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Lies and Law

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The controversy over the impeachment of President Clinton holds an especially morbid fascination for lawyers. After all, a persistent theme in that controversy has been whether statements that result from "thinking like a lawyer" are meaningfully different from lies. For instance, the President's famously creative use of the words "is," "alone," and "sexual relations"—first in his deposition in the Paula Jones lawsuit, then before a federal grand jury, and again in his answers to eighty-one interrogatories asked of him by the House Judiciary Committee—was represented by his defenders to be "legally correct" but was derided by his critics as "legalism," "legal hairsplitting," or "legalese."[1] Thus, the accusation of perjury against President Clinton raises the intriguing but distressing question of whether an individual who claims to be speaking like a lawyer ought to be understood to be lying. That, in turn, raises the more general question whether and to what extent legal arguments are lies.

Before pursuing these questions, it should be emphasized that President Clinton's statements are lawyer-*like*, not the statements of a lawyer. To be a lawyer is by definition to take on a set of professional roles; the conventions of legal argumentation all have their meaning and justification only in

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1. *See generally* James Bennet, *Packaging This President As Sinner but Not Perjurer*, N.Y. TIMES, Sept. 15, 1998, at A22; Alison Mitchell, *Top Democrats Call for Speedy Decisions and Warn Clinton Against Splitting Hairs*, N.Y. TIMES, Sept. 15, 1998, at A24; John M. Broder, *Clinton Responds to Hyde's Queries; Yields No Ground*, N.Y. TIMES, Nov. 28, 1998, at A1; Eric Schmitt, *G.O.P. Vote Counter in House Predicts Impeachment of Clinton*, NEW YORK TIMES, Nov. 30, 1998, at A19; Alison Mitchell & Lizette Alvarez, *Republicans Tell Leaders to Aim for Quick Vote on Impeachment*, N.Y. TIMES, Dec. 3, 1998, at A1.

the context of these roles. Therefore, while a person can have various characteristics that are similar to the characteristics exhibited by people acting in legal roles, strictly speaking one cannot have a lawyer's personality or mind outside of those roles. So to the extent that President Clinton's defense to the charge of perjury is, "I have a lawyer's mind and must be understood to have intended legalistic meanings," the precise question he confronts us with is this: Are legalistic meanings, when used outside of the lawyer's professional roles, descriptively different from lies?

Because there are many kinds of legalisms, there can be no simple answer to this question. It is clear that legal thinking and legal argumentation are not always or necessarily dishonest, but one identifiable and important form of legal argument does seem descriptively to overlap significantly with lying. Due to my suspicion about where President Clinton was introduced to this form of legal thinking, I will call it the "Yale Argument."[2] By using this phrase, I do not mean that this kind of argument is of recent derivation or that it is used only or primarily at the Yale Law School. I do mean that it has a high pedigree and that many important institutions celebrate and promote it.

The most characteristic, and perhaps the most basic, element of the Yale Argument is the manipulation of levels of abstraction. For example, in one of this century's most significant line of cases, the Supreme Court has repeatedly said that the specific liberties protected by the Constitution, such as the right to be free from unreasonable searches and seizures, imply a more general liberty—the right to privacy.[3] And then, by degrees, the Court has expanded this right to privacy so that it now protects the even more general right of personal autonomy—indeed, as the Court phrased it in *Casey*, the right "to define one's own concept of existence, of meaning, of the universe . . . ."[4] Abstraction taken to this extent strikes many people as absurd, and, even when used less extravagantly, the

2. I was educated there, too, at about the same time.

3. For an interesting argument that the key case in this line is *Eisenstadt v. Baird*, 405 U.S. 438 (1972), see H. JEFFERSON POWELL, THE MORAL TRADITION OF AMERICAN CONSTITUTIONALISM: A THEOLOGICAL INTERPRETATION 174-79 (1993).

4. Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833, 851 (1992).

underlying intellectual argument can be seen as a kind of trick. Nevertheless, the central contribution of our most prominent legal philosopher, Ronald Dworkin, is his elaboration of the argument that defining rights at high levels of abstraction is an essential aspect of a coherent constitutional philosophy.[5] This lofty claim notwithstanding, we see a strikingly similar impulse at work in President Clinton's lowly prevarications. He proclaimed with a straight face that a person might be thought not to be "alone," you may recall, if the relevant boundary line is expanded beyond the room he occupies to include his office or, beyond that, his suite of offices or, beyond that, a whole wing of the White House. Why not, inspired by the Court's poetic invocation of the most general interest in defining one's place in the universe, move the line out to include the entire heavily-populated East Coast or, indeed, this crowded planet itself?

