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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, January 19, 1999, at 2 p.m.

Senate

FRIDAY, JANUARY 15, 1999

The Senate met at 1:02 p.m., and was called to order by the Chief Justice of the United States.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment. The Chaplain will offer a prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Holy God, with awe and wonder we accept our responsibilities and our accountability to You. You are Sovereign of this land. When we commit our complexities to You, really seek Your guidance, You direct us. Make us attentive listeners, dedicated to the search for absolute truth. In the cacophony of voices, help us to hear Your voice.

Dear Father, Your faithfulness never fails. You are consistent, reliable, and true. You expect nothing less from us for Your glory and for the good of America. To that end, fill this Chamber with Your presence and the minds of the Senators with Your gift of discernment. You are our Lord and Savior. Amen.

The CHIEF JUSTICE. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against William Jefferson Clinton, President of the United States.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. LOTT. Mr. Chief Justice, there have been a number of inquiries from Senators and others about some clarification with regard to the approximate times or the times we would be meeting on Saturday and Tuesday, and also how the afternoon will proceed, so I will make some unanimous consent requests to clarify that and give you a brief rundown on what I think the schedule will be this afternoon.

ORDERS FOR SATURDAY, JANUARY 16, 1999 AND TUESDAY, JANUARY 19, 1999

Mr. Chief Justice, as in legislative session, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 a.m., on Saturday, January 16. I further ask that when the Senate reconvenes on Saturday, immediately following the prayer, the Senate resume consideration of the articles of impeachment.

The CHIEF JUSTICE. Without objection, it is so ordered.

Mr. LOTT. I further ask unanimous consent that when the Senate completes its business on Saturday, it then adjourn over until Tuesday, January 19, at 9:30 a.m. I ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use. I further ask consent that there then be a period for morning business until the hour of 11:30 a.m., with 60 minutes under the control of the majority leader or his designee, and 60 minutes under the control of the minority leader or his designee.

I ask unanimous consent that on Tuesday the Senate recess then from the hours of 11:30 a.m. until 1 p.m. for the weekly policy conferences. And I further ask consent that at 1 p.m., on Tuesday, the Senate resume consideration of the articles of impeachment.

The CHIEF JUSTICE. Without objection, it is so ordered.

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that on Tuesday, following the conclusion of the presentation during the Court of Impeachment, the Senate recess until the hour of 8:35 p.m., on Tuesday evening. And I ask consent that upon reconvening Tuesday evening the Senate proceed to the Hall of the House of Representatives in order to hear an address by the President regarding the State of the Union.

The CHIEF JUSTICE. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LOTT. For the information of all my colleagues, then, I understand today's presentation is expected to continue until approximately 6 p.m., and there will be periodic breaks during the day to allow all Members to stand and stretch. I want to remind Senators to promptly return to their desks at the expiration of those 15-minute breaks in order that we can continue and complete at the earliest possible hour. I thank all Members for their cooperation.

This afternoon we will hear from Congressman MCCOLLUM, take a 15-minute break, then hear from Congressmen GEKAS, CHABOT, and CANNON,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

and then take a break, and then Congressman BARR would complete the afternoon's presentations.

Mr. Chief Justice, I yield the floor.

THE JOURNAL

The CHIEF JUSTICE. If there is no objection, the Journal of proceedings of the trial are approved to date.

Pursuant to the provisions of Senate Resolution 16, the managers for the House of Representatives have 18 hours 56 minutes remaining to make the presentation of their case. The Senate will now hear you.

The Presiding Officer recognizes Mr. Manager MCCOLLUM to resume the presentation of the case for the House of Representatives.

Mr. Manager MCCOLLUM. Thank you, Mr. Chief Justice.

Mr. Chief Justice, and my colleagues in the Senate, I drove in this morning to this Capitol. I drove up the George Washington Parkway, and I looked at the magnificent display of ice that was all over the trees, all over the grass, all over the foliage—a beautiful panorama.

And just before I got to the 14th Street Bridge, I saw this incredible number of geese—I guess in the hundreds—that were lined up together between the highway and the Potomac River. It looked like they were an invading army. I thought of the awe of this, the awe of the beauty of it, the awe of Mother Nature, the awe of God. And I thought, also, of the awe of the responsibility we have to our children and our grandchildren about what we are commencing today. This is an awesome undertaking for all of us.

I am here today to summarize for you what you heard yesterday. I do not want to bore you. I do not intend to do that. I am going to be as brief as I can. I am also here to help you digest the voluminous quantities of material that you have before you. There is a huge record out there. And I am also here to prepare you for the law discussion that is going to come after me about the law of the crimes of perjury and obstruction of justice and witness tampering.

First of all, I want you to know I bear no personal animosity toward our President. But I happen to believe that if the President—if any President—commits the crimes of perjury, obstruction of justice, and witness tampering, he should not be allowed to remain in office, for if he is allowed to do so, it would undermine our courts and our system of justice.

But that is for you to determine in the end, really, not me. That is my opinion. But you will have to weigh the evidence, you are going to have to hear the arguments, and ultimately make that decision. In fact, the first thing you have to determine is whether or not the President committed crimes. It is only if you determine he committed the crimes of perjury, obstruction of justice, and witness tampering that you will move on to the question of whether he is removed from office. In fact, no one, none of us, would argue to you that the President should be removed from office unless you conclude he committed the crimes that he is alleged to have committed—not every one of them necessarily, but certainly a good quantity, and there are a whole bunch of them that have been charged.

I would like to call your attention to a couple of things. First of all, I don't want to be a schoolteacher; I just want to relate my own experience to you so you can understand it. I have been involved with this a lot longer than most of you have probably been dealing with the details. I constantly have to refer back to things. Every time I read something, there is so much detail here, I learn something new.

While I go over the evidence with you, we will summarize the evidence one more time. As you are deliberating, as you are thinking about it, I want to call a couple of places to your attention that are the easiest places to refer back to, to find the facts and evidence. First of all, there is the official report that is in the record of the House's consideration of this, the Judiciary Committee report. In that report, right in the first couple of pages, there is a table of contents. While a couple of the articles did not come over to you that are listed in here, there are detailed discussions you can get from this table of contents as to every single count and every single part of these articles so you can figure out what we are talking about today.

Secondly, I would like to bring to your attention that there is a Starr Report, and I know that has been maligned by some people. This thing is so dogeared—I have underlined it, torn it apart, done all kind of things with it. It is a good reference source. You can find from the footnotes where else to check it out. There are two parts. These are the appendices. In the first part, you can find the transcript of all the key depositions, all the key testimony, all of the evidence that we are talking about, and read it for yourselves.

I don't want to leave here today having summarized this evidence, as long as I may take—and I don't want to take a long time, but I will take a little while—and have you go away and think, gosh, what all did MCCOLLUM or HUTCHINSON or ROGAN or BRYANT say yesterday. You can find and refresh yourself through that and through whatever information you have—trial briefs and all that you have.

Let's look at what the record shows. President Clinton was sued by Paula Jones in a sexual harassment civil rights lawsuit. To bolster her case, she was trying to show that the President engaged in a pattern of illicit relations with women in his employment, where he rewarded those who became involved with him and disadvantaged those who rejected him, as Paula Jones did.

Whatever the merits of that approach, on May 27, 1997, the U.S. Supreme Court ruled in a unanimous decision that ''like every other citizen''—and that is a quote—''like every other citizen, Paula Jones has a right to an orderly disposition of her claims.'' Then on December 11 of 1997, Judge Susan Webber Wright issued an order that said Paula Jones was entitled to information regarding any State or Federal employee with whom the President had sexual relations, proposed sexual relations, or sought to have sexual relations.

The record shows that President Clinton was determined to hide his relationship with Monica Lewinsky from the Jones court. His lawyers will argue to you next week, I am sure, that he did everything to keep the relationship hidden and he did it in a legal way. They will say that he may have split a few hairs and evaded answers and given misleading answers but that it was all within the framework of responses and actions that any good lawyer would advise his client to do.

They will also say if he crossed the line technically somewhere, he didn't do it knowingly or intentionally. Oh, how I wish that were true. We wouldn't be here today. But, alas, that is not so.

If you believe the sworn testimony of Monica Lewinsky, if you believe her testimony that is in the record—and she is very credible—the President knowingly, intentionally, and willfully set out on a course of conduct in December 1997 to lie to the Jones court, to hide his relationship, and to encourage others to lie and hide evidence and to conceal the relationship with Monica Lewinsky from the court. He engaged in a pattern of obstruction of justice, perjury, and witness tampering designed to deny the court what Susan Webber Wright, the judge in that court, had determined Paula Jones had the right to discover in order to prove her claim. If you believe the testimony of Monica Lewinsky, you cannot believe the President or accept the argument of his lawyers. You simply can't.

The record is so clear on this that if you have any significant doubt about Monica Lewinsky's credibility or testimony, you should bring her in here and let us examine her face to face so you can judge her credibility for yourself.

As you will hear explained later this afternoon, the same acts can constitute both the crimes of obstruction of justice and perjury, and the same acts can constitute the crimes of obstruction of justice and witness tampering. They are all cut from the same cloth. They are all crimes that obstruct the administration of justice and keep our courts from being able to get the evidence that they need to decide cases. Such obstruction is so detrimental to our system of justice that the Federal Sentencing Guidelines provide for a greater punishment for perjury and obstruction of justice than they do for bribery.

I want to show that to you. I know everybody can't see the chart. I think you have a handout of them. I will not show many charts today, but this is

one about the sentencing guidelines. The guidelines rate these, in fact, in sequence. The most serious sentencing is a higher number; the lower number is the lower sentencing: Plain old vanilla bribery rights at a 10; other things are 8, 7, 4. Murder is way up there, much higher in the numbers. You will see that witness tampering is a 12, not a 10. Obstruction of justice is a 12, not a 10. Perjury is a 12, not a 10. All of them are the same. Interestingly enough, although I didn't put it on this chart, bribing a witness is different from plain vanilla bribery. If you try to bribe somebody in a business deal, that is one kind; if you go out and bribe a witness, that is another. Bribing a witness is also a 12.

Now, I want to point that out right up front because the most important point that makes is that when you read the phrase in the Constitution that what is impeachable is treason, bribery, and other high crimes and misdemeanors, bribery is not considered by our court system. Pure bribery, plain old bribery, is not considered as serious in sentencing as perjury, witness tampering, obstruction of justice, and of course bribing a witness. They are all of the same cloth. Why? Because that interferes with the administration of justice. Because we can't have justice if people block the courts from getting at the truth. And if you go about doing it intentionally, you have committed these crimes.

It should be pointed out that lies under oath in a court proceeding, whether or not they rise to the level of crimes of perjury, can be obstruction of justice. So when the President lied in the Jones deposition, this was part of the obstruction of justice charged under article II that is before you today, even though there is no separate count. And he lied a lot in that deposition. We will talk about that a little later. The fact that the House did not send you the article of impeachment for perjury in the Jones deposition does not keep you from considering the lies in that deposition as an obstruction of justice crime under article II that is before you. And you know that it is also incorporated in article I, because it is one of the four items specifically listed as the perjury that he lied about lying in the deposition.

Now, having said that, think about all of this as one big obstruction, because perjury can be obstruction. Just plain lying can be obstruction. Witness tampering, by the way, is a separate crime because it is titled that way, but it is one of two separate obstruction of justice sections in the United States Criminal Code. It is just another version of obstruction of justice. So don't be confused. Witness tampering is obstruction of justice—literally, figuratively, and in every other way. But people think about it separately because it has a separate element, a lesser element of proof actually than obstruction of justice. But it is all part of the same fabric, again.

To put the essence of all of this in a nutshell for you, think back on the evidence presented yesterday. I would suggest that President Clinton thought his scheme out well. He resented the Jones lawsuit. He was alarmed when Monica Lewinsky's name appeared on the witness list, and he was more alarmed when Judge Wright issued her orders signaling that the court would hear the evidence of other relationships. To keep his relationship with Monica Lewinsky from the court, once Judge Wright issued her ruling, he knew he would have to lie to the court. To succeed at this, he decided that he had to get Monica Lewinsky to file a false affidavit, to try to avoid having her testify. And he needed to get her a job to make her happy, to make sure she executed that false affidavit, and then stick with her lies when she was questioned about it.

Then the gifts were subpoenaed and he had to have her hide the gifts—the only tangible evidence of his relationship with her that would trigger questions. She came up with the idea of giving them to Betty Currie, and the President seized on it. Who would think Betty Currie should be called to produce the gifts? Nobody would. Then he would be free to lie in his deposition, and that is, of course, what he did. But after he did this, he realized that he had to make sure that Betty would lie and cover for him.

He got his aides convinced to repeat the lies to the grand jury and to the public, and all of this worked—until the dress showed up. Then he lied to the grand jury to try to cover up and explain away his prior crimes.

That is the case in a nutshell. That is why we are here today. That is what this evidence in the record shows, I believe, in an exceptionally compelling way.

Now, let's review what happened and, as we do, I ask you to think back to what Mr. BRYANT said to you yesterday. Always ask yourself what are the results of the act, and who benefited. I think you will find each time that it is the President who benefited. Now we are going to go over the facts.

On December 5, 1997, a year ago, about a week before Judge Wright issued her order making it clear that the President's relationship with Monica Lewinsky was relevant to the Jones case. Ms. Lewinsky's name appeared on the Jones witness list. The President learned this fact the next day, December 6. The President telephoned Monica Lewinsky at about 2 a.m. on December 17 and informed her about her name being on the witness list. That was about 10 days after he learned about it and about 5 days after Judge Wright's order. It was the order that made it clear that his relationship with Monica was discoverable by the Jones attorneys in that case.

Long before this, though, long before the President was called to give a deposition or Monica Lewinsky was named on the witness list in the Jones case, the evidence shows she and the President had concocted cover stories. They had an understanding that she would lie about the relationship, and so would he, if anybody asked about it.

During a telephone conversation on the 17th of December, the President told Monica she might be called as a witness, and he at that time suggested that she might file an affidavit to avoid being called as a witness to testify in person in that case. In the same conversation, they reviewed these cover stories that they had concocted to conceal their relationship. He brought them up. They went over them again.

Why do you think they did that? In her grand jury testimony, Monica said the President didn't tell her to lie, but because of their previous understanding she assumed that they both expected that she would lie in that affidavit. In this context, the evidence is compelling that the President committed both the crimes of obstruction of justice and witness tampering right then and there on December 17.

Now, Monica Lewinsky's testimony is so clear about this that the President's lawyers probably won't spend a lot of time with you on this; they didn't in the Judiciary Committee. I could be wrong, and they probably will just to show me I am wrong.

I want us to look at this and specifically look at her testimony together because it is so compelling. On pages 123 and 124 of her testimony—you can find it in Part 1 of the Starr Report. I know you can't see all of this that well back there, but you should have the charts. I point out in red on this chart the most important part of it. This is where she described the December 17 telephone conversation. I am going to read you part of it.

She said here in red:

At some point in the conversation, and I don't know if it was before or after the subject of the affidavit came up, he sort of said, ''You know, you can always say you were coming to see Betty or that you were bringing me letters,'' which I understood was really a reminder of things that we had discussed before.

Question: So when you say things you had discussed, sort of ruses that you developed?

Answer: Right. I mean, this was—this was something that—that was instantly familiar to me.

Question: Right.

Answer: And I knew exactly what he meant.

Question: Had you talked with him earlier about these false explanations about what you were doing visiting him on several occasions?

Answer: Several occasions throughout the entire relationship. Yes. It was the pattern of the relationship, to sort of conceal it.

Now, let's look at another chart. Monica Lewinsky's August 6 grand jury testimony, on pages 233 and 234. Both are from the August 6 grand jury testimony, where in the context of the affidavit she makes the now famous statement, ''No one asked or encouraged me to lie.'' She did say that, but let's look at how she said that:

For me, the best way to explain how I feel what happened was, you know, no one asked or encouraged me to lie, but no one discouraged me either.

''. . . but no one discouraged me either.'' I don't know how many times anybody said that to you when they made their arguments, but that is what she said and the context.

