GLASS HALF FULL: THE DECLINE AND REBIRTH OF THE LEGAL PROFESSION

BY BENJAMIN H. BARTON

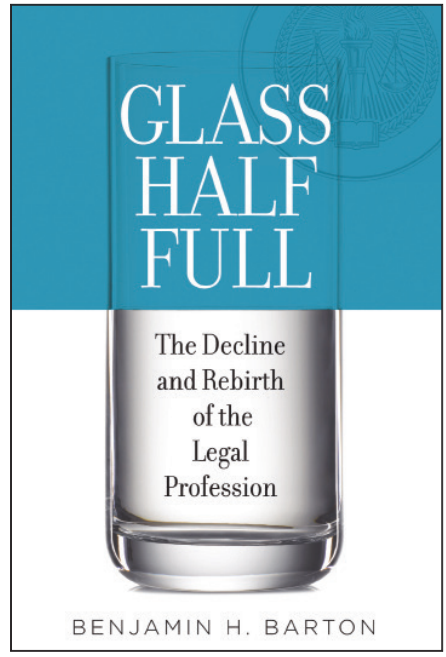
Oxford University Press, New York, NY, 2015.
305 pages, $29.95.

Reviewed by Michael Ariens

Benjamin H. Barton's *Glass Half Full* may be profitably included in the publishing genre of "legal profession disaster" books. Like a number of other books detailing wrenching recent changes in the legal profession, *Glass Half Full* presents a bird's-eye view of the difficulties facing many types of lawyers, and it illuminates the recent comeuppance of the American legal profession in its role as a socially important and financially remunerative part of U.S. commerce. As its title indicates, however, *Glass Half Full* departs from the dominant narrative by closing with an optimistic assessment of the legal profession. Unfortunately, that optimism appears on fewer than 20 of the book's 242 pages of text. Further, even that optimism is tempered by a hardheaded understanding that many lawyers simply hope to run out the clock, staving off needed reforms until they have enriched themselves sufficiently to retire.

Glass Half Full is divided into three parts. The first part assesses a number of existing and emerging transformations in the practice of law, which Barton divides into four "deaths": "Death from Above," which discusses challenges to "Big Law"; "Death from Below," which examines challenges to solo and small firm practice lawyers; "Death from the State," which focuses largely on tort reform; and "Death from the Side," on the oversupply of lawyers. The second part of the book discusses law schools' past as well as their bleak future. The third part contains three chapters that present the good, the bad, and the ugly of the near future for a significant number of lawyers.

Glass Half Full is most convincing in its assessment of the changes wrought on the legal profession by large and small economic trends. It is least convincing when it attempts, in its first chapter, to link one of those changes—the change to a "winner-take-all" (or "The Economics of Superstars") American economy—to the difficulties facing lawyers. "In a superstar market," Barton explains, "the few performers at the top earn a tremendous living and almost everyone else earns very little. ..." A link between this market and the difficulties facing lawyers may exist, but the evidence presented for it is too tenuous for any firm conclusions. Barton soon lets this go (though he returns to this idea in chapter 10) and extols the change to a winner-take-all economy for according greater value to the legal consumer. In general, surplus value has shifted from the producer-lawyer to the consumer-client, and Barton concludes that this is a good thing.



Barton's history of the American legal profession takes some shortcuts, and it might have been profitable for him simply to begin his story in the 1970s. Barton presents clearly and cogently the long-term trends (since 1970 or so) that he perceives, using excellent figures and charts. This is a major accomplishment. Concerning his four "deaths," Barton is most convincing in discussing "Death from Above" and "Death from Below," which refer to the challenges to both large and small firm private practice; he demonstrates, with detailed research and mounds of data, the difficulties facing both types. The chapter on "Death from the State" is less convincing, as it focuses too narrowly on tort reform. Barton argues that tort reform has diminished the demand for lawyers. This is questionable, but, even if it is true, it is mitigated by the fact that the federal government has continued to engage in regulatory rulemaking in ways that provide much work for all sorts of lawyers, from those in the government to private practice lawyers to in-house counsel. Finally, the chapter on increased competition in private practice, "Death from the Side," is also persuasive.