I grant that the apparent similarity between the most influential intellectual move of modern constitutional law and President Clinton's laughable dodge may be only superficial. But functionally, the use of high levels of abstraction in constitutional interpretation operates to accomplish what Clinton was trying to do, which was to assign a surprising or counterintuitive meaning to an ordinary word. In all its various forms this is a pervasive aim of the Yale Argument. Thus, for example, some years ago the Supreme Court decreed that patronage systems violate the free speech clause.[6] It declared that to replace a public employee because of that person's political affiliation is to "penalize" political belief.[7] This understanding of "penalize" was, at the time, startling in part simply because of the inertial weight of common practice. That is, patronage had been used around the country for hundreds of years and had been regarded as a normal aspect of political accountability rather than a punishment. There never was, of course, anything logically necessary about this view of patronage. It had always been possible, as the Court eventually decided to do, to view patronage from a different and

5. This has, of course, been a pervasive theme in Dworkin's work; it appears fairly recently in LIFE'S DOMINION: AN ARGUMENT ABOUT ABORTION, EUTHANASIA, AND INDIVIDUAL FREEDOM 118-47 (1994).

6. *See* Elrod v. Burns, 427 U.S. 347 (1976).

7. *See id.* at 359.

imaginative angle—that is, to emphasize the loss to the individual dismissed, rather than the gain in accountability to the political system from the new person hired. When the Court shifted our perception of the word "penalty," it plainly was using language in a highly creative way, but because this kind of creativity has become so basic to modern constitutional interpretation, it is taken for granted. Lawyers, especially, think there is nothing odd about calling acts like burning a flag or spending money "speech," and when someone notices the unusual way words are being used in constitutional law—as when Justice White characterized as facetious the argument that the right to engage in homosexual sodomy is "deeply rooted" in American history[8]—many sophisticated people react with indignation.

Needless to say, there is nothing necessarily wrong or unjustifiable in jurists' creative use of language. Our most eminent judges and academics are respected because they have done so. Consider Chief Justice Marshall's brilliant argument, advanced in *McCulloch v. Maryland*,[9] for construing the words "necessary and proper" as "convenient."[10] Or consider virtually any constitutional argument made by Ronald Dworkin or Laurence Tribe.[11] But, as the incredulous public reaction to Clinton's creative interpretations of words like "alone" and "sexual relations" illustrates, it is one thing that liars also do.

Because the objective of the Yale Argument is to establish a meaning that is different from the ordinary, customary meaning of a word, it typically disparages existing perceptions and understandings. A soft form of this disparagement is to minimize the weight of the historical practices that shape those

8. Bowers v. Hardwick, 478 U.S. 186, 194 (1986) (upholding the constitutionality of Georgia law criminalizing sodomy).

9. 17 U.S. (4 Wheat.) 316 (1819).

10. *See id.* at 413-14, discussed as an obliteration of text in Robert F. Nagel, *The Formulaic Constitution*, 84 MICH. L. REV. 165, 185-86 (1985).

11. In a typical passage, for instance, Dworkin asserts that "read in the most natural way, the words of the Bill or Rights . . . command nothing less than that government treat everyone subject to its dominion with equal concern and respect . . . ." DWORKIN, *supra* note 5, at 128. Tribe once went so far as to argue that the Tenth Amendment should be understood as requiring a right to some level of government services. *See* Laurence H. Tribe, *Unraveling* National League of Cities*: The New Federalism and Affirmative Rights to Essential Government Services*, 90 HARV. L. REV. 1065 (1977). Both editions of his treatise, AMERICAN CONSTITUTIONAL LAW (1978, 1988) are fully stocked with imaginative, surprising interpretations.

