California as the Regimental Air Officer. In 1995, he was assigned to the Marine Aviation Department at Headquarters Marine Corps, Washington, D.C. to serve as the Congressional Liaison Officer for the Marine Aviation Plans, Programs & Budget Branch. During this tour, Lieutenant Colonel Moseley was selected for a Federal Executive Fellowship in a national competition sponsored by the American Political Science Association and Johns Hopkins University for its 1997–1998 Congressional Fellowship program. Upon completion of the Congressional Foreign Affairs program at Johns Hopkins University, Lieutenant Colonel Moseley was selected to serve as the Military Legislative Assistant to Senator TRENT LOTT, U.S. Senate Majority Leader. Among Lieutenant Colonel Moseley's many awards and decorations are the Meritorious Service Medal, the Navy Unit Commendation, Meritorious Unit Commendation with one star, the National Defense Medal, and the Sea Service Deployment Ribbon with 4 stars.

During his more than twenty one-year career, Lieutenant Colonel Moseley has served the United States Marine Corps and our nation with excellence and distinction. He has been an integral member of, and contributed greatly to, the best-trained, best-equipped and best-prepared expeditionary combat force in the history of the world. Lieutenant Colonel Moseley's strong leadership, integrity, and energy have had a profound and positive impact on the United States Marine Corps and the Nation.

Lieutenant Colonel Moseley will retire from the United States Marine Corps on April 1, 1999, after twenty-one years and three months of dedicated commissioned service. On behalf of my colleagues on both sides of the aisle, I wish Lieutenant Colonel Chase Moseley ''fair winds and following seas.'' Congratulations on completion of an outstanding and successful career.

TRIBUTE TO THE HONORABLE SANDRA K. STUART, ASSISTANT SECRETARY OF DEFENSE FOR LEGISLATIVE AFFAIRS

Mr. LOTT. Mr. President, I would like to take this opportunity to recognize the outstanding work of the Honorable Sandra K. Stuart as the Assistant Secretary of Defense for Legislative Affairs. After nearly five years in this position, Ms. Stuart is leaving government service to pursue other opportunities in the private sector. She definitely will be missed by many of my colleagues on both sides of the aisle.

I have enjoyed working with Ms. Stuart on a wide range of matters affecting the Department of Defense. I always found her to be extremely knowledgeable and very effective in representing the Department's views. Despite the sometimes contentious nature of national security matters, Ms. Stuart always maintained a friendly and constructive approach to her work which served our Nation very well.

Ms. Stuart had the difficult tasks of coordinating the Department of Defense's legislative agenda. She has deftly balanced a wide range of Defense-related issues, including Bosnia, missile defense, health care, readiness, acquisition reform, and modernization. Because Ms. Stuart earned the trust and confidence of those with whom she worked, she was able to promote the Department's views very effectively in Congress.

Ms. Stuart's experience with the Congress predated her current position as the Assistant Secretary of Defense for Legislative Affairs. Before joining the Department of Defense in 1993, Ms. Stuart served as Chief of Staff to Representative Vic Fazio of California who recently retired from Congress. In addition to managing his Congressional staff, Ms. Stuart handled appropriations matters before the House Committee on Appropriations.

Ms. Stuart's legislative experience also includes work as an Associate Staff Member of the House Budget Committee and as the Chief Legislative Assistant to Representative BOB MATSUI of California.

Ms. Stuart is a graduate of the University of North Carolina at Greensboro and attended the Monterey College of Law. She is the mother of two sons, Jay Stuart, Jr. and Timothy Scott Stuart. She is married to D. Michael Murray.

Ms. Stuart earned the respect of every Member of Congress and their staffs through hard work and her straightforward nature. As she now departs to share her experience and expertise in the civilian sector, I call upon my colleagues on both sides of the aisle to recognize her outstanding and dedicated public service and wish her all the very best in her new challenges.

