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## SEX, LIES, AND CLIENTS: FROM BILL CLINTON TO OSCAR WILDE

Bill Clinton, *My Life* (Knopf, 1008 pages. 2004)

Merlin Holland, *The Real Trial of Oscar Wilde* (Fourth Estate, 340 pages. 2003)

On January 17, 1998, President Bill Clinton testified at what turned out to be the most significant deposition in the history of the United States. Sworn to tell the truth, he calmly lied about his affair with Monica Lewinsky, falsely stating that he was never alone with her and that he never had sexual relations with her. He would soon repeat his lies on television – “I never had sex with that woman, Ms. Lewinsky” – and several months later he would attempt to wriggle out of the falsehoods in his videotaped grand jury testimony. But the harm was done. Clinton teetered for nearly a year on the edge of political ruin, becoming only the second president in history to be impeached. Although Clinton never came close to constitutional dispossession, the scandal continued to take its toll. In all likelihood, it cost Al Gore the 2000 presidential election – either because it alienated voters from the Democratic Party, or because the skittish Gore decided not to allow Clinton to campaign with him (or both).

Dozens of books have been written about the Clinton era – by insiders, adversaries, journalists, and even a sitting federal judge. Most recently, we have the massive autobiography of the big guy himself, covering the years from his Arkansas boyhood until the inauguration of George W. Bush.<sup>1</sup>

Predictably, much of the buzz was created by Clinton’s comments on his affair with Monica Lewinsky (“immoral and foolish . . . my selfish stupidity”) and his wife’s reaction (“I slept on the couch”).<sup>2</sup> For present purposes, however, it is much more interesting to consider Clinton’s relationship to one of his lawyers, Robert Bennett, who represented him in the Paula Jones litigation.

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<sup>1</sup>Bill Clinton, *MY LIFE* (2004).

<sup>2</sup>Clinton at 803.

## SEX, LIES, AND CLIENTS

Paula Jones sued Clinton for an incident of sexual harassment that allegedly occurred while he was governor of Arkansas. Clinton tells us that he had an early opportunity to head off the case by paying Jones a nominal amount and helping her husband find work in Hollywood. He refused to pay, however, “because I hadn’t sexually harassed her.”<sup>3</sup> Instead, he hired Bob Bennett to defend him.

Bennett is an exceptionally talented Washington lawyer, highly regarded as a litigator by everyone who knows him. In fact, he eventually succeeded in getting the Jones case dismissed on summary judgment, although not until after the political damage was done. There were other strategies available to Bennett that might have saved Clinton from lying under oath. Unfortunately, Clinton himself evidently foreclosed those options, insisting on a more aggressive approach to the litigation.

And even more significantly, it appears that the President consistently lied to his own lawyer. The details have to be pieced together, but the factual situation seems clear.

As the deposition approached, Clinton had every reason to know that he would be asked about his sexual relationships with female employees, as both governor of Arkansas and president of the United States. As he put it, “The presiding judge, Susan Webber Wright, had given Jones’s lawyers broad permission to delve into my private life, allegedly to see if there was a pattern of sexual harassment involving any women who had held or sought state employment when I was governor or federal employment when I was president.”<sup>4</sup> An astute attorney himself, Clinton continues that he was “certain that the lawyers wanted to force me to acknowledge any kind of involvement with one or more women that they could leak to the press.”<sup>5</sup> Moreover, he could not have doubted that Monica Lewinsky’s name would come up at the deposition, because she had been disclosed on the plaintiff’s witness list a month or so earlier.<sup>6</sup>

In advance of the deposition, Clinton had “gone over a series of possible questions with my lawyers,” concluding that “I was reasonably well prepared.”<sup>7</sup> He did not, however, tell them anything about Lewinsky. Did they ask him about other women? It seems impossible that they did not. Robert Bennett has honorably maintained his silence about his representation of the

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<sup>3</sup>Clinton at 596.

<sup>4</sup>Clinton at 772.

<sup>5</sup>Clinton at 772.

<sup>6</sup>Clinton at 773.

<sup>7</sup>Clinton at 772.

## SEX, LIES, AND CLIENTS

president, respecting the attorney-client privilege even as everyone else has gone public. But no competent lawyer, let alone the super-capable Robert Bennett, would have failed to ask a client about every person named on the opposing side's witness list. Given the transparency of the plaintiff's tactics – trying to force Clinton to talk about sexual liaisons – we can be all but certain that Bennett put the question directly to his client.