Part II, with its two chapters on law schools, is strongest in its graphs and charts. In particular, Barton's figures concerning increases in law school debt and in tuition are eye-opening, even to those who are familiar with such issues. Its history section, however, could have been eliminated. The tremendous increase in lawyers begins in about 1970, for reasons demographic (baby boomers), political (the rights revolution), and social (significant increases in women and African-Americans entering law school). Overall, the existence of other books on law schools in the present and near future makes this section of less value than Part I.

After describing in great detail the dirty laundry of the legal profession, including law schools, Barton pivots from the half empty to the half full. But the first chapter in this final part simply reinforces the negative, in usually persuasive but occasionally repetitive ways. The good news is divided into the final two chapters, the first devoted to the benefits obtained by clients in a competitive market economy and the second rather ominously titled "The Profession and Law Schools That Emerge Will Be Stronger and Better." Barton suggests that the practice of Big Law will get better, because the remaining work (after routine work is sent to "a computer or a lawyer in Bangalore for $10 an hour") will be more individualized and innovative. Barton correctly, in my opinion, concludes that the practice of law will be more entrepreneurial, "at every level of private practice." He is less persuasive in his view that "[t]imes of crisis bring people together, and this will unify the legal profession." The course of prior crises in

the history of the American legal profession belies that conclusion. I doubt (but hope I'm wrong) that his broadest and most optimistic prediction will come true: "When the dust settles we will have a happier, healthier profession, energized by the opportunity to do the challenging legal work that remains."

Glass Half Full contains a few distressing errors, such as an endnote reference to Harvard Law School dean Roscoe Pound as the poet Ezra Pound, and the book repeats itself, nearly word for word, in a couple of places. But, as an addition to the legal profession disaster canon, I appreciate its willingness to try optimism. Maybe the sky is falling, but at least Barton thinks we can lift it up again.

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FIFTY YEARS OF JUSTICE: A HISTORY OF THE U.S. DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA

BY JAMES M. DENHAM

University Press of Florida, Gainesville, FL, 2015. 505 pages, $20.

Reviewed by Richard S. Dellinger

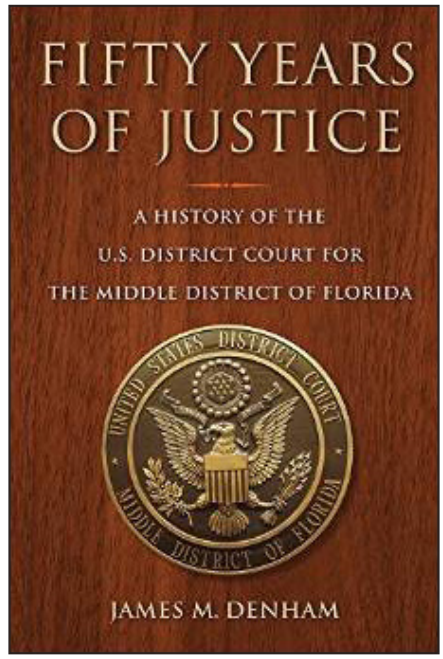
Due to great population growth, on Oct. 30, 1962, the Middle District of Florida was born after being carved out of part of the Northern District of Florida and part of the Southern District of Florida.

At the time that the Middle District was formed, Central Florida schools were segregated by race; real estate development was only beginning; airport use was not significant; Disney World, Universal Studios Florida, and Seaworld had not yet arrived; and the space race had just started.

Central Florida has seen much change over the past 50 years. And, throughout those 50 years, our courts have been witness to these changes.

When the Middle District was formed, three judges were selected from the Southern District and three were selected from the Northern District to ride the circuit and sit in federal courthouses across Central Florida. The legal disputes they heard provide an in-depth perspective into the past 50 years in Central Florida.

Fifty Years of Justice, by James M. Denham, a professor of history at Florida Southern College, traces the history of the Middle District of Florida. As you read the book, think about the people involved, think about the stories it tells, and think about



how these stories of the court make up Central Florida's history. The history contained here was compiled from the public records and from interviews with judges, lawyers, and litigants. It was not preserved for the general public—until now.

As you read this book, you will see that the story of this court is really a story of the people of Central Florida. The cases heard by the court reflect the major political events of the times, including segregation and integration, prison overcrowding, natural disasters such as the collapse of the Skyway Bridge, criminal drug trafficking and the war on drugs, terrorism, spying, and the evolving technology disputes associated with intellectual property.

