

## LAW ON TRIAL: THE STARR-CLINTON EVENT

*What happened?* (1) In his presidency's 6th year, Wm. Jeff. Clinton was afflicted with a grievous but nondebilitating itch. Nondebilitating: He managed, while carrying a full workload of what the people had elected him for, to keep the itch scratched. **OR** (2) The flowerbeds (the civic "values") got trampled during an eight-month duel of two legal behemoths, the elected logomach defending himself against the initiatives of the appointed logomach (who over a period of four years had spent over \$40 million of the taxpayers' money to entrap the elected logomach). **OR** (3) A slut successfully seduced the President, who unsuccessfully lied about it. **OR** (4) The official maintainer of the laws of the land criminalized himself (said the House's two impeaching bills) by committing perjury & obstructing justice.

The 1st view is **intrapsychic**, how the President saw the Event. The 2nd is **professional**, the Event seen from within the legal profession & its history. The 3rd is **sexual**, a story of interpersonal erogenous-zones activities. And the 4th is **legal**, the book's dominant mentality being what in the '60s was called *law-&-order*.

Today's the 1st day of the last year of the century before the 21st. A century from today, how will presidential historians rate these four perspectives? Your guess. Mine will be clear to you by this Thinksheet's end.

1 Eerdmans is to be congratulated on choosing as editor a scholar highly competent for the task. Further, the book's 20 contributors are seasoned religiomoral/cultural thinkers. Again, there are some brilliant essays on both sides of Clinton "go/stay," though the book's tilt is "go" (ie, resignation or impeachment).

2 None of the contributors would refer to the Event as I do, viz "Starr-Clinton." Clinton's "fooling around" (as she put it, under oath, to distinguish it from penile penetration of the vagina [ie, "having sex" or "sleeping together" or "having an affair"]) was an event (in his past, his sexual history) but not an Event. The Event (capital "E") was initiated by Starr, whose name should accordingly precede Clinton's in the Events-index. (Model: Jn. Knox's "the Jesus Event," the comprehensive term for everything Jesus started.)

3 An event (lower-case "e") "in his past": S. Hauerwas is wrong in stating that C. "got caught" (20). Sexual philanderers JFK & MLKing got caught. The media were informed (but chose not to expose) when Pres. Kennedy was chasing nude bimbos around the White House pool & the Rev. Dr. King was making hotel reservations for meetings with numerous prostitutes. Those two got caught & their promiscuity was not revealed: C. didn't get caught, but his *past* "indiscretion" with Monica was later Starr-initiated placarded in lurid detail before the world. ("Indiscretion" is too strong a word if we give it Henry Hyde's meaning. When H. was "outed" for something in his past [viz, committing double adultery, with the result that the cuckolded husband lost both his wife & his chn.], he called it a "youthful [age 41!] indiscretion." C. has never been accused of double adultery, has never cuckolded any man--or would not Starr, the sex cop, have dug it up?)

4 When Ernest Cadman Colwell became president of the U. of Chicago, he was my mentor on a PhD dissertation on repentance, & I've still about a yard of 3x5s from that project. Naturally, I perk up when reading/hearing anything on the subject. The Fackre anthology is loaded with "repentance," which would take a page in the subject index if there were one. And I am depressed: I find, in most of these C.-go authors, a settled, ill-will determination to raise the repentance-bar so high that C. can't surmount it. As a cynical secular columnist put it, "Those Christians preach forgiveness but pass up this chance to practice it." I know six who were at the Prayer Breakfast (9.11.98), six highly perceptive clergy, & none of them doubts the President's repentance-sincerity--none took it as a political stunt of what the Declaration calls "a politically motivated and incomplete repentance" (1; two assertion in violation of Mt. 7.1). Contrast (1) N. Wolterstorff, 113f: "Hyde made no admission of *moral wrongdoing* whatsoever. It's extremely unusual for public figures to admit to *moral wrongdoing*. Nixon conceded only to having made mistakes. Clinton said that what he did was *morally wrong*....we should accept with gratitude his rep-

entance and expression of repentance rather than reacting with sour grumpiness [as does the Declaration], as if he shouldn't have expressed repentance but should have said something else instead. Rejoice over the sinner who returns home"; (2) J.P. Burgess, 121: C. says his behavior was "inappropriate," "misleading," "immoral," "sin." (I could add to that repentance-vocabulary, but I doubt that additions would convince the C.-go authors of the Declaration.)