In other words, Clinton expected to be asked about Lewinsky and he planned to lie, keeping his lawyer in the dark so that he could be sure to get away with it.

True to form, Jones's lawyers used the deposition to pound away at Clinton's relationship with Lewinsky. As Clinton recalls, they asked "how well I knew her, whether we had ever exchanged gifts, whether we had ever talked on the phone, and if I had had 'sexual relations' with her."<sup>8</sup> Silently relying on Judge Wright's somewhat incomplete definition, Clinton "answered no to the 'sexual relations' question."<sup>9</sup>

During a break in the testimony, Clinton discussed Lewinsky with his lawyers, lying to them once more. "My legal team was perplexed," he says, "because Lewinsky's name had shown up on the plaintiff's list of potential witnesses only in early December, and she had been given a subpoena to appear as a witness two weeks later."<sup>10</sup> Of course, they would not have been at all perplexed if Clinton had simply told them the truth about her. Instead, he continued to mislead his lawyers: "I didn't tell them about my relationship with her, but I did say I was unsure of exactly what the curious definition of sexual relations meant."<sup>11</sup>

What are we to make of that assertion? We know, of course, that Clinton did not tell Bennett or the other lawyers about his affair with Lewinsky, which he continued to deny until the following August (after Ken Starr leaked information about the "genetic material" on Monica's now-famous blue dress). But did the president really hint so broadly to his lawyers that a less "curious" definition would lead to a more explicit answer about his sexual relations? Again, we will probably never learn Bob Bennett's version, but it is extremely unlikely that he would have failed to put two and two together. Imagine how the conversation would have gone between lawyer and client (based solely on Clinton's own account):

BENNETT: Mr. President, we are perplexed. Why are they asking you about sexual

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<sup>8</sup>Clinton at 773.

<sup>9</sup>Clinton at 773.

<sup>10</sup>Clinton at 773.

<sup>11</sup>Clinton at 773.

## SEX, LIES, AND CLIENTS

relations with Monica Lewinsky?

CLINTON: I don't know. But I am unsure what is meant by the curious definition of "sexual relations."

Is it even remotely conceivable that Bennett would have failed to ask a single follow-up question? So we are left with only two plausible scenarios. Either Clinton's memoir is, shall we say, inaccurate about the hint to Bennett (diverting some of the blame to his lawyer for not figuring out what was going on), or Bennett actually pursued the hint but obtained only more misinformation from his client.

Yes, technically there is a third possibility as well – that Clinton came clean with Bennett, who then willingly facilitated his client's perjury. In truth, however, that is virtually impossible. First, it would have been unethical, and no one has ever suggested that Bob Bennett is anything other than a completely ethical practitioner. Second, we know that Clinton persisted in lying to everyone in sight – his wife, his daughter, his cabinet, his advisors, the American public, and the entire world – so there is no reason to think that he was honest with Bennett. And finally, Bennett was surely smart enough to know that Clinton was courting disaster by lying, and he would have taken immediate steps to get his client out of a quickly deepening hole.

Nearly all of Clinton's woes, up to and including his impeachment, are traceable to his perjury in the Jones deposition. Ultimately, there was no proof that he ever induced anyone else to lie, or that he concealed evidence, or that he destroyed gifts from Monica Lewinsky. But there was no doubt (among any but the most credulous) that he flatly lied in his deposition, and was later less than candid about it when he testified before a grand jury. He wasn't lying, he writes; it was merely that he "had not been trying to be helpful to the Jones lawyers."<sup>12</sup> Or, as he testified to the grand jury, "I was determined to walk through the minefield of this deposition without violating the law, and I believe I did."<sup>13</sup>

Well, he was mistaken. Both Independent Counsel Kenneth Starr and the House of Representatives' impeachment managers concluded that Clinton had violated the law – no surprise there, of course, and not exactly an objective assessment. But so too did Judge Susan Webber Wright, who held Clinton in contempt of court for his "willful failure" to testify truthfully. "Simply put," said the judge, "the president's deposition testimony regarding whether

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<sup>12</sup>Clinton at 801.

<sup>13</sup>Clinton at 804.

## SEX, LIES, AND CLIENTS

he had ever been alone with Ms. Lewinsky was intentionally false and his statements regarding whether he had ever engaged in sexual relations with Ms. Lewinsky likewise were intentionally false.” Clinton was also compelled to surrender his Arkansas law license, admitting that he intentionally gave “evasive and misleading answers” that were “prejudicial to the administration of justice.”