understandings. Thus in the patronage case, the Court mentioned the long history of patronage in the United States but insisted that the recent "strong decline" in its use was of greater significance.[12] Similar historical arguments have been made in efforts to establish that abortion and unmarried parenthood are traditionally protected rights.[13] Perhaps the most extreme form of disparagement is to deny that anyone does or could use the contested word in its ordinary or customary sense. In *McCulloch*, for instance, Chief Justice Marshall wrote that a literal meaning for the phrase "necessary and proper" would have been "an extraordinary departure from the usual course of the human mind."[14] Similarly, Dworkin argues that members of the pro-life movement do not actually understand their own moral position on abortion and mean something different from what they say on that issue.[15] Indeed, Dworkin goes so far as to claim that the thoughts that pro-lifers think they have actually do not exist and that, therefore, it would be "uncharitable" to think they mean what they say.[16] President Clinton, then, was following a proud argumentative tradition when he went so far as to claim that the grand jurors to whom he was speaking would probably understand "sexual relations" to exclude oral sexual behavior and, indeed, that most ordinary Americans would. Disparagement or denial of existing understandings is not always part of a lie, but it can plainly serve the purposes of a liar because it undermines the standard in relation to which the deception can be identified.

The radical alteration of existing practices and understandings, which is the purpose of the Yale Argument, is a difficult task. The Argument, therefore, is characterized by an array of opportunistic claims to authority. If evidence of

12. *Elrod*, 427 U.S. at 354. Although the Court at one point denied that the decline of patronage was relevant to the question of constitutionality, it quickly added that "the actual operation of a practice viewed in retrospect may help to assess its workings with respect to constitutional limitations." *Id.* Later in the opinion, the Court relied on the growth of merit systems to support its conclusion that patronage was not the least drastic means for achieving political accountability or protecting political parties. *See id.* at 366, 369.

13. *See* Roe v. Wade, 410 U.S. 113, 129, 140 (1972) (abortion); Michael H. v. Gerald D., 491 U.S. 110, 141-49 (1989) (Brennan, J., dissenting) (unmarried parenthood).

14. *McCulloch*, 17 U. S. (4 Wheat.) at 419.

15. *See* DWORKIN, supra note 5, at xi.

16. *See id.*

historical intent can be mustered for the desired outcome, the mythical status of the "Founding Fathers" will be invoked; if that evidence is missing or if it points in the wrong direction, the appeal will shift, perhaps to the need to keep the Constitution "up-to-date." Or, if it will help the cause, specific text will be emphasized, but if the precise language works against the argument, the interpreter will point instead to the general "structure" of the document. If all else fails, the very pretense of persuasion and justification will be dropped, and the authority relied on will be a bald claim of hierarchical status. When asked in *Casey* to overrule *Roe v. Wade*, a majority of the justices of the Supreme Court said, in essence, "We are the highest court in the land and we have already spoken on the issue of abortion and that is the end of the matter."[17]

No matter what the specific form of justification, in the Yale Argument there is almost always an implicit claim of superior effort, skill, or intelligence. In his effort to re-frame the Catholic position on abortion, Ronald Dworkin presents himself as having thought harder than the Pope about Catholic theology.[18] Indeed, the underlying aesthetic of constitutional interpretation, as expressed in both judicial decisions and academic commentary, is largely a claim of "authority-from-effort." Hence, opinions as well as articles sink under the weight of detailed footnotes, of laborious argumentation, and of exhaustive recitation of precedent.[19] The Yale Argument turns the surprising newness of its understandings into an asset by equating originality with intellectual effort and sophistication, and by dismissing older beliefs as un-thought-out or outmoded.[20] In constitutional decisions, traditional moral views are frequently dismissed as "irrational" and historical patterns of behavior as unproven.[21] In the end, the authority of the Yale Argument rests on unceasing verbal energy. Although only mute history stands behind the

17. Needless to say, the Court's discussion of *stare decisis* is actually considerably more elaborate than this, but the foot-stamping insistence on authority is unmistakable. *See* Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U. S. 833, 867-68 (1992).

18. *See* DWORKIN, *supra* note 5, at 39-50.

19. *See* Nagel, *supra* note 10, at 177-82.

20. *See* ROBERT F. NAGEL, CONSTITUTIONAL CULTURES: THE MENTALITY AND CONSEQUENCES OF JUDICIAL REVIEW 114-18 (1989).

21. *See id.*

unjustified practices of the past, the new terminology is backed by a virtual torrent of words. Like President Clinton's protestations before the grand jury—his claims of careful thought, his garrulous explanations, and his earnest posture of helpfulness—the stance behind the Yale Argument is by turns studious, solicitous, arrogant, and authoritarian. Like the "lies" in Clinton's testimony, the Yale Argument desperately utilizes whatever works.

