

Should He Be Impeached?

The Impeachment of William Jefferson Clinton: A Political Docu-Drama

R. Emmett Tyrrell, Jr.
and "Anonymous"
Regnery / 275 pages / \$24.95

REVIEWED BY
Robert H. Bork

When the effort of the Jeffersonians to remove Federalist judges from the bench culminated in the Senate's failure to convict Supreme Court Justice Samuel Chase, Thomas Jefferson called the impeachment procedure a "farce" and "not even a scare-crow." And so, for most of our history, it has remained.

Only two presidents have been seriously threatened with impeachment. The first, Andrew Johnson, escaped conviction in the Senate, and hence removal from office, by a single vote. The second, Richard Nixon, aborted the process by resigning. Nevertheless, that resignation was forced by the looming specter of impeachment: there was little doubt that Nixon lacked the votes in either the House or the Senate had he chosen to fight.

Now, we are invited for a third time to contemplate the removal of a president from office through the impeachment process. R. Emmett Tyrrell, Jr. and "Anonymous" make the case—and a powerful case it is—in *The Impeachment of William Jefferson Clinton*. If Nixon deserved impeachment, Clinton certainly does. The scandals of the two Clintons continue unendingly, from Arkansas to Washington. A new instance of misbehavior in office seems to surface every week.

ROBERT H. BORK is *John M. Olin Scholar in Legal Studies at the American Enterprise Institute*. His most recent book is *Slouching Towards Gomorrah* (HarperCollins).

Tyrrell and Anonymous present their case as a narrative of the ordeal that awaits Clinton: the House hearings and adoption of a bill of impeachment; trial on the bill's charges in the Senate; conclusions of previous investigations; newspaper articles and television news clips. The authors skillfully produce an aura of reality and immediacy, a vividness that can be produced only by the narrative form. The earlier materials are real while the later ones, carrying the story forward to its conclusion, are necessarily products of the authors' imagination. The real past materials and the imagined future ones blend seamlessly because the authors know firsthand the cadences of political partisanship, its sonorities and its bickerings.

Bill Clinton came to office promising the most ethical administration in our history and has instead given us the sleaziest. But sleaze is not the gravamen of the authors' case for impeachment. The real charge, as Tyrrell and Anonymous make clear, is abuse of power. Of that there is ample evidence—enough to make the Nixon administration seem merely, almost mildly, errant by comparison.

The story opens with a Committee of Six—three Democratic Senators and three Democratic Representatives—calling on the president, just as a committee of Republicans had called on President

Nixon, to inform him that hearings are imminent and inevitable on a proposed bill of impeachment. They didn't have the votes to block the process. Henry Hyde, a highly respected representative from Illinois, was to chair the hearings. Clinton responded with a television address on June 24, 1998, claiming he had been subjected to "an unprecedented and mean-spirited campaign of lies, half-truths and vilification" from the first day of his presidency. This attempt to overthrow the will of the people wasn't aimed at him self alone, he said, but was aimed at usurping the Constitution. The stage is set.

All of the scenery is not in place, however, because a major factor, the Report of Independent Counsel Kenneth Starr has not yet been submitted. The author:



assume that it will be by mid-1998, though they can say only that the report concerns "the Whitewater cover-up." That there has been a Whitewater cover-up is, of course, obvious even now. Whether Mr. Starr will go beyond that, whether he will indict subordinates, how he will phrase what he learns, and how soon the special court that appointed him will make all or part of his report public are matters of crucial importance that lie in the future.

The Constitution says little enough about impeachment. Article I, Section 2, states in the most off-hand manner, amidst a host of other details that "The House of Representatives...shall have the sole power of Impeachment." Impeachment, which is only a charge analogous to a grand jury indictment, requires only a majority vote. As stated in Article I, Section 3, more is required for conviction in the Senate:

When the President of the United States is tried the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment according to Law.

The grounds for conviction are stated somewhat vaguely in Article II, Section 4:

The President, Vice President and all Civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other High Crimes and Misdemeanors.