The cases heard by the federal courts in the Middle District tell the true story of Central Florida over the past half century. And, in Florida, reality is much more interesting than fiction.

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LICENSED TO PRACTICE: THE SUPREME COURT DEFINES THE AMERICAN MEDICAL PROFESSION

BY JAMES C. MOHR

Johns Hopkins University Press, Baltimore, MD, 2013. 216 page, $49.95 (cloth), $21.95 (paper).

Reviewed by Jon M. Sands

Licensed to Practice opens with two fatal shots fired by Dr. George Garrison into Dr. George Baird. Garrison, the city health officer of Wheeling, West Virginia, used his position to campaign for cleaner water standards and voluntary vaccinations at public expense. Baird, a Civil War veteran and former mayor of Wheeling, had been instrumental in passing a law that created the West Virginia Board of Health, which was the nation's first medical licensing board. The two prominent doctors had been close, with Baird having been a mentor to Garrison. Garrison had apprenticed under Baird and named his son after him, and Baird had paid for Garrison to attend Jefferson Medical College. But their friendship had turned to bitter animosity, ending in death and a murder trial. The reason was medical licensing.

Licensed to Practice tells the history of medical licensing in the United States. Today, we take it for granted that doctors are licensed and regulated by the states. Throughout the 19th century, however, anyone could call himself a doctor. In *Dent v. West Virginia*, 129 U.S. 114 (1889), the U.S. Supreme Court affirmed the power of a state to create a board to oversee medical licensing. This case transformed an unregulated occupation into a legally regulated profession. At the time, legal scholars scorned and criticized the opinion as violating due process and equal protection.

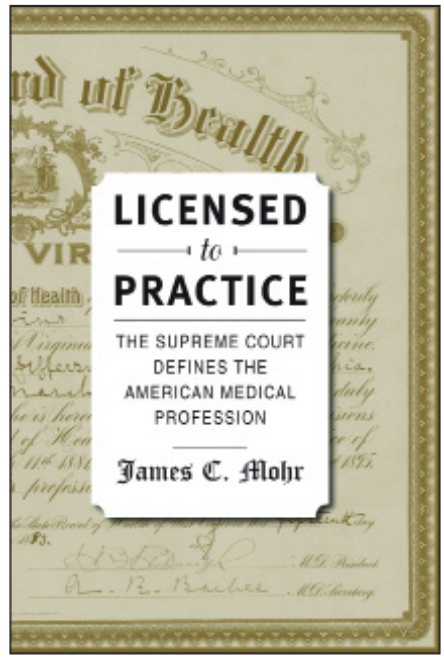
On the side of the struggle for regulating doctors during the latter half of the 19th century were the "Regulars," who sought basic standards for education and training, and credentialing by accredited medical schools. On the other side were the non-Regulars, going by such names as the Thomsonians, Botanics, Hydropaths, Homoeopaths, and

Eclectics. Looking back, the effort falls into the grand narrative of the progressive movement, with its increased awareness of scientific and regulatory processes. However, as Mohr recounts, the non-Regulars, pragmatic and practical, schooled in what works and serving apprenticeships, may have been every bit as skilled, if not more so, than the newly minted physicians with their degrees from two-year medical colleges. This fact made it difficult for the Regulars to argue that only accredited doctors should be licensed.

For a relatively short book, *Licensed to Practice* covers a lot of ground. Mohr examines the history of the medical profession and how it was practiced. He deals with the Progressive movement. He addresses the legal framework for regulation of labor and occupations, and he rolls up his sleeves for the fascinating history of West Virginia politics, movements, and remarkable physicians who regarded regulation as a matter of life and death. He provides a definitive account of *Dent*, makes an important contribution to the history of medicine in the United States, and offers an interesting study of regulation in the Progressive era.

Mohr introduces us to James Reeves, a force of nature, who had a vision of the new medicine and was determined to bring it to his state, West Virginia. Born in 1839, Reeves fell in love with medicine as a young boy, and by dint of his own intelligence and intellectual drive, he became a doctor. At age 14, he left an apprenticeship with a tailor (Reeves' father had wanted him to have a secure profession) to apprentice with a doctor. He soon had his own practice, and his efforts in treating a typhoid outbreak in 1851 gained him renown and a thriving practice. A brilliant man, he mastered medical Latin, became an expert in medical microscopy, and conducted medical experiments. By 1859, after a rigorous two-year course of study, Reeves had even earned a new type of medical degree, an M.D., from the University of Pennsylvania, one of the first medical schools to offer this degree. Even while a young physician, Reeves began publishing articles and treatises on treatment, including what became a standard text on typhoid fever. By the time he died in 1896, he had published 22 articles, four books, and the standard handbook on medical microscopy. He was a towering figure in the medical field.

