not simply as personal vindication for 1824 (when he won a plurality of the popular vote but ultimately lost to John Quincy Adams in the House), but as evidence that the American people had authorized him to fundamentally change the way that business was done—and had long been done—in the nation's capital. Adopting a "reconstructive" leadership posture, Jackson not only "reversed the ideological thrust of the national government" (i.e., embraced a less robust conception of Congress' powers than his predecessors), but also "transformed the operating mores of American government" by (among other things) introducing significant change in how the bureaucracy was staffed. ¹⁴

This brings us to the crux of my interest in the Meacham quote: is Trump, like Jackson, unaffiliated with a weak regime? Are the conditions ripe for the 45th president to engage in Skowronek's "politics of reconstruction"?

Categorizing the current incumbent using Skowronek's framework has always struck me as American Political Development's version of a parlor game: logical and at least mildly amusing, yet frequently devoid of a clear end-point. In years past, after introducing the framework, I would invite undergraduates to "play" using Barack Obama. Invariably, debate would turn not on Obama's relationship to the dominant governing coalition—all agreed that he was unaffiliated with the "Conservative" regime, irrespective of whether its reign began with Nixon's election in 1968 or Reagan's in 1980—but the *strength* of that regime. If the organizing principles of late twentieth and early twenty-first-century American politics—and I would

12. *Id.* at 36 tbl.1.

13. WHITTINGTON, *supra* note 9, at 50.

14. SKOWRONEK, *supra* note 7, at 133. For a comparable take on Jackson as the founder of a "generational regime," see GERARD N. MAGLIOCCA, ANDREW JACKSON AND THE CONSTITUTION: THE RISE AND FALL OF GENERATIONAL REGIMES (2007).

sometimes volunteer a working list consisting of reinvigorated federalism, structural budget deficits, constitutionalized culture wars, and both professionalization and polarization within Congress—remained strong, then Obama ought to be characterized as a “preemptive” leader. His periodic willingness to criticize the Supreme Court (recall the State of the Union address in which he criticized *Citizens United v. Federal Election Commission*¹⁵ to the chagrin of Justice Alito), but not to challenge its supremacy in constitutional interpretation, certainly did not militate against this characterization.¹⁶ If those same organizing principles, by contrast, were weak—and liberal students, quickly sensing how the parlor game was played, were more inclined toward this view—then there was room to argue that Obama was a reconstructive leader in the tradition of Jefferson, Jackson, Lincoln, FDR, and Reagan.

This version of the game, however, was probably a faulty one—and that has significant implications for how we construe Trump’s governing environment, his resulting leadership posture, and (most importantly) his relationship to the constitutional order. In short, I erred in failing to acknowledge a complicating factor within the game: Skowronek’s suggestion that over time, we have seen a “progressive proliferation of organized interests and independent authorities” within American politics.¹⁷ This “thickening of the institutional universe” has made it harder for *all* presidents, even those “who hold the most compelling warrants” for action, to offer a frontal challenge to the status quo in Washington.¹⁸ In simpler terms, modern presidents are encountering a Washington that is increasingly immune to attempts to fundamentally disrupt its way of doing things.

So, what is the upshot of this for analyzing a twenty-first-century president’s leadership prospects? More and more of them will adopt a preemptive leadership posture, less because they are unaffiliated with the ideological commitments of a strong governing coalition (think of Bill Clinton pitted against post-1994 Republican majorities) and more because they are unaffiliated (or present themselves as unaffiliated) with the ever-strengthening political culture of the nation’s capital. As such, a better conceived game would have led my students to conclude that Obama was a preemptive leader, less for the strength of the Conservative regime in January 2009, and more for his

15. 558 U.S. 310 (2010).

16. On preemptive presidents as unlikely to challenge the Court’s interpretive supremacy, see WHITTINGTON, *supra* note 9, at 161–229.

17. SKOWRONEK, *supra* note 7, at 31.

18. *Id.*

Inauguration Day desire to challenge the notion that “our system cannot tolerate too many big plans.”¹⁹

So, let’s play both versions of the parlor game with Trump. Under the first version, we evaluate the 45th president in the same way that my students were asked to evaluate the 44th—by asking about the strength of the Conservative regime and the incumbent’s relationship to it. Oft-repeated misgivings about President Trump’s conservatism notwithstanding,²⁰ he has openly compared himself to Reagan,²¹ pursued and won the presidential nomination of the Republican Party, and nominated a lifelong conservative to the Supreme Court. It would be difficult, on this basis, to conclude that Trump is anything but an affiliated leader. (Such leaders, Skowronek reminds us, frequently inspire heated disputes over what it means to be a “faithful” follower of the regime’s founder.)²² Trump’s leadership posture would then turn on the strength of the Conservative regime: “orthodox-innovative” if it were strong, “disjunctive” if it were weak. And I imagine that judgments on this question might turn on how much the judge wants a generation-defining Democratic landslide in 2020.