What the Framers and Ratifiers meant by "high crimes and misdemeanors" is unclear. They cannot use "misdemeanor" in the modern sense, for it would be senseless to specify treason, bribery, and high crimes if the misdemeanors of jaywalking or spitting on the sidewalk would suffice for conviction. The common sense of the matter supports the conclusion Tyrrell

“

**The real charge is
abuse of power.
Of that there
is ample evidence.**

”

and Anonymous draw: "[A]t least since Watergate most scholars agreed that the Founding Fathers considered it a 'high crime' for a president to fail to observe the moral standards expected of him. Impeachment then and now had to do with standards of political morality." And there Hyde has the problem of an embarrassment of riches. Hyde muses that the old question from the Nixon hearings, "What did the President know and when did he know it?" was now greatly con-

fused: "Which 'it' was up for discussion? Whitewater? Travelgate? Filegate? Hillary's missing papers? The Riady-China connection? The suppression of the RTC investigation?" As Tyrrell-Anonymous demonstrate, that is only a very partial list.

In Tyrrell and Anonymous's imagined scenario of the House impeachment hearings, the first subject is the firing of the Travel Office employees and the first witness is George Stephanopoulos. The second is William Kennedy III, a former associate White House counsel. Kennedy had called in the FBI with the remark that if the Bureau could not handle the Travel Office matter, perhaps the proper agency would be the IRS. Tracing the firing decision to its source, Henry Hyde established that the funds involved in the Travel Office were not taxpayers' money but contributions from the news organizations whose transportation the Office handled. There had been no complaints from those organizations. Thus, the firings were not for the benefit of the public or of the news organizations. The only

Congratulations to

The American Spectator and
R. Emmett Tyrrell Jr.,

editor, syndicated columnist
and intellectual leader of
the free world during the past
three decades.



SYNDICATE

CREATORS

beneficiaries were friends of Mrs. Clinton who sought to run the Travel Office.

The 1996 report of the Clinger committee's investigation demonstrated that the firings were done in order to give the business to Catherine Cornelius, who had handled transportation in the campaign, and to Harry Thomason, a partner in an air charter business and major supporter of the Clintons. A memorandum from David Watkins, while he was still on White House staff, to Mack McLarty, then White House chief of staff, said "there would be hell to pay if...we failed to take swift and decisive action in conformity with the First Lady's wishes." Yet, in her written responses to Rep. William Clinger's questions, Hillary Clinton denied being behind the firings and said she "had no role in the decision to terminate the employees."

Though financial irregularities in the Travel Office were later claimed by the White House, the decision to fire was taken before an auditing firm was called in and the FBI was summoned to issue a statement that a criminal investigation was warranted. The firings and suggestions of criminality by the Travel Office personnel were unwarranted; no charges were brought except against Billy Dale, who was found not guilty by a jury after only a brief examination of the prosecution's case. Thus, the Clinton administration began as it has continued, abusing the powers of government and politicizing its branches.

This episode illustrates the course the book follows through the serial political immoralities of the Clinton administration. To recount every instance would require a multi-volume set. Tyrrell-Anonymous direct the hearings to the White House aides, Craig Livingstone and Anthony Marceca, who took the Fifth concerning their acquisition of raw FBI files, the abominable Bernard Nussbaum's memo to the FBI claiming that Billy Dale's file was needed because he was being considered for a White House post, and Nussbaum's tampering with, and blocking Justice Department access to, Vincent Foster's papers after the latter's death, Hillary Clinton's false statement that she did not know Livingstone or have any role in his hiring, and the extensive and convoluted Clinton administration

“
***It is a close call whether
Bill Clinton should be
removed from office by
impeachment.***
”

solicitation of funds from the Indonesian Lippo Group and Chinese sources.

In this last matter, the main actor was John Huang, who was given wholly unnecessary access to classified national security and foreign policy information, and who telephoned Lippo frequently. When inquiries began, he promptly left the United States for China. Appointments of wholly unqualified persons to the President's Foreign Intelligence Advisory Board were made in exchange for \$100,000 donations. Similarly, James Riady, an Indonesian billionaire, met with Clinton and, among other things, paid Webster Hubbell \$100,000 for services neither man would describe. (Various sources gave the presumably unemployable Hubbell over \$400,000 for no apparent legitimate reason. But Hubbell has refused to cooperate with the Starr investigation.) Many witnesses, rather than fleeing or taking the Fifth, repeatedly swore under oath to congressional committees that they could not recall obviously memorable events and conversations. Amnesia spread like a plague in the Clinton administration.

Whatever the legal meaning, Henry Hyde knows, in the Tyrrell-Anonymous scenario, that impeachment ultimately depends upon persuading the public of its necessity. "As he had seen twenty-four years earlier, respect for the institution of the presidency can sustain the man who holds the office long after respect for the man himself has diminished, or even disappeared."