Reeves was fanatical when it came to the requirements of the medical profession. He believed that an M.D. from an accredited medical school meeting American Medical Association (AMA) guidelines was necessary for one to be a proper physician. Mohr writes, "Since those guidelines forbade medical consultation with non-Regulars, Reeves not only refused to consult with non-Regulars about patients or cases but also refused to deal with any other Regulars who had anything whatsoever to do with non-Regulars, even on a friendly or social basis. Since AMA guidelines stipulated the need for formal scientific training, Reeves was suspicious even of fellow Regulars whose experience was principally practical." Reeves recruited a group of like-minded doctors, and they set about transforming the profession. Believing that a scientific education was the only road to medical progress, they embarked upon reshaping the medical profession in their own image. When faced with recalcitrant legislature that was unwilling to make a degree from an accredited medical school a prerequisite for a medical license, they chose a brilliant political strategy. Instead of asking the legislature to vote on licensing, they asked for a board of health. Many Southern states had created boards



of health during the late 1870s to battle yellow fever epidemics, so Reeves and his allies "shamelessly exaggerated" the threat of a smallpox epidemic in West Virginia in order to persuade lawmakers to create a board of health in that state. Once they got the board, they populated it with their own and passed regulations requiring for a license either graduation from a "reputable medical college" or an examination that tested subjects that "looked remarkably like the ideal Regular curriculum, as outlined by the AMA." Grudgingly recognizing that compromises had to be made, they grandfathered in doctors who had been practicing for more than 10 years.

Doctors who did not meet these requirements fell out of favor. One of them was Frank Dent. His father, who was a doctor and had even been president of the professional organization, made the mistake of wondering if the profession could be inclusive, with each side learning something from the other. Ideologues, such as Reeves and the Regulars, would not bend. To them and the board they controlled, it was a matter of public safety. Dent was denied a license, even though he had obtained a degree from a non-accredited medical school, had apprenticed, and had a thriving medical practice (although for only seven years after his apprenticeship). He continued to practice and was convicted of practicing without a license.

Dent went to a cousin, Marmaduke Dent. Although disparaged as a country bumpkin, Marmaduke Dent was skilled and savvy, a well-known and successful lawyer who rose rapidly through the Democratic Party, championing the poor and attacking monopolists and the powerful. He ended up on the West Virginia Supreme Court.

Marmaduke Dent took Frank's case up to the West Virginia Supreme Court and then to the U.S. Supreme Court. He argued that, under the 14th Amendment, the regulations deprived his client of his medical license, a form of property. Further, the regulations were unfair, arbitrary, and ex post facto. Finally, the regulations denied Frank Dent the right to practice a profession. The Dents had every right to think that the Court would be sympathetic. After all, the Court was concerned about preservation of property rights and the perceived dangers of encroachments on liberty through state regulation.

But, when it came to public health, Dent was swimming against the tide of regulation. Sixteen years earlier, in the *Slaughterhouse Cases*, the Court had narrowly upheld state health regulations. Since that time, although the Court had grown increasingly skeptical of the states' efforts to regulate in the economic sphere and to constrict property rights, the Court had recognized the states' power to regulate public health.

On Jan. 14, 1889, the Court decided

against Dent. Justice Stephen Field, writing for a unanimous Court, stressed the special nature of medicine and the need for the state to ensure that the public was protected. "Few professions require more careful preparation by one who seeks to enter it than that of medicine. ... The physician must be able to detect readily the presence of disease, and prescribe appropriate remedies for its removal. Everyone may have occasion to consult him, but comparatively few can judge of the qualifications of learning and skill which he possesses. Reliance must be placed upon the assurance given by his license, issued by an authority competent to judge in that respect, that he possesses the requisite qualifications. Due consideration, therefore, for the protection of society may well induce the State to exclude from practice those who have not such a license, or who are found upon examination not to be fully qualified." After *Dent*, the state's power to regulate the medical profession was established.