Under the second version—the version that acknowledges a “thickening of the institutional universe”²³ over time—we also evaluate the 45th president by asking about the strength of the current regime and his relationship to it. This time, however, the “regime” is defined less by a combination of constitutional, fiscal, and social conservatism and more by the range of “interests and authorities” that have developed within the federal government and the “organizational resilience of the institutions that defend them.”²⁴ As with the first version, let’s begin with Trump’s relationship to the regime. If there is a case to be made that Trump is affiliated with the Conservative regime, then there is an even stronger case to be made that he is *unaffiliated* with Washington’s well-established “institutional universe.” To run (and win) as a stridently “anti-establishment” candidate is to promise an oppositional leadership posture.

19. Barack Obama, Inaugural Address (Jan. 20, 2009) (transcript available at <https://www.govinfo.gov/content/pkg/PPP-2009-book1/pdf/PPP-2009-book1-Doc-pg1.pdf>).

20. For an early expression of anxiety, see Peter Wehner, *Donald Trump Is Many Things. Conservative Isn’t One of Them*, COMMENTARY (Aug. 20, 2015), <https://www.commentarymagazine.com/politics-ideas/campaigns-elections/donald-trump-not-conservative/>.

21. Nick Gass, *Trump Defends Himself: I’m a Conservative*, POLITICO (Aug. 20, 2015), <http://www.politico.com/story/2015/08/donald-trump-im-a-conservative-jeb-bush-121554>.

22. For a discussion of George H.W. Bush along these lines, see SKOWRONEK, *supra* note 7, at 429–42.

23. See *supra* note 18 and accompanying text.

24. SKOWRONEK, *supra* note 7, at 443.

Setting aside the obvious problem here—one account of “regime” leads to the conclusion that Trump is an affiliated leader, and another to the opposite conclusion—let’s turn to the question of which of the two leadership postures (reconstruction or preemption) he would occupy *qua* unaffiliated incumbent. As with the first version of the game, the answer turns on whether the regime in question is strong or weak. On the one hand, Trump is talking and acting *as if* the regime is weak, or certainly vulnerable to a significant assault. Having your chief strategist push a comparison with a reconstructive leader, and hanging a portrait of said leader in your office, sends a powerful message about how the 45th president sees himself. Moreover, departmentalist thinking and behavior with respect to constitutional interpretation—of which there has been more than a hint in both Trump’s tweets²⁵ and the language of his Senior Policy Advisor²⁶—has historically been a feature (as Keith Whittington has shown) of reconstructive leadership alone.²⁷

On the other hand, there are two (related) reasons to doubt Trump’s apparent conclusion that our “institutional universe” is weak. First, reconstructive leaders tend to assume power following a *decisive* electoral triumph. Think here of Jefferson in 1800 (the ensuing shenanigans with Aaron Burr notwithstanding), Jackson in 1828, Lincoln in 1860, FDR in 1932, and Reagan in 1980.²⁸ Trump’s electoral victory, by contrast, did not even include a triumph in the national popular vote. It is worth noting that no similarly situated incumbent—John Quincy Adams, Rutherford B. Hayes, Benjamin Harrison, or George W. Bush—adopted a reconstructive leadership

25. I refer here, of course, to his labeling of federal judge James Robart—author of the temporary restraining order with respect to the executive order on immigration—as a “so-called judge[.]” Donald J. Trump (@realDonaldTrump), TWITTER (Feb. 4, 2017, 5:12 AM), <https://twitter.com/realdonaldtrump/status/827867311054974976?lang=en>.

26. Appearing on NBC’s *Meet the Press* on February 12, three days after a panel of three judges on the Ninth Circuit unanimously refused to reinstate the executive order on immigration, Stephen Miller suggested, “we’ve heard a lot of talk about how all the branches of government are equal. That’s the point: they *are* equal. There’s no such thing as judicial supremacy.” *Full Miller Interview: ‘There’s No Such Thing as Judicial Supremacy’*, MEET THE PRESS (NBC television broadcast Feb. 12, 2017), <http://www.nbcnews.com/meet-the-press/video/full-miller-interview-there-s-no-such-thing-as-judicial-supremacy-875527747603> (emphasis added). The language in question begins at roughly the 1:03 mark.