It is the premise of Tyrrell and Anonymous's book, however, that a similar anti-Clinton fervor can be created by nationally televised impeachment hearings in the House of Representatives that make plain

to the public the many abuses of power of this administration, abuses that could not have occurred without orchestration from the White House, whether from Hillary's East Wing or Bill's West Wing, or both.

The authors' summation of the evidence is contained in the seven-count bill they posit Henry Hyde announcing "abuse of power, solicitation and receipt of illegal campaign contributions, obstruction, and by his actions dishonoring the institution of the Presidency." Clinton has worked overtime to justify Mark Helprin's judgment that he may be "the most corrupt, fraudulent and dishonest president we have ever known."

The book picks up speed and urgency with the authors' depiction of the Senate trial, a trial that relies on the record made in the House. We see Clinton anxiously counting votes to see if he can win by retaining one-third plus one of the Senators. The reader can easily guess the outcome, given the authors' predilections but it will not be described here, which would spoil part of the impressive literary effect. When reading a mystery, you may be sure the butler did it but not appreciate someone telling you in advance.

But this raises real-world concerns. It is a close call whether Bill Clinton should be removed from office by conviction on impeachment. There is, on the one hand, the very real danger that precedent will be set so that impeachment will become a regular part of the arsenal of partisan politics. The main safeguard against that is public opinion. Though Nixon's poll numbers steadily declined even at the end, when the evidence of wrongdoing was incontrovertible, about a quarter of the American electorate continued to support him. Nor is this true merely of the *hoi polloi*, the credulous and uneducated. A highly sophisticated man of my acquaintance opposes impeachment of Clinton, whom he despises, with the statement, "He is the president." He did not attribute a mystic quality to the office but felt that, for prudential reasons, presidents ought not be deposed except under the most urgent and compelling circumstances. There is much to be said for that point of view. Our institutions ought not be unsettled. We ought not become a banana

epublic where coups take the form of impeachments rather than firing squads.

On the other hand, there is the very real danger that Bill Clinton's behavior, his abuse of power, if not his personal habits, will become a precedent if we accept it and, by our inaction, ratify it. It is true that other presidents before Nixon (Lyndon Johnson springs to mind) abused the powers of the presidency, but those abuses were not fully known at the time and so cannot be said to have been ratified.

In the end, I come down where Tyrrell and Anonymous do. It is highly unlikely that impeachment and conviction will become merely another political weapon, particularly since a two-thirds vote in the Senate is required. Failing impeachment, however, it is all too likely that those who come after Clinton will absorb the lesson that almost any degree of corruption will be tolerated and will behave accordingly.

Having said that, it seems to me less likely than it does to Tyrrell-Anonymous that an impeachment will actually occur. The willingness to use impeachment is not symmetrical. Nixon earned the hatred of the press, intellectuals, and labor leaders. The drumbeat of television news, press headlines, stories, and editorials was overwhelmingly biased and hostile. Because he is a big government man, despite his disingenuous protestations, Clinton has not faced anything like a campaign against him of such intensity. Clinton enjoys high popularity figures. Politicians who live by polls and focus groups are not likely to take on the arduous, unpleasant, and politically dangerous task of vindicating the honor of the presidential office. As the aphorism has it, if you strike at a king, you must kill him. That rule contains no exception for corrupt kings.

Tyrrell-Anonymous rely for their expectation of a successful impeachment not on a single dramatic event, though that is not to be ruled out, but on the steady, unremitting succession of scandals that gradually erode public support to the point where the removal of the president seemed inevitable. This is a theory of death by drip-drip, a form of Chinese water torture. Perhaps it is realistic.

Still, it must be remembered that America paid a high price to see the back of Richard Nixon, perhaps too high a price.

You deserve a factual look at...

Those "West Bank" Settlements Are they really the "greatest obstacle to peace?"

In the context of the negotiations between Israel and the Palestinians that have now been going on for almost four years, it is often asserted that the Israeli towns and villages (usually and with some derogation referred to as "settlements") in Judea/Samaria (the "West Bank") are possibly the most serious obstacle to peace. That has been and is being repeated so often that many have come to accept it as truth.

What are the facts?

A recap of history. Some thumb-nail history may be in order. Large numbers of Jews have been living in these territories since biblical times. Most of the Arabs living there are in fact relative newcomers. "Palestine" is the entire area now covered by Israel including Judea/Samaria (the so-called "West Bank") and what is now the Kingdom of Jordan. It originally also included the Golan Heights, which later, in an agreement between England and France, were ceded to France, and to Syria as the successor in possession.

