

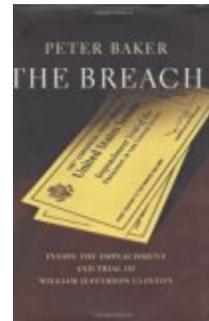
H-Net Reviews

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Peter Baker. *The Breach: Inside the Impeachment and Trial of William Jefferson Clinton*. New York: Scribner, 2000. 464 pp. \$27.50 (cloth), ISBN 978-0-684-86813-4.

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Exploring the Web of Controversy

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“Mr. Chief Justice, my fellow senators, as this trial nears the end, we have to ask the question how we got here with a tragedy like this. There are many losers. There are no winners. There are surely no heroes. There are lots of lessons to be learned, and I think all of our prayers ought to go out to those who were ensnared in the web of controversy.” – Senator Charles Grassley (R-IA), February 10, 1999 (pp. 397-398).

Now that the Clinton era is behind us, readers may wonder why they should bother with any new book on the constitutional trainwreck known more formally as the Clinton impeachment. Peter Baker’s *The Breach* deserves to survive any such skepticism.

The Breach is the latest, and may be the best, journalistic account of its subject. Baker, a reporter for the *Washington Post*, presents a calm, unvarnished account of the constitutional ordeal of 1997-1998. His focus is “the web of controversy” surrounding the impeachment and trial of President Bill Clinton, the first ever of an elected President. Like most studies of this depressing episode, Baker brings to the subject a perspective and derives from it an argument. He maintains that the impeachment and trial of President Clinton grew out of and was molded by the widening partisan breach between Republicans and Democrats, shaped in turn by the culture of attack politics and the demands of an insatiable news media (see esp. pp. 18-20). Unlike such previous studies as Judge Richard Posner’s *An Affair of State* (which used the Clinton impeachment as a vehicle to promote Pos-

ner’s jurisprudential perspective) and Jeffrey Toobin’s *A Vast Conspiracy* (which used the subject to launch an unconvincing argument that the legal system had taken over the political system), Baker has taken great pains not to let his perspective overwhelm the facts as he has been able to ascertain them. Thus, with every page of *The Breach*, Baker’s argument gains plausibility as an explanation for the account that he presents.

In *The Breach*, Baker focuses on the thorny and tortuous process by which first the House of Representatives and then the Senate grappled with the issues sparked by Independent Counsel Kenneth Starr’s “referral” (the notorious *Starr Report*), and the impeachment process that his referral ignited. (Readers unclear about such issues as what Whitewater was or why the Whitewater independent counsel expanded his inquiry to cover the Monica Lewinsky affair and the Paula Jones litigation may not find enlightenment in these pages.) At first, events and arguments within the White House (pp. 23-66) take pride of place, but eventually Congress assumes and retains center stage. Throughout, Baker is notably successful in his presentation of the ways in which politics and constitutional principle entwined and often collided in the Clinton impeachment.

As he demonstrates, the impeachment was the consequence of an increasingly “coarse and corrosive” (p. 18) political culture reigning in the nation’s capital – a culture increasingly shaped by the interaction between attack politics and the growing appetite of the media for fast-breaking news. One consequence was that, as Baker

shows, both sides in the impeachment battle came to regard it as just “another campaign to be won” (p. 19). In essence, they had reduced an elaborate and portentous constitutional process, meant to be invoked as a response to a constitutional crisis, to the level of a partisan brawl. Neither side proved immune to the temptation to seek transient partisan advantage in the heat of battle; both sides shaped and reshaped the impeachment process to gain a tactical point or to put their adversaries off balance. Baker also shows that both sides ignored, selectively invoked, or sometimes were trapped by the precedent of Watergate, often acclaimed as a model of how to conduct an inquiry into the impeachment of a President. For example, as the House Judiciary Committee staff drafted articles of impeachment, the lawyers’ decision to use the Nixon articles as a model unintentionally set up the presidential offenses alleged in Watergate as a standard that the Clinton impeachment ultimately could not meet (pp. 188-189). (Note also that the historians and constitutional scholars who took part in the public discussion of impeachment and who at one key point appeared before the House Judiciary Committee make only fleeting appearances in Baker’s pages [e.g., pp. 198-199, 266, 269-270], but that suggests just how marginalized they found themselves.)

Although Baker does not offer detailed documentation of *The Breach*, his notes (pp. 423-426) attest to the thoroughness of his reportage and to his ability to secure copies of documents seemingly beyond journalistic reach. (Careful readers attentive to the perspective from which Baker tells his story often can deduce who his sources were, even though he invokes his obligation to preserve their confidentiality [p. 424].) His Appendixes (pp. 433-445) helpfully present full texts of the relevant statements made by President Clinton on the Lewinsky scandal and the impeachment; the four articles of impeachment proposed by the House Judiciary Committee (although the full House sent only Articles I and III to the Senate); and two proposed censure resolutions – one rejected by the House and the other spurned by the Senate. He also includes a detailed and enlightening Chronology (pp. 427-432).

As they study the Clinton impeachment, constitutional historians will turn often to *The Breach*, not only because of Baker’s interpretation’s persuasiveness and his

account’s factual reliability, but also because he so effectively conveys the sometimes chaotic, sometimes terrifying, and sometimes comic atmosphere surrounding these events. For example, Baker tells us of the day when Jim Ziglar, the Senate’s sergeant-at-arms, discovered that Chief Justice William H. Rehnquist and his clerks were spending one of the long, frustrating intervals between sessions of the Senate trial playing poker, “money and cards strewn all over the table”; Ziglar reprimanded them for seeming to violate the rules of the Senate barring gambling and left the room briefly, finding on his return that the cards remained but the money had vanished (p. 364).

Exemplary in its evenhandedness, *The Breach* neither lionizes nor demonizes any parties to the process – although its sober recounting of the sense of betrayal that many of Clinton’s supporters felt as they gradually realized how much and how often he misled them makes appalling reading. In sum, however, the reader comes from Baker’s account impressed by the sincerity even of those with whom the reader vigorously disagrees on constitutional or political grounds.

With commendable restraint, Baker refrains in his Epilogue (pp. 413-420) from pontificating about the lessons of the Clinton impeachment. In this refusal to draw morals, he is true to the idea that journalism is the first draft of history. At the same time, in a dimension of the book that will resonate with historians’ soundest instincts, *The Breach* conveys the contingency of events in the Clinton impeachment; contrary to prevailing impressions then and afterward, nothing was as inevitable as it seemed (p. 20). And yet, while Baker depicts a “coarse and corrosive” Washington political culture colliding with the Constitution, he also tells a story of “real people making it up as they went along, uncertain about what was the right answer” (pp. 19-20). This last vital point is a lesson that applies to many of the thorniest episodes of American constitutional history, and it is a lesson that, all by itself, confirms the enduring value of this fine book.

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