Reeves and the Regulars greeted *Dent* with delight and triumph, but legal commentators were not as celebratory. Indeed, *Dent* mystified them. Influential scholars asked what exactly the boundaries of due process would be now that the states were permitted to extend their police powers to the practice of medicine. After all, prior state regulations involving liquor or sanitation had been struck down as arbitrary or for curtailing property rights. Treatises and law review articles decried the decision as interfering with rights to practice one's profession. But legal scholars eventually made peace with *Dent* by recognizing that medicine was a special sphere. Mohr deserves credit for reminding us of *Dent* and showing its importance in the history of the regulation of the medical profession.

At the time, however, *Dent* played out in personal grievances and feuds in West Virginia's towns and cities, and here we return to the two fatal shots with which the book and this review opened. In Wheeling, George Garrison, who fired the shots, was a non-Regular doctor, and his victim George Baird, was not only a Regular doctor, but the city's public health officer. The two former friends feuded over the issue of licensing. On March 7, 1891, they encountered each other in the middle of the city and exchanged harsh words. After the hurling of insults, Garrison pulled a pistol and shot and killed Baird. Garrison admitted the shooting, and even turned himself in, but argued that he had acted in self defense, having feared that Baird would shoot him first. Charged with first-degree murder, the jury convicted him of second. However, because of juror misconduct, a new trial was ordered, and the second trial ended in a hung jury. On May 28, 1892, a third trial resulted in a conviction of involuntary manslaughter and a sentence of 22 months, seven more than Garrison had already served.

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STRANGE NEIGHBORS: THE ROLE OF STATES IN IMMIGRATION POLICY

EDITED BY CARISSA BYRNE HESSICK AND GABRIEL J. CHIN

New York University Press, New York, NY, 2014. 266 pages, $45.

Reviewed by R. Mark Frey

Our nation has been stretched taut since its beginning by the pull between federal power and states' rights concerning matters such as abortion, zoning, civil rights, and, yes, even immigration. Although immigration is traditionally viewed as within the federal purview, in recent years the states have tried to resolve some of the problems associated with our immigration system. Claiming that the federal government is doing little to address the problem of "illegals," states have pushed ahead, passing legislation to "stem the tide." As can be expected, this has led to a fair amount of litigation, with even the U.S. Supreme Court weighing in, most dramatically in *Arizona v. United States* (2012), which addressed Arizona's Support Our Law Enforcement and Safe Neighborhoods Act of 2010 (otherwise known as S.B. 1070).

Although the Court found most of the key sections of S.B. 1070 unconstitutional, it held ever so subtly that one section, 2(B), did not conflict with federal law. As a result, Arizona police will be allowed to check the immigration status of any person they encounter if they "reasonably suspect" the person to be in the United States without status. The Court noted, however, that its decision "does not foreclose other preemption and constitutional challenges to the law as interpreted and applied after it goes into effect."

The Court clearly recognized that immigration lies within the province of the federal government, principally because it involves issues that are national in scope. As Justice Anthony Kennedy noted in his majority opinion, "Immigration policy can affect trade, investment, tourism, and diplomatic relations for the entire Nation, as well as the perceptions and expectations of aliens in this country who seek the full protection of its laws." Furthermore, "[p]erceived mistreatment of aliens may lead to harmful reciprocal treatment of American citizens abroad," and, as a result, "It is fundamental that foreign countries concerned about the status, safety, and security of their nationals in the United States must be able to confer and communicate on this subject with one national sovereign, not the 50 separate States."[1]

S.B. 1070 and the Supreme Court decision have prompted a heated discussion about the nature of the tension between federal and states' rights, and, although *Arizona v. United States* seems to have settled the dust a bit, the debate continues, as does a cry for some sorely needed perspective. *Strange Neighbors: The Role of States in Immigration Policy*, edited by law professors Carissa Byrne Hessick and Gabriel J. Chin, proves useful in framing the key issues and presenting the positions of both sides.

The first section, "The Recent Spate of State and Local Immigration Regulation," contains two chapters. The first chapter, written by Huyen Pham and Pham Hoang Van, provides a state-by-state analysis of state and local laws enacted between 2005 and 2009, and it uses its analysis to measure the climate for immigrants. Not surprisingly, in light of *Arizona v. United States*, Arizona came out as the state with the most negative climate for immigrants, while Illinois and California scored most positively for immigrants.