27. See WHITTINGTON, *supra* note 9, at 28–81.

28. In each of these elections, either the president-elect secured a sizeable Electoral College majority (Jackson over Adams by a margin of 178 to 83; Lincoln at 180 versus his closest competitor, Breckenridge, at 72; FDR over Hoover by a margin of 472 to 59; and Reagan over Carter by a comparable count of 489 to 49), or a narrower victory was supplemented by his party’s seizure of House and Senate majorities (Jefferson and his fellow Democratic-Republicans in the “Revolution of 1800”). For the Electoral College figures from the 1828, 1860, 1932, and 1980 elections, see SIDNEY M. MILKIS & MICHAEL NELSON, *THE AMERICAN PRESIDENCY: ORIGINS AND DEVELOPMENT, 1776–1993*, at 460–464 (1994). On the Jefferson-Adams tilt, see JAMES ROGER SHARP, *THE DEADLOCKED ELECTION OF 1800: JEFFERSON, BURR, AND THE UNION IN THE BALANCE* (2010).

posture. Second, part of what facilitates a decisive electoral triumph in the first place is a “general political consensus that something fundamental ha[s] gone wrong in the high affairs of state.”²⁹ When a presidential candidate loses the popular vote and only manages to secure an Electoral College triumph by narrowly flipping three swing states from the previous election cycle, there is reason to doubt that such a “consensus” exists.

That would leave us, of course, with the preemptive leadership posture, or the “output” expected when the “inputs” are a strong regime and an incumbent unaffiliated with it. I will close this Essay by exploring the constitutional import of Trump as a preemptive leader. Before I do that, however, three points appear to be in order. First, to classify the Republican incumbent in this manner would be to offer him the *same* classification as his Democratic predecessor. Second, that result would hardly be at odds with Skowronek’s understanding of the modern presidency (as outlined above). Insofar as Obama and Trump have each militated (in their own way) against Washington’s “institutional universe,” they are perhaps the prophets of what Skowronek calls “Perpetual Preemption.”³⁰ Finally, and most importantly, Skowronek reminds us that *all* unaffiliated leaders “test[] the resilience of the institutional infrastructure of the old order.”³¹ In classifying President Trump as a preemptive rather than reconstructive leader, then, I am merely guessing (or perhaps just hoping) that the strength of the current regime is sufficient to withstand the test that he has already begun to offer.

* * *

If Trump is, in fact, operating within a governing environment that is conducive to preemptive leadership, what does that portend for the short and long-term health of American constitutional democracy? In the short term, if presidential history (coupled with Trump’s managerial style) is any guide, we should look for (1) the high drama of “de facto if not de jure” impeachment, and (2) an attending vindication of constitutional principles.³² In the longer term, however, I fear that even an appropriate use (or near use) of the Constitution’s procedures for impeachment and removal, especially when coupled with the growing frequency of preemptive leadership, will only work to strengthen a “toxic political culture” that seems increasingly committed to deploying these “nuclear weapon[s] of American politics” as if they were conventional explosives.³³

29. SKOWRONEK, *supra* note 7, at 37.

30. *See id.* at 442.

31. *Id.* at 45.

32. *Id.* at 44.

33. DAVID E. KYVIG, *THE AGE OF IMPEACHMENT: AMERICAN CONSTITUTIONAL CULTURE SINCE 1960*, ix, 2 (2008).

Let me close by briefly expanding on these claims about the short- and long-term implications of Trump as a preemptive leader, beginning with the former. In the first edition of *The Politics Presidents Make*, published in 1993, Skowronek observed that three of the presidents who have skirted the bounds of impeachment, or actually inspired proceedings—John Tyler, Andrew Johnson, and Richard Nixon—all engaged in the politics of preemption.³⁴ A revised edition of the book, published shortly after Bill Clinton's second inauguration in early 1997, included a postscript in which Skowronek suggested that the 42nd president fell within the same category and warned of the "historic connection between preemptive leadership and constitutional crises."³⁵ Needless to say, we know how that story ended.

The lesson here, of course, is that if Trump *is* in fact a preemptive leader, then he runs a higher-than-average risk of provoking real or de facto impeachment proceedings. "Average" risk here flows from the fact that *all* incumbents are liable to be impeached and removed from office for "egregious official conduct."³⁶ The first draft of this Essay was written as Trump's administration was reeling from (1) a *Washington Post* report that the president "revealed highly classified information to the Russian foreign minister and ambassador in a White House meeting" on May 10,³⁷ and (2) a *New York Times* report that he asked then-FBI director James B. Comey to "shut down the federal investigation into . . . former national security adviser, Michael T. Flynn" on February 14.³⁸ That draft was revised as the president faced intense criticism for (1) encouraging National Football League owners to "fire" players who chose to protest police brutality and racial inequality by kneeling during the National Anthem,³⁹ and (2) implying that Hurricane Maria was not a "real catastrophe" like Hurricane Katrina.⁴⁰ Whether any of this conduct is sufficiently egregious to warrant impeachment and removal remains, of course, for the House and the Senate to decide. Irrespective of Congress's

34. SKOWRONEK, *supra* note 7.

35. *Id.* at 464.