The Yale Argument proceeds from the best of motivations. It begins with the desire to improve the world. But as the political scientist Rogers Smith and others have pointed out, in order to mandate progress in the name of law, especially in the name of constitutional law, it is necessary to deceive.[22] Where the law is backward, it must be made to seem progressive. Where the law is uncertain or permissive, it must be made to seem definite and mandatory. Where arguments are limited and honestly debatable, they must be made to seem comprehensive and inescapable. Where opponents refuse to yield, their positions must be distorted or they themselves must be belittled and insulted. Similarly, President Clinton felt that his unconventional use of language before the grand jury was benignly motivated; indeed, he felt this so keenly that his testimony, like constitutional argumentation, took on a self-righteous cast. He regarded the objectives and tactics of the Paula Jones lawsuit as "deplorable." In fact, by describing that lawsuit as a political attack, President Clinton signaled his perception of that suit as a threat to the progressive policies that might result from his presidency. Lies, as Sissela Bok points out, are very frequently motivated by the desire to reform the world, at least according to the liar's lights.[23] The need to manipulate arises in response to obstacles, which are likely to seem outrageous in proportion to the reformer's moral self-assurance, that are preventing progress.

The Yale Argument has, as its name suggests, high prestige. It is portrayed as an intellectual discipline. Its foremost

22. *See* Rogers M. Smith, *The Inherent Deceptiveness of Constitutional Discourse: A Diagnosis and Prescription, in* INTEGRITY AND CONSCIENCE 218 (Ian Shapiro & Robert Adams eds.) (Nomos No. 40, 1998). For a defense of duplicity, see Scott Altman, *Beyond Candor*, 89 MICH. L. REV. 296 (1990).

23. *See* SISSELA BOK, LYING: MORAL CHOICE IN PUBLIC AND PRIVATE LIFE 50, 80-81, 166 (1978).

practitioners are not only respected but admired as heroes. It has inspired almost religious devotion.[24] And it has been used successfully to establish hugely ambitious and controversial plans of social reform. It is, in fact, so much an accepted part of our political heritage that its descriptive similarity to lying is almost always overlooked or explained away. But at its core, President Clinton's testimony was essentially a Yale Argument, and neither his argument nor the fancy constitutional interpretations that it so resembles can be meaningfully distinguished from lies.

To the extent that the Yale Argument is similar to lying, American dependence on—even reverence for—constitutional argumentation is surely curious. Before speculating on what this susceptibility might mean, I should address two objections. First, although a liar claims what is false to be true, it might be said that the Yale Argument claims only what may be true to be true. The Yale Argument, under this view, urges one possible view of reality. A patronage dismissal *can* be viewed as a penalty, if you focus on the individual's interest rather than society's interest, and the right to abortion *can* be viewed as an aspect of the traditional American liberty of privacy, if you are convinced that a broader principle was inchoate in specific past practices. There is no denying that truth in law is hard to discover and controversial, but so it is in science and everyday life. We still are able to identify lies. One ordinary way to do so is to distinguish the person who, while actually appealing to a new or specialized meaning of a word, nevertheless falsely says, "I know how you understand my words and I am appealing to *that* established meaning." It was a deception, I think, for judges to say that abortion has been a part of our "fundamental traditions" knowing that many citizens would understand those words in the normal sense,[25] just as it was false for President Clinton to say that he was

24. *See* Steven D. Smith, *Idolatry in Constitutional Interpretation*, 79 VA. L. REV. 583 (1993).

25. The persistence of this deception is only emphasized by the Court's recent effort to distinguish assisted suicide from abortion. In *Washington v. Glucksberg*, a majority of the Justices, after insisting that its interpretive method in due process cases required a careful and specific description of the protected liberty, depicted the right to abortion as having been derived from "those personal activities and decisions that this Court has identified as deeply rooted in our history and traditions ...." Washington v. Glucksberg, 117 S. Ct. 2258, 2268-71 (1997).

never "alone" with Monica Lewinsky knowing that the grand jurors would understand that word in its normal sense.