5 The Declaration strikes me as locked into religiomoral absolutes (in contrast to E.S.Ames' "relative absolutes"). A lie is a lie, perjury (no matter about what) is perjury. Using the CATECHISM OF THE CATHOLIC CHURCH, W.J.Buckley (139-143) shows how naive, unfair, unChristian this is. Absolute negative judgments, demonizations, blind the judges to nuance, ambiguity, even fact (as the Declaration misstates [lies?] in claiming [161] that C. has "denied any liability"). D.W. & P.L. Shriver, 165: Not every perjury is "equally weighty. The President did not with this lie commit treason or bring the republic into imminent danger. It is perhaps on this judgment that we most disagree with authors of the Declaration." Other woes from absolutistic thinking are (1) self-righteousness (the Declaration has no word of self-repentance [156f]); (2) ill-will toward the condemned (ill-will disguised, even from the accusers, as righteous indignation), (3) intemperate language (14: C. is "no longer a serious leader"), (4) refusal to give the accused the benefit of any doubt (15, 17, 28); & (5) loss of "a sense of proportion" (126; "The reluctance of the American public to bring Bill Clinton to justice surely reflects a sense of proportion....The majority of Americans see Bill Clinton as best preserving the nation's political, economic, and social stability, despite his moral and possibly legal failings"; cp. L.Smedes, 131f: "How good must a President be? We cannot expect a politician to be a saint....one flaw does not make one a bad President and total rectitude does not make one a good President").

6 This Thinksheet's 1st 3 words are "Law on Trial." The book's narrow-focus: Clinton rather than the big picture, a wide-focus on the Event. One of the wide-focus questions is *Who/What's to blame for the mess/crisis?* None of our authors puts any significant blame on law, codical or procedural--even though the authors are theologians & ethicists, two professions historically deeply involved in tragedies of legal **excess**. The present Pope says the Inquisition was excessively zealous in ferreting out & punishing heretics, a description (I think) which Grand Inquisitor Starr matches; & Spanish laws (not directly reachable by the Vatican) permitted such abuse, as our present Independent Prosecutor laws unjustly & irrationally permit unlimited expenditure of taxpayers' dollars & unlimited time to investigate (in the case of Starr-contra-C., more than \$400 million & more than 4 years).

But the legal excesses in this case are more than codical. Two procedural errors of excess (neither of which any of our 20 authors mentions) added to the tragedy: (1) The U.S.Supreme Court ruled that a President-in-office is subject to civil & criminal pursuit: & (2) The Attorney General ruled that Starr could extend his snoop (all else having failed for him) into C. sexual history.

Congress can solve the Independent Prosecutor problem simply by letting the I.P. statute, soon up for appraisal, (1) lapse or (2) be rewritten with appropriately reduced powers. The Event's event (ie, outcome) will, we all hope, include corrective legislation. We hope, too, that the Court & Janet Reno have learned something about limits. "Law" has been put on trial & has multiply failed. We the People, through our democratic processes, are having "a learning experience" in the nature, structure, & processes of jurisprudence. The Starr-C. Event has been, will continue to be, good for us. We knew when we had enough of the excesses of Sen. McCarthy's communist witch-hunt; now we know we've had enough of Starr's prosecutorial excesses (including, according to Dash, his ethics expert, S.'s illegal & unethical tactics).

It's an old saw in the legal profession: Extreme cases make bad laws. From the lies of Watergate & Vietnam we got the present bad Independent Prosecutor statute. I add this bromide: Extreme pain from bad laws leads to better laws.