The greatest irony – or tragedy, or perhaps farce – is that Bennett easily could have rescued Clinton, if only the president had told him the truth. If Clinton had been candid with his counsel, however, he might never have been in the minefield in the first place. Adequately forewarned, Robert Bennett surely would have counseled his client to tell the truth and to skip the coy evasion. If the president refused, there were still feasible alternatives. They could have refused to attend the deposition, claiming that the United States Supreme Court erred in ruling that a sitting president is subject to civil legal proceedings. Or they could have refused to answer “inappropriately personal questions,” asserting a right to privacy.

Either measure would have been drastic, but still far preferable to lying – and much less dangerous. Judge Wright would obviously have imposed sanctions under Rule 37 of the Federal Rules of Civil Procedure, but they would have been trivial compared to the eventual upshot of Clinton’s testimony. In fact, even the most severe sanction – entry of a default judgment – would not have been so bad. It would have ended the case completely, resulting only in the payment of some money by Clinton. And probably not very much money at that. Jones would have still had to prove up her damages, which were relatively modest – by her own account she quickly rebuffed Clinton’s crude proposition, and she was never fired or demoted. At worst, she would have gotten the full \$700,000 demanded in her complaint, which would have been more than offset by the small fortune in legal fees that Clinton would have saved.

Even after defaulting, Clinton could have maintained his public denial of sexual harassment. A default judgment is not an admission of guilt. Clinton could have characterized his withdrawal from the case as a decision to spare the presidency from the intrusive indignity of the lawsuit, announcing that he would rather spend his time running the country than worrying about lawyers and litigation. In the hands of a masterful politician, a default judgment might have been portrayed as the high road – a noble financial sacrifice for the sake of safeguarding the independence of his office.

It is a sound conclusion that Bennett asked about Clinton’s relationships with women, and Monica Lewinsky in particular, but we do not know how sharply he inquired. Should Bennett have probed more deeply, asking sharper questions and refusing to accept Clinton’s blanket denials? It is always hard to press your client, and it must be impossibly difficult when he is the president of the United States, the most powerful individual in the world. Bennett cannot be faulted for taking Clinton at his word, or even for failing to pick up on a few oblique hints. Bennett trusted his client; it is only too bad that Clinton did not return the favor.

## SEX, LIES, AND CLIENTS

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Long before Bill Clinton ever lied about sex, another out-sized personality made the same mistake on the witness stand, attempting to fool the court, the public, and his own attorney about his illicit liaisons. In 1895, Oscar Wilde was perhaps the most celebrated literary figure in England. A famed poet, playwright, novelist, and belle lettrist, he led an aesthetic revolution against the stifling proprieties of the Victorian ear, championing a new freedom in artistic expression.

Wilde was also a lover of young men. Today we would call him a homosexual or bisexual (he was married, with two sons), although neither term was current in the 1890s. In Wilde's own view, he engaged in the

. . . great affection of an elder for a younger man as there was between David and Jonathan, such as Plato made the very basis of his philosophy, and such as you find in the sonnets of Michaelangelo and Shakespeare. It is that deep, spiritual affection that is as pure as it is perfect. \* \* \* It is beautiful, it is fine, it is the noblest form of affection. There is nothing unnatural about it. It is intellectual, and it repeatedly exists between an elder and a younger man, when the elder man has intellect, and the younger man has all the joy, hope and glamour of life before him. That it should be so the world does not understand. The world mocks at it and sometimes puts one in the pillory for it.<sup>14</sup>

Sodomy, however, was illegal and officially despised in nineteenth century England (although evidently much practiced in the upper class "public schools"). So Wilde flaunted more than aesthetic conventions when he involved himself in poorly concealed affairs with other men, most notably (and disastrously) the young Lord Alfred Douglas, nearly 16 years his junior, whom everyone called Bosie.

Unfortunately for Wilde, Bosie's father was John Sholto Douglas, the Marquess of Queensberry and the author of boxing's Marquess of Queensberry rules. Queensberry was a bully and a tyrant – so much so that his wife divorced him, a nearly unheard of event in Victorian England – who became enraged at the thought of his son embracing the effete Wilde. He began hounding and threatening the pair, attempting to intimidate them into breaking off their relationship. Eventually, the hostilities brought them into court, where Oscar Wilde's conduct proved even more self-destructive than Bill Clinton's.