Later on, she says in her testimony on the same pages:

. . . it wasn't as if the President called me and said, ''You know, Monica, you're on the witness list, this is going to be really hard for us, we're going to have to tell the truth and be humiliated in front of the entire world about what we've done,'' which I would have fought him on probably. That was different. And by him not calling me and saying that, you know, I knew what that meant. . . .

Question: Did you understand all along that he would deny the relationship, also?

Answer: Mm-hmm. Yes.

Question: And when you say you understood what it meant when he didn't say, ''Oh, you know, you must tell the truth,'' what did you understand that to mean?

Answer: That—that—as we had on every other occasion and every other instance of this relationship, we would deny it.

After reading this, if you believe Monica Lewinsky, can there be any doubt that the President was suggesting that she file an affidavit that contains lies and falsehoods that might keep her from ever having to testify in the Jones case and give the President the kind of protection he needed when he testified?

And, of course, in that same December 17 conversation, the President encouraged Monica to use cover stories and tell the same lies as he expected her to do in the affidavit if and when she was called to testify live and in person. Both of those would be obstruction of justice and witness tampering. Taken together—encouraging her to file this false affidavit that she clearly describes here, and the encouraging of her to lie if she is ever called as a witness—both of these are counts 1 and 2 of the obstruction of justice charge.

If I don't leave you with any other impression walking away from here today, I want you to think about this. This is the clearest, boldest, most significant obstruction of justice charge. I don't see how anybody can walk away from it and explain it away. It is a pattern. It should not be looked at in isolation. Think about it. It is the kickoff to what really happened. It is why we got involved in this in the first place. The President had a scheme and he went through this process. And it all ties together with the rest of it.

Two days later, Monica Lewinsky was subpoenaed and contacted Vernon Jordan who put her in touch with Attorney Frank Carter. That is the attorney he picked out. As we all know, this very false affidavit that Frank Carter prepared—and, of course, knowing it was false when he prepared it, but Monica knew it and the President knew it—was filed just before the President's deposition in the Jones case January 17. The record shows that the President was kept abreast of the participation by Vernon Jordan and all of its contents, and Jordan advised the President when Monica signed the affidavit on January 7. He advised the President of that fact. Two days before Monica says in a conversation she asked the President if he wanted to see the draft affidavit, he replied—you recall from yesterday—he replied that he didn't need to see it because he had already seen ''15 others.''

I doubt seriously he was talking about 15 other affidavits of somebody else and didn't like looking at affidavits anymore. I suspect and I would suggest to you that he was talking about 15 other drafts of this proposed affidavit since it had been around the horn a lot of rounds.

The circumstantial evidence makes it clear the President knew the context of the Lewinsky affidavit and he knew it was false.

During the President's deposition in the Jones case on January 17, his attorney, Robert Bennett, at one point tried to stop the Jones lawyers from asking the President about his relationship with Monica Lewinsky by pointing out the affidavit she had signed.

I think we all remember that because there was a lot of that on TV up here yesterday. Mr. Bennett asserted at the time that the affidavit indicated ''there is no sex of any kind, manner, shape or form.'' That is what he said. After a warning from Judge Wright, Mr. Bennett stated, ''I'm not coaching the witness. In preparation of the witness for this deposition, the witness is fully aware of Ms. Lewinsky's affidavit, so I have not told him a single thing he doesn't know.'' The President did not say anything to correct Mr. Bennett, even though he knew the affidavit was false. The judge allowed the questioning to proceed and later Mr. Bennett read to the President a portion of paragraph 8 of Monica Lewinsky's affidavit in which she denied having a ''sexual relationship'' with the President and asked him if Ms. Lewinsky's statement was true and accurate, to which the President responded, ''That is absolutely true.''

I am not going back over and put that on the screen again. But I do want to put up here before you what you have in front of you, paragraph 8 of Monica Lewinsky's affidavit.

Paragraph 8 of her affidavit was absolutely false and the President knew it.

I want to go over that a little bit. What it says up here at the beginning of it is, ''I have never had a sexual relationship with the President. He did not propose that we have a sexual relationship,'' and so on. And we have a lot about that. But look at what it says down at the end of this. What is down at the end of this—you have it in front of you. It says down here, ''The occasions that I saw the President after I left my employment at the White House in April 1996 were official receptions, formal functions, or events related to the United States Department of Defense, where I was working at the time. There were other people present on those occasions.''

I just want to point out to you that paragraph 8, which was the subject of a lot of discussions, which the President certainly was fully aware of—which you watched where he was intensely responding, with regard to Mr. Bennett yesterday in that deposition—didn't just contain a lie about a sexual relationship where you quibble over a word. It is a full-fledged lie and a cover story about this. None of that is true. Monica Lewinsky saw him a lot of other times, and the President certainly knew that. They weren't all official events or anything else. This is a complete falsehood, paragraph 8, and the President knew it.

At that point in time when he allowed his attorney on the day of the deposition to make a false and misleading statement to the judge—and the attorney didn't know that—but it was a false and misleading statement to the judge characterizing this affidavit, he knew better. And the President at that point in time committed the crime of obstruction of justice. And that is count 5 of article II.

Now the President's lawyers are going to argue that he sat silent because he wasn't paying attention, and he didn't hear or appreciate what Mr. Bennett was saying. We have already seen the video. And you know that he was looking so intently. Remember he was intensely following the conversation with his eyes. I don't know if you watched it on TV yesterday and observed that. It was played twice. I don't know how anybody can say this man wasn't paying attention. He certainly wasn't thinking about anything else. That was very obvious from looking at the video.

The President's other defense also falls apart on its face. During his grand jury testimony, the President argued that when Mr. Bennett characterized the Lewinsky affidavit as indicating ''there is no sex of any kind, in any manner, shape or form'' that it was a completely true statement because at that particular time, at that moment, when the statement was being made on January 17, 1998, there was no sex going on. That was when the President made his famous utterings to the jury, ''It depends on what the meaning of the word 'is' is.'' That is when he said that. Of course the President knew perfectly well that the context of Mr. Bennett's discussions with the judge and characterization of the Lewinsky affidavit was referring to the denial in paragraph 8 of the affidavit that there had never been any sexual relationship at any time, not that there was no sex or sexual relationship going on on January 17, the day of the deposition.

I implore you not to get hung up on some of the details. It is absurd, some of the arguments that are being made and have been made by the President and his attorneys to try to explain this.

This is a perfect example of that. When we start looking around at this, you can't see the forest sometimes for the trees. The big picture is what you need to keep in mind, not the compartmentalized portion. There will be a lot of effort, I am sure, to try to go and pick at one thing or another. But this is an extraordinarily good example of how the argument failed when put in that situation. And we shouldn't play word games.

When Monica Lewinsky was subpoenaed to testify, she was also subpoenaed to produce any gifts that the President had given her. When she met with Vernon Jordan the day she received the subpoena, she told him of her concerns about the gifts and she asked him to tell the President about the subpoena.

Early in the morning on December 28, near the end of the year, they met, the President and Monica, in his office, and they exchanged gifts and discussed the gifts being subpoenaed. According to Mrs. Lewinsky, she suggested that maybe she should put the gifts away outside of her house somewhere or give them to somebody like Betty Currie. She says he responded—the President responded—with an ''I don't know,'' or ''let me think about that.'' She was very clear that at no point did he ever give her the impression that she should turn the gifts over to the Jones attorneys.

That is consistent with their cover stories—the one later and later in the perjury where the count discusses his lying to the grand jury. Consistent with their cover stories and all the plans for denying the relationship, her testimony in this regard is very believable.

On the other hand, the President's testimony in front of the grand jury that encouraged her to turn all of the gifts over to the Jones attorneys is not believable. How can nobody believe that. When he said that to the grand jury, he committed perjury. When a few hours later, according to Monica Lewinsky, Betty Currie called her on the telephone and said, ''I understand you have something to give me,'' or maybe she said, ''the President said you have something to give me,'' and Betty Currie came over and got the gifts and took them back and hid them under her bed. At that moment, the President's crime of obstruction of justice as described in count 3 of article II was complete.

Remember by its nature obstruction of justice charges in crimes are most frequently proven by circumstantial evidence. As somebody said here the other day, we don't tell people we are going to go out under the elm tree and lie and obstruct things. Usually it is a lot more circuitous than that. In the context of all that was going on at the time and the general truthfulness of Monica Lewinsky's testimony, and other respects, how can anyone come to any other conclusion than that the President collaborated with Monica and Betty to hide these gifts on December 28? How can they? The sequence is there.

The President's lawyers may spend a lot of time attacking this particular obstruction of justice charge. They may question why the President would have given Monica Lewinsky more gifts on December 28 if he was expecting her to hide the gifts. Monica's explanation and her testimony is ''from everything he said to me,'' he expected her to conceal the gifts, including the ones being given that day. When Ms. Currie's call came, wasn't it the logical thing for Monica to conclude that this was the result of the President's having thought about what to do with the gifts, which he said he was going to do according to her, and deciding to have Ms. Currie hide them?

That is the logical thing.

The President's attorney's will no doubt also question the veracity of Ms. Lewinsky with regard to who made the phone call, since Mrs. Currie's recollection isn't very good. And at first she says she recalls Monica made it. Of course, the phone records indicate that Ms. Currie called Ms. Lewinsky. That is the much more logical sequence.

Also it doesn't make sense that the President's secretary, who is so close to him—think about it—that she would have taken the gifts and would have hidden them under her bed and never talked with the President about doing so before or after she did so. That doesn't make sense.

It is also noteworthy that the President did everything he could in his January 17 deposition to conceal the true nature of his relationship with Monica Lewinsky. This is consistent with the arguments that he never intended the gifts be kept from the Jones attorneys. He never intended them to be given to the Jones attorneys. If he had intended to give these gifts to the Jones attorneys, or have them given, why would he have gone through this elaborate series of lies in that deposition? Common sense tells us if he knew these gifts were revealed, questions would be raised and his relationship revealed.

So all the logic is there. I don't know how you refute it.

Another obstruction count the President's attorneys are likely to spend time on is one concerning the job search. There is no question that Monica Lewinsky was looking for a job in New York a long time before we get to December of 1997 and when the affidavit and all of this took place, long before the President had reason to be concerned that she would have to testify or he would have to testify in the case. There is no question about that. That is not the issue. The question is whether or not the President intensified his efforts to get her a job and make sure she got one after it became clear to him that he would need her to lie, sign a false affidavit, and stick with her lies in any questioning. That is what counts. That is what is important. Did he intensify his efforts and really go after it? Was it part of that pattern I described to you earlier which Mr. HUTCHINSON described yesterday? That is what is important.

In other words, as count 34 of article II alleges, did she make sure she was rewarded with sticking with him in a scheme of concealment in anticipation that this reward would keep her happy and keep her from turning on him? Did the President make sure Monica Lewinsky signed a false affidavit by getting her a job?

The record shows that while she did give some interviews from earlier contacts, including one involving the job with the U.S. Ambassador to the United Nations, no one of real influence around the President put on a full court press to get her a job and she had not had any success as of December 6.

She had not been able to get in touch with Vernon Jordan in her recent efforts. He had met with her once in November, but as you recall from yesterday's discussions, something he didn't even have a good memory of. He certainly wasn't very focused on it, and she wasn't getting where she wanted to get.

And so on December 6th she mentioned that fact to the President. Remember, that is one day after she was named on a witness list. In fact, that is the day that he learned or may have learned—we know he learned of her being on that witness list. The President met with Vernon Jordan the next day, but he apparently didn't mention Ms. Lewinsky, according to Jordan's testimony. The record shows that not only on December 11th did Mr. Jordan act to help Ms. Lewinsky find a job when he met with her and gave her a list of contact names on December 11th, Mr. Jordan that same day made calls to contacts at MacAndrews & Forbes, the parent corporation of Revlon, and two other New York companies. He also telephoned the President to keep him informed of his efforts.

Keep in mind that on this day, this very same day, December 11th, Judge Wright issued her order in the Jones case entitling Jones' lawyers to discover the President's sexual relations. Is that a mere coincidence?

Later in December, Monica Lewinsky interviewed with New York-based companies that had been contacted by Mr. Jordan. She discussed her move to New York with the President during that meeting on December 28th. On January 5th, she declined a United Nations offer. On January 7th, Ms. Lewinsky signed the false affidavit. The next day, on January the 8th, she interviewed in New York with MacAndrews & Forbes, but the interview went very poorly. Learning of this, Vernon Jordan, that very day, called Ronald Perelman, the chairman of the board of MacAndrews & Forbes. She was interviewed the next morning again, and a few hours later she received an informal offer. She told Jordan about it. He immediately told

Betty Currie about it, and he personally told the President about it later.

On January 13th, her job offer at Revlon was formalized, and within a day or so President Clinton told Erskine Bowles that Ms. Lewinsky had found a job in the private sector. It was a big relief to him.

Then her false affidavit was filed, and on January 17th the President gave a deposition relying on the false affidavit and using their cover stories to conceal their relationship.

Was this full court press in December and early January to assure Monica Lewinsky had a job just a coincidence? Logical common sense says no; the President needed her to continue to cooperate in his scheme to hide their relationship, keeping her happy so he could control her and she would be—he would be assured that she had filed this false affidavit and testifying untruthfully if she was called. It is the only plausible rationale for this stepped up job assistance effort at this particular time. In doing so, the President committed the crimes of obstruction of justice and witness tampering as set forth in count 4 of article II.

Well, we have gone through quite a few of these, and I am trying to be brief with you, but I think each one of them is important. Each one of them entangles the President further in a web that fits together, and it is kind of sticky just like the spider weaves.

During his deposition in the Jones case, the President referred to Betty Currie several times and suggested that she might have answers to some of the questions. He used the cover story, the same ones he and Monica talked about, and he talked about Betty Currie a good deal because she was a part of those cover stories. When he finished the deposition, he telephoned Ms. Currie, and he asked her to come to his office the next day and talk with him. Betty Currie told the grand jury when she came in the next day the President raised his deposition with her and said there were several things he wanted to know, then rattled off what you heard yesterday in succession: You were always there when she was there, right? We never were really alone. You can see and hear everything. Monica came on to me, and I never touched her, right? She wanted to have sex with me, and I can't do that.

All of those weren't true. They were all falsehoods. They were all declaratory statements. They weren't questions. It is clear from the record that Ms. Currie always tried her best to be loyal to the President, her boss. That is normal. That is natural.

In answering the questions in her testimony, she tried to portray the events and the President's assertions in the light most favorable to him, even though she acknowledges that she could not hear and see everything that went on between Monica and the President and that she wasn't actually present in the same room with them on any number of occasions, so they were alone. And she could not say what they might have been doing or saying.

On January 20th or 21st, the President again met with Ms. Currie and, according to her, recapitulated what he said on Sunday, a day or two before, right after the deposition. In the context of everything, it seems abundantly clear that the President was trying to make sure that Betty Currie corroborated his lies and cover stories from the deposition if she was ever called to testify in the Jones case or grand jury or any other court proceeding. That is what he was doing. In doing so, the President committed the crimes of witness tampering and obstruction of justice.

Later, the President testified, rather disingenuously, in my judgment, that he was simply trying to refresh his memory when he was talking to Ms. Currie. Ms. Currie's confirmation of false statements that the President made in his deposition could not in any way remind him of the facts. They were patently untrue. The idea that he was trying to refresh his recollection is implausible.

Recognizing the weakness of their client's case on this, the President's attorneys have suggested that he was worried about what Ms. Currie might say if the press really got after her. That is what we heard, at least over in the Judiciary Committee. Of course, it is possible the President was worried about the press. I would suspect so. But common sense says he was much more worried about what Betty Currie might say to a court, after he had just named her several times and talked about her, if she were called as a witness.

As those who follow me will tell you, the arguments by the President's lawyers that Betty Currie wasn't on the Jones witness list at the time and the window of opportunity to call her as a witness in that case closed shortly thereafter is irrelevant. They are going to argue—they argued to us that Betty Currie's name wasn't on the witness list. That is a big deal, they say. They say. But it is irrelevant. It doesn't matter; witness tampering law doesn't even require that a pending judicial proceeding be going on for it to be a crime. So whether her name was on the witness list or not makes no difference.

There are two types of obstruction of justice. One does require a pending proceeding. I submit—and you will hear more about this later in the law—that in this instance the President committed both of them. He certainly should have anticipated that she would be called in the pending proceeding that was going on in the Jones case, but even if there was no pending proceeding—and you will, again, hear more about this later—for the witness tampering part of the obstruction of justice, it doesn't require there to have been an ongoing judicial proceeding.