NATIONAL MISSILE DEFENSE ACT OF 1999

Mr. BURNS. Mr. President, I am pleased to join my colleagues in the Senate in sponsoring the National Missile Defense Act of 1999. This bill clearly states that the policy of the United States is to provide for the defense of its territory against a potential missile attack by a rogue nation.

A defense capability against missile attack is a necessity due to the increased threat of terrorism. An arms control commission formed to assess the missile threat to the U.S. concluded that ''concerted efforts by a number of overtly or potentially hostile nations to acquire ballistic missiles with biological or nuclear payloads pose a growing threat to the United States, its deployed forces, and its friends and allies.'' Experts suspect that these countries are acquiring unaccounted-for Russian nuclear bombs as part of this development effort. Regional stability is being threatened by weapons programs in India, Pakistan, Iran, and others. North Korea is expected to be capable of a missile threat to U.S. citizens by 2010. The threat is very real. The Rumsfeld Commission concluded that the United States may have ''little or no warning'' before facing a threat from these so-called ''rogue states.'' We must find a way to defend ourselves against potential attack from any terrorist country.

I have long supported the three tiered development of a National Missile Defense. Under these criteria, a missile defense could be deployed after showing that (1) a specific missile threat has been identified, (2) the technology has proven to be effective, and (3) the system is deemed affordable. As stated earlier, we've clearly confirmed that the threat exists. The technology is proving to be increasingly available. Most importantly, in a period where we are investing in modernizing our defense capabilities, we would be negligent if we failed to fund such a fundamental element of defense for our citizens. Now is the time to commit ourselves to completing the three steps and deploying a missile defense for all Americans.

Senate Bill 257 is an important effort to document the will of the American people. With the increasing missile threat posed by outlaw countries, it is critical that the United States do everything in its power to prevent, reduce, deter, and defend against all weapons of mass destruction and missiles. I strongly encourage my colleagues to support the passage of this bill.

(Pursuant to a previous unanimous consent agreement, the following statements pertaining to the impeachment proceedings were ordered printed in the RECORD:)

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

Mr. NICKLES. Mr. Chief Justice, the United States Senate has nearly concluded only the second impeachment trial of a President in history. We fulfilled our promise to conclude the process in an expeditious and responsible manner in accordance to the Constitution.

Americans understand there is really only one person to blame for this ordeal: Bill Clinton. He could have prevented the entire impeachment process if he had chosen the truth instead of lies and obstruction and the well-being of the nation instead of his own personal and political needs. He squandered his opportunity to provide trustworthy leadership on the important issues facing America.

The President's actions left the Attorney General with no choice but to ask the Independent Counsel to investigate. They left the Independent Counsel with no choice but to refer charges to the House of Representatives. They left the House with no choice but to impeach him.

The day Senators took that impeachment oath was one of the most serious, solemn times that I have experienced

during my 18 years in the Senate. Our oath was to do impartial justice, and that oath was in my mind as I weighed the facts, the law, and the Constitution.

The President took an oath too. He took an oath to tell the truth, the whole truth, and nothing but the truth.

I believe that clear and convincing evidence presented to the Senate demonstrates that President Clinton did indeed commit multiple acts of perjury, as alleged in Article I, and multiple acts of obstruction of justice, as alleged in Article II, and deserves to be found guilty on both articles of impeachment.

The President made a serious, serious mistake when he went to his Paula Jones deposition, raised his right hand and swore to tell the truth, the whole truth, and nothing but the truth, and then lied repeatedly. Following that, he committed more acts of obstruction and more lies, culminating in his testimony before the grand jury where he lied time and time again. He had obstructed justice and he had perjured himself in the Jones case, and he wanted to be consistent, so he perjured himself again.

One of many specifics, concerning his ''conversations'' with Betty Currie: ''I was trying to get the facts down. I was trying to understand what the facts were.'' He wasn't trying to understand the facts. He knew what the facts were. He was trying to mislead a witness, and then he lied under oath after being begged, ''Don't do it again, Mr. President.''

I believe the public deserves, and the Constitution permits, that the Senate demand a high standard of conduct in its President. Rather than find a loophole to excuse the President's behavior, the Senate ought to find him guilty.