In 1922, contrary to the Mandate of the League of Nations, the British severed the entire area east of the Jordan and gave it to the Hashemite Arabs for their assistance in World War I. Thus, fully 75% of Palestine, all of which under the Mandate and under the terms of the Balfour Declaration was meant to be a home for the Jewish people, was lost for that purpose. Only the area west of the Jordan River was left for the Jewish homeland.

How the West Bank became "Arab country." In 1947, after decades of strife between Arabs and Jews, the British decided to relinquish the Mandate. The UN stepped in and proposed a partition plan under which the country (west of the River) was to be divided into respective Arab and Jewish areas. Jerusalem was to be internationalized. The Jews accepted the plan; the Arabs refused it out of hand. In 1948, on the twice truncated territory

allotted to them by the U.N., the Jews declared their independence and the state of Israel was born. On the same day, six Arab armies invaded the new-born state. In what can be described as an almost biblical miracle, the Jews defeated them. When an armistice was finally secured, however, TransJordan remained in possession of Judea/Samaria (the "West Bank") and the eastern part of Jerusalem; Egypt remained in possession of the Gaza Strip. TransJordan renamed itself Jordan.

The Six-Day War. Once in possession of the "West Bank" and eastern Jerusalem, the Jordanians promptly proceeded to expel all Jews and systematically to desecrate and to destroy most Jewish sacred places, cemeteries and houses of worship. No Jews, regardless of citizenship were allowed into the "West Bank," eastern Jerusalem, the locale of the Western Wall, the holiest site in Judaism. In 1967, Egyptian president Abdel Nasser, joined by the same array of Arab armies that had unsuccessfully tried to destroy Israel at its birth in 1948, launched another war against Israel "to drive the Jews into the sea" and into oblivion, once and for all. But the Israelis utterly defeated the combined Arab might in the Six-Day War, one of the greatest military victories in history. When the dust of war settled, the Israelis had not only retained their national territory, but had *repossessed* the territories of Judea/Samaria (the "West Bank"), the eastern part of Jerusalem, the Gaza Strip, the Golan Heights and had totally occupied Egypt's vast Sinai Peninsula.

"Why should the Arab countries and the 'West Bank' be the only places in the world where Jews are not allowed to live?"

regardless of citizenship were allowed into the "West Bank," eastern Jerusalem, the locale of the Western Wall, the holiest site in Judaism. In 1967, Egyptian president Abdel Nasser, joined by the same array of Arab armies that had unsuccessfully tried to destroy Israel at its birth in 1948, launched another war against Israel "to drive the Jews into the sea" and into oblivion, once and for all. But the Israelis utterly defeated the combined Arab might in the Six-Day War, one of the greatest military victories in history. When the dust of war settled, the Israelis had not only retained their national territory, but had *repossessed* the territories of Judea/Samaria (the "West Bank"), the eastern part of Jerusalem, the Gaza Strip, the Golan Heights and had totally occupied Egypt's vast Sinai Peninsula.

It is clear from this short history that Israel's claim to the "West Bank" is far stronger than that of the Arabs. It's only by constant repetition that the world has come to think of these territories as "occupied Arab land." About 200,000 Jews now live in these territories. And why shouldn't they? Why should the Arab countries and the "West Bank" be the only places in the whole world where Jews cannot live? How can 200,000 Jews living among one million Arabs be "an obstacle to peace?" Over one million Arabs live in Israel. They are citizens, they have every civil right, and of course have nothing to fear from their Jewish fellow citizens. Certainly, nobody considers them an obstacle to peace.

This ad has been published and paid for by

FLAME

Facts and Logic about the Middle East
P.O. Box 590359 ■ San Francisco, CA 94159

FLAME is a 501(c)(3) educational institution. Your tax-deductible contribution allows us to publish these important messages.

38C

The “reform” legislation and expectations that immediately preceded or followed on, from the Federal Election Campaign Act to the Impounding Control Act to the War Powers Resolution have uniformly made matters worse. Perhaps deposing Clinton

would give us campaign spending “reform.” That would be his revenge and his final degradation of American politics and the office he held. The benefits of Clinton’s removal from office, Tyrrell and Anonymous make clear, outweigh the risks. ❁

examined by Cranston for his own analysis, and relates them to his experiences at the shrine. Then he passes on to the problem of evil, and the nature of a God who can allow to take place earthquakes and other natural disasters which kill innocent people, often cruelly.