Within 4 or 5 days of his Jones deposition, the President not only explicitly denied the true nature of his relationship with Monica Lewinsky to key White House aides, he also embellished the story when he talked with Sidney Blumenthal. To Sidney Blumenthal, he portrayed Monica Lewinsky as the aggressor, attacked her reputation by portraying her as a stalker and presented himself as the innocent victim being attacked by the forces of evil. Certainly he wanted his denial and his assertions to be spread to the public by these aides, but at the same time he knew that the Office of Independent Counsel had recently been appointed to investigate the Monica Lewinsky matter. He knew that at the time.

In the context of everything else that he was doing to hide his relationship, it seems readily apparent that his false and misleading statements to his staff members, whom he knew were potential witnesses before any grand jury proceeding, were designed in part to corruptly influence their testimony as witnesses. In fact, the President actually acknowledged this in his grand jury testimony, that he knew his aides might be called before the grand jury. And one of the aides testified he expected to be called. Sure enough, they were, and they repeated the false and misleading information he had given them. In this, the President committed the crimes of witness tampering and obstruction of justice as set forth in count 7 of article II.

Now, that is the obstruction of justice. Let's briefly review the grand jury perjury for a minute.

If you believe Monica Lewinsky, the President lied to the grand jury and committed perjury. If you believe her—and I think this one is very important, not that they all aren't. There was the web of the obstruction that I just described and then there is the grand jury perjury on top of it. I told you earlier, perjury and just plain lying can be all obstruction of justice as well. But the grand jury part is much later. It is after the President had time to really reflect on all of this, a long time later.

If you believe Monica Lewinsky, the President lied to the grand jury and committed perjury in denying he had sexual relations with Monica Lewinsky even if you accept his interpretation of the Jones court's definition of sexual relations. That is really important. There isn't anything clearer in the whole darned matter than that. Just look at the President's grand jury testimony. And I am not going to go over all of that, but it is on pages 93 and 96 of his grand jury testimony. It is laid out in this chart which you have in front of you, and I encourage you to read every page of it carefully. Specifically, I call your attention to the fact—again, I am not going to read all of this—but they asked him about touching certain parts of the body that are defined in the definition that you have had repeated many times, publicly and otherwise. And two of those body parts he acknowledges, the breast and genitalia, were in fact part of the definition. And at the end of this, and

I think this is very important and I am going to read it because it is part of his testimony, he answers the question that is the compelling bottom line crime. This is where he perjured himself above all else.

You are free to infer that my testimony is that I did not have sexual relations, as I understood this term to be defined.

Question: Including touching her breasts, kissing her breasts, or touching her genitalia?

Answer: That's correct.

In her sworn testimony, Monica Lewinsky described nine incidents of which the President touched and kissed her breasts and four incidents involving contact with her genitalia. On these matters, Lewinsky's testimony is corroborated by the sworn testimony of at least six friends and counselors to whom she related these incidents contemporaneously.

Again, if you believe the testimony of Monica Lewinsky, and it certainly is credible here—I think it is credible throughout but it is certainly credible, with all the corroboration you have got in the record—there is nothing clearer in all of this, in all of this you have before you, than that the President committed the crime of perjury in testifying before the grand jury regarding the nature and details of his relationship with Monica Lewinsky.

On the other hand, there is plenty here to indicate the President cleverly created his own narrow definition of sexual relations to include only sexual intercourse, absent the explicit definition of the court, after he had already lied in responding to the interrogatories and other pleadings and perhaps even in the depositions themselves in the Jones case. In other words, you are free to deduce that he knew full well what most people would include as sexual relations, oral sex and the other intimate activities that he was engaged in with Ms. Lewinsky, before he contrived his own definition. In that case, you don't even have to rely on Monica Lewinsky's testimony to conclude that he committed the crime of perjury in testifying before the grand jury on the nature of his relationship with her.

There are other perjurious lies the President's grand jury testimony contains regarding the nature and details of his relationship with her. I am not going to outline all of those. I want to call your attention to one. The President's prepared statement, given under oath, said, ''I regret that what began as a friendship came to include this conduct.'' You may remember that from Mr. ROGAN, I think, yesterday. ''I regret that what began as a friendship came to include this conduct.'' That is what he said in the grand jury. The evidence indicates that he lied. As Ms. Lewinsky testified, her relationship with the President began with flirting, including Ms. Lewinsky showing the President her underwear, and just a couple of hours later they were kissing and engaging in intimacies. That is a little bit more than friendship. He lied when he said that to the grand jury.

Before the grand jury, the President swore that he testified truthfully at his deposition. Remember, I told you I was going to come back to this. It is important because the grand jury—I mean the Paula Jones deposition testimony is relevant to obstruction of justice but it is also relevant to the perjury here, because one of the portions of the perjury article that you have before us includes this issue of lying in the deposition. The perjury in this case is not the lying in the deposition, it is the lying to the grand jury about whether he lied in the deposition. He didn't have to have committed perjury. We didn't send you the perjury count over from the deposition. But if he lied—lying can be less than perjury. If he lied in the deposition and then he told the grand jury that he didn't lie, he committed perjury in front of the grand jury.

The evidence indicates that he did lie. He testified before the grand jury that ''my goal in this deposition was to be truthful, but not particularly helpful . . . I was determined to walk through the minefield of this deposition without violating the law and I believe I did.''

Contrary to this testimony, the President was alone with Ms. Lewinsky when she was not delivering papers, which he even conceded in his grand jury statement. So he lied in the deposition then when he said he wasn't alone with her.

In the deposition the President swore he could never recall being in the Oval Office hallway with Ms. Lewinsky except when she was perhaps delivering pizza. The evidence indicates that he lied.

The President swore in the Jones deposition that he could not recall gifts exchanged between Monica Lewinsky and himself. The evidence indicates that he lied.

He swore in the deposition that he did not know whether Monica Lewinsky had been served a subpoena to testify in the Jones case at the last time that he saw her in December 1997. The evidence indicates that he lied.

In his deposition, the President swore that the last time he spoke to Monica Lewinsky was when she stopped by before Christmas 1997 to see Betty Currie at a Christmas party. The evidence indicates that he lied.

In his deposition in the Jones case, the President swore that he didn't know that his personal friend, Vernon Jordan, had met with Monica Lewinsky and talked about the case. The evidence indicates that he lied.

The President in his Paula Jones deposition indicated that he was ''not sure'' whether he had ever talked to Monica Lewinsky about the possibility that she might be asked to testify in the Jones case. Can anybody doubt the evidence indicates that he lied?

The President in his deposition swore that the contents of the affidavit executed by Monica Lewinsky in the Jones case, in which she denied they had a sexual relationship, were ''absolutely true.'' The evidence indicates that he lied.

In other words, when the President swore in the grand jury testimony that his goal in the Jones deposition was to be truthful but not particularly helpful, the evidence is clear that he lied and committed the crime of perjury, inasmuch as he had quite intentionally lied on numerous occasions in his deposition testimony in the Jones case. His intention in that deposition was to be untruthful. That is what it was all about, to be untruthful. So he committed the crime of perjury in front of the grand jury—big time.

The third part of article I concerning grand jury perjury relates to his not telling the truth about false and misleading statements his attorney, Robert Bennett—unintentionally, Mr. Bennett, by the way, but nonetheless false and misleading statements—Robert Bennett made to Judge Wright during the President's Jones case deposition. We have been on that a lot. I don't want to bore you with going over all those details again, but this is the third part of the perjury count as well as an obstruction of justice count.

During the President's deposition in the Jones case, Mr. Bennett, however unintentional on his part, misled the court when he said, ''Counsel [counsel for Ms. Jones] is fully aware that Ms. Lewinsky has filed, has an affidavit which they are in possession of saying that there is no sex of any kind, of any manner shape or form, with President Clinton . . .'' Judge Wright, as you recall again, interrupted Mr. Bennett and expressed her concern that he might be coaching the President to which Mr. Bennett responded, ''in preparation of the witness for this deposition, the witness is fully aware of Ms. Lewinsky's affidavit, so I have not told him a single thing he doesn't know . . .''

In his grand jury testimony about these statements by Mr. Bennett to the judge in the Jones case, the President testified:

I'm not even sure I paid attention to what he was saying. . . . I didn't pay much attention to this conversation which is why, when you started asking me about this, I asked to see the deposition . . . I don't believe I ever even focused on what Mr. Bennett said in the exact words he did until I started reading this transcript carefully for this hearing. That moment, the whole argument just passed me by.

In so testifying before the grand jury, the President lied and committed the crime of perjury. As you saw yesterday in the video, during this portion of that deposition when Mr. Bennett was discussing this matter with Judge Wright, the President directly looked at Mr. Bennett, paying close attention to his argument to Judge Wright. He lied about that to the grand jury. He committed perjury when he said that he wasn't paying attention and he didn't know what Mr. Bennett was saying.

Several of the most blatant examples of grand jury perjury are found in that

portion of his testimony cited in the fourth part, the last part of article I which goes to his efforts, the President's efforts, to influence the testimony of witnesses and to impede the discovery of evidence in the Jones case. The President swore during the grand jury testimony that he told Ms. Lewinsky that if the Jones lawyers requested the gifts exchanged between them, she should provide them. If you believe Monica Lewinsky's testimony, the President lied and committed perjury.

In her grand jury testimony, Ms. Lewinsky discussed in detail the December 28 meeting where gifts were discussed which preceded by a couple of hours Ms. Currie coming to her apartment and taking the gifts and hiding them under a bed. As you recall, she said she raised with the President the idea of removing her gifts from her house and giving them to somebody like Betty Currie and that his response was something to the effect of, ''Let me think about that.''

She went on to say that from everything he said to her, they were not going to do anything but keep these gifts private. In a separate sworn statement, she testified she was never under the impression from anything the President said that she should turn over the gifts to the Jones attorneys, and obviously she didn't have the idea that she should do that because she gave them all to Betty Currie to hide under the bed.

When the President told the grand jurors that he was simply trying to ''refresh'' his recollection when he made a series of statements to Betty Currie the day after his deposition, he lied and committed perjury. As I have already pointed out to you today, the evidence is compelling that those statements, such as ''I was never really alone with Monica, right?'' were made to try to influence Betty Currie's possible testimony, so that she would corroborate his cover stories and other false statements and lies that he had given the previous day in the Jones deposition, if she was called as a witness.

If you conclude that these series of statements constitute witness tampering and obstruction of justice, then you must also conclude that the President committed perjury when he asserted that the sole purpose of these statements to Betty Currie was to ''refresh'' his recollection. You have to. Even if you were to buy the President's counsel's suggestion these statements might have been made to influence her in order for her to corroborate him, not in actual testimony in a court case but with the press, which they have said again to us—I don't know if they will say it to you—you would still conclude he was lying when he said that this was simply only to refresh his own recollection.

In the context of all of this, the idea that he was refreshing his recollection by firing off these declarative statements doesn't make sense. It just doesn't make sense. If you read the statements and think about them on their face, they are inherently inconsistent with refreshing his recollection.

Also, the President told the grand jury that the things he told his top aides about his relationship with Monica Lewinsky may have been misleading but they were true. If you believe the aides testified truthfully to the grand jury about what the President told them about his relationship, the President told them many falsehoods, absolute falsehoods. So when the President described them under oath to the grand jury as truths, he lied and committed the crime of perjury.

One example of this comes from Deputy Chief John Podesta in his testimony before the grand jury on January 23 that the President explicitly told him that he and Monica Lewinsky had not had oral sex. Another is Sidney Blumenthal. His testimony was that on January 23 the President told him that Monica Lewinsky ''came at me and made a sexual demand on me'' and that he rebuffed her. And also Blumenthal's testimony that the President told him that Lewinsky threatened him and said that she would tell people that they had had an affair and that she was known as a stalker among her peers.

In short, the President lied numerous times before the grand jury, my colleagues; he lied numerous times under oath last August 17. He committed perjury numerous times under oath. He certainly wasn't caught by surprise by any of this, by any of the questions that were asked him during the grand jury appearance, and he was given a lot of latitude. He was given latitude normally that grand jury witnesses don't have—to give a prepared statement, to have his counsel present, to refuse to answer questions without taking the fifth amendment.

It is hard to imagine a case where it is clear that the lies meet the threshold of the crime of perjury. But I will leave the discussion of the elements and the law to the next group that is going to come up here.

The facts are clear that the President lied about having sexual relations with Monica Lewinsky even under his understanding of the definition of the Jones case if you believe Monica.

He lied when he said he gave truthful testimony in his Jones deposition.

He lied when he said he wasn't paying attention to his attorney's discussion of Monica Lewinsky's false affidavit during his deposition in the Jones case.

He lied when he said he told Monica Lewinsky she should turn over the gifts to the Jones lawyers if they asked for them.

He lied when he told the grand jury that he made the declaratory statements to Betty Currie to refresh his recollection.

And he lied when he told the grand jury that he only told the truth to his White House aides, such as John Podesta who testified the President told him he had not had oral sex with Lewinsky, and to Sidney Blumenthal who testified he told him very exaggerated and highly untrue characterizations of Monica Lewinsky's role in all of this.

These impeachment proceedings aren't before you because of one or two lies about a sexual relationship. This is not about sex. This is about obstruction of justice. This is about a pattern. This is about a scheme. This is about a lot of lies. This is about a lot of perjury. They are before you because the President lied again and again in a perjurious fashion to a grand jury and tried to get a number of people, other people, to lie under oath in the Jones lawsuit and to the grand jury and encouraged the concealment of evidence.

In a couple of days the President's lawyers are going to have their chance to talk to you, and I suspect they will try to get you to focus on 10, 15, or 20 or 30, maybe even 100 specific little details. They are going to argue that these details don't square with some of the facts about this presentation. But I would encourage you never to lose sight of the totality of this scheme to lie and obstruct justice; never lose sight of the big picture. Don't lose sight of the forest for the trees. It is easy to do because there are a lot of facts in this case.

I suggest you avoid considering any of this stuff in isolation and treating it separately. The evidence and the testimony needs to be viewed as a whole. The weight, we call it in law—and you are going to hear that in a few minutes—the weight of the evidence in this case is very great, it is huge in its volume, that the President engaged in a scheme starting in December 1997 to conceal from the court in the Jones case his true relationship with Monica Lewinsky and then cover up his acts of concealment which he had to know by that time were serious crimes.

The case against the President rests to a great extent on whether or not you believe Monica Lewinsky. But it is also based on the sworn testimony of Vernon Jordan, Betty Currie, Sidney Blumenthal, John Podesta, and corroborating witnesses. Time and again, the President says one thing and they say something entirely different. Time and again, somebody is not telling the truth. And time and again, an analysis of the context, the motivation, and all of the testimony taken together with common sense says it is the President who is not telling the truth. But if you have serious doubts about the truthfulness of any of these witnesses, I, again, as all my colleagues do, encourage you to bring them in here. Let's examine Monica Lewinsky, Vernon Jordan, Betty Currie and the other key witnesses, let you examine the testimony, invite the President to come, judge for yourself their credibility.

But on the record, the weight of the evidence, taken from what we have

given you today, what you can read in all of these books back here, everything taken together is huge that the President lied. It is refutable, but it is not refutable if somebody doesn't come in here besides just making an argument.

I don't know what the witnesses will say, but I assume if they are consistent, they'll say the same that's in here. But you have a chance to determine whether they are telling the truth. The only way you will ever know that, other than just accepting it if you think the evidence and the weight is that huge—and it may be—is by looking them in the eye and determining their credibility.

I believe that when you finish hearing and weighing all of the evidence, you will conclude, as I have, that William Jefferson Clinton committed the crimes of obstruction of justice, witness tampering, and perjury, that these in this case are high crimes and misdemeanors, that he has done grave damage to our system of justice, and leaving him in office would do more, and that he should be removed from office as President of the United States.

Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that there now be a recess in the proceedings for 15 minutes. Please return to your positions within 15 minutes.

There being no objection, at 2:11 p.m., the Senate recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, as all Senators return to the Chamber, I believe now we are going to go to a segment where we will hear from three of the managers, including Congressmen GEKAS, CHABOT, and CANNON, and then we will take another break shortly after 3:30.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager GEKAS.