To my knowledge, no one has ever before compared Bill Clinton to Oscar Wilde – one a politician and the other an artist – although their similarities are in some ways remarkable. Both were youthful prodigies, although Clinton has survived well into middle age, as Wilde did not.

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<sup>14</sup>Richard Ellmann, OSCAR WILDE 463.

## SEX, LIES, AND CLIENTS

Both men were Oxford-educated outsiders – an Arkansan in Washington and an Irishman in London – who challenged the established order. Both dominated their eras by force of personality, overshadowing their more pallid contemporaries even as they were denounced as corrupt and decadent by cultural conservatives. As we know, both men heedlessly indulged their large priapic appetites, assuming that they could rely on charm and wit to disentangle themselves when they were inevitably caught in the act. They even look somewhat alike, graceful and leonine in their better moments.

Each man was relentlessly stalked by his own Javert, and most importantly, each thought he could outfox his adversaries in court, and did not bother to inform his lawyers of his intended deceptions.

At least Bill Clinton had an excuse. As the defendant, he was an involuntary participant in the Jones case, which he considered part of a politically motivated vendetta. His affair with Monica Lewinsky was not even remotely related to Jones's complaint; indeed, Judge Wright later ruled it immaterial. While there is no justification for lying under oath, it is possible to sympathize with Clinton's rationalization that he needed to conceal his infidelity in order to preserve his marriage and protect his family.

Wilde, on the other hand, initially came into court as a plaintiff, bringing a false charge of criminal libel against Queensberry, and knowing that he would have to lie to sustain his case. Wilde's motivation must have seemed compelling to him at the time, but it has baffled historians and biographers for over a century. Only recently has the complete transcript of Oscar Wilde's first trial been published, edited by his grandson Merlin Holland,<sup>15</sup> allowing us to draw a few new insights into Wilde's self-inflicted ruin.

Queensberry's pursuit of Oscar and Bosie eventually became nearly intolerable. He followed them to clubs and restaurants, and even accosted Wilde in his own home with an accusation of sodomy: "You look it and you pose it, which is just as bad." The scarlet Marquess (as Wilde called him) threatened to thrash the poet if he ever again saw him in public with his son. Wilde's reply was utterly in character: witty, provocative, and seemingly calculated to make matters worse: "I do not know what the Marquess of Queensberry rules are, but the Oscar Wilde rule is to shoot on sight."<sup>16</sup>

Things came to a head in February 1895. Wilde's new play, *The Importance of Being Earnest*, was premiering at the St. James Theater in London's West End. Queensberry planned to disrupt the opening performance by haranguing about Wilde's misdeeds. Fortunately, the theater

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<sup>15</sup>Merlin Holland, *THE REAL TRIAL OF OSCAR WILDE* (2003).

<sup>16</sup>Holland at xix.

## SEX, LIES, AND CLIENTS

manager was alerted ahead of time and arranged for a police guard to keep Queensberry (who was accompanied by a pugilist) out of the building. Foiled for the moment, Queensberry left behind a “grotesque bouquet of vegetables” that he had evidently intended to throw at the stage.

A few days later, on February 18, Queensberry showed up the Albemarle Club, where Wilde was a member. Angrily scribbling something on his card, Queensberry handed it to the club porter, with an instruction to deliver the message to Wilde. “For Oscar Wilde,” it read, “posing somdomite (*sic*).”

This was a challenge that Wilde felt he could not ignore. “Bosie’s father has left a card at my club with hideous words on it,” Wilde wrote to a friend. “I don’t see anything now but a criminal prosecution.” Queensberry had invaded Wilde’s sanctuary, which was evidently a signal that he would stop at nothing. Wilde believed that his only recourse was to the law and Bosie agreed, anxious to strike back at his abusive and intimidating father. Wilde’s other friends, including Frank Harris and George Bernard Shaw, attempted to discourage him, but he would not be deterred. He engaged a solicitor, Charles Octavius Humphreys, to draw up a charge of criminal libel. A cautious lawyer, Humphreys asked Wilde “on his solemn oath” whether there was any truth to the charge of sodomy. Wilde assured him there was not. “If you are innocent,” replied Humphreys, “you should succeed.”<sup>17</sup>