A second and related objection arises from the fact that a lie is a message meant to make others believe what the liar asserts but does not believe. A lawyer making a Yale Argument, or a lawyer-like Bill Clinton testifying under oath, might be thought not to be lying because he believes the truth of his claims. In his grand jury testimony, Clinton appealed to this idea when he speculated that both Clarence Thomas and Anita Hill "thought they were telling the truth."[26] People relying on this defense might have deluded themselves into their beliefs—either out of a fervent desire to improve the world, out of self-interest, or some combination—but in neither situation would the speaker be claiming what he does not believe to be true. At worst, one might say that the speaker is making an argument that might well be false but that the speaker has talked himself into believing. At best, esoteric considerations—perhaps alluded to by President Clinton when he called this "the most mysterious area of human life"[27]—might suggest that belief somehow creates reality or is the only reality.

Here the similarity between President Clinton and lawyers engaged in the Yale Argument is eerie. It is common to read incredulous speculations about whether Clinton, our first post-modern president, might at least momentarily believe everything he says.[28] In the same way, law professors often wonder in private whether it is possible that highly intelligent people like Tribe and Dworkin, ignoring how unlikely it is that their political preferences should so often coincide with a correct understanding of the Constitution, might actually believe their own arguments. In both cases sincere belief seems both possible and impossible at the same time—possible because of the relentless earnestness of the speakers but impossible because of the evident speciousness of their stories.

Let us assume that the mind can be convinced of almost anything if incentives are strong enough and that in both President Clinton and Professor Dworkin there is true belief.

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26. *The President's Testimony: Part Six of Eight*, N.Y. TIMES, Sept. 22, 1998, at B6.

27. *Id.*

28. That is, as a consequence of confusing belief with reality. *See, e.g.*, Marshall Blonsky & Edmundo Desnoes, *The Relativist-in-Chief*, N.Y. TIMES, Sept. 29, 1998, at A25; George Will, *Sorry Only for Getting Caught*, CHI. SUN-TIMES, Sept. 19, 1998, at 19.

Under this assumption, the difference alluded to earlier between being a lawyer-like person and a lawyer in a professional role is important. Part of the professional discipline required by the lawyer's role is the capacity to compartmentalize self-delusion. Thus, the fervent advocate may well feel during oral argument that his claims are true. But this is understood to be a momentary consequence of doing the job, and after dinner and a drink the lawyer can acknowledge privately his personal belief that his argument was weak or wrong. Society not only forgives but encourages this capacity for temporary self-delusion because of the presumed benefits of strong advocacy. Society even tolerates the obnoxious lawyer who loses the capacity for compartmentalization and always, even after dinner, believes his clients are in the right. It also, I might add, tolerates and even lionizes the authoritarian judge who actually believes that his highly imaginative interpretations of the Constitution are true. Both the endlessly argumentative lawyer and the hopelessly self-assured judge are, like the frenzied oral advocate, in a sense depleted individuals because their roles have consumed them. But this depletion is considered part of the price of a complicated and ambitious legal system. A person not filling the socially sanctioned role of lawyer or judge, however, is not necessarily forgiven a lie just because of self-delusion. Here, as Bok points out,[29] there are many shades of gray, but in ordinary relations we recognize that, at some point along the scale of objective improbability, a liar's convenient sense of conviction does not excuse the lie.

If I am right, then, that as a descriptive matter the Yale Argument and President Clinton's deceptions cannot be meaningfully distinguished, lying is far more a part of the high political practice of constitutional interpretation than we usually admit. Why do Americans tolerate this when they usually condemn lying in ordinary interactions? President Clinton, I think, is instructive on this question. He vividly demonstrates that lying has its charms. The very obviousness of President Clinton's lies invites a willing suspension of disbelief so that, if we but accede to a creative reformulation of language, reality can be altered and improved. President

29. *See* BOK, *supra* note 23, at 15-16.

Clinton, an impressive and attractive leader, need not be a felon and his presidency need not end in tatters. All that is necessary to avoid these dire possibilities is for us to put aside what we know words to mean and to enter into the liar's world. In short, lying is magical and liberating.