The President's counsel have attempted to frame the question before the Senate as ''[a]re we at that horrific moment in our history when our Union could be preserved only by taking the step that the framers saw as the last resort?''[1] His lawyers are asking the wrong question. In fact, as Manager CANADY pointed out, under this standard even the deeds of Richard Nixon may not have been worthy of impeachment.[2] The proper question is not whether America would survive President Clinton remaining in office: that answer is yes. The proper question before the Senate is whether, knowing what we now know about his conduct, America should have to do so.

Another of the President's lawyers argued that ''[i]f you convict and remove President Clinton on the basis of these allegations, no President will ever be safe from impeachment again[.]''[3] I, for one, have a little more confidence that our future leaders will not commit felonies, but if a future President commits the same crimes as President Clinton, I hope that President will face the same constitutional response.

In fact, one familiar lawyer recognized that there is ''no question that an admission of making false statements to government officials and interfering with the FBI is an impeachable offense.''[4] That lawyer was William Clinton, speaking in 1974.

PUBLIC OR PRIVATE CONDUCT?

The President's defenders have argued that his errors were ''private acts'' which are irrelevant to the constitutional standards of public behavior. But this was not about adultery. These charges would be just as valid even if he were never married. Let's also consider a few other facts.

The President utilized his secretary to conceal evidence;

The President went out of his way to lie to his most senior aides, knowing they would repeat those lies to the grand jury;

The President supervised a massive and coordinated effort to have his staff, on government time, repeatedly lie to the public on his behalf;

The President asserted one of his most precious powers, that of executive privilege, to keep government employees from cooperating with a federal grand jury; and

There is evidence that official White House personnel attempted to smear Ms. Lewinsky and other witnesses to bolster his bogus defense.

If this conduct is so private, why has the President dragged so many public servants into his web of deceit and lies?

If the Senate were going to pass a censure resolution, perhaps it should include language rebuking his private behavior which even his staunchest defenders have recognized as reprehensible, reckless, and indefensible. However, we are sitting not as a court of morality, but as a court of impeachment which must decide whether the rule of law, as Manager HYDE so eloquently explained, is a value so worthy of protection that it requires removal of a twice-elected President.

ATTACK ON THE SYSTEM OF GOVERNMENT

Even more importantly, the President's conduct was not simply a personal matter, but rather an attack on our system of government. Our system of justice, both civil and criminal, would collapse if lying under oath was tolerated, tampering with witness' testimony was permitted or hiding of evidence was customary. Think of all of the plaintiffs, defendants, and witnesses who are involved in difficult or embarrassing situations involving bad investments, physical altercations, substance abuse, or adultery. How can we expect all of them to tell the truth, produce the evidence, and abide by society's legal standards about these matters when our President refused to do so?

Recognizing that the President still may face the criminal justice system, I believe it is entirely appropriate for the Senate to consider how our judicial system reacts to perjury. Remember the 1998 quote from a federal judge which Manager BUYER recounted:

[Congress does not] want people lying to grand juries. They particularly don't want people lying to grand juries about criminal offenses. They particularly don't want people lying to grand juries about criminal offenses that are being investigated. They don't like that. And Congress has said we as a people are going to tell you if you do that, you're going to jail and you're going to jail for a long time. And if you don't get the message, we'll send you to jail again. Maybe others will. But we're not going to have people coming to grand juries and telling lies because of their children or their mothers or fathers or themselves. It's just not acceptable. The system can't work that way.[6]

A DOUBLE STANDARD FOR THE COMMANDER-IN-CHIEF?

Of all of the powers trusted to the President, possibly the most important is his role as Commander-in-Chief. His ability to lead the military in times of war, and during every day of preparation, training, and planning which precedes violent conflict, depends in large part in the trust and confidence he can inspire in the approximately 1.2 million men and women he commands. These men and women are subject to the Uniform Code of Military Justice: the President should be grateful he is not, for he likely would be facing court martial for his actions. At a minimum, he likely would be found guilty of the following offenses:

False official statements—Article 107;

Perjury—Article 131;

Conduct unbecoming an officer and gentleman—Article 133;

False swearing—Article 134;

Obstruction of justice—Article 134; and

Subornation of perjury—Article 134.