In the second chapter, Douglas Massey discusses various matters. He analyzes data and U.S. immigration policy to argue that, historically, the ebb and flow of people from Latin America to the United States were a direct result of the demands of the U.S. economy. He examines how, by 2009, however, U.S. immigration policies (especially the "War on Immigrants" and the militarization of the border) had led to a growing number of undocumented individuals becoming unable to come and go between the United States and their homelands. He also considers how the costs and risks of undocumented border crossings had led to a shift from the traditional border entry points lying between San Diego–Tijuana and El Paso–Juarez to places

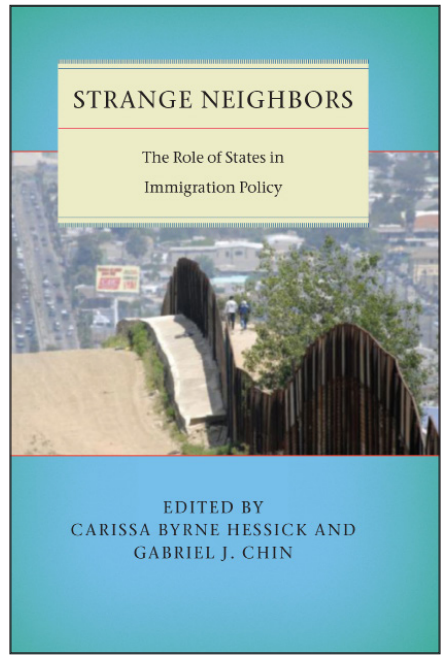
in Arizona. And, with that, Arizona emerged "as a center of anti-immigrant protest, xenophobia, and nativism."

The second section, "Historical Antecedents to the Modern State and Local Efforts to Regulate Immigration," provides further insight into the tension between federal and states' efforts to control immigration, while drawing attention to the latter's xenophobic underpinnings. In the only essay in this section, "A War to Keep Alien Labor out of Colorado," Tom Romero notes that, in early 1935, Colorado Gov. "Big" Ed Johnson was troubled by the "alien menace" from Mexico and sought to curb it through direct state action. That involved a plan to set up a camp for Mexican "aliens" at the National Guard's facility just outside Denver as well as support for local and state efforts to enforce the existing federal immigration laws. Problems ensued, however, when many of those "Mexicans" who had been rounded up turned out to be U.S. citizens. "Governor Johnson," Romero writes, "was quietly forced to stop the militarization of immigration enforcement altogether."

The third section, "A Defense of State and Local Efforts," has two chapters. The first, Reinforcing the Rule of Law: What States Can and Should Do to Reduce Illegal Immigration, was written by Kris Kobach, who currently serves as secretary of state of Kansas. Kobach is intimately involved with various state and city efforts to keep "illegal" immigrants out of the country; he played a key role in drafting S.B. 1070 for Arizona. Kobach first identifies the problem of rampant "illegal" immigration, with states feeling pressed to eliminate it. Now that "every state is a border state," states and cities need to know how to draft legislation that avoids preemption by federal law. This chapter is essentially a primer outlining how states and cities may best accomplish that objective. Kobach identifies eight areas worthy of attention and then discusses how to approach each. The areas include, among others, denial of public benefits and resident tuition rates to "illegal" immigrants, denial of driver's licenses to "illegal aliens," and cooperative state enforcement of federal immigration laws.

The second chapter in this section, "The States Enter the Illegal Immigration Fray," is by John Eastman and seeks to identify the problem of "illegal" immigration in the United States and what the states can do to eliminate it. He illustrates this through a discussion of Arizona's S.B. 1070, Alabama's Taxpayer and Citizen Protection Act, and birthright citizenship. Although both volatile and antagonistic to immigrants, Eastman successfully portrays the perspective and rationale of the states' rights side.