QUESTION: Since the Starr-Clinton Event is so much a law-event (see 2 & 4 in this Thinksheet's 1st ¶), how come only 1 of the 20 authors is a lawyer (viz, Stephen Carter)? But thank God for the 1! This (170) from him: "Adultery is pri-

vate only in the limited sense that it should not be against the law. It is wrong for prosecutors, even special prosecutors, to spend public resources trying to ferret it out." "Wrong." What Starr did was wrong. He wrongfully pursued, then wrongfully put C. in a position of being unnecessarily tempted to lie. By this twisted logic, two wrongs make a right: impeachment. 120f: "Starr...let his zealous pursuit of President Clinton outstrip his sense of decency. I suspect that most prosecutors, faced with evidence that a married man lied under oath to cover up an affair, would respond: 'Call the National Enquirer. This is not the kind of work I do'."

In reading the Declaration & the book, I was irritated & saddened by the sober-sided sanctimonious legal-fundamentalist literalism of so many about "lying under oath," as though that were a sin & crime independent of context, the context being Starr's disreputable ("National Enquirer") pursuit of C. for certain specifics in C.'s sexual history. Rightly, C. did not respect the process & in various ways communicated (to Starr's fury!) his disrespect. Rightly, C. perceived that he was being persecuted, not merely prosecuted. Rightly, as in chess, he verbally protected himself against present (in-White-House) & future (post-White-House) legal process (on which more, below).

While I'm proud of lawyer Carter for his clarity here, I'm ashamed of the Declaration & most of our 20 authors for failing to see that a human being was being abused by a codically flawed statute's being wrongly used to oppress-prosecute-persecute a miscreant (in violation of Jesus' putting humanity above legality: M.2.27).

7 C., a **boomer**, is just the age our middle son Stephen John would now be had he lived. On the anti-culture of the '60s, S.Steele's essay (177-180) is accurate: "the politically virtuous person is [considered] virtuous [no matter matters of personal, private morality, on which the parental generation was big while being little on what their chn. valued, viz conscience vis-a-vis racism, sexism, classism, militarism]." What must be seen as flaws in C.'s character--(1) sex as fun & (2) truth as relative--are boomer characteristics; so are C.'s social sensitivities (he means it when he says "I feel your pain"). Will the boomers' chn. have both personal & public ("social action") virtues? Doubtful. Amitai Etzioni says he was convinced that none of his Harvard Law students were honest. Two reasons, then, why Generation X Presidents will not be paragons of private & public virtue: (1) The king-of-the-castle ethos of presidential politics makes it improbable that in the near future Presidents will truth-tellers; & (2) Their generation is postmodernist in mentality, relativist, soft on truth-telling. Gen.X Presidents may be slightly less "moral" (private morality) than Boomer Presidents. Expect too little of them & our society's ethical tone will get even worse: expect too much of them & our perfectionism & romantic idealism will only depress & sour us. Pray for the best, promote the best available to us in the pool of candidates for the Oval Office.

8 The book is itself an **event**, a "theology-&-culture" (& ethics-&-culture) book parallel with Fackre's theology-&-culture Newsletters (chiefly to former students & colleagues). It's protest-literature, developed from a full-page newspaper ad whose signatories were attacking C.--as a response to a full-page newspaper ad of historians in C.'s defense. The book's producers are to be praised for permitting, in a polemic, the other side some space (though less space), to make its case. (A book parallel is HOW SHALL WE SING THE LORD'S SONG? An Assessment [mainly, but not entirely, a protest] of *The New Century Hymnal*.) A further parallel: As the Starr/Clinton Event is a logomachy, a word-battle, between lawyers, the two-newspapers ads were, in effect, a contretemps among academics (most of the contributors earning their money mainly in schools). And a contrast: While lawyer Starr's career has been in the practice of law, lawyer C.'s has been in politics: C. could have been expected to use his political skills when dragged onto/into S.'s court....