Mr. Manager GEKAS. Mr. Chief Justice, counsel for the President, my colleagues from the House, and Members of the Senate, up to now you have been fully informed of the state of the record in this case in many different ways, in very many different tonalities uttered by the managers, who so magnificently, in my judgment, wove the story that began in 1997 and has not ended yet.

But the narrative that the managers were able to produce for you and put on the record has met, even as we speak, with commentary in the public that ''we have all known all of this before.'' The big difference is that now it is part of the history of the country. It is lodged in the records of the Senate of the United States. And together with the CONGRESSIONAL RECORD of the proceedings that preceded these in the House, we now have the dawning of the final chapters of this particular incident involving the President, in which you will have the final word. But that is what the importance is of what you have heard up until now—the complete record woven together, step by step, so that no one in this Chamber at this juncture does not know all the facts that are pertinent to this case. That is a magnificent accomplishment on the part of the managers.

But the record is not yet complete, and that is where I and Representative CHABOT, Representative CANNON, and Representative BARR come in, so that now we can take the next step in fulfillment of the record, and that is, to try to apply the statutory laws, the laws of our Nation as they obtain to the facts that you now have well ingrained into your consciences. To do that, we have to repeat some of the facts. Some of these matters overlap, and just as you have given your attention to the matters at hand up until now, your undivided attention is needed continuously.

For instance, we cannot discuss even the application of these statutes to the facts unless we repeat the series of events that catapulted us to this moment in history. And we must begin, as you have heard countless times now on and off this floor, in my judgment, with the Supreme Court of the United States, with all due deference to the Chief Justice, because the Supreme Court at one point in this saga determined in a suit brought by Paula Jones that indeed an average, day-to-day, ordinary citizen of our Nation would have the right to have a day in court, as it were, even against the President of the United States. It is there that all of this began.

That fellow American, Paula Jones—no matter how she may have been described by commentators and pundits and talking heads, et cetera—did have a bundle of rights at her command. Those rights went into the core of our system of justice to bring the President into the case as a defendant. That is an awesome and grand result of the Supreme Court decision at that juncture. This is what is being overlooked, in my judgment, as we pursue what we believe. If perjury indeed was committed—and the record is replete that it in fact was—and if indeed obstruction of justice was finally committed by the President of the United States—as the evidence abundantly demonstrates—then we must apply the rights of Paula Jones to what has transpired.

We are not saying that the President—even though the weight of the evidence demonstrates it amply—should be convicted of the impeachment which has brought us to this floor just because he committed perjury or obstructed justice, but because as a result of his actions both in rendering falsehoods under oath, as the evidence demonstrates amply, or in obstructing justice, that because of his conduct, he attempted to, or succeeded in, or almost succeeded in—it doesn't matter which of these results finally emerges—and attempted to destroy the rights of a fellow American citizen. That is what the gravamen of all that has occurred up to now really is.

In attempting to obstruct justice, we mean by that obstructing the justice of whom? It was an attempt, a bold attempt, one that succeeded in some respects, to obstruct the justice sought by a fellow American citizen. That is heavy. That is soul searching in its quality. That goes beyond those who would say, ''He committed perjury about sex. So what?'' That goes beyond saying that, ''This is just about sex. So what? Everybody lies about sex.'' But when you combine all the features of the actions of the President of the United States and you see that they are funneled and tunneled and aimed and targeted toward obliterating from the landscape the rights of Paula Jones, a fellow American citizen, then you must take a second look at your own assertion that, ''So what? It's just a question of fact about sex.''

Many of the Members of this Chamber and others have already acknowledged that the President has lied under oath. But then they are quick to add, ''So what?'' which is so disturbing in view of the results of what has happened in this case.

Before the House of Representatives, as part of our record, we had a group of academicians, professors, testifying. Professor Higgenbotham—who, sadly I must relate, has passed away since his appearance—was trying to show how futile it was for us to even attempt to append perjury to an indictable, prosecutable offense, and that nowhere in the country is it prosecuted regularly, and that it is so trivial because it is based on sex. He went on to give an example of how trivial it is. I am paraphrasing it, but he said: Would you expect to indict the President of the United States for perjury if he lied about a 55-mile-an-hour speed limit, even though he was going 56? If he would say, ''I was only going 51,'' would you indict him on that?

In the repertoire that I had with him at that juncture, I asked him would he feel the same if as a result of that perjurious testimony about only going 51 miles an hour if there was a victim in the case, that this might be a tort case, an involuntarily case, a negligence case in which someone died as a result of an automobile accident case, and the issue at hand would be the speed limit, would he feel the same way if as a result of the perjury committed as to the rate of speed, that someone's rights were erased in the case by virtue of that perjury, the gentleman acknowledged that that made a difference.

That is what the difference is here. The perjury per se, that being a phrase that we lawyers can adopt, the perjury per se is almost a given pursuant to the commentaries that we have heard from the people in and out of that Chamber. But when you add to it the terrible

consequences of seeing a fellow citizen pursuing justice thwarted, stopped in her tracks as it were by reason of the actions of the President, that is what the core issue here is.

To take it, then, from the status of what consequence it had to that fellow American citizen to the next step is, in my judgment, an issue—to go to the determination of whether or not there was an impeachable offense—my colleagues will show you how the law of perjury and the law of obstruction of justice relates to this pattern of factual circumstance that we bring to you. But in the meantime we must recount, even at the risk of overlapping some of the testimony, that following the initial recognition by the President that there was going to be a witness list and that Monica Lewinsky would eventually appear as she did on that witness list. This occurred, which is little examined thus far in the world of the scandal in which we are all participants, and that is this: The first item of business on the part of the Jones lawyers in pursuing the rights of Paula Jones was to issue a set of interrogatories, a discovery procedure that is well recognized in our courts all over the land, that a set of interrogatories arrived at the President's desk.

At this juncture—this is way before the President appeared at the deposition about which you know everything now. The facts have been related to you in a hundred different ways and you know that pretty well. I know you do. But did you know, can you fasten your attention for a moment knowing that this happened at the deposition on a month before, on December 23rd, 1997, when the President had in front of him interrogatories that asked did he ever have sexual relations with anyone other than his spouse during the time that he was Governor of Arkansas or President of the United States, and there the President answered—or I think that the interrogatory stated, Name any persons with whom you have had sexual relations other than your wife. And the answer that the President rendered in those interrogatories under oath was none.

I say to the ladies and gentleman of the Senate that this was the first falsehood stated under oath which became a chain reaction of falsehoods under oath, and even without the oath, all the way to the nuclear explosion of falsehoods that were uttered in the grand jury in August of 1998.

This little innocuous piece of paper called interrogatories was placed before the President presumably with or without counsel. Let's even presume with counsel. And it was a straight question, not with any definitions, no confusing colloquy between a judge and a gaggle of lawyers, no interpretation being put on any particular word in the interrogatories, but whether or not sexual relations had been urged or participated in by the President of the United States, and the answer was none in naming those persons.

What does that mean to you? What does that not mean to you, that when confronted right at the outset with the phrase ''sexual relations'' that the President adopted and determined the common usage, well-understood definition of sexual relations that everybody in America recognizes as being the true meaning of sexual relations, meaning sex of any kind. Did not the President answer that under the common understanding that all of us entertain when we discuss, more so in the last year than ever before in our lives, the phrase ''sexual relations''? To me that is a telling feature of this case because when you leap over that and get to the depositions and everything that the President might have said in those depositions, as his counsel have repeatedly asserted to us was true, that he did not lie, that he did not commit perjury, that he did not evade the truth, that some of it, puzzling to them even, but it did not amount to perjury, can they say about that the statement one month before on December 23rd in interrogatories?

That is extremely important. That is my recollection. Yours is the one that will have to predominate, of course.

But the weight that I put on it, I urge you to at least evaluate as you begin to level your weight on the evidence that has been presented.

If that were not enough, on January 15th, again before the deposition, another interrogatory—this one a request for documents—was submitted to the President, and again the question there was—you will see it in the record; it is in the record—the request of documents says to submit anything that pertained to Monica Lewinsky, the intern or employee, Monica Lewinsky, of whatever description—notes, gifts, whatever, and the President in that particular instance again said none. I am willing to give the President a reasonable doubt on that and even ask you if you do not place as much weight on it as I do to forget all about that. But the point is that these assertions under oath were made before the Jones deposition was ever even conceived, let alone undertaken on January 17th.

So he cannot, the President cannot use the lawyer talk and judge banter and the descriptions and definitions of sexual relations to cloud the answers that he gave at that time, and all of this in the continuous effort to destroy the rights of Paula Jones, a fellow American citizen.

That brings up the question. If someone, a member of your family, or someone who is a witness to these proceedings has a serious case in which one's self, one's property, one's family has been severely damaged, would you suffer without a whimper perjurious testimony given against you? Would you, knowing down deep that at the end of the day it had caused you to lose your chance at retribution and a chance to be compensated for damages, to restore your family life?

Isn't that what our system is all about? Isn't that what the adverse consequence is of the attempt to obliterate the Paula Jones civil suit?

That is what it is, not that he committed perjury. So what? It is what the end result of that perjury might be that you should weigh. Skip over the fact that he committed perjury. We all acknowledge that it is said. But now tell me what that does to Paula Jones, or potentially could do to Paula Jones, or to one of you, or to one of your spouses, or to one of the members of your community who wants to have justice done in the courts.

Obstruction of justice is obstruction of justice to an individual, to a family. You can take it from Paula Jones and telescope it upward to every community, in every courthouse, and every State and every community in our land, and there is a Paula Jones eager to assert certain rights and then confronted with someone who would tear it down by false testimony, by lies under oath.

That is what the gravamen of all this really is.

One more thing. The counsel for the President have repeatedly and very authoritatively, professionally, have asserted, as many of you have, that this is not an impeachable offense, for after all, they say, an impeachable offense is one in which there is a direct attack on the system of government; not perjury, not obstruction of justice.

So what, on those, they imply. They say it does not—perjury, especially about sex—attack the system of Government. I must tell you that as an 8- or 9- or 10-year-old, I would accompany my mother to naturalization school three or four nights a week where my mother was intent on learning the English language and learning about the history of the United States, as the teachers for naturalization were preparing these prospective citizens, and she was so proud that she learned that the first President of the United States was George Washington, was prepared to answer that question if it was posed to her in naturalization court, and she was so proud when I was testing her, preparing. Each time I would say, ''Mom, what are the three branches of Government?'' And she would say, ''The 'Exec' and the 'legislate' and the 'judish,'' in her wonderful, lovable accent. She knew the system of Government. And she did have to answer that in naturalization court. And she knew that one wall of the creed that protects our rights is the ''judish.'' She knew that the courthouse and the rights of citizens which are advanced in that courthouse are the system of Government. Can anyone say that purposely attempting to destroy someone's case in the courthouse is not an attack on the system of Government of our country?

Mr. CHABOT will elucidate on perjury.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager CHABOT.

Mr. Manager CHABOT. Mr. Chief Justice, Senators, distinguished counsel for the President, I am STEVE CHABOT.

I represent the First District of Ohio. Prior to my election to Congress, I practiced law in Cincinnati for about 15 years. As I stand before you today, I must admit that I feel a long way away from that small neighborhood law practice that I had. Though, while this arena may be somewhat foreign to me, the law remains the same. As one of the managers who represents the House, I am here to summarize the law of perjury. While today's discussion of the law may not be as captivating as yesterday's discussion of the facts, it is nevertheless essential that we thoroughly review the law as we move forward in this historic process. I will try to lay out the law of perjury as succinctly as I can without using an extraordinary amount of the Senate's time but beg you to indulge me.

In the United States Criminal Code, there are two perjury offenses. The offenses are found in sections 1621 and 1623 of title 18 of the United States Criminal Code. Section 1621 is the broad perjury statute which makes it a Federal offense to knowingly and willfully make a false statement about a material matter while under oath. Section 1623 is the more specific perjury statute which makes it a Federal offense to knowingly make a false statement about a material matter while under oath before a Federal court or before a Federal grand jury.

It is a well-settled rule that when two criminal statutes overlap, the Government may charge a defendant under either one. As you know, the President's false statements covered in the first impeachment article were made before a Federal grand jury. Therefore, section 1623 is the most relevant statute. However, section 1621 is applicable as well.

The elements of perjury. There are four general elements of perjury. They are an oath, an intent, falsity, and materiality. I would like to walk you through each of those elements at this time.

First, the oath.

The oath need not be administered in a particular form, but it must be administered by a person or body legally authorized to do so. In this case, there has been no serious challenge made about the legitimacy of the oath administered to the President either in his civil deposition in the Jones v. Clinton case or before the Federal grand jury. Let's, once again, witness President Clinton swearing to tell the truth before a Federal grand jury.

(Videotape presentation.)

The oath element has clearly been satisfied in this case.

The next element is intent. To this day, the President has refused to acknowledge what the vast majority of Americans know to be true—that he knowingly lied under oath. The President's continued inability to tell the truth, the whole truth and nothing but the truth has forced this body, this jury, to determine the President's true intent.

The intent element requires that the false testimony was knowingly stated and described. This requirement is generally satisfied by proof that the defendant knew his testimony was false at the time it was provided. As with almost all perjury cases, you will have to make a decision regarding the President's knowledge of his own false statements based on the surrounding facts and, yes, by circumstantial evidence. This does not in any way weaken the case against the President. In the absence of an admission by the defendant, relying on circumstantial evidence is virtually the only way to prove the crime of perjury.

The Federal jury instructions which Federal courts use in perjury cases can provide helpful guidance in understanding what is meant by the requirement that the false statement must be made knowingly. Let me quote from the Federal jury instructions:

> When the word ''knowingly'' is used, it means that the defendant realized what he was doing and was aware of the nature of his conduct, and did not act through ignorance, mistake or accident.

So as you reflect on the President's carefully calculated statements, remember the Federal jury instructions and ask a few simple questions: Did the President realize what he was doing, what he was saying? Was he aware of the nature of his conduct or did the President simply act through ignorance, mistake or accident?

The answers to these questions are undeniably clear even to the President's own attorneys. In fact, Mr. Ruff and Mr. Craig testified before the Judiciary Committee that the President willfully misled the court. Let's listen to Mr. Ruff.

(Text of videotape presentation:)

> Mr. RUFF. I'm going to respond to your question. I have no doubt that he walked up to a line that he thought he understood reasonable people—and you maybe have reached this conclusion—could determine that he crossed over that line and that what for him was truthful but misleading or nonresponsive and misleading or evasive was in fact false.

In an extraordinary admission, the President's own attorney has acknowledged the care, the intention, the will of the President to say precisely what he said.

The President's actions speak volumes about his intent to make false statements under oath. For example, the President called his secretary, Betty Currie, within hours of concluding his civil deposition and asked her to come to the White House the following day. President Clinton then recited false characterizations to her about his relationship with Ms. Lewinsky. As you have already heard, Ms. Currie testified that the President made the following statements to her:

> You were always there when she was there, right? We were never really alone. You could see and hear everything. Monica came on to me, and I never touched her, right? She wanted to have sex with me, and I can't do that.

This is not the conduct of someone who believed he had testified truthfully. It is not the conduct of someone who acted through ignorance, mistake or accident. Rather, it is the conduct of someone who lied, knew he had lied, and needed others to modify their stories accordingly.

Finally, it is painstakingly clear during the President's grand jury testimony that he, again, knows exactly what he is doing. Let's again watch the following excerpt from that testimony.

(Text of videotape presentation:)

> . . . was an utterly false statement. Is that correct?
>
> A It depends on what the meaning of the word ''is'' is.

In this instance, and in many others that have been presented to you over the last 2 days, the facts and the law speak plainly.

The President's actions and demeanor make the case that President Clinton knowingly and willfully lied under oath in a grand jury proceeding and in a civil deposition. The compelling evidence in this case satisfies the intent element required under both sections 1621 and 1623 of the Federal Criminal Code.

The next element, falsity. The next element of perjury is falsity. In order for perjury to occur in this case, the President must have made one or more false statements. Yesterday my colleagues went through the evidence on this matter in great detail and clearly demonstrated that the President did, in fact, make false statements while under oath. Because of the evidence that was presented to date, without question the President's falsity and his false statements have been shown, so I am going to move forward to the final element of perjury, which is materiality.