With that assurance, Humphreys escorted Wilde to the magistrates court, where they applied for a warrant for criminal libel, accusing Queensberry of making a “false scandalous malicious and derogatory (*sic*)” statement about Wilde, the “tenor and effect” of which was that “Oscar Fingal O’fflahertie Wills Wilde had committed and was in the habit of committing the abominable crime of buggery with mankind.”<sup>18</sup>

Queensberry was arrested the next day, and the case was set for hearing. Queensberry retained as his counsel a rising young barrister named Edward Carson, who had been Wilde’s classmate at Trinity College, Dublin. It would prove to be an excellent choice, and Wilde expressed his sardonic dismay upon learning that Carson would cross examine him: “No doubt he will perform his task with the added bitterness of an old friend.”<sup>19</sup>

Carson immediately showed that friendship would have no part in the case. He prepared a plea of “justification” on Queensberry’s behalf, asserting that the statement was true and, as was then required by British libel law, that it had been made “for the public benefit and interest.” To support this claim, Carson stated that “Wilde was a man of letters and a dramatist of prominence

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<sup>17</sup>H. Montgomery Hyde, *THE TRIALS OF OSCAR WILDE* 77 (1962).

<sup>18</sup>Holland at 285.

<sup>19</sup>Richard Ellmann, *OSCAR WILDE* 441 (1987).



## SEX, LIES, AND CLIENTS

and notoriety and a person who exercised considerable influence over young men," but whose published works "were calculated to subvert morality and to encourage unnatural vice."<sup>20</sup>

Wilde no doubt embraced the opportunity to defend his writings against charges of immorality, but Queensberry's plea contained other, far more ominous allegations. Based on the work of a private investigator, Carson charged that Wilde had committed "sodomitical practices for a long time with impunity and without detection," and named ten young men with whom Wilde was said to have engaged in "sodomy and other acts of gross indecency and immorality," complete with dates and locales.<sup>21</sup>

By this time, Humphreys had referred the case to a barrister who would handle the prosecution at trial. Sir Edward Clarke was a "veritable titan at the bar," and a former solicitor general of England.<sup>22</sup> Worried about the extreme specificity of Queensberry's charges, Clarke too made a point of questioning his client: "I can only accept this brief, Mr. Wilde, if you can assure me on your honour as an English gentleman that there is not and never has been any foundation for the charges that are made against you." Wilde did not point out that he was, in fact, an Irishman, but he did proceed to declare – falsely – that the charges were "absolutely false and groundless."<sup>23</sup>

On the strength of that deception, Clarke accepted the case and proceeded to trial. He would surely have refused, if he had known that Wilde intended to commit perjury. Indeed, the entire case was based on a false premise. No competent lawyer, aware of the truth, would have allowed it to go ahead, which ultimately would have been a blessing to Wilde. Instead, alas, the case pressed forward with a "sickening inevitability," as entrance to the libel court proved to be a direct path to jail.<sup>24</sup>

"If I could ask my grandfather a single question," wrote Merlin Holland, "it would have to be, 'Why on earth did you do it?'" Wilde himself, writing from prison, placed much of the blame on his lover, Lord Alfred Douglas. "I allowed you to dominate me and your father to frighten me . . . . In your hideous game of hate together, you had both thrown dice for my soul, and you

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<sup>20</sup>Holland at 290-91.

<sup>21</sup>Holland 286-91.

<sup>22</sup>Hyde 87.

<sup>23</sup>Hyde 87.

<sup>24</sup>Holland xi.

## SEX, LIES, AND CLIENTS

happened to have lost.”<sup>25</sup> But even Wilde’s grandson does not accept that explanation, suggesting instead that “arrogance born of social and literary success, and the belief that he was in some way immune from the law unquestionably played a part.” Nor could Wilde resist the “poisoned bait” of Queensberry’s boorish provocation and the subsequent moral attack on his writings by Carson.<sup>26</sup> “There is little Oscar would have relished more than to stand in the witness box and defend his art.”<sup>27</sup>

Reading the complete transcript of the libel trial, as opposed to the previously available excerpts, it is impossible to miss Wilde’s disdain for his adversaries. Yes, he was witty and clever, fencing with Carson and often getting the better of him. But he clearly misunderstood the power of cross examination, little realizing how his evasions could later be turned against him. Not unlike Bill Clinton, he seemed to think that a charming lie would go unchallenged if only he held to it throughout the examination. And also like Bill Clinton, he seized on small ambiguities and equivocations that would come back to haunt him.