As Manager BUYER reminded us:

In every warship, every squadbay, and every headquarters building throughout the U.S. military, those of you who have traveled to military bases have seen the picture of the Commander in Chief that hangs in the apex of the pyramid that is the military chain of command. You should also know that all over the world military personnel look at the current picture and know that, if accused of the same offenses as their Commander in Chief, they would no longer be deserving of the privilege of serving in the military.[7]

We all remember the publicity surrounding the case of Kelly Flynn, forced to resign from the Air Force for adultery and false statements. But there are many others, including the pending case of Air Force captain Joseph Belli. Captain Belli is currently awaiting trial, and faces up to 27 years in military prison, for having an adulterous affair with a female airman on the base at Diego Garcia, then asking both his wife and his lover to lie about it. Although Captain Belli asked to resign and although his wife asked that the charges, which she first raised, be dropped, the prosecution goes on. What do you think Captain Belli would think of an acquittal of President Clinton?

DOUBLE STANDARD COMPARED TO JUDGES?

One of the bedrock principles of our system of justice is stare decisis, that

Footnotes at end of speech.

is following precedent. One question before us is whether making false statements under oath merits conviction and removal. The Senate has clear and recent precedent that answers this exact question. In 1986, Judge Harry Claiborne was convicted by votes of 90–7 and 89–8 for making false statements under oath on his tax returns. In 1989, Judge Walter Nixon was convicted by votes of 89–8 and 78–19 for making false statements to a federal grand jury. Also in 1989, Judge ALCEE HASTINGS was convicted by a votes of 68–27, 69–26, 67–28, 67–28, 69–26, 68–27, and 70–25 for making false statements under oath. The Senate has spoken decisively, repeatedly, and recently on this question: making false statements under oath is an offense worthy of impeachment and conviction.

As Manager HYDE noted, ''This country can survive with a few bad judges, a few corrupt judges; we can make it; but a corrupt President, survival is a little tougher there.'' [8] Legal commentator Stuart Taylor phrased it well: ''While removing him would be uniquely traumatic, his alleged crimes . . . are uniquely visible, and thus uniquely menacing to the rule of law, to trust in government, and to the national culture.'' [9]

Moreover, we know what the Founders thought of perjury: the very first Congress enacted ''An Act for the Punishment of Certain Crimes Against the United States'' which made perjury a federal crime. Rather than creating a lower standard of conduct for the President, I believe the Senate should hold the President to the same or even a higher standard.

And we should ask the President, if he discovered that a person he was considering for a judicial nomination had committed the acts which have been proven in this case, would he still nominate that individual? I think we know the answer.

DISCUSSION OF THE ARTICLES

ARTICLE I—PERJURY BEFORE THE GRAND JURY

I believe the evidence shows a pattern of perjury which deserves conviction. In describing how the lies were not few in number or in importance, Manager MCCOLLUM captured the essence of the President's grand jury testimony: ''This is about a pattern. This is about a lot of lies.'' [10]

In the weeks leading up to the President's grand jury testimony, Americans of all political persuasions offered unsolicited advice to the President to ''come clean'' before the grand jury, to admit any embarrassing conduct, and, above all, to tell the truth. They advised him that testimony which was ''evasive, incomplete, misleading—even maddening,'' as the President's own lawyer described his deposition testimony, would not suffice before the grand jury.[11] Rather than heed this advice, however, the President decided to ignore his oath ''to the tell the truth, the whole truth, and nothing but the truth,'' and instead, to paraphrase Manager ROGAN, decided to tell the evasive truth, the incomplete truth, and nothing but the misleading truth.[12]