36. Kyvig, *supra* note 33, at 30.

37. Greg Miller & Greg Jaffe, *Trump Revealed Highly Classified Information to Russian Foreign Minister and Ambassador*, WASH. POST (May 15, 2017), http://wapo.st/2pPSCIo?tid=ss_tw&utm_term=.c0817bf32132.

38. Michael S. Schmidt, *Comey Memo Says Trump Asked Him to End Flynn Investigation*, N.Y. TIMES (May 16, 2017), <https://nyti.ms/2rnVVrw>.

39. Jeremy Gottlieb & Mark Maske, *Roger Goodell Responds to Trump's Call to 'Fire' NFL Players Protesting During National Anthem*, WASH. POST (Sept. 23, 2017), https://www.washingtonpost.com/news/early-lead/wp/2017/09/22/donald-trump-profanely-implores-nfl-owners-to-fire-players-protesting-national-anthem/?utm_term=.6d17746a9d1b.

40. Willa Frej & Marina Fang, *Trump Downplays Puerto Rico's Suffering, Says It's Not a 'Real Catastrophe Like Katrina'*, HUFFINGTON POST (Oct. 3, 2017), https://www.huffingtonpost.com/entry/trump-visits-puerto-rico_us_59d3640de4b0655781554854.

conclusions here, Trump's status as a preemptive leader only works to *enhance* his risk profile. Insofar as the president fancies himself a reconstructive leader, substantial challenges to the well-established ways of Washington may "ultimately galvanize[] it into an order-affirming defense of the government as it [is]."⁴¹ Real or de facto impeachment proceedings that flow from such challenges—for example, a serious presidential effort to deconstruct the modern administrative state⁴²—would represent a signal (to paraphrase and repurpose Obama's words from January 2009) that our system really *cannot* tolerate certain kinds of big plans.⁴³

As for the long-term implications of Trump as a preemptive leader, let us assume (at least for the moment) that Trump's elevated risk of constitutional drama translates into real or de facto impeachment proceedings in the near future (say, prior to January 2021). Moreover, let us assume both that (1) these proceedings are justified, and (2) they yield a vindication of our constitutional principles (whether by the President's resignation, his removal from office by the Senate, or his retention of the presidency coupled with appropriate behavioral change). I am not at all certain that this scenario (and more particularly, its conclusion) would actually be cause for celebration. More to the point, I am concerned that it would portend both the extension and the strengthening of what the late historian David Kyvig called the "age of impeachment."

My concern here springs from the confluence of two trends within American politics. The first involves a recent uptick in use of the Constitution's impeachment and removal mechanisms. Kyvig argued that these mechanisms have enjoyed "extraordinarily frequent use" since 1960—use that rivals that of the entire period between 1789 and 1959.⁴⁴ Without attributing the recent "slide in popular respect for government" entirely to "[t]he repeated experience of watching democratically chosen federal officials considered for impeachment[,]” he suggested that their role in that development "cannot be ignored."⁴⁵ If Kyvig is correct, then even *justified* proceedings

41. SKOWRONEK, *supra* note 7, at 44.

42. David French, *Trump Wants to Deconstruct the Regulatory State? Good. Here's How You Start*, NAT'L. REV. (Feb. 24, 2017), <http://www.nationalreview.com/article/445226/administrative-state-deconstruction-trump-steve-bannon-cpac>.

43. If I am overestimating the strength of the current "institutional universe," however, then we will need to face Skowronek's dark prophecy of a twenty-first-century president who "recall[s] the themes of past greatness and take[s] these as the marks of a truly great leader." This "great repudiator" would "fill the empty truisms of the classic reconstructive stance with a substance that seriously undermines the checks on power that the Constitution still affords." SKOWRONEK, *supra* note 7, at 442–43.

44. Kyvig, *supra* note 33, at vii, 383.

45. *Id.* at 403.

against our current president would reinforce this “culture of impeachment” and thus work to further erode popular respect for government.⁴⁶

A single incumbent, of course, can only reinforce a “culture of impeachment” so much. But the second trend of interest here—the increasing frequency of preemptive leadership—promises to supply American politics with a *steady stream* of presidents with higher-than-average risk of impeachment and removal. And if one or more of these future preemptors meet the same constitutional fate as Nixon, Clinton, and (for the sake of argument) Trump, then Kyvig’s “age of impeachment” promises to extend well into the twenty-first century. More ominously, each successive employment (or near employment) of constitutional mechanisms designed for “extraordinary occasions” will further condition us to think of them as ordinary tools.⁴⁷ The point here, of course, is less to downplay the unique danger that Donald Trump may pose to the constitutional order and more to highlight the fact that the short-term “cure” provided by resignation, impeachment and removal, or behavioral change under the threat of removal may also work to strengthen a longer-term “disease” of American constitutionalism.

46. *Id.* at 387.

47. *Id.* at 2.