Clinton was fortunate in his enemies. Facing the inept attorneys for Paula Jones, the ham-handed Kenneth Starr, and the blustering impeachment managers, he was able to survive with his presidency intact.

Wilde, on the other hand, was confronted by a truly masterful cross examiner. Edward Carson cut Oscar Wilde to ribbons over the course of two days, shredding his credibility and leaving his reputation in tatters. The heroic efforts of Sir Edward Clarke could not save his client, or even much forestall the inevitable, as Wilde’s own lawsuit soon led him to the Reading Gaol.

In the opening stages of the cross examination, Wilde frequently delighted the gallery with dazzling ripostes, drawing laughter with his adroit answers. Early on, Carson questioned Wilde about a magazine, *The Chameleon*, to which he had contributed. That particular issue also featured a short story called “The Priest and the Acolyte,” with a decidedly homosexual theme. Carson attempted to link Wilde to its message.

CARSON: I think you are of the opinion, Mr. Wilde, that there is no such thing as an immoral book.

WILDE: Yes.

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<sup>25</sup>Oscar Wilde, DE PROFUNDIS.

<sup>26</sup>Holland xxxv.

<sup>27</sup>Holland xxxvi.

SEX, LIES, AND CLIENTS

CARSON: Then I suppose I may take it that in your opinion the piece was not immoral.

WILDE: Worse, it is badly written.

Stung by the answer, and the laughter of the crowd, Carson pressed forward, but he could not pin Wilde down:

CARSON: Did you think the story blasphemous?

WILDE: I thought the end, the account of the death, violated every artistic canon of beauty.

CARSON: That is not what I asked.

WILDE: That is the only answer I can give you.<sup>28</sup>

Throughout the early part of the cross examination, Carson hammered away at the supposed immorality of Wilde's writings and associations, while Wilde deftly defended the indeterminacy of art:

CARSON: Listen, sir. Here is one of your "Phrases and Philosophies for the use of the Young": "Wickedness is a myth invented by good people to account for the curious attractiveness of others."

WILDE: Yes.

CARSON: Do you think that is true?

WILDE: I rarely think that anything I write is true.

Carson, however, eventually managed to turn Wilde's indeterminacy against him, showing his condescension toward ordinary people and, by implication, toward the jury.

CARSON: I will suggest to you *Dorian Gray*. Is that open to the interpretation of being a sodomitical book?

WILDE: Only to brutes – only to the illiterate; perhaps I should say brutes and the illiterates.

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<sup>28</sup>Holland 69-70.

SEX, LIES, AND CLIENTS

CARSON: An illiterate person reading *Dorian Gray* might consider it a sodomitical book?

WILDE: The views of the Philistine on art could not be counted: they are incalculably stupid. You cannot ask me what misinterpretation of my work the ignorant, the illiterate, the foolish may put on it. It doesn't concern me . . . .

CARSON: The majority of people would come within your definition of Philistines and illiterate, wouldn't they.

WILDE: Oh, I have found wonderful exceptions.

CARSON: But the majority of people, I say. Do you think the majority of people live up to the pose that you giving us, Mr. Wilde, or are educated up to that?

WILDE: I am afraid they are not cultivated enough.

The cross examination on literature seemed to end in a draw. Wilde managed to evoke ready laughter, but Carson's cross examination had a deeper purpose that would become apparent only after Wilde had retired from the witness box. In any event, Carson next addressed the relationship between Oscar and Bosie, producing several letters written by Wilde to his younger friend. He fastened first on the salutation:

CARSON: You would think, I suppose, Mr. Wilde, that a man of your age to address a man nearly twenty years younger as "My own boy" would be an improper thing?

WILDE: No, not if I was fond of him. I don't think so.

Then Carson read an incriminating passage from the letter, in support of the claim that Wilde, at least, posed as a sodomite:

CARSON: "Your sonnet is quite lovely. It is a marvel that those red rose-leaf lips of yours should be made no less for music of song than for madness of kissing.

WILDE: Yes.

CARSON: Do you mean to tell me, sir, that that was a natural and proper way to address a young man?

SEX, LIES, AND CLIENTS

- WILDE: I am afraid you are criticizing a poem on the ground –
- CARSON: I want to see what you say.
- WILDE: Yes, I think it was a beautiful letter . . . [T]he letter was not written – with the object of writing propriety; it was written with the object of making a beautiful thing.
- CARSON: But apart from art?
- WILDE: Ah! I cannot do that.