It is true, as counsel for the President argue, that the President did make many admissions during his appearance which no doubt were painful: that he had had an affair with a subordinate employee not even half his age, and that he had misled the American people, his family, and aides. Sprinkled amidst these admissions, however, were numerous lies and half-truths. These statements were obviously under oath, they were material to the grand jury's investigation, and they were intentional. Thus, they constitute perjury. The claim by the President's counsel that ''he told the truth, the whole truth, and nothing but the truth for 4 long hours'' is complete nonsense.[13]

Simply put, the President decided that his personal and political needs were more important than the rights of the grand jury to receive truthful testimony or his obligation to comply with federal law. For these statements, which deceived a legitimately constituted federal grand jury investigating criminal conduct not only of the President, but of others, the President deserves to be convicted on Article I.

For instance, I believe that the President lied when he claimed his goal during the deposition ''was to be truthful'' and again when he said ''I was determined to work through the minefield of this deposition without violating the law, and I believe I did.'' [14] No person who has read or seen the President's deposition can really believe that he was trying to be truthful.

For example, when asked during the deposition, ''at any time have you and Monica Lewinsky ever been alone together in any room in the White House?'', the President replied '' . . . it seems to me that she was on duty on a couple of occasions working for the legislative affairs office and brought me some things to sign, something on the weekend.'' [15] No reasonable person could believe that his goal in responding this question was to be truthful. And the President, a lawyer, a former law professor, and a former attorney general of his state, could not have believed that he had not violated the law when he answered questions in this manner.

I need to address briefly the defense argument that the Senate is forbidden from considering the Jones deposition because the specific article alleging perjury was defeated on the House floor—remember Ms. Seligman's claim that the deposition ''answers are not before you and the managers' sleight of hand cannot now put them back into article I.'' [16]

On December 11, 1998, when the House Judiciary Committee considered the articles of impeachment against the President, subsection 2 of Article I read exactly as it does today alleging perjury in the grand jury about the ''prior perjurious, false and misleading testimony he gave in a Federal civil rights action brought against him.'' No member of the Committee offered a motion to strike or amend this provision. The subarticle remained unchanged when it was debated on the House floor. All 435 Members of the House were on notice that this section of Article I clearly charged the President with lying before the grand jury about his Jones deposition testimony. The fact that a separate article of impeachment dealing solely with the deposition was defeated on the House floor has absolutely no impact on the contents of Article I.

Moving to the remainder of Article I, I believe that the evidence tends to show that the President was lying when he stated to the grand jury that ''I was not paying a great deal of attention to this exchange'' when his attorney, Robert Bennett, argued for a lengthy period of time that the President should not have to answer questions about Monica Lewinsky because of her affidavit, known by the President to be false.[17] The videotape of the deposition clearly shows President Clinton staring directly at his attorney when these misrepresentations were made, and then closely following the back-and-forth between Bennett, Judge Wright, and Jones' counsel.

I also believe that the evidence demonstrates clearly that the President perjured himself during his testimony concerning his relationship with Ms. Lewinsky.

Part Four of Article I concerns the President's grand jury testimony concerning the various allegations of obstruction of justice contained in Article II. I discuss my views on the substantive obstruction counts below, but I also conclude that the President committed multiple acts of perjury in discussing and denying his role in these events. For those who argue that the allegations of perjury only deal with sex, I invite you to read the President's answers to the questions about the alleged obstruction: some defy common sense, most conflict with more credible accounts provided by other witnesses, and many are perjurious, false, and misleading.

ARTICLE II

The evidence concerning certain of the allegations of obstruction is strong, and would meet the legal requirements of Title 18 were this a criminal trial. While the White House defense would urge us to consider the President's ''record on civil rights, on women's rights[,]'' [18] I would urge all Senators to remember that it is easy to talk a good game, but when another American citizen sought to exercise her rights, the President played a different one. To use a phrase, the President wanted to win too badly.

