Impeaching a President

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Archibald Cox, the independent prosecutor during Watergate, was told by a Swedish legal scholar that it was not possible for the President of the United States to be impeached. Cox replied, 'It must be possible because we are doing it.' The explanation for how it is possible to impeach a President takes us to the fundamental principles of a democratic society and explains as well the restraining conditions for impeachment.

The principle of reciprocity marks out a democratic society. It is a principle that holds between positions within a political society, the position of citizen, for instance, and of government officials—a principle whose existence depends upon the 'acceptance' of a constitutional framework for governance.

A political society will at some point cease to function as democratic should the parties to this reciprocal relationship—citizens or officials—begin to fail in some measure to fulfil the duties of their positions and generally exercise their privileges with civility.

The form of criticism to be used regarding those within a democratic society is itself restrained by the principle of reciprocity. A President who has an affair in office is not a subject of criticism for breaching the norms of a democratic society unless he or she uses the powers of the office of the Presidency wrongly in some way. It is the abuse of the position that is subject to criticism. Nixon abused the powers of the Presidency; Clinton did not. Nixon ought to have been impeached and convicted; Clinton should not have been impeached.