....which occasions my asking you to look at perspective "(2)" in this Think-sheet's 1st ¶. The laws must be crafted & recrafted (I imply in §6) to (1) establish & maintain order-for-freedom (2) within such limits as will prevent the flowerbeds from being trampled upon. I name this mess "the Starr-Clinton Event" because S. began the trampling, the duel in which S.'s pornography-exposure thrust was parried by C.'s elaborate, serpentine self-defence. (In the cases of the much worse

sexual wandering--JFK & MLK Jr--the flowerbeds didn't get trampled: no S. to begin the trampling.) C.'s parrying of wrongful-intrusive thrusts did not amount to "perjury" as defined by precedents of the U.S. Sup. Ct., C.'s court of last resort if S. continues to pursue him beyond the White House. Admitting perjury would be suicidal, as a sword-dueler who didn't parry would be thrust through the heart. C.'s opponents & the media have been unfair in attacking him for exercising an honorable lawyerly skill, viz parrying (the adroit use of words), & for what no case-lawyer could survive without, viz, combining parrying with thrusting (ie, going on the verbal offensive, as C. has frequently done against S).....

9 ....which brings me to something additional none of the 20 authors alluded to, viz the entertainment-educational value of the whole mess. Besides (on its sex side) being a soap no commercial soap opera could compete with, it's been the best law-duel since "O.J.," which was the best law-duel since Welch/McCarthy, which was the best law-duel since the Darrow/Bryan "Monkey Trial." As the perpetual popularity of courtroom TV shows, "the people" like word-fights & learn from them.. ..The AP poll of '99's 1st day put the S.-C. verbal circus as the #1 news story of '98, immediately followed by McGuire (who outbatted Babe Ruth). (Like a legal duel, baseball is 1-on-1 [pitcher-batter]; the people love 1:1, God-Satan, et al.)

And the people love word-games, as the continued popularity of that segment of Saturday-a.m. NPR proves. Far more than in daily usage, words have a rich semantic range (as the next move in chess or dominos). Unfairly, the press laughed at C. for par(t)ising "is" (deconstructing its possibilities in context, as Loree & I heard the Polish semasiology Count Korzybski do for two hours straight). (Par[t]ising: in "parsing," the dental is lost into the sibilant. Parsing is "taking apart," de-constructing, the verbal actualities/possibilities.) Indeed, thinking itself is multipolar, beginning as bipolar (eg, formal/material, occasion/cause). Theological thinking is about transcendence/immanence; philosophical, about true/false; legal, about win/lose (S.-C. is not about truth, "the whole truth," but about win/lose). On these matters, a responsible press would enlighten the public instead of adding to confusion & cynicism in the public mind. Most of our 20 authors are not helpful here; they favor perspective "(4)," on the basis of which the House impeached C. None of them supports either "(1)" or "(3)," both of which are factual.

10 The Declaration, & most of the 20 authors, lack Christian **magnanimity**, refusing to see in C.'s behavior any nonpolitical motivation (eg, notice the book's subtitle, "the political use and abuse of religion"). Everyone of these ungenerous souls is also, in the Declaration & the book, ab/using religion. In the infinite regress of reader-response criticism, the watchers (of C.) are being watched by watchers (of the C. critics), who are being watched (as you, my dear reader, are watching me as you read this Thinksheet), who are being watched (if you respond to this Thinksheet, as I'd love to have you do), who are all being watched by "the Watcher of Israel." (A true community is a society of the mutually watched who behave in the light of their awareness that they are being watched by God.)

11 CULTURAL ANALYSIS: Carter was scorned for speaking of America's "cultural malaise," a condition which Americans now in varying degrees acknowledge (some feeling with Hamlet "O cursed spite, / that ever I was born to make it right!"). Is it the best of times for the country & the worst of times for C.? What of the convergence of our cultures of celebrity & scandal? What of the missed opportunities to address weighty problems while daily attending the Starr Co. Circus? What gets our attention gets us: look at what we have shamefully let our attention be gotten by! (NEWSWEEK asked 10 questions about Monica. If you answered them all correctly, said the magazine, you should be ashamed of yourself: "Get a life!") L.Smedes says (133) we've been afflicted by "a shameless<sup>media</sup>, an obsessed prosecutor, and a vindictive Congress"--& mean-minded C.-critics: "how do the scholars [of the Declaration] know that people who don't want the President to fall are thinking only of money in their pockets? Maybe they are thinking of peace and justice as well." We are, each of us, responsible for choosing our outrage, our blame-targets.

This book got to me! I've almost 100 notes I'm not going to use: I agree with you that a four-page Thinksheet on the S.-C. E. (the Starr-Clinton Event) is enough!