For instance, the evidence that the President tampered with a potential witness, Betty Currie, is convincing. As Manager MCCOLLUM pointed out, Ms. Currie's testimony in this matter is undisputed.[19] Just hours after he fed the Jones' lawyers numerous lies, the President called Currie and demanded

that she come to Oval Office on a Sunday. He then accosted her with a list of falsehoods, such as ''You were always there when she was there, right?'' [20] The President clearly knew Currie was a potential witness in the Jones case, not only because he had mentioned her repeatedly during the deposition, but also because he knew that the Jones lawyers obviously knew there was some relationship between he and Lewinsky and that they would continue to follow that lead.

Even worse, according to Currie's testimony and evidence in the record, when it was known that the Office of Independent Counsel was investigating, the President saw Currie again, and repeated his coaching. By this time, Currie was clearly a witness to a grand jury investigating federal crimes. Both of these conversations constituted witness tampering under Title 18 and warrant conviction.

Moreover, in attempting to explain away his crime during his appearance before the grand jury, the President clearly perjured himself. His answers, which included the hilarious claims that he was trying to ''refresh my memory'' and ''I was trying to get the facts down. I was trying to understand what the facts were'' are perjury.[21] The fact that Ms. Currie was willing to recount these encounters to the grand jury does not diminish in the slightest the fact that the President illegally tried to coach her.

But this episode of obstruction was only part of a continuing pattern. Clear circumstantial evidence proves that the President participated in a scheme to hide evidence under subpoena by Paula Jones. The evidence shows that Lewinsky suggested that she make sure that the many gifts the President had given her were not at her residence, specifically suggesting to the President that Betty Currie could hide them from the Jones attorneys. Lo and behold, hours later, Currie, having no idea that Lewinsky was under subpoena to turn over gifts, called Lewinsky after having seen the President at the White House and said something to the effect of ''I know you have something for me or the President said you have something for me.'' [22] The two arranged to meet, Lewinsky sealed the gifts in a taped box, handed the box over to Currie, who hid it under her bed.

There are two explanations for how this obstruction happened. One, Betty Currie suddenly had a vision that she should call Lewinsky to see if she needed help in her plans to obstruct justice. Or two, the President communicated, explicitly or obliquely, that Currie should call Lewinsky to execute her scheme. Deciding which of these scenarios is more plausible is not difficult. Moreover, the idea, advanced by the President's defense, that he did not care if Lewinsky produced to the Jones attorneys all 24 gifts he had given her, is ridiculous. Can anybody really think that the Jones attorneys would have taken a look at the pile of gifts and said ''well, there are only 24 gifts—I guess there was nothing going on there.''

I also believe Ms. Lewinsky's testimony that the President suggested to her that she could supply the Jones attorneys their long-standing ''cover stories''—that she was delivering papers or visiting Currie when in fact she was coming to visit the President. The President's counsel have done their best to confuse this issue by linking it with the events surrounding Ms. Lewinsky's affidavit. But her deposition testimony is clear that the President reminded her during a 2 A.M. phone call, after she was on the Jones witness list, that if she ended up testifying—that is, if the affidavit was unsuccessful—that she should use the cover stories they had developed:

Q: . . . did you talk about cover story that night (December 17, 1997)?
A: Yes, sir.
Q: And what was said?
A: Uh, I believe that, uh, the President said something—you can always say you were coming to see Betty (Currie) or bringing me papers.
Q: . . . You are sure he said that that night?
A: Yes.[23]

As the Managers pointed out, this scheme, which was ''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.'' [24]

And on the issue of making false statements to top aides, knowing these lies would be repeated to the grand jury, the President is guilty both of obstruction and perjury. The fact that the President was also lying to the American people is irrelevant to this charge. The facts are that the President was denying this workplace relationship, that he knew the Independent Counsel was attempting to prove it was true, and he knew his top aides working in his close proximity would be called before the grand jury to find out whether they had seen or heard of the relationship. The false information he passed to them, including much more than just false denials, clearly obstructed the grand jury's investigation.

I also believe the evidence concerning unusual job assistance provided to Monica Lewinsky through the President's close friend, Vernon Jordan, and the President's blatant failure to interrupt his attorney's unknowing attempt to utilize Ms. Lewinsky's false