

THE 1999 PRESIDENTIAL IMPEACHMENT

- 1 Of the three Federal-government branches, which have/has the power to interpret the Constitution? Historically, all three; recently, only the Supreme Court (a deterioration of the philosophical-structural balance of powers).
- 2 Does the present judicial hermeneutical supremacy (the Supreme Court's exclusive right to interpret the Constitution into rulings that have the force of law) have a bearing on Clinton's impeachment/trial? Yes: the ruling that a sitting president can be tried in a civil case for pre-White-House alleged behavior expanded Kenneth Starr's investigative power, delighted the media with an opportunity for circus, & diverted Clinton's attention from the people's business to self-defense.
- 3 On what principle did the S.C. make this ruling? The principle that "No man is above the law."
- 4 Was it necessary that this worthy principle subvert the equally worthy principle that the President should be free from deferrable legal entanglements? It was not necessary. Both principles could have been honored simply by deferring the Paula Jones case (a spurious charge thrown out of Federal court) till after his presidency.
- 5 Why, then, did the S.C. loose Starr on Clinton's alleged past sexlife? Because the egalitarianism in America's current sociopolitical atmosphere is so strong that "No man is above the law" sounds as loud as if from Sinai. I think of Toqueville's wise aphorism that, sadly, political questions rot down into legal questions. In American history, the most dramatic instance is the slide down from three-branches interpretation of the Constitution into the present one-branch monopoly, the S.C. now functioning legislatively via judicially.
- 6 Should the pre-election sex lives of elected officials be fair game for independent counsel "witch hunting"? Nobody, now, is defending the legal pursuit. Rep. Henry Hyde got an ovation in the House when he denounced this practice, though in his strenuous efforts to oust Clinton he himself stooped (while santimoniously preaching "character"!) to use ammunition available to him only because Clinton was a victim of this legal hubris. (In threatening to "get" other members of Congress as he got Rep. Bob Livingstone, chosen to be the next Speaker of the House, pornographer Larry Flynt lampooned the S.C.'s freedom-to-witchhunt ruling.) Clinton was a victim of this loophole for legal excess, the loophole Starr made the most of in his monomaniacal prosecution of the President.
- 7 Prosecution? Yes, even persecution. In violation of Starr's "independent counsel" role: the statute limits the counselor to presenting two-sided information, not (as he did present to the House) a one-sided case. Further, his persecuting zeal led him to use illegally obtained information (the Linda Tripp tapes), a sleazy practice condemned in the code of prosecutorial ethics. (Sam Dash, Starr's ethics expert, quit Starr because of S.'s "unethical and illegal" behavior.)
- 8 Could Attorney General Janet Reno have stopped Starr from extending his snoop to the Paula Jones case? Yes: the S.C. had only made that possible: the A.G. added another layer of hubris by making it actual. In the light of her stated purpose in appointing Starr, the extension was unjustifiable: the Paula Jones case had no prospect of illumining Whitewater.
- 9 Would Washington have done a lot of good during the time it spent on the Clinton/Starr event? Not necessarily. One wag, looking on the bright side, expressed gratitude that the country was spared all the harm Washington would have done-- & mentioned how good a President Eisenhower was: think of all the harm he'd have done if he hadn't spent so much time playing golf.
- 10 When it was clear that Starr did not have evidence to support the suspicion he was appointed to investigate (ie, Whitewater), should Starr have reported that to the A.G. & the House? Of course! That obligation was in his contract. Did he so report? No, not for more than a year later (concessively, in connection with nailing the President with women evidence [Paula-Linda-Monica]). More of the sleaze

*Discipline your eye to stop reading when you come to a ?: Think about the question before reading my commentary on it.

11 Why do C.'s political enemies hate him so much that they spare almost no resources in the fury to bring him down? One factor is that he's so successful in manipulating power in the interests of the poor, African-Americans, & women (according to his understanding of those interests). Another is that he's slippery, a greased pig his opponents can't get a grip on. Every time he slips away, the rage of his political enemies increases.

12 Is C. a good Christian sinner? Everybody's a sinner. Some are bad (impenitent) Christian sinners. He's a good (penitent) Christian sinner, *in my opinion*: he's giving what is to me convincing evidence of sorrow (contrition), repentance ("turning" from sin to God), confession (private & public admission of sin for "what I said & did" [as he put it in his speech*responding to the Senate's refusing to oust him]), & "bringing forth fruits meet for repentance" (specific spiritual disciplines under guidance & direction, the desire to right such wrongs as he is able, & the determination to "work all the harder for the people").

13 Did C. commit perjury? By a decisive (55-45) vote, the Senate said no. His under-oath answers were too slippery to be perjurious: no prosecutor could prove intent to lie. Did he obstruct justice? The Senate divided 50-50 on that article of impeachment. Did he "have sexual relations with" Monica? Not according to the plain meaning (viz, penile penetration of the vagina). Did he commit adultery? Not according to the plain meaning (viz, penile penetration of the vagina, which Monica said didn't happen). Did he do *anything*? Yes, he "fooled around" (to use Monica's expression for sex play, which under oath she said she seduced him into). Was he publicly exposed during the "fooling around" period? No: by the time of public exposure, out of revulsion & repentance he'd long broken off the "fooling around" relationship. The public exposure was of something he was ashamed of in his sexual past.

14 Do "the people" believe its OK to dredge up embarrassments from a President's sexual past? Decidedly not! Why not? Empathy: who has, in the sexual past, nothing to be so embarrassed about as to go to whatever lengths may be necessary to keep it covered up?

15 Is the S.-C. event as much a crisis of privacy (the question of its protection & limits) as a crisis of law (the overreachings of the S.C., the A.G., & Starr)? Yes --& our society should, in the light of both crises, learn & improve.

16 Do lies come in different sizes? Almost everybody thinks so. Everybody except absolutists-literalists like Henry Hyde (who in his opening speech 1.14.99 to the Senate shouted "the sacrality of the oath!"). And almost everybody would agree that on the weight**scale, the sex-cover-up lie is among the lightest. From another angle, think about how much evil enters human relationships sometimes through the brutal telling of "the whole truth": "total disclosure" has wrecked many a marriage.

17 The S.-C. event is a teaching moment for the churches, but what shall we teach? As always, the gospel, which is the Story of how God makes saints out of sinners. We are not to sin so grace may abound; but where sin abounds, grace may even more abound: C.'s humiliation opens him to the possibility of humility, a virtue rare in those wise in the ways of the world. (Romans 5) Pray for Clinton!

18 Has C. done irreparable harm to the presidency, the laws, the people, America in the eyes of the world? None of the above. The presidency was becoming too godlike. The laws/jurisprudence were revealed as needing specific improvements. The people got a crash course in morality, ethics, civility, law, & politics. And the world was laughing not at C. but at S. (Besides, America could stand some laughing at. We have become self-righteous, imperious, imperial.)

19 Is "character" necessary in a President? Desirable, not necessary. What's necessary is a steady good will toward "the people," a steady determination to serve them, & a steady vision of "a better America." C. has all three. ("Character" needs redefining to include these steadinesses.)

20 Has C. been too weakened to lead? Not so as the nation or the world notices it! A broken bone, when mended, is stronger.

* Against vindictiveness, he used Jesus' warning: no forgiveness for the unforgiving (Mt.6.14-15) (his only response to the only question he took).
 ** People & Senate agreed: C. was guilty of light (if any) lying under heavy pressures to lie (both under, & not under, oath).