The deflection, clever as it was, did not succeed. Carson continued, showing Wilde – perhaps for the first time in his life – that he would not be allowed the last word:

- CARSON: But apart from art?
- WILDE: I cannot answer any question apart from art.
- CARSON: Suppose a man, now, who was not an artist had written this letter to a handsome young man, as I believe Lord Alfred Douglas is . . . [W]ould you say that it was a proper and natural kind of letter to write to him?
- WILDE: A man who was not an artist could never have written that letter.
- CARSON: Why?
- WILDE: Because nobody but an artist could write it.

Touche. Another standoff. But Carson was not finished.

- CARSON: Supposing a man had an unholy and immoral love towards a boy or a young fellow . . . and he addressed him in the language that would perhaps probably be used in a love letter – he might use that language?
- WILDE: He certainly could not use such language as I used unless he was a man of letters and an artist.

Wilde had talked himself into a corner. He may not have realized it, but Carson had just led him into admitting that “a man of letters and an artist” would have used precisely such language in writing a letter of “unholy and immoral love.”

Having extracted that concession, though Wilde may yet have been oblivious to his

## SEX, LIES, AND CLIENTS

predicament, Carson moved in for the kill. He launched into a series of questions about Wilde's liaisons with young men, naming names and sparing few details. Did you ever have immoral practices with Wood? Did you ever open his trousers? Put your hand on his person? Did you ever put your own person between his legs? Did you kiss Edward Shelley? Did you put your hand on his person? Did you sleep in the same bed with him all night? Each of you having taken off all your clothes, did you take his person in your hand in bed? Did you become intimate with a young man named Conway? Did you put your hands inside his trousers?

And on it went. Wilde admitted knowing the young men, treating them to expensive meals and giving them gifts, but he denied all of the sexual improprieties. Carson retorted by pointing out that all of the young men (save perhaps one) were of a different class than Wilde: a newspaper peddler, a valet, a groom, an office boy. Why would a man of Wilde's distinction – in class encrusted Victorian England – spend so much time in the company of his social inferiors, if he was not seeking immoral and unnatural pleasures?

Wilde replied that he was merely interested in “the pleasure of being with those who are young, bright, happy, careless and amusing,” insisting that he did not “care twopence about people's social positions.”<sup>29</sup> He got off another good line – “I would sooner talk to a young man half an hour than even be, well, cross-examined in court” – but otherwise his defense flagged. Having earlier declaimed, at Carson's subtle urging, that ordinary people were illiterate “brutes and Philistines” who could never understand his art, Wilde's claim to abjure social distinctions rang hollow.

In other words, Wilde had fallen into the cross examiner's trap. Concentrating on making clever answers to individual questions, he did not recognize the cumulative impact of the examination, which was to undermine his credibility. As a brilliant wit and conversationalist, Wilde did not mind himself – “I rarely think that anything I write is true” – for the sake of a laugh. But Carson was keeping score. And more importantly, Carson knew, as Wilde could not, exactly where the cross examination was headed.

And then Wilde made another crucial mistake, just as Bill Clinton would 100 years later. He made a flippant answer that could be mercilessly exploited by his adversary. In his grand jury testimony, Clinton famously said, “It depends on what the meaning of the word ‘is’ is.” That would have been a fair enough observation in a law school classroom, but it was deadly in court – allowing his enemies to brand him as a dissembler and equivocator; indeed, a purveyor of “Clintonisms.”

In Wilde's case the slip was even more devastating, as his remark, though nimble, seemed to admit the very vice he had so vigorously denied. Wilde's downfall began when Carson

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<sup>29</sup>Holland 164.

SEX, LIES, AND CLIENTS

questioned him about a young servant of Bosie's named Walter Grainger. By this time, Wilde was clearly frustrated over the repeated questions about his sex life with young men. He became snappish and careless.

CARSON: Were you on familiar terms with Grainger?

WILDE: What do you mean by "familiar terms"?

CARSON: I mean to say did you have him to dine with you or anything of that kind?

WILDE: Never in my life . . . . It is really trying to ask me such a question. No, of course not. He waited on me at table; he did not dine with me.