In this, lying tracks some fundamental and likable American traits. Americans tend to think that any problem can be solved and that progress is always possible. When these happy assumptions collide with facts, the temptation is great to reform the world by reforming language.[30] Through constitutional interpretation, that is, we fabricate a history, a people, and a nation that do not really exist.[31] Those who cannot convince enough of their fellow citizens that patronage is a bad practice tell us that enforcing political qualifications for public jobs is akin to imprisoning an editorial writer. Those who believe that abortion should be freely available need only persuade the judiciary to tell us that this right has already long been a part of our fundamental liberties. Indeed, well-intentioned but frustrated citizens can accomplish much in this way. To protect the country from those people perceived to be fanatical, intolerant, or prejudiced, all the enlightened need do is reform words. The purpose of such lies is to bend others to the liar's will by distorting language, and the easiest marks are those who want deeply to believe that good things are always possible.

While American optimism makes us susceptible to certain high forms of lying, it is also true that American contentiousness and competitiveness encourage an appreciation for all the everyday forms of deception that are endemic to the adversary system. It is not too much to say that we have a legal system that from top to bottom is built in significant part on half-truths, exaggerations, distortions, omissions, and falsehoods.[32] Americans know this and scorn lawyers because of it, but Americans also depend heavily on

30. For an arresting account of how boundless expectations produce an appetite for deception, see DANIEL J. BOORSTIN, THE IMAGE: A GUIDE TO PSEUDO-EVENTS IN AMERICA 4-5, 37, 76, 118, 260 (Vintage Books 1992) (1987).

31. *See* ROBERT F. NAGEL, JUDICIAL POWER AND AMERICAN CHARACTER: CENSORING OURSELVES IN AN ANXIOUS AGE 151 (1994).

32. For an insightful account focusing on criminal law, see WILLIAM T. PIZZI, TRIALS WITHOUT TRUST: WHY OUR SYSTEM OF CRIMINAL TRIALS HAS BECOME AN EXPENSIVE FAILURE AND WHAT WE NEED TO DO TO REBUILD IT (1999).

this system and admire those who function effectively within it.

Quite aside from the subject matter of his lies, it is no wonder, then, that there was widespread reluctance to impeach and remove President Clinton for testifying in a lawyer-like way.[33] How can such testimony be viewed as a serious threat to the constitutional system when the constitutional interpretations that authoritatively define that system are themselves built on very similar, if fancier, deceptions and when the legal apparatus that is such an important part of that system organizes and regularizes deception on a massive scale? Or, to put the point more concretely, the televised version of President Clinton's grand jury testimony conveyed not the dangerous image of a potential tyrant, but the familiar and unthreatening impression of a dogged and inventive advocate arguing a difficult case.

This impression, however, may be misleading. In fact, President Clinton's lies can be viewed as threatening to the system precisely because the system relies so heavily on legalistic deceptions. As Bok, not to mention nearly every parent, emphasizes, lying tends to lead to more lying.[34] This is, of course, partly because of the internal dynamics of deception, but it is also partly because of the external dynamics—that is, the breakdown of social inhibitions and taboos. American reliance on deception in constitutional interpretation and in the legal system more broadly is, therefore, highly dangerous. Legal lying is cabined, to the extent that it is, by some rather thin lines. One of these is the distinction between the lawyer's role and authentic personality. To the extent that our society blurs that distinction, we will have to pay the price of being governed by individuals like President Clinton who make an undifferentiated claim to the high prerogatives of the Yale Argument and also to the low prerogatives of the adversarial lawyer, and who claim these prerogatives in personal relations,

33. Polls taken after the broadcast of President Clinton's grand jury testimony indicate that most people did not see his use of language as normal or convincing but did not seem to think much the worse of him as a consequence. *See, e.g.*, Marjorie Connelly, *Clinton Holds Mostly Steady in the Polls*, N.Y. TIMES, Sept. 23, 1998, at A24. It is possible to see "legal hair-splitting" as an acceptable form of lying, just as it is commonplace to regard lawyers as socially useful even if they are paid to deceive.

34. *See* BOK, *supra* note 23, at 25, 52, 119-21, 173-74.

as sworn witnesses in civil and criminal cases, and in general political discourse. I myself have serious doubts about how safe it is for our form of government to rely so heavily on a legal system that operates on the basis of heavy-handed tactics of verbal manipulation. Be that as it may, it is no small matter to watch those tactics break out of the legal arena and infect the office of the presidency and, indeed, the culture more generally. From this perspective the impeachment decision should be viewed as having been not only a judgment directed against an officeholder but also an effort to construct a barrier against our own weaknesses.