The test for whether a statement is material, as stated by the Supreme Court in Kungys v. United States, is simply whether it had a ''natural tendency to influence'' or was ''capable of influencing'' the official proceeding. The law also makes clear that the false statement does not have to actually impede the grand jury's investigation for the statement to be material.

The law regarding the materiality of false statements before a grand jury is very straightforward. Because a grand jury's authority to investigate is broad, the realm of declarations regarded as material is broad. The President's false statements to the grand jury were material because the grand jury was investigating whether the President had obstructed justice and committed perjury in a civil deposition.

Now let's look at potential legal smokescreens. The President's attorneys will try to distract you from the relevant law and facts in this case. To help you stay focused on the law, I would like to preview some of the arguments that may be made by the President's attorneys.

Legal smokescreen No. 1, the Bronston case. You will probably hear

opposing counsel argue that the President did not technically commit perjury, and appeal to the case of Bronston v. United States. This is a legal smokescreen. In the Bronston case, the Supreme Court held that statements that are literally truthful and nonresponsive cannot by themselves form the basis for a perjury conviction. This is the cornerstone of the President's defense. However, the Court also held that the unresponsive statements must be technically true in order to prevent a perjury conviction; such statements must not be capable of being conclusively proven false.

As we have seen, none of the President's perjurious statements before the grand jury, covered in the first impeachment article, are technically true. So, when the President's counsel cites the Bronston case, remember the facts. Ask yourselves, are the President's answers literally true? And remember, to be literally true they must actually be true.

It is also important to note that, consistent with the Bronston case, the response, ''I don't recall,'' is not technically true if the President actually could recall. The factual record in the case, consisting of multiple sworn statements contradicting the President's testimony and highly specific corroborating evidence, demonstrates that the President's statements were not literally true or legally accurate. On the contrary, the record establishes that the President repeatedly lied, he repeatedly deceived, he repeatedly feigned forgetfulness.

There are other clear and important limitations on the Bronston case's scope. In United States v. DeZarn, handed down just 3 months ago by the 6th circuit court of appeals, the court made an important ruling that is directly on point in this case. The court of appeals stated:

> Because we believe that the crime of perjury depends not only upon the clarity of the questioning itself, but also upon the knowledge and reasonable understanding of the testifier [President Clinton] as to what is meant by the questioning, we hold that a defendant may be found guilty of perjury if a jury could find beyond a reasonable doubt from the evidence presented that the defendant knew what the question meant and gave knowingly untruthful and materially misleading answers in response.

The Bronston case has further limitations. For example, in United States v. Swindall, the court held that the jury can convict for perjury even if the questions or statements involved are capable of multiple interpretations where only one interpretation is reasonable under the circumstances surrounding their utterances.

In United States v. Doherty, the court held that the prosecution for perjury is not barred under Bronston, ''whenever some ambiguity can be found by an implausibly strained reading of the question'' posed. I would submit to this body that ''implausibly strained reading of the question'' posed is precisely what confronts us time and again in the case of the President before the grand jury.

Legal smokescreen No. 2, the two-witness rule. In the coming days you may hear opposing counsel argue that the President did not commit perjury by appealing to the so-called two-witness rule. Again, this is nothing but a legal smokescreen. This common law rule requires that there be either two witnesses to a perjurious statement or, in the alternative, that there be one witness and corroborating evidence of the perjury. Opposing counsel may suggest that, because there were not two witnesses present for some of the President's false statements, he did not technically commit perjury. Such an appeal to the two-witness rule is wrong for several reasons.

First, the two-witness rule is not applicable under section 1623, only under 1621. The language of 1623 expressly provides, ''it shall not be necessary that such proof be made by any particular number of witnesses or by documentary or other type of evidence.''

Congress passed section 1623 back in 1970 to eliminate the two-witness requirement and to facilitate the prosecution of perjury and enhance the reliability of testimony before Federal courts and Federal grand juries. The legislative history establishes this as the fundamental purpose of the statute.

Additionally, substantial evidence has been presented over the last 2 days to satisfy the requirements of the two-witness rule under section 1621. Remember, when the two-witness rule applies, it does not actually require two witnesses. Indeed, it requires either two witnesses or one witness and corroborating evidence. As you know, there is a witness to each and every one of the President's false statements and there is voluminous evidence which corroborates the falsehood of his statements.

Finally, case law tells us that the two-witness rule is not applicable under certain circumstances, when the defendant falsely claims an inability to recall a material matter.

Another possible legal smokescreen, the drafting of article I, article I being the first article of impeachment.

As you know, impeachment article I says:

> Contrary to that oath, William Jefferson Clinton willfully provided perjurious, false and misleading testimony to the grand jury . . .

You may hear opposing counsel argue that section 1621 is the only applicable statute because the article of impeachment accuses the President of willfully committing perjury. This is another legal smokescreen.

Following that reasoning, one could just as easily make the argument that 1623 was contemplated here because the term ''false'' does not appear in 1621 but does appear in 1623. However, that is not the point. The point is that the language of the impeachment article did not use these terms as terms of art as they are defined and used in various criminal statutes.

While the article of impeachment does not draw a distinction between the standards, evidence has been presented over the last 2 days that demonstrates that the President did knowingly and willfully lie under oath regarding material matters before a grand jury, and that satisfies both 1623 and 1621.

Again, in the context of perjury law, the distinction between a knowing falsehood and a willful falsehood is almost a distinction without a difference. In American Surety Company v. Sullivan, the Second Circuit stated that ''the word 'willful,' even in a criminal statute, means no more than the person charged with the duty knows what he is doing.''

So that, in essence, is the law of perjury.

Mr. Chief Justice, Members of the Senate, throughout this long and difficult process, apologists for the President have maintained that his actions might well have been reprehensible but are not necessarily worthy of impeachment and removal from office. I submit, however, that telling the truth under oath is critically important to our judicial system and that perjury, of which I believe a compelling case is being made, strikes a terrible blow against the machinery of justice in this country.

The President of the United States, the chief law enforcement officer of this land, lied under oath. He raised his right hand and he swore to tell the truth, the whole truth, and nothing but the truth, and then he lied. Pure and simple.

Why is perjury such a serious offense? Under the American system of justice, our courts are charged with seeking the truth. Every day, American citizens raise their right hands in courtrooms across the country and take an oath to tell the truth. Breaking that oath cripples our justice system. By lying under oath, the President did not just commit perjury, an offense punishable under our criminal code, but he chipped away at the very cornerstone of our judicial system.

The first Chief Justice of the United States of the Supreme Court, John Jay, eloquently stated why perjury is so dangerous over 200 years ago. On June 25, 1792, in a charge to the grand jury of the Circuit Court for the District of Vermont, the Chief Justice said:

> Independent of the abominable Insult which Perjury offers to the divine Being, there is no Crime more extensively pernicious to Society. It discolours and poisons Streams of Justice, and by substituting Falsehood for Truth, saps the Foundations of personal and public Rights—Controversies of various kinds exist at all Times, and in all Communities. To decide them, Courts of Justice are instituted—their Decisions must be regulated by Evidence, and the greater part of Evidence will always consist of the Testimony of witnesses. This Testimony is given under those solemn obligations which an appeal to the God of Truth impose; and if oaths

should cease to be held sacred, our dearest and most valuable Rights would become insecure.

Why has the President been impeached by the U.S. House of Representatives? Why is he on trial here today in the U.S. Senate? Because he lied under oath. Because he committed perjury. Because if the oaths cease to be held sacred, our dearest and most valuable rights will become insecure.

During the course of this trial, Members of this distinguished body, the jurors in this case, will have to consider the law and the facts very carefully. It is a daunting task and an awesome responsibility, one that cannot be taken lightly. I humbly suggest to those sitting in judgment of the President that we must all weigh the impact of our actions, not only on our beloved Nation today, but on American history. It is my belief that if the actions of the President are ultimately disregarded or minimized, we will be sending a sorry message to the American people that the President of the United States is above the law. We will be sending a message to our children, to my children, that telling the truth doesn't really matter if you have a good lawyer or you are an exceptionally skilled liar. That would be tragic.

Mr. Chief Justice, Senators, let us instead send a message to the American people and to the boys and girls who will be studying American history in the years to come that no person is above the law and that this great Nation remains an entity governed by the rule of law. Let us do what is right. Let us do what is just. Thank you.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager CANNON.

Mr. Manager CANNON. Mr. Chief Justice, Senators, distinguished counsel of the President, my name is CHRIS CANNON. I represent Utah's Third Congressional District.

John Locke once said, ''Wherever law ends, tyranny begins.'' And speaking to our American experience, Teddy Roosevelt added, ''No man is above the law and no man is below it; nor do we ask any man's permission when we require him to obey it. Obedience to the law is demanded as a right; not as a favor.''

This case is about the violation of law. My task is to clarify what the law states pertaining to obstruction of justice and what legal precedent is applicable to the charges against William Jefferson Clinton.

While both the laws and the violations in this case are clear and direct, the presentation I am about to make will not be simple. I ask your indulgence and attention as I walk you through case history and statutory elements. I promise to be brief—probably less than a half-hour—and direct.

I will present the legal underpinnings of the law of obstruction of justice. You should have before you the full text of this speech, including full citations to cases and copies of the charts I will use in this presentation.

Article II of the articles of impeachment alleges that the President prevented, obstructed, and impeded the administration of justice, both personally and through his subordinates and agents, and that he did so as part of a pattern designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action brought against him.

Article II specifies seven separate instances in which the President acted to obstruct justice. The House believes the evidence in this case proves that each of the seven separate acts which comprise the President's scheme constitutes obstruction of justice.

I would like to draw your attention at this time to the chart on my right, and the first page in your packet, which depicts elements of section 1503:

(a) Whoever . . . corruptly . . . influences obstructs or impedes; or endeavors to influence, obstruct or impede, the due administration of justice, shall be punished as provided in subsection (b).

(b) The punishment for an offense under this section is . . .

(3) . . . imprisonment for not more than 10 years, a fine under this title, or both.

Section 1503 is often referred to as the general obstruction statute. It describes obstruction simply as an impact on the due administration of justice.

Section 1503 deems it criminal to use force or threats, or to otherwise act corruptly, in order to influence, obstruct, or impede the due administration of justice.

Federal court rulings clarify that it is not necessary for a defendant to succeed in obstructing justice. Again, I direct your attention to the chart, or the accompanying chart, in your package.

Russell and Aguilar each ruled that it is not necessary that a defendant's endeavor succeed for him to have violated the law. Rather, simply attempting to influence, obstruct, or impede the due administration of justice violates the statute.

Maggitt clearly stated, ''it is the endeavor to bring about a forbidden result and not the success in actually achieving the result, that is forbidden.''

For the Government to prove a section 1503 crime, it must demonstrate that the defendant acted with intent. This can be shown through use of force, threats by the defendant, or by simply showing that the defendant acted ''corruptly.'' The following chart gives three case histories regarding the term ''acting corruptly.''

Haldeman and Sprecher held that a defendant acts corruptly by having an evil or improper purpose or intent.

Barfield defined ''acting corruptly'' as knowingly and intentionally acting in order to encourage obstruction.

Sprecher also ruled the Government need not prove the actual intent of the defendant, but, rather, the intent to act corruptly can be inferred from that proof that the defendant knew corrupt actions would obstruct the justice being administered.

Under section 1503, the Government must also prove that the defendant endeavored to influence, obstruct or impede the due administration of justice. The statute is broadly applicable to all phases of judicial proceedings.

Brenson described due administration of justice as ''providing a protective cloak over all judicial proceedings, regardless of the stage in which the improper activity occurs.''

Section 1503 is also intended to protect the discovery phase of a judicial proceeding, stating that the phrase ''due administration of justice'' is intended to provide a ''free and fair opportunity to every litigant in a pending case in Federal court to learn what he may learn . . . concerning the material facts and to exercise his option as to introducing testimony of such facts.''

The House believes that the facts of this case make it very clear that the President did, corruptly, impair the ability of a litigant in Federal court to learn all of the facts that she was entitled to learn. In doing so, the President committed obstruction of justice under section 1503.

The other Federal crime which the President committed was witness tampering under section 1512 of title 18. Again, I refer you to the chart on my right, and to the second page in the package, which depicts the elements of the section.

(b) Whoever knowingly . . . corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—

(1) influence, delay or prevent the testimony of any person in an official proceeding; or

(2) cause or induce any person to—

(A) withhold testimony, or withhold a . . . document . . . or an object . . . from an official proceeding;

. . . shall be fined under this title, or imprisoned for not more than ten years or both.

Sections 1503 and 1512 differ in an important way. There does not need to be a case pending at the time the defendant acts to violate the law under section 1512. The statute specifically states that ''for the purpose of this section, an official proceeding need not be pending or about to be instituted at the time of the offense . . .'' for the crime to be committed.

Putting it another way, a person may attempt to tamper with a witness and commit the crime of witness tampering before such a person is called as a witness and even before there is a case underway in which that person might be called to testify.

For the Government to prove the crime of witness tampering, it must prove that the defendant acted with the intent to cause one of several results. The defendant can be convicted if he acted to influence, delay or prevent the testimony of any person in an official proceeding; or the defendant can be convicted if he acted to cause another person to withhold an object from an official proceeding.

In the case before us, the evidence proves that the President endeavored to cause both of these results on several occasions. And the Government

may show intent on the part of the defendant in several ways. It may prove the use of intimidation, physical force or threats; or it may prove intent by showing the use of corrupt persuasion or misleading conduct.

In this case, the evidence shows that on several occasions the President acted corruptly to persuade some witnesses, and engaged in misleading conduct toward others, in order to influence their testimony and cause them to withhold evidence or give wrongful testimony. In each instance, the President violated the witness tampering statute.

How does acting corruptly to persuade a witness differ from engaging in misleading conduct? Section 1515 in title 18 states:

(a) as used in section 1512 [the witness tampering section] . . . of this title and this section—

(3) the term ''misleading conduct'' means—

(A) knowingly making a false statement; or

(B) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement; or

(C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered or otherwise lacking in authenticity;

The difference between corruptly persuading a witness and engaging in misleading conduct toward the witness depends on the witness' level of knowledge about the truth of the defendant's statement.

Rodolitz held that misleading conduct involves a situation ''where a defendant tells a potential witness a false story as if the story were true, intending that the witness believe the story and testify to it before the grand jury.''

Let me clarify this detail: If a defendant simply asks a witness to lie and the witness knows that he is being asked to lie, then the defendant is corruptly persuading the witness. In contrast, if a defendant lies to a witness, hoping the witness will believe his story, this is misleading conduct. They are different, but they are both criminal.

Some may ask if it is necessary that the witness who is influenced or tampered with know that he or she might be called to testify? The answer is no.

And both sections 1503 and 1512 answer this question:

The witness tampering statute can be violated even if the victim has not been subpoenaed or listed as a potential witness in an ongoing proceeding.

In Shannon, the U.S. Court of Appeals for the Eighth Circuit reviewed the conviction of a defendant under section 1503 who had attempted to influence the testimony of a person who had not yet been subpoenaed or placed on a witness list. On appeal, the defendant argued that because the target of the obstruction had not yet become an official witness in the case, it was impossible for the defendant to have engaged in obstruction toward her. The court of appeals rejected that assertion. In affirming the conviction, the court held ''neither must the target be scheduled to testify at the time of the offense nor must he or she actually give testimony at a later time. It is only necessary that there is a possibility that the target of the defendant's activities be called on to testify in an official proceeding.''

The witness tampering statute can be violated even when no case is pending.

Therefore, it will not always be clear to whom the defendant intended the individual to testify—and the statute does not require proof of this.

In Morrison, the United States Court of Appeals for the District of Columbia explained that section 1512 is violated if the defendant asks a person to lie ''to anyone who asks.'' The court held that it is not necessary that the defendant even use the words ''testify'' or ''trial'' when he tries to influence the testimony of the other person. In such a case, there are no subpoenas, there are no witness lists.

The mere attempt to influence the person to lie, if asked, is the crime.

