such as *Richmond Newspapers* and its progeny, has been recognized in a variety of contexts outside the courtroom. *Cable News Network, Inc.* v. *American Broadcasting Companies, Inc.*, 518 F. Supp. 1238, 1243 (N.D. Ga. 1981) (court enjoins Executive's expulsion of television networks from press travel pool covering the President); *see also Sherrill* v. *Knight*, 569 F.2d 124 (D.C. Cir. 1977) (court requires White House to publish standards for denying press accreditation on security grounds).●

IMPEACHMENT TRIAL—FINDINGS OF FACT PROPOSALS

● Mr. FEINGOLD. Mr. President, on January 28, I was the only Democratic senator to cross party lines and oppose the motion to dismiss. I felt it would be unwise to end this trial prior to a more complete presentation of evidence and a final vote on the Articles of Impeachment themselves. Nonetheless, I had no doubt that a motion to dismiss was a constitutional way to end the trial, if a majority of senators had supported the motion.

The Senate must keep in mind at every step in this process that our actions will be scrutinized not just by our constituents today and for the rest of the trial, but also by history. If another impeachment trial should occur 130 years from now, the record of this trial will serve as an important precedent for the Senate as it determines how to proceed. It is our responsibility to abide by the Constitution as closely as possible throughout the remainder of this trial. My votes on House Managers' motions on February 4 were based on the same concerns about prudence and precedent that motivated my earlier votes on the motion to dismiss and calling witnesses.

With the judgment of history awaiting us, I did have serious concerns about the constitutionality of proposals that the Senate should adopt so-called ''Findings of Fact'' before the Senate votes on the Articles of Impeachment themselves. It now appears that support for such proposals has waned, and the Senate will not be called upon to vote on them. Nonetheless, I want to explain my opposition to such proposals for the record.

Findings of Fact would allow a simple 51 vote majority of the Senate to state the judgment of the Senate on the facts of this case and, in effect, to determine the President's ''guilt'' of the crimes alleged in the Articles. But the Constitution specifically requires that two-thirds of the Senate must convict the President on the Articles in order to impose any sanction on him. The specific punishment set out by the Constitution if the Senate convicts is removal from office, and possibly disqualification from holding future office.

The supermajority requirement makes the impeachment process difficult, and the Framers intended that it be difficult. They were very careful to avoid making conviction and removal of the President something that could be accomplished for purely partisan purposes. In only 23 out of 105 Congresses and in only six Congresses in this century has one party held more than a 2/3 majority in the Senate. Never in our history has a President faced a Senate controlled by the other party by more than a 2/3 majority. (The Republican party had nearly 80 percent of the seats in the Senate that in 1868 tried Andrew Johnson. Johnson was at that time also a Republican, although he had been a Democrat before being chosen by Abraham Lincoln to be his Vice-President in 1864.) The great difficulty of obtaining a conviction in the Senate on charges that are seen as motivated by partisan politics has discouraged impeachment efforts in the past. Adding Findings of Fact to the process would undercut this salutary effect of the supermajority requirement for conviction.

The Senate must fulfill its constitutional obligation and determine whether the President's acts require conviction and removal. The critical constitutional tool of impeachment should not be available simply to attack or criticize the President. Impeachment is a unique. It is the sole constitutionally sanctioned encroachment on the principle of separation of powers, and it must be used sparingly. If Findings of Fact had been adopted in this trial, it would have set a dangerous precedent that might have led to more frequent efforts to impeach.

The ability of a simple majority of the Senate to determine the President's guilt of the crimes alleged would distort the impeachment process and increase the specter of partisanship. When the Senate is sitting as a court of impeachment, its job is simply to acquit or convict. And that is the only judgment that the Senate should make during an impeachment trial.●

MOTIONS PERTAINING TO WITNESS DEPOSITIONS AND TESTIMONY

● Mr. DODD. Mr. President, on Thursday, February 4th, the Senate, sitting as a court of impeachment, considered several motions pertaining to the depositions and live testimony of witnesses Monica Lewinsky, Vernon Jordan, and Sidney Blumenthal. I wish to speak briefly on the important issues raised by several of these motions.

First, let me say that I am pleased that the Senate, by a bipartisan vote of 30–70, voted not to compel the live testimony of Ms. Lewinsky. In my view, this was a sound decision to support the expeditious conduct of this trial, preserve the decorum of the Senate, and respect the privacy of this particular witness.

Unfortunately, the Senate retreated from these same worthy aims in deciding to permit the videotaped depositions of Ms. Lewinsky, Mr. Jordan, and Mr. Blumenthal to be entered into evidence and broadcast to the public. I believe that this decision was erroneous for three basic reasons:

First, it needlessly prolonged the trial. Prior to February 4th, Senators had an opportunity to view the depositions of each of these witnesses—not once, but repeatedly. Numerous times we could have viewed the content of their testimony, the tone of their answers, and their demeanor while under oath. By requiring that Senators view portions of these depositions again on the Floor, in whole or in part, the Managers' motion unnecessarily required the Senate to convene for an entire day. We learned nothing by viewing excerpts of the depositions on the Floor that we had not already had an opportunity to learn by viewing those depositions previously, either on videotape or, in the case of myself and five other Senators, in person.

Second, allowing the depositions to be publicly aired on the Senate Floor exaggerated their importance. Even Manager HYDE has acknowledged that these depositions broke no material new ground in this case. Allowing their broadcast thus was not only an injudicious use of the Senate's time. It also elevated the significance of this particular testimony over all other sworn testimony taken in this matter—solely by virtue of the fact that it was recently videotaped. Broadcasting these minuscule and marginal portions of the record—while not broadcasting other depositions—does not illuminate the record so much as distort it. The distortion is only compounded by broadcasting selected portions of those depositions rather than the depositions in their entirety. The President's counsel obviously had an opportunity to rebut the Managers' presentation and characterization of those portions. However, that rebuttal only underscores the fact that the Managers' motion to use these videotapes gave the videotapes a prominence and gravity that they do not merit.

Thirdly, under the circumstances, publicly airing portions of these depositions constituted a needless invasion of the privacy of the witnesses whose testimony was videotaped. Let us remember that these individuals are not public figures who have willingly surrendered a portion of their privacy as a consequence of their freely chosen status. They are private citizens, reluctantly drawn into legal proceedings. They have attempted to discharge their obligations in those proceedings. But that obligation does not extend to the public broadcast of their videotaped depositions—particularly given that they have testified repeatedly before, and that their videotaped testimony contains no new material information. The privacy rights of these individuals deserved greater consideration by the Managers and by the Senate. The Managers did not need to force the images of these witnesses into the living rooms and family rooms of America in order to present their case. And the Senate did not need to allow that to happen in order to meet its constitutional responsibility in this matter.

For these reasons, Mr. President, I opposed the Managers' motion to

broadcast the deposition videotapes. In my view, the time has come to bring this matter to an end. The record is voluminous, the arguments have been made. We know enough to decide the questions before us. That is why I supported Senator DASCHLE's motion to proceed to final arguments and a vote on each of the Articles of Impeachment. I regret that his motion was not adopted, and that instead the Senate decided to needlessly prolong this matter without sufficient regard for the privacy of the witnesses deposed last week. However, that said, I am pleased that, barring any unforseen developments, this trial will at last conclude later this week. It is time for the Senate to move on to the other important business of the country that we were elected to address.●