In Chapter Eleven, Buckley looks at the way Hollywood has dealt with religious subjects, and in particular its treatment of *True Confessions*, the novel by John Gregory Dunne (1977), which features the bad priest who visits brothels. This kind of oblique attack on Catholicism does not worry Buckley too much because he believes it evokes from Catholics valuable responses, just as Charles Kingsley’s crude and unfair attack on John Henry Newman produced his masterpiece, *Apologia Pro Vita Sua*. Buckley is more exercised by such current Catholic problems as the arguments over women priests and birth-control, and the difficulties produced by divorce, remarriage and “living in sin” within Catholic families, all of which he deals with in Chapter Twelve.

The next chapter is devoted to Malcolm Muggeridge, whom Buckley knew well, revered, and with whom he made a TV movie about the Vatican. This involved Princess Grace Kelly and an abortive “private audience” with Pope John Paul II, of which Buckley provides an entertaining account. There follow further chapters on church and state and the national culture, on the uniqueness of Christ, and on what the author calls “the special blessings, and problems, of Catholics.” Finally there is a detailed chapter on the ordination of a Catholic priest, which Buckley witnessed. There is an epilogue about the religion of his mother, to whom the book is dedicated, and some useful appendices, one of which lists in detail the current religious practices, such as they are, at various American schools—Groton, Brooks, Deerfield Academy, St. Paul’s, and so on.

I have provided this breakdown of the contents of Buckley’s book because it is not an ordinary spiritual autobiography. Indeed, I am not sure it is a spiritual autobiography at all, in the sense that Newman’s *Apologia* is. It does not trace the evolution of Buckley’s religious opinions systematically, from start to finish, nor identify the books and persons and events which

God and Man and William F. Buckley, Jr.

Nearer, My God: An Autobiography of Faith.

William F. Buckley, Jr.

Doubleday / 313 pages / \$24.95.

REVIEWED BY
Paul Johnson

Bill Buckley’s place in the contemporary American political and media scene is secure and well-known, and he needs no introduction. It is also common knowledge that he is a strong, practicing Catholic, and that his Catholicism informs every aspect of his public convictions. But the nature and quality of his faith, and its history, have been personal matters up to now. Buckley has at last decided to open up the windows to his soul, and it is of interest to show exactly how he sets about it.

First Buckley describes the salient episodes of his childhood. Much of it was spent just before World War II in England, where he attended the Jesuit school at Beaumont, near Windsor Castle, though he seems to have derived most of his religious ideas from his God-fearing parents (his mother took Holy Communion daily). Then came Yale, and Buckley has illuminating things to say about the elements of Christianity to be found there in his time, and today.

He then discusses what he calls “the never-ending debate” about the existence of God and the role of religion in life, with particular reference to the demands on a person made by Catholicism and the “dif-

iculties” that thereby arise. He does not seem to have been bothered by most of the tricky questions created by the specificity and exigence of Catholic doctrine, but he admits to having been “arrested” by the need to reconcile divine omniscience and individual free will. He deals with the Spanish Inquisition, slavery, the doctrine of Hell, and even that old chestnut, Indulgences, and the sale thereof, quoting extensively from the defenses put up by such Catholic controversialists as Sir Arnold Lunn and Father Ronald Knox.

Buckley goes on to discuss the Second Vatican Council and its mixed message: on the one hand it did some much-needed updating of the Catholic Church, but on the other it seemed to set it on a path of free-fall to liberalism. A further chapter examines the experiences and views of such prominent converts to Catholicism as Father John Neuhaus. Chapter Eight is devoted to the crucifixion, in which he makes impressive use of a work by the Italian poetess Maria Valterra, *The Poem of the Man-God*, which describes the execution of Christ in horrific detail. The poem was new to me, and the extensive summary and quotations Buckley provides made a striking impression on my visual consciousness of the event.

Buckley’s next move is to deal with miracles by describing a visit he paid to Lourdes, on the edge of the Pyrenees, which is the biggest place of pilgrimage in France and probably in Europe. He describes in some detail the conditions which have to be satisfied to authenticate a Lourdes miracle, making extensive use of a book, *The Miracle of Lourdes*, written by a convert, Ruth Cranston, in the 1950’s and recently updated. Buckley selects some of the cures