So, under either section 1503 or 1512, the fact that the target of a defendant's actions is not named as a witness, or whether the person is not ever called to be a witness, is immaterial.

The focus of both statutes is on what the defendant believed.

If the defendant believes that it is possible that some person might some day be called to testify at some later proceeding and then acted to influence, delay or prevent his or her testimony, the defendant commits the crime.

Now, some have asserted that an obstruction of justice charge cannot, or should not, be made against the President because some of his acts occurred in the context of a civil trial. There is simply no merit to this view.

There is no question that the obstruction and witness tampering statutes can be violated by acts that occur in civil proceedings. And, case law is consistent in upholding that any attempt to influence, obstruct or impede the due administration of justice in a civil proceeding violates section 1503.

Lundwall, which I referred to earlier, is a perfect example, as it began as a civil case.

The actual language of the witness tampering statute makes it clear that it also applies to civil cases.

The statute provides for enhanced penalties in criminal proceedings—a provision that would be unnecessary if the law were only to apply to criminal cases.

In short, the fact that some instances of the President's misconduct occurred in the course of a civil proceeding does not absolve him of criminal liability.

As Mr. BARR will demonstrate, the President of the United States endeavored and did obstruct justice and tamper with witnesses in violation of the law of the United States.

On numerous occasions he acted with an improper purpose with the intent to interfere with the due administration of justice in the Federal civil rights lawsuit filed by Paula Jones.

President Clinton corruptly endeavored to persuade witnesses to lie. In some cases, he succeeded. In every case, he violated the law.

President Clinton engaged in misleading conduct in order to influence the testimony of witnesses in judicial proceedings. He succeeded. In each case, he violated the law.

President Clinton acted with an improper purpose to persuade a person to withhold objects from a judicial proceeding in which that person was required to produce them. He succeeded and in so doing he violated the law.

President Clinton made misleading statements for the purpose of deterring a litigant from further discovery that would lead to facts which the judge ordered relevant in a Federal civil rights case. In so doing, he obstructed the due administration of justice in that case and violated the law.

Whether attempting to persuade a person to testify falsely, or to ignore court orders to produce objects; whether suggesting to an innocent person a false story in hopes that he or she will repeat it in a judicial proceedings; or testifying falsely in the hopes of blocking another party's pursuit of the truth—all these acts obstruct justice; all these acts are Federal felony crimes; all these acts were committed by William Jefferson Clinton.

Thank you.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that there now be a recess again of the proceedings for 15 minutes. Please return promptly to the Chamber.

There being no objection, at 3:29 p.m., the Senate recessed until 3:47 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, I believe we are ready for the final subject today, from Manager BARR.

The CHIEF JUSTICE. The Chair recognizes Mr. Manager BARR.

Mr. Manager BARR. Thank you, Mr. Chief Justice.

Mr. Chief Justice, Senators, learned counsel for the President, and fellow managers, on behalf of the House of Representatives, I thank the Senate for the opportunity to appear today and to present this argument. The House—and I, especially—greatly appreciate the time and effort the Senate has taken on this most important and notable matter.

You have heard the facts summarized by my colleagues. They have described for you the law of perjury and the law of obstruction. I will discuss several of the specific instances in which William Jefferson Clinton violated these laws as set forth in the articles of impeachment presented to you.

The process facing you as jurors, of fitting the Federal law of obstruction of justice and of witness tampering and of perjury into the facts of the case against President William Jefferson Clinton, is not a case in which there is nor should be a great deal of difficulty. It is not a problem of fitting a round peg into a square hole. Quite the contrary. We have a case here, you have a case here, for consideration in which the fit between fact and law is as precise as the finely tuned mechanism of a Swiss watch or as seamless a process as the convergence and confluence of two great rivers such as flow through many of the cities which you represent. The evidence that President William Jefferson Clinton committed perjury and obstruction of justice is overwhelming. These are pattern offenses.

I beg your attention to the following exposition of facts and law, but before commencing, I would like to address three issues that have come up during the course of the proceedings, which I believe might be helpful for all of us to keep in mind as we proceed not only through today's final presentations, but tomorrow's and those that will be made by learned counsel for the President.

First, by way of background on the process—that is, the process that brings us, the House managers, to the well of this great body and the trial of the President of the United States of America—as has been indicated previously by one of my colleague House managers, and as everyone here knows full well, the responsibilities, the jurisdiction, and the process between the House of Representatives and the Senate is very different in all three of those respects. Therefore, while coming as no surprise to all of you, all of us in this room, but perhaps to some in America, the steps that each body takes, and should take and must take, are very different.

Just as one example, one might ask, ''Why were no witnesses called in the House of Representatives?'' A valid question. It deserves a valid answer. That valid answer can be found not simply in impeachment proceedings and the history thereof, but also in the day-in/day-out proceedings in our Federal courts and in our State courts. It can be found in the difference between the body which has responsibility and jurisdiction for charging a crime and the jurisdiction and responsibility of the body that has responsibility for trying a crime, or an alleged crime. The House of Representatives, though it is not in every respect like a grand jury, operates much more like a grand jury than a petite jury. As something akin to a grand jury, we had in mind—and I know you have in mind—being very mindful and knowledgeable about the difference in procedure between the House and Senate on matters of impeachment, that frequently in court cases presented to Federal grand juries—and I suspect similarly to State grand juries—the evidence to the grand jurors themselves is not presented through a long array, a repetitive array of witnesses themselves—witnesses, that is, with firsthand knowledge of each and every fact, which would later be proved at trial. Rather, it is the more standard procedure—certainly in Federal courts, with which I am more familiar—for the Government to present its case to the grand jury by way of summary witnesses. Normally, that would mean case agents that have been working with the assistant U.S. attorneys, or with the U.S. attorney, in gathering and evaluating the evidence that will eventually be brought to bear in the trial of the case.

If one were to be a fly on the wall of a Federal grand jury, one would normally see witnesses for the Government that would come in and discuss the general parameters and the specific evidence of the case that they would present in court, frequently summarizing the actual evidence that would be presented in court by the witnesses themselves. That is the standard operating procedure. That is not to say that there is also not presented voluminous written evidence, documentary evidence. That is frequently the case as well. Nor is that to say that there are not, from time to time, cases presented to Federal grand juries in which there are actual witnesses with firsthand knowledge.

I will simply make a point of which we are all aware. I think as we begin, or in anticipation of your process of sifting through all of this procedure, this evidence, all of this law, we should keep in mind that our job in the House was to approach it necessarily very different from the way you approach your job as jurors, as triers of fact. We, in fact, presented to the House of Representatives, through the work on our Judiciary Committee, a large volume of evidence presented to us and through us to the House of Representatives as the charging body, not the trier of fact body. That is, to essentially summarize and discuss through the words, through the opinions of the independent counsel, as akin to the chief investigative officer in a grand jury in Federal district court, through the words of many expert witnesses, as it were, who placed all of that in context.

We did not want to usurp your duty, your responsibility given to you by the Constitution as the trier of fact. We are not that presumptuous. It is your responsibility, it is your solemn duty to be the trier of fact. That is very different from our solemn duty, which I believe the House performed admirably in essentially reaching the conclusion that there is probable cause to convict the President of perjury and obstruction of justice. And we did so in a way that is mindful and respectful of your responsibilities, that carried out our responsibilities, and that is familiar to citizens all across this land, because it is essentially the same process that operates in Federal courts where you see also, as here, a very clear distinction between the body that charges the crime, the grand jury, and the body that tries the crime—that is, the jury, and in this case it is the Senate of the United States of America.

A second point that may very well come up, perhaps, in the presentation of the defense by the President's learned counsel, which although very familiar to those of us, as there are many in this Chamber with a legal background, but which I think also is important to keep in mind as you reflect on and later deliberate on the evidence itself in this case; and that is that there are, indeed, two types of evidence. In virtually every case, whichever finds its way to a court of law and results in a trial, both types of evidence are found, used, considered, and form the basis, legitimately, for the eventual rendering of a decision by a jury. Those two types of evidence are direct and circumstantial.

Frequently—and I know this from actual experience—defense lawyers will attack the Government's case, and one of the standard attacks that they level against the Government's case is that it is based on circumstantial evidence. You even hear that by the folks out there today—not in this room—that are saying, ''Oh, all we are seeing is circumstantial evidence and that is not as good as direct evidence.''

Now, to the lay person who is unfamiliar with the ways of our laws, our courts, and the work of this great body, that may have some currency, it may have some surface appeal. They may say, ''Well, that commentator was right, and that White House spokesman was right. If all they are doing is talking about circumstantial evidence, they can't have a very strong case, because if they had a strong case, they would have direct evidence.''

Well, the fact of the matter is, it is a principle of long and consistent standing in every Federal court in our land, and I suspect every State court in our land, and as directed by every Federal judge to every Federal jury taking evidence, circumstantial evidence is to be, and shall not be afforded any less weight than direct evidence. And triers of fact are directed by judges in every case not to accord less weight to one type of evidence as opposed to the other. That is, in the words of one of my fellow managers, a smokescreen, a red herring if somebody raises as a defense in a case—this case or other cases—that the case is weakened somehow because there is a reliance on circumstantial evidence and it is not found solely on direct evidence.

That is a very important principle. I would appreciate your indulgence in that small foray into some basic precepts that I think all of us, certainly most of you included, need to keep in mind.

Finally, there is one other sort of process argument that one hears sort of floating around in the ether out there that I think also is important for

all of us to keep in mind; that is, facts and the law do bear repeating—not endless, not pointless, but appropriate repetition. Even today, even yesterday in the first round of presentations to this body, there was in fact repetition of certain facts, certain aspects of the law. That is not presented to you simply to emphasize a point, simply to make it appear stronger because we say it five times instead of two. There is a very important reason for appropriate repetition.

For example, in a case such as this where you have two sets of laws alleged to have been violated—perjury laws and obstruction of justice laws—each one of those has several different elements. And, in addition to that, it is legitimate as presenters of facts in the law for managers, for prosecutors, or plaintiff's attorneys to take a particular fact, a particular note, and use it to illustrate several different points. For example, one particular fact may provide evidence of motive. It may also provide one of the substantive elements of perjury or obstruction of justice, or it may go to the state of mind of a declarant, a witness. It may provide important evidence with regard to a course of conduct, prior knowledge, and the list goes on.

That is why, Senators, frequently in the course of these particular presentations—and, again, no different from the course of presentation in Federal and, I suspect, State courts throughout the land—in trials there necessarily is and should be, in order to responsibly present all of the evidence in all of its elements, certain repetition. Our job as managers is to make sure we do not abuse that necessity and that we do not in fact offer repetitive notion, repetitive references, without having a very clear and specific purpose such as I mentioned for that process.

Finally, before turning to that merger of the law and the facts, which I believe will illustrate conclusively that this President has committed and ought to be convicted on perjury and obstruction of justice, I would respectfully ask that you remember that, under the law of impeachment based on our Constitution, proof beyond a reasonable doubt that the President committed each and every element of one or more violations of provisions of the Federal Criminal Code has never been required to sustain a conviction in any prior impeachment trial in the Senate. However—and I can say confidently that I speak for all House managers in relating to you our belief that the record and the law applicable to these two articles of impeachment clearly establish that President William Jefferson Clinton did in fact violate several provisions of title 18 of the United States Code—that is the criminal code—including perjury, obstruction, and tampering with witnesses.

At this point, a lawyer would face, a fortiori—I will not, but I will say at this point that it therefore goes without saying that indeed exists—under every historical standard, every historical benchmark which this Chamber has used, there is more than sufficient grounds on which you might face a conviction as to both articles.

Beginning then in looking at how the facts and the law, both of which you have heard through the words and exhibits of my colleagues and the evidence that you already have, let us look first at the submission of the false affidavit in the Jones case.

We believe the evidence presented clearly establishes that on December 17, 1997, the President encouraged a witness in a Federal civil rights action brought against him, that witness being Monica Lewinsky, to execute a sworn affidavit in that proceeding which he knew to be perjurious, false, and misleading. As other managers have outlined, Monica Lewinsky filed a sworn affidavit in the Jones case that denied the relationship between her and the President. That affidavit was false.

Ms. Lewinsky testified under oath before the grand jury that the scheme to file this false affidavit was devised or hatched during a telephone conversation with the President on December 17, 1997, a call the President initiated to Ms. Lewinsky at 2 or 2:30 a.m. ostensibly to give her the bad news that Betty Currie's brother had been killed in a car accident but apparently, since it consumed the vast majority of the time of that conversation, more importantly, for the President to tell Ms. Lewinsky her name was on the witness list filed in the Jones case and to thereafter discuss during that conversation the President's suggestion to her that she could file an affidavit in the Jones case in order for the purpose of avoiding having to testify in that case—not to cover up but in order to avoid having to testify in an ongoing legal proceeding in U.S. district court.

She testified that both she and the President understood from their conversation they would continue their pattern of covering up. She testified she knew that if she filed a truthful affidavit the Jones lawyers would certainly have deposed her in that case.

The testimony of Mr. Vernon Jordan confirms the President knew Ms. Lewinsky planned to file a false affidavit. He stated that, based on his conversations with the President, that the President knew in advance that Ms. Lewinsky planned to execute an affidavit denying their relationship and that he later informed the President Ms. Lewinsky had signed in fact that false affidavit.

For his part, the President denies asking Ms. Lewinsky to execute a false affidavit. Instead, as he asserted in his response to the House Judiciary Committee's request for admission, he seeks to have you now believe he sought simply to have Ms. Lewinsky execute an affidavit that will ''get her out of having to testify.''

While being factually correct, this statement reflects a legal impossibility. The President has admitted Ms. Lewinsky was the woman with whom he indeed had an improper intimate relationship while President. And he has admitted he was very concerned over the great personal embarrassment and humiliation he feared would have occurred if that relationship had been revealed in the Jones case. Yet, he would have you believe he cannot remember a call he made to that woman about that case which occurred at 2 o'clock in the morning. His statement is not credible, and the reason it is not credible is because it is not true.

As Mr. Jordan's grand jury testimony corroborates, the President knew what Ms. Lewinsky planned to allege in her affidavit, yet the President took no action to stop her from filing it. As you have heard in earlier presentations, the President's lawyer, Mr. Robert Bennett, stated in court directly to Judge Wright when he presented the false affidavit, ''There is absolutely no sex of any kind in any manner, shape or form,'' and that the President was ''fully aware of Ms. Lewinsky's affidavit.'' The President took no action to correct his lawyer's misstatement.

As you have also heard, the President, in his grand jury testimony, tried to disingenuously dissect the words of his attorney to remove his conduct from further examination, even though obviously, and by any reasonable interpretation or inference of the definition given the President, his conduct with Ms. Lewinsky was covered. And he disavowed knowledge of his lawyer's representations by claiming he was not paying attention. That canard has been most ably disposed of in prior presentations both through the words of the managers and the videotape presentations.

Later in the deposition, when Mr. Bennett read to the President the portion of the affidavit in which Ms. Lewinsky denies their relationship and asked him ''is that a true and accurate statement as far as you know it,'' the President answered, ''That is absolutely true.'' This statement is neither credible nor true. It is perjury.

The inescapable conclusion from this evidence is that the President has lied, and continues to lie, about the affidavit. His continued false statements and denials about the affidavit bolster the conclusion of our managers that, in fact, he was part of the scheme to file the false affidavit. The evidence supports Ms. Lewinsky's account that such a scheme did in fact exist between them. The evidence and all reasonable inferences drawn therefrom do not support the President's denial—inferences, I respectfully add, that in your deliberations, as in the deliberations of any jury, are to be and should be based on common sense and deliberated in terms of the light of your experiences in judging human behavior.

Moreover, in engaging in this course of conduct, referring here to the words of the obstruction statute found at section 1503 of the Criminal Code, the

President's actions constituted an endeavor to influence or impede the due administration of justice in that he was attempting to prevent the plaintiff in the Jones case from having a ''free and fair opportunity to learn what she may learn concerning the material facts surrounding her claim.'' These acts by the President also constituted an endeavor to ''corruptly persuade another person with the intent to influence the testimony they might give in an official proceeding.'' Such are the elements of tampering with witnesses found at section 1512 of the Federal Criminal Code.