That was the first opening, and Carson quickly followed up, recalling for the jury Wilde's earlier professions of egalitarianism:

CARSON: I thought he might have sat down. You drew no distinction . . . . You told me yourself –

WILDE: It is a different thing – if it is people's duty to serve, it is their duty to serve; if it is their pleasure to dine, it is their pleasure to dine and their privilege.

Satisfied with that inconsistency, Carson proceeded. He soon struck gold.

CARSON: Did you ever kiss him?

WILDE: On, no, never in my life; he was a peculiarly plain boy.

Carson could not believe his good fortune. It was just the opening he had been waiting for, and Wilde still had no clue.

CARSON: He was what?

WILDE: I said I thought him unfortunately – his appearance was so very unfortunately – very ugly – I mean – I pitied him for it.

CARSON: Very ugly?

WILDE: Yes.

CARSON: Do you say that in support of your statement that you never kissed him?

SEX, LIES, AND CLIENTS

- WILDE: No, I don't; it is like asking me if I kissed a doorpost; it is childish.
- CARSON: Didn't you give me as the reason that you never kissed him that he was too ugly?
- WILDE: No.
- CARSON: Why did you mention his ugliness?
- WILDE: For that reason. If you asked me if I had ever kissed a doorpost, I should say, "No! Ridiculous! I shouldn't like to kiss a doorpost." Am I to be cross-examined on why I shouldn't like to kiss a doorpost? The questions are grotesque.

Wilde was digging himself in ever deeper. If kissing an ugly boy was like kissing a doorpost, well, the implication was obvious. And Carson would not let go of Wilde's accent on ugliness.

- CARSON: Why did you mention the boy's ugliness?
- WILDE: I mentioned it perhaps because you sting me by an insolent question . . . . You make me irritable.
- CARSON: Did you say the boy was ugly, because I stung you by an insolent question?
- WILDE: Pardon me, you sting me, insult me and try to unnerve me in every way. At times one says things flippantly when one should speak more seriously, I admit that, I admit it – I cannot help it. That is what you are doing to me.<sup>30</sup>

Queensberry must have chuckled to see Wilde on the ropes, completely disoriented and unable to defend himself. And Carson would have been justified in believing that he was the true artist, at least in the courtroom. He took advantage of Wilde's false note, and played him like a violin.

By the time Carson addressed the jury, there was little doubt how the case would end. Indeed, Clarke interrupted Carson before he had even finished his opening, offering to withdraw the case upon a stipulation that Queensberry had established his defense with regard to "posing"

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<sup>30</sup>Holland 207-209.



## SEX, LIES, AND CLIENTS

as a sodomite. But Carson would not relinquish his advantage. He insisted on a finding of not guilty with regard to the entire plea of justification, without limitation. Clarke had no choice but to agree.

That was the end of the libel case, but not the end of Oscar Wilde's trials. By that evening he would find himself arrested on the charge of gross indecencies – based upon the evidence that Queensberry had gathered in his own defense. After one jury failed to reach a verdict, another convicted Wilde of the crime, leading the judge to remark that Wilde's offense was "the worst I have ever tried."<sup>31</sup> Wilde received the maximum sentence, two years at hard labor, and emerged from prison a broken man. He died in Paris in 1900, at age 46.

Refracted by a century of social progress, many today see Oscar Wilde as a martyr in the cause of sexual liberation, which in many ways he was. In our far more tolerant age, we can understand and sympathize with Wilde's dilemma. Only the law could restrain Queensberry, his tormentor, but the law offered no protection to men of "unnatural habits." To win his case, therefore, Wilde himself (through counsel) had to denounce sodomy as the "gravest of all offences" while lying through his teeth about the facts of his own life.

But there is another side to the case that should evoke less sympathy. Wilde was, after all, the complainant in a criminal case. Criminal libel was a serious matter in 1895, carrying a possible sentence of two years imprisonment. Wilde was quite willing to send Queensberry to jail, and to perjure himself in the process. John Mortimer, author of the *Rumpole* series, calls the conviction of Oscar Wilde "a shameful day for British justice," as indeed it was.<sup>32</sup> He might also have observed that the incarceration of Queensberry would have been a comparable injustice.

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Oscar Wilde learned his lesson the hardest way possible, as Bill Clinton might have if he had not enjoyed such good fortune and broad support. You can lie to the public and you can lie to the court, but you are far better off telling the truth to your lawyer.

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<sup>31</sup>Holland xiii.

<sup>32</sup>Holland xiii.