



Impeachment-- The How and Why

John Barkham

THE LUCE Professor of Jurisprudence at Yale, Charles L. Black Jr., presents the season's most timely book in "Impeachment: A Handbook" (Yale; \$5.95 cloth, \$1.95 paper). It is an authoritative handbook that answers all the questions about impeachment and trial you ever wanted to ask, and makes the legal jargon crystal-clear. Black takes no personal position on the guilt or innocence of the incumbent President, nor does he take for granted that an impeachment bill will in fact be voted by the House.

Assuming that one is, however, it will require only 218 votes of the 435 in the House. Should the House vote to impeach it would also have to appoint "managers" to present the case for impeachment to the Senate, where the actual trial would be conducted. Since the House would be the prosecuting party in the Senate, its "managers" would in effect serve as prosecutors. Black emphasizes that both the House and Senate can hear all relevant evidence without regard to technical rules.

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ALL THIS is presented in straightforward language any lay reader can understand. The book is not much of a guide for lawyers as for the man in the street who will be watching the proceedings on television. Black's position is eminently that of a reasonable man, sometimes agreeing with the President's sup-

porters, sometimes siding against them. He opposes public hearings.

The likelihood, however, is that the trial — if impeachment is voted by the House — will be conducted in public. It is, after all, the public's business to ascertain whether the Chief Executive it voted into office has properly fulfilled the duties of that office. The Chief Justice would preside over the trial, with the Senate as the tribunal. The House "managers" would present the case, and the President's counsel would defend. The President himself need not appear, though he could if he wished. Procedural questions or questions on the admissibility of evidence would be decided by the Chief Justice, but the vote of the Senate could overrule him.

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AS TO WHAT offenses are impeachable, Black examines authorities and precedents involving earlier impeachments, mostly of federal judges. His own ruling would require "some flavor of criminality." Mere maladministration would not be enough.

As examples, he would consider impeachable serious income-tax fraud or bribery and the use of tax systems to harass opponents. On the other hand, he does not regard the impoundment of funds voted by Congress as impeachable, or "unauthorized war operations," or "improper campaign tactics."

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