Ms. Lewinsky knew full well her only hope of not having to testify was to file an affidavit that did not truthfully reflect her relationship with the President. The President also knew that if she had filed a true affidavit, without any doubt, it would have caused the Jones lawyers to seek her further testimony—something both coconspirators desperately sought to avoid.

In encouraging her to file an affidavit that would prevent her from having to testify, President Clinton was, of necessity, asking her to testify falsely in an official proceeding. He was attempting to prevent, and in fact did prevent, the plaintiff in that case from discovering facts which may have had a bearing on her claim against the President. His motive was improper in the language of the law, that is, corrupt. And his actions did influence the testimony of Ms. Lewinsky as a witness in the pending official proceeding in U.S. district court.

Under both sections of the Federal Criminal Code, that is, 1503, obstruction, and 1512, obstruction in the form of witness tampering, the President's conduct constituted a Federal crime and satisfies the elements of those statutes.

With regard to the issue of perjury before the grand jury concerning the affidavit, we as managers would show that when asked before the grand jury whether he had instructed Ms. Lewinsky to file a truthful affidavit, President Clinton testified, ''Did I hope she would be able to get out of testifying on an affidavit? Absolutely. Did I want her to execute a false affidavit? No, I did not.''

The evidence, however, clearly establishes that the President's statement constitutes perjury, in violation of section 1623 of the U.S. Federal Criminal Code for the simple reason the only realistic way Ms. Lewinsky could get out of having to testify based on her affidavit would be to execute a false affidavit. There was no other way it could have happened. The President knew this. Ms. Lewinsky knew this. And the President's testimony on this point is perjury within the clear meaning of the Federal perjury statute. It was willful, it was knowing, it was material, and it was false.

Let us reflect and see also, members of the jury, how the use of cover stories and the development thereof ties in the facts and the law that constitute a basis on which you might properly find a conviction on perjury and obstruction of justice.

We, as managers, believe that the evidence presented to you also establishes that on December 17 the President encouraged a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony when called to testify personally in that proceeding. This was, in essence, the conspiracy—18 USC 371—to commit both obstruction and perjury.

Throughout their relationship, the President and Ms. Lewinsky, understandably, wished to keep it secret, and they took steps to do that, steps that ultimately turned out to be and constitute criminal acts. For some time, in fact until Ms. Lewinsky testified under oath and under a grant of immunity, their efforts were remarkably successful, all things considered —all circumstances considered. Associates and employees testified in support of the President's stories, and even several Secret Service officers testified to the grand jury that they understood Ms. Lewinsky to be in the Oval Office to ''pick up papers.'' Yet, as Ms. Lewinsky testified, her White House job never required her to deliver papers or obtain the President's signature on any documents. It was all a sham. It was all a cover story. It was all a conspiracy to obstruct.

Ms. Lewinsky testified later, after she left the White House job to work at the Pentagon, that phase 2 of the coverup went into effect. The two coconspirators began to use Ms. Currie as a source of clearance into the White House. This was so even though the purpose of Ms. Lewinsky's visits were almost always to simply see the President. As my colleagues have told you, on December 17, during that 2 a.m., or perhaps it was 2:30, telephone conversation placed by the President to Ms. Lewinsky, he told her her name appeared on the witness list in the Jones case. She testified that at some point in the conversation the President told her, ''You know, you can always say you were coming to see Betty or that you were bringing me letters.'' Ms. Lewinsky testified that she understood this to be ''really a reminder of things that they had discussed before.'' She said it was instantly familiar to her. He knew, or, ''I knew,'' she says—that is, Ms. Lewinsky knew—''exactly what he meant.'' And so, I respectfully submit, do all of us here know exactly what the President meant.

When the President, then, was questioned before the Federal grand jury if he ever had said something like that to Ms. Lewinsky, he admitted that, well, ''I might. . .have said that. Because I certainly didn't want this to come out, if I could help it. And I was concerned about that.''

A cover story—which this was—between two teenagers trying to steal a date without their parents' knowledge is one thing. Such would not constitute a crime. It would be something we might even wink at, as long as it didn't happen too often. However, we are not here dealing with two love-struck teenagers trying to circumvent their parents' watchful eyes. We are dealing here with the President of the United States of America and a subservient employee concocting and implementing a scheme that, while perhaps not illegal in its inception—simply trying to keep the relationship private—did in fact deteriorate into illegality once it left the realm of private life and entered that of public obstruction.

However—and this is critical in terms of establishing the illegality or convictability of the President's actions—the situation at the time of that early morning phone call from the President to Ms. Lewinsky was very different from that facing the President during any earlier discussions of a cover story.

Now, in early December 1997, Ms. Lewinsky had been officially named as a witness in a pending judicial proceeding. She was now under an obligation to give complete and truthful testimony and he, the President, was under a legal obligation at that time not to tamper with her or her possible testimony. This is precisely where private lies become public obstruction. This is, in fact, the bright line between childlike pranks and deadly serious obstruction of our legal system. The President and Ms. Lewinsky at that point entered the big leagues, and the President, a highly skilled lawyer, knew it, which is why he went to such lengths to continue the coverup for so many months.

The President knew that if Ms. Lewinsky were to testify that she only brought papers to the President or to see the President's secretary, her testimony would have been neither complete nor truthful. Yet, the President encouraged her to give that untruthful testimony and, in so doing, he broke the law of obstruction of justice. And, in lying about it, he compounded the problem by breaking the law of perjury.

As Mr. CANNON made clear, with regard to section 1503, the general Federal obstruction statute of the criminal code, a person commits the crime of obstruction of justice when he attempts to influence the due administration of justice, which includes all aspects of any civil or criminal case, including pretrial discovery.

Mr. Clinton's encouragement to Ms. Lewinsky to tell something other than the truth certainly would have influenced the discovery process in the Jones case. Courts have consistently held that civil discovery is every bit a part of the due administration of justice, protected by the obstruction statutes, as any other aspect of any other civil or criminal case. And, as Mr. CANNON also made clear with regard to section 1512 of the Federal Criminal Code, a person commits witness tampering when he attempts to influence another

person to give false testimony in an official proceeding.

Mr. Clinton did encourage Ms. Lewinsky to give false testimony about her reasons for being in the White House with the President. By encouraging her to lie, the President committed the crime of obstruction of justice under section 1503 and the crime of witness tampering under section 1512 of the Federal Criminal Code.

You have also, Members of the Senate, heard about the President's statements to Ms. Currie on January 18, and then again on the 20th or 21st. The President spoke with her in what was clearly, demonstrably, unavoidably, another potential witness to be influenced in the civil rights case. The President did this in this case by relating to Ms. Currie false and misleading accounts of events about that case as to which he was going to testify, had testified, and, again, with the intent that his recitation of the so-called facts would in fact corruptly influence her testimony.

As the managers have previously described to you, the evidence in this case shows that on that Saturday, January 17, only 2½ hours after the President had been deposed in the Jones case, he called his secretary at home and asked her to come to the White House the next day, a Sunday. She testified—Ms. Currie, that is—testified this was very unusual. It was rare for the President to call and ask her to come in on a weekend, but of course she did—the next day, Sunday, January 18, 1998, at about 5 p.m.

She testified to the grand jury that during her meeting with the President he said to her, ''There are several things you may want to know.'' He then proceeded to ask her a number of questions in succession. You were presented evidence of these five statements by other managers. I will only emphasize that it was at that time and in that way, in that manner, that the President led Ms. Currie through a series of statements and determinate questions to establish a set of facts describing his relationship with Ms. Lewinsky at the White House that supported his false testimony.

As you have heard, Ms. Currie stated under oath she indicated her agreement with each of the President's statements, even though she knew that the President and Ms. Lewinsky had, in fact, been alone in the Oval Office and in the President's study. Prosecutors frequently see this pattern. It is not unknown to prosecutors, Federal or State. You frequently see this pattern of agreeing to things that the person knows are not true, where you have a dominant person suggesting testimony to another person who is in a subordinate relationship. This, I submit, is yet another bright line between a private lie and public obstruction.

During the President's grand jury testimony he was asked about his statements to Ms. Currie. He testified he was trying to determine whether his recollection was accurate. As he put it, ''I was trying to get the facts down. I was trying to understand what the facts were.'' This fits the same pattern of a classic obstruction of prosecution, in which a defendant suggests a story to someone in the hopes that they will later testify consistent with that earlier suggestion. Indeed, when defendants in Federal courts defend against obstruction prosecutions in those type cases, they frequently rely on the very same defense the President raises here—that he was merely and oh-so-innocently encouraging the other person to tell the truth.

You may want to see, as an example of an unsuccessful effort at such a defense, the case of United States v. O'Keefe, a Fifth Circuit case from 1983. In that case, Mr. O'Keefe did not ask someone to lie. He did not even say, ''I suggest you lie.'' Rather, as is almost always the case in white-collar obstruction prosecutions, his words, along with their setting and their context, suggested a certain story—in that case as well as this, a false story. Just as Mr. O'Keefe did not expressly ask someone to lie, Mr. Clinton never asked someone to lie. He didn't have to. He was too smart for that, and he had witnesses who, at that time at least, were willing, ready, and able to do his bidding. The President lied to the grand jury when he made these statements mischaracterizing his earlier statements to Mrs. Currie, just as he tampered with her as a likely witness 9 months earlier, in January.

The President's assertion—that he simply was trying to understand what the facts were—lacks even colorable credibility, when one considers that he had already testified. It was obviously too late to try to recollect what the ''facts'' were. If in fact one accepts that, then he is admitting he didn't testify to what the facts were under oath at the deposition, because he didn't say, ''I don't know; I have to ask Mrs. Currie.'' He testified under oath as to what the facts purportedly were. Then he would have us believe that he had to, after the fact of the deposition, go back and find out what the facts were from somebody else.

That is an argument that cannot be made with a straight face.

In any event, Ms. Currie could not have told him what the true facts were, because he alone knew what they were.

The defenses and explanations the President's defenders raise to justify why the President would make factual assertions to Ms. Currie about the circumstances of his relationship with Ms. Lewinsky, right after his testimony, are many. For example, one administration witness who appeared before the House Judiciary Committee actually suggested that such ''coaching'' is proper as a method whereby an attorney ''prepares'' a client or witness for testimony.

Of course, such a suggestion in this case would be ludicrous. President Clinton obviously did not and could not represent Ms. Currie as her attorney. Yet, it is this sort of explanation, straining credulity, that illustrates the lengths to which the President's defenders have gone to try to explain away the obvious—that there was no legitimate reason why the President made the statements to Ms. Currie after his grand jury testimony, other than to ''suggest'' to her what her testimony should be. In Federal criminal trials, defendants go to jail for such obstruction. In the case before you, we submit this clearly forms a proper basis on which to convict this President of obstruction of justice for witness tampering and subsequent perjury.

Please keep in mind also, it is not required that the target of the defendant's actions actually testify falsely. In fact, the witness tampering statute can be violated even when there is no proceeding pending at the time the defendant acted in suggesting testimony. As the cases discussed by Manager CANNON demonstrate, for a conviction under either section 1503, obstruction, or 1512, obstruction by witness tampering, it is necessary only to show it was possible the target of the defendant's actions might be called as a witness. That element has been more than met under the facts of this case.

It was not only likely Ms. Currie would be called; the President's own testimony, deliberate testimony to the grand jury, pretty much guaranteed that she would be called. He wanted her called so she could then buttress his false testimony. His actions clearly, we believe, violated both the general obstruction statute and the witness tampering statute in these particulars in this regard.

With regard to the obstruction regarding the subpoena for the President's gifts to Ms. Lewinsky, let us look at the merger of the facts and the law, as has been discussed. While the witness tampering statute makes it a crime to attempt to influence the testimony of a person, it also makes it a crime to influence a person to withhold an object from an official proceeding; in other words, to tamper with evidence. The facts of this case, we as House managers believe, clearly show the President corruptly engaged in, encouraged, or supported a scheme with Monica Lewinsky and possibly others to conceal evidence that had been subpoenaed lawfully in the Jones case.

On December 19 of 1997, Ms. Lewinsky was served with a subpoena in the Jones case requiring her to produce each and every gift given to her by the President. Then, on December 28, Ms. Lewinsky again met with the President in the Oval Office, at which time they exchanged gifts. They also discussed the fact that the lawyers in the Jones case had subpoenaed all the President's gifts to Ms. Lewinsky and especially a hatpin. The hatpin apparently had sentimental significance to both of them, in that it was the very first gift the President gave to Ms. Lewinsky. During that conversation, Ms. Lewinsky

asked the President whether she should put the gifts away outside her house or give them to someone, maybe Betty.

At that time, according to Ms. Lewinsky's sworn testimony, the President responded, ''Let me think about that.'' Apparently he did, because later that day, that very same day, only a few hours after Ms. Lewinsky and the President had met to discuss what to do with the gifts, Ms. Currie called Ms. Lewinsky, setting in motion the great gift exchange.

According to Ms. Lewinsky, Ms. Currie said, ''I understand that you have something to give me,'' or ''[t]he President said you have something to give me.'' In her earlier proffer, or offer of evidence, to the independent counsel, prior to her testimony before the grand jury, Ms. Lewinsky said Ms. Currie had said the President had told her—that is, Ms. Currie—that Ms. Lewinsky wanted her to hold on to something for her.

After their conversation at the Oval Office, Ms. Currie drove to Ms. Lewinsky's apartment for only the second time in her life. There she picked up a box sealed with tape and on which was written ''Please, do not throw away.'' Ms. Currie then took the box, drove to her home, and placed the box under her bed.

In her grand jury testimony, Ms. Currie testified that she and Ms. Lewinsky did not discuss the content of the box, nor did she open it when she got it to her home, but she knew—she ''understood'' what was in the box—that it contained the gifts from the President to Ms. Lewinsky. In fact, Ms. Lewinsky testified Ms. Currie was not at all confused, surprised, or even interested when she handed the box over to her.

The legal impact, the legal import, of this is that there is no question that if the gifts had actually been produced to the Jones lawyers, they would have established a significant relationship between the President and Ms. Lewinsky. Knowledge of the gifts, at a minimum, would have caused the Jones lawyers to inquire further as to the nature of the relationship between the President and Ms. Lewinsky.

Her failure to turn over the gifts as required by the lawful subpoena served on her was, in the words of the witness tampering statute, the withholding of an object from an official proceeding. We believe the evidence shows, clearly establishes, that the President corruptly persuaded Ms. Lewinsky to withhold these objects from the lawful proceedings in the Jones case.

In his grand jury testimony, the President asserted he encouraged Ms. Lewinsky to turn over the gifts. Ms. Lewinsky's testimony directly contradicts that. Importantly, all other evidence of subsequent acts corroborates her testimony, not the President's. For one thing, the gifts were never turned over. In fact, Ms. Lewinsky testified she was never under any impression, from anything the President said, that she should turn over the gifts to the attorneys for Ms. Jones. Quite the opposite.

While the President asserts he never spoke about this matter with Betty Currie, he would have us believe that his personal and confidential secretary would, on a Sunday, drive to the home of the woman with whom he was having an inappropriate intimate relationship, take possession of a sealed box which she believed to contain gifts given by the President, hide the box under the bed in her home, never question the person giving her the box, and never even mention to the President she had received the box of gifts.

The President's position, as he would have you believe, is not credible. It defies the evidence. It defies any reasonable interpretation or inference from the evidence. It defies common sense. And it stands in defiance of Federal law.

The only reasonable interpretation of the facts is that, following the discussion between the President and Ms. Lewinsky earlier in the day on December 28, the President decided Ms. Lewinsky has actually come up with a pretty good suggestion: The gifts should be put away outside of her home.

As jurors, you may reasonably presume, based on the evidence and all reasonable inferences therefrom, along with common sense, that it was the President who directed Ms. Currie to call Ms. Lewinsky to tell her she understood she ''had something for her.'' And that happened to be evidence under lawful subpoena in a civil proceeding in a U.S. district court.

Ms. Currie would have no independent reason to even consider such a course of action on her own. She had never, other than one time in her life, ever driven to Ms. Lewinsky's home. She did so on this Sunday not because she developed a sudden hankering to do so or because she routinely visited interns at their homes—she didn't—or because she had a vision; she did it because the President would have asked her to do it.