The fourth section, "A Critical Evaluation of the New State Regulation," contains three chapters. The first, "Broken Mirror: The Unconstitutional Foundations of New State Immigration Enforcement," by Gabriel Chin and Marc Miller, criticizes one of



Kobach's suggested areas for state action: cooperative state enforcement of federal immigration laws. What could be less intrusive than cooperation between those two levels of government? Chin and Miller point out, however, that state efforts in this vein are actually quite draconian. They note that, although the Supreme Court allows state legislation that serves legitimate state interests, it opposes veiled efforts to regulate immigration itself. And, they contend, states' rights advocates are frequently linked to the latter. That is why, they note, Kobach is so concerned with the importance of drafting language that avoids federal preemption. Chin and Miller are emphatic that, when all is said and done, *Arizona v. United States* makes clear that states cannot usurp federal power.

Rick Su's chapter, "The Role of States in the National Conversation on Immigration," suggests that the primary benefit of state-level immigration laws is that they draw attention to the importance of including states in the national conversation about immigration, immigrants, and those who are out-of-status. He notes that states should not be excluded on account of federal exclusivity.

The third and final chapter in this section is "Mary Fan's Post-Racial Proxy Battles over Immigration," a thoughtful and incisive reflection on immigration in the United States. According to Fan, both economic and political turmoil often bring anti-immigrant state legislation that its advocates justify by raising the rhetorical specter of hordes of "illegals" flooding the country. But, as she points out, "the unauthorized population actually fell by nearly two-thirds, decreasing by about a million people, between 2007 and 2009 as the recession reduced the lure of jobs." If that is so, then what is behind this state legislative activity? Fan sees it as "a proxy way to vent resurgent racialized anxieties ... [over] the 'Other'—the foreign enemy within—in a time of economic and political turmoil." That has led specifically to legislation, such as Arizona's S.B. 1070, that encourages "illegals" to leave.

The other realm of state legislative activity generated by racialized anxiety concerns children born in the United States of noncitizen parents, whether those parents are "illegal" or lawfully present in the United States. As Fan observes, those responsible for this legislation seek to rewrite the Constitution. Section 1 of the Fourteenth Amendment states: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside." In *United States v. Wong Kim Ark* (1898), the Court ruled decisively that a Chinese-American born here of lawful permanent resident parents was a U.S. citizen. To hold otherwise would contravene the intent of the Fourteenth Amendment. "Automatic citizenship for U.S.-born people," writes Fan, "bound the nation to the mast against the demons of racial loathing and caste carving that resulted in decisions such as *Dred Scott v. Sandford*, ruling that descendants of African slaves, even if emancipated, cannot be citizens."

Fan observes that anti-immigrant state legislation is nothing new to the United States. In a brief historical overview, she notes the problems experienced by many populations in the United States (Italian, Jewish, Eastern European, Irish, black, Japanese, and Chinese, to name a few) and draws parallels between the arguments and rationalizations used then and those used today. Even more telling is her discussion of the Chi-

nese experience in California during the late 1800s, and the U.S. Supreme Court decisions that addressed it. In *Chy Lung v. Freeman* (1876), for example, the Court ruled unanimously that a California law interfered with Congress' power to regulate commerce with foreign nations because it required a $500 bond from every incoming passenger deemed by California's Commissioner of Immigration to be "lunatic, idiotic, deaf, dumb, blind, crippled, or infirm" or a "lewd or debauched woman." Likewise, in *Yick Wo v. Hopkins* (1886), the Supreme Court invalidated on equal protection grounds state legislation that was used selectively to prosecute Chinese laundry operators, notwithstanding the fact that the law was "fair on its face, and impartial in appearance." The same old wolf in new sheep's clothing.

The issue of implementing immigration law and policy is contentious and likely to be of interest for some time to come, because Congress seems unwilling or unable to pass meaningful legislation resolving many of the problems in our immigration system. Although *Arizona v. United States* appears to have addressed some of the concerns resulting from the tension between federal and states' rights, the battle is not over. States continue to seek the assistance of organizations such as the Federation for American Immigration Reform and of individuals such as Kris Kobach to help draft legislation that avoids federal preemption. This book provides context, perspective, and the reasoning behind both sides' positions. That makes it a valuable resource for anyone seriously interested in gaining a fuller and more nuanced understanding of the debate over federal and states' rights in the immigration realm. ⊙

Endnote

1. The Supreme Court's use of "aliens" in this quotation is unfortunate because it carries a negative connotation, whether intended or not. The use of "aliens" (as well as "illegals," and "illegal" as a modifier of "immigrants" or "aliens") dehumanizes the individuals referred to and hinders a meaningful debate over immigration law and policy.

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