Now, the President further points out that Ms. Currie has testified that Ms. Lewinsky called her to arrange to pick up the gifts, rather than the other way around. In fact, although Ms. Currie has testified inconsistently as to whether Ms. Lewinsky called her or she called Ms. Lewinsky, she actually deferred to Ms. Lewinsky's superior knowledge of the facts.

However, even if one were to accept, for purposes of argument, that it was Ms. Lewinsky who initiated the call, the President's avowal that he had no knowledge of or involvement with the hiding or the transfer of the gifts is still not plausible. It is totally unreasonable to presume that the private secretary to the President of the United States would drop what she was doing, travel to the home of a former intern, pick up a box, and hide it in her home simply because the former intern demanded that she do so. All of this had to have been done—reasonably, plausibly, credibly was done—because of communication directed and an understanding between the President and his personal secretary.

There is one more point on this. Ms. Lewinsky testified she met with the President for 45 minutes on December 28, at which time they discussed the fact that she had been subpoenaed, along with the need to conceal the gifts. The President's testimony directly conflicts with hers on this point.

First, the evidence, however, establishes that his professed inability to remember whether she and the gifts had been subpoenaed is unbelievable and false.

Please keep in mind when evaluating the circumstantial evidence to determine whether a false statement was made intentionally, the most important evidence to consider is the existence of a motive to lie. It is the calculated falsehood, combined with a clear motive to lie, that leads, day in and day out in Federal court proceedings, to the conclusion that a false statement—false statements were intentional.

Also, we urge you to bear in mind that the law will not allow a person to testify, ''I don't recall,'' or, ''I'm not sure,'' when such answers are unreasonable under the circumstances.

Former U.S. Representative Patrick Swindall attempted this course of action when he appeared before a Federal grand jury in the Northern District of Georgia in 1988. His evasive and false answers to the grand jury provided the basis for his subsequent conviction.

Feigned forgetfulness or feigned assertions that grand jury questions are ambiguous and therefore cannot be answered cannot, and in fact in Federal proceedings do not, shield defendants from criminal liability for perjury or impeding the conduct of a Federal grand jury; nor should such efforts be allowed to shield President Clinton from conviction on these two articles of impeachment as to these facts.

The President, a man of considerable intelligence and gifted with an exceptional memory—as somebody described, ''a prodigious memory''—can and should be inferred to have clearly understood what he was doing, as well as the logical and reasonable consequences of his actions, as well as the questions put to him by the independent counsel in the grand jury questioning.

And he had a clear motive to falsely state to the grand jury that he could not recall that he knew on December 28 that Ms. Lewinsky had been subpoenaed and that the subpoena called for her to produce the gifts, for to have acknowledged such would have helped establish a motive on his part for orchestrating the concealment of the gifts.

And as we have also seen and understand, there is no doubt the President's statement of feigned forgetfulness was material not only to the matters before

the Jones case but to matters subsequently before the grand jury.

Now, the President's counsel may very well argue the fact that the President gave Ms. Lewinsky additional gifts on that same day—that is, December 28—as proof of the President's assertions that he didn't know there was anything wrong going on here. Their argument, if they make it, cannot be sustained in the face of so much evidence to the contrary. The evidence in fact points to a much more plausible explanation. The additional gifts given that day demonstrate the President's continued confidence that Ms. Lewinsky would keep to their earlier agreement to conceal their relationship.

It is also plausible that the additional gifts were intended as a further gesture of affection by the President to Ms. Lewinsky to help ensure she would not testify against him. Such a fact pattern also finds its way to those of us who have a prosecutorial background in Federal courts on a regular basis.

We have heard about the job search and its relationship to perjury and obstruction. Let me tie the facts related to job search and the law applicable thereto together. We believe, as managers, that the evidence shows that, beginning on or about December 7, 1997, and continuing through and including January 14 of last year, the President intensified and succeeded in an effort to secure job assistance for a witness in a Federal civil rights case brought against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

Monica Lewinsky is, if nothing else, a persistent witness. After she was transferred out of the White House, and after being rebuffed repeatedly by others to secure assistance from the President in gaining a job that met her expectations and wishes, she decided to change tack. She wrote directly to the President, asked for, and received a meeting in which she asked him to find her a job in New York.

The day before the President filed his answers to the interrogatories in the Jones case, as Manager Gekas discussed, the President asked Ms. Currie to set up a meeting for Ms. Lewinsky with Mr. Vernon Jordan. Two days after he filed his answers, in which he refused to answer whether he had ever had any extramarital relationships in the context of his public jobs, that meeting in fact occurred. But Mr. Jordan made no particular effort to assist Ms. Lewinsky at that time. In fact, as he later testified, he had no recollection of the meeting. There was, of course, at that early stage, no urgency.

The situation, however, changed dramatically in early December, 1997. On December 6, the President became aware that Ms. Lewinsky had been named as a witness in the Jones case. Early that day, she had thrown a tantrum at the White House northwest gate when she was unable to meet with the President when she wanted. Despite the President's initial anger over Ms. Lewinsky's behavior and over the acts of some of the Secret Service officers a mere 5 days later, Ms. Lewinsky, in fact, secured a second meeting with Mr. Vernon Jordan. But this time, unlike previously, this powerful Washington lawyer jumped for the former intern. He immediately placed calls to three major corporations on her behalf.

On December 11, Judge Wright ordered the President to answer Paula Jones' interrogatories. On December 17, the President suggested to Ms. Lewinsky she file the affidavit and continue to use their cover stories in the event she was asked about her relationship with the President. The next day she had two interviews in New York City arranged by Mr. Jordan. On December 22nd, Ms. Lewinsky met with an attorney at a meeting arranged by Mr. Jordan. The following day she had another job interview arranged by Mr. Jordan.

On January 7, Ms. Lewinsky signed the false affidavit and proudly showed the executed copy to Mr. Jordan. The next day, Ms. Lewinsky had an interview arranged by Mr. Jordan with MacAndrews & Forbes in New York City, an interview that apparently went poorly. To remedy this, she called Mr. Jordan and so informed him. Mr. Jordan then called the CEO of MacAndrews & Forbes, Mr. Ron Perelman to, in Mr. Jordan's words, ''make things happen, if they could happen.'' After Mr. Jordan's call to Mr. Perelman, Ms. Lewinsky was called and told that she would be interviewed again the very next morning. That following day she was reinterviewed and immediately offered a job. She then called Mr. Jordan to tell him and he passed the information on to Ms. Currie. ''Tell the President, mission accomplished.''

Now, what are you as jurors entitled to conclude from all of this as a matter of law and of fact? Until it became clear that Ms. Lewinsky would be a witness in the Jones case, little was done to help her with her job search. Once she was listed as a witness, things changed dramatically and rapidly. Just days after she is listed on the Jones witness list, she gets a second meeting with one of the most influential men in Washington. But, unlike their first meeting, Mr. Jordan now makes three calls on her behalf to get her a job interview. A week later the President proposed the affidavit. The next day, Ms. Lewinsky has two job interviews in New York. A few days later, Mr. Jordan arranges for an attorney to represent her. The next day she has another job interview. Two weeks later she signed the affidavit. The next day she has another interview.

''Mission accomplished.'' Obstruction accomplished. Another potentially embarrassing witness in the bag.

Were Ms. Lewinsky to get a job and move to New York, this would help the President substantially in two very important ways. First, it would presumably create a happy and probably compliant witness, one willing, if not eager, to support the President's false testimony. Second, it would make Ms. Lewinsky much more difficult, if not impossible, to reach as a witness in the Jones case. In fact, this is precisely what the President himself suggested to Ms. Lewinsky during their December 28 meeting, according to her sworn testimony.

To put it plainly, but respectfully, if that is not obstruction by witness tampering, one would be hard pressed to find a fact pattern that was.

This aspect of the case against the President is extremely important. She gets the job. And what did the President get? The key affidavit to throw the Jones lawyers off the trail and possibly a witness outside the practical reach of the attorneys, much like the absent witnesses we have seen in large numbers in the campaign financing investigations.

The President's efforts were designed to and did obstruct justice and tamper with a witness. And his actions, we submit, were criminal under both sections 1503 and 1512 of the Federal Criminal Code.

The President's false statements to his senior aides. Here, too, the facts and the law come together and would form the basis, we respectfully submit, for a conviction on articles of impeachment. All that needs to be shown to prove a violation of the statute is that the defendant engaged in misleading conduct with another person to influence that testimony. Misleading conduct is not a term of art for which there is no definition. It is specifically defined in the Federal Criminal Code as section 1515. When you, as jurors, properly apply these definitions to the terms of section 1512, the tampering statute, and then turn your attention to the facts in this case wherein the President repeatedly and deliberately gave false explanations to aides he knew or should reasonably have known would be witnesses in Federal judicial proceedings, the conclusion he violated this statute is, we respectfully submit, unavoidable. I point to one case previously mentioned, the O'Keefe case as particularly, perhaps, applicable to deliberations on this matter.

Finally, statements by the President and his lawyer concerning the affidavit during the Jones deposition. The obstruction statute may also be violated, as you know, by a person who gives false testimony. In the Jones case, the President allowed his attorney to make false and misleading statements to a Federal judge. This part of the obstruction scheme was accomplished by characterizing as true the false affidavit filed by Ms. Lewinsky in order to prevent questioning by the Jones lawyers, testimony which had already been deemed relevant by the judge in that case. The President's lawyer, as you have heard, objected to the innuendo of

certain questions asked of the President, and at that point during the deposition pointed out that Ms. Lewinsky had signed an affidavit denying the relationship with the President. He then made the famous statement about there being no relationship in any way, shape or form or kind.

Following this statement, Judge Wright warned Mr. Bennett about making an assertion of fact in front of the witness—that is, in front of the President—in which he replied,

I am not coaching the witness. In preparation of the witness for this deposition, the witness is fully aware of [the] affidavit, so I have not told him a single thing he doesn't know.

The President's lawyer did not know what an understatement that was.

Later on September 30 of 1998, long after the deposition and after the full evidence of Ms. Lewinsky's relationship with the President became public, Mr. Bennett wrote to Judge Wright to inform her that she should not rely upon the statements he made during the President's deposition because parts of the affidavit were ''misleading and not true.'' ''Misleading and not true.'' Sounds like perjury. Sounds like obstruction.

Which brings us full circle, full circle from a false affidavit confirming earlier concocted cover stories, through a web of obstruction, to a letter from a distinguished lawyer forced to do what no lawyer wants to do, but every honorable lawyer must do when confronted with clear evidence their client has misled a court, and that is to correct a record of falsity even to the detriment of their client.

What we have before us, Senators and Mr. Chief Justice, is really not complex. Critically important, yes, but not essentially complex. Virtually every Federal or State prosecutor—and there are many such distinguished persons on this jury—has prosecuted such cases of obstruction before in their careers—perhaps repeatedly—involving patterns of obstruction, compounded by subsequent coverup perjury. The President's lawyers may very well try to weave a spell of complexity over the facts of this case. They may nitpick over the time of a call or parse a specific word or phrase of testimony, much as the President has done. We urge you, the distinguished jurors in this case, not to be fooled.

Mr. HARKIN addressed the Chair.

The CHIEF JUSTICE. The Senator from Iowa.

Mr. HARKIN. Mr. Chief Justice, I object to the use and the continued use of the word ''jurors'' when referring to the Senate sitting as triers in a trial of the impeachment of the President of the United States.

Mr. Chief Justice, I base my objection on the following:

First, article I, section 3, of the Constitution says the Senate shall have the sole power to try all impeachments—not the courts, but the Senate.

Article III of the Constitution says the trial of all crimes, except in the cases of impeachment, shall be by jury—a tremendous exculpatory clause when it comes to impeachments.

Next, Mr. Chief Justice, I base my objection on the writings in ''The Federalist Papers,'' especially No. 65 by Alexander Hamilton, in which he is outlining the reasons why the framers of the Constitution gave the Senate the sole power to try impeachments. I won't read it all, but I will read this pertinent sentence:

There will be no jury to stand between the judges who are to pronounce the sentence of the law and the party who is to receive or suffer it.

Next, Mr. Chief Justice, I base my objection on the 26 rules of the Senate, adopted by the Senate, governing impeachments. Nowhere in any of those 26 rules is the word ''juror'' or ''jury'' ever used.

Next, Mr. Chief Justice, I base my objection on the tremendous differences between regular jurors and Senators sitting as triers of an impeachment. Regular jurors, of course, are chosen, to the maximum extent possible, with no knowledge of the case. Not so when we try impeachments. Regular jurors are not supposed to know each other. Not so here. Regular jurors cannot overrule the judge. Not so here. Regular jurors do not decide what evidence should be heard, the standards of evidence, nor do they decide what witnesses shall be called. Not so here. Regular jurors do not decide when a trial is to be ended. Not so here.

Now, Mr. Chief Justice, it may seem a small point, but I think a very important point. I think the framers of the Constitution meant us, the Senate, to be something other than a jury and not jurors. What we do here today does not just decide the fate of one man. Since the Senate sits on impeachment so rarely, and even more rarely on the impeachment of a President of the United States, what we do here sets precedence. Future generations will look back on this trial not just to find out what happened, but to try to decide what principles governed our actions. To leave the impression for future generations that we somehow are jurors and acting as a jury——

Mr. GREGG. Mr. Chief Justice, I call for the regular order and I ask, as a parliamentary point, whether it is appropriate to argue what I understand is a statement as to the proper reference relative to Members of the Senate. This is not a motion, and if it is a motion, it is nondebatable, as I understand it.

The CHIEF JUSTICE. Yes. I think you may state your objection, certainly, but not argue. The Chair is of the view that you may state the objection and some reason for it, but not argue it on ad infinitum.

Mr. HARKIN. Mr. Chief Justice, I was stating the reason because of the precedents that we set, and I do not believe it would be a valid precedent to leave future generations that we would be looked upon merely as jurors, but something other than being a juror. That is why I raise the objection.

The CHIEF JUSTICE. The Chair is of the view that the objection of the Senator from Iowa is well taken, that the Senate is not simply a jury; it is a court in this case. Therefore, counsel should refrain from referring to the Senators as jurors.

Mr. HARKIN. I thank the Chair.

Mr. Manager BARR. I thank the Court for his ruling. We urge the distinguished Senators who are sitting as triers of fact in this case not to be fooled. We urge you to use your common sense, your reasoning, your varied and successful career experiences, just as any trier of fact and law anywhere in America might do. Just as other triers of fact and law do, so, too, have each of you sworn to decide these momentous matters impartially. Your oath to look to the law and to our Constitution demands this of you. As this great body has done on so many occasions in the course of our Nation's history, I and all managers are confident you will neither shrink from nor cast aside that duty.

Rather, I urge and fully anticipate that you will look to the volume of facts and to the clear and fully applicable statutes and conclude that William Jefferson Clinton, in fact and under the law, violated his oath and violated the laws of this land and convict him on both articles of impeachment. Even though such a high burden—that is, proof of criminal violations—is not strictly required of you under the law of impeachment, in fact, such evidence is here. That higher burden is met.

Perjury is here; obstruction is here in the facts and the law which forms the basis for the articles of impeachment in the House which we believe properly would form the basis for conviction in the Senate. Perjury and obstruction, we respectfully ask you to strike down these insidious cancers that eat at the heart of our system of Government and laws. Strike them down with the Constitution so they might not fester as a gaping wound poisoning future generations of children, poisoning our court system, and perhaps even future generations of political leaders.

Just as Members of both Houses of Congress have unfortunately over the years been convicted and removed from office for perjury and obstruction, and just as Federal judges have been removed from life tenure for perjury and obstruction, so must a President; so sadly should this President.

Thank you, Mr. Chief Justice, and thank you, Members of the U.S. Senate sitting here as jurors of fact and law in the trial of President William Jefferson Clinton.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. LOTT. Mr. Chief Justice, I remind all who are participants in these proceedings that we will begin at 10 a.m. on Saturday, January 16, and we are expected to conclude sometime between 3 p.m. and 3:30 p.m. I had earlier indicated concluding as late as 5 p.m. I understand that we will conclude between 3 p.m. and 3:30 p.m. Therefore, pursuant to the previous consent agreement, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection at 5:10 p.m., the Senate, sitting as a Court of Impeachment, adjourned until Saturday, January 16, 1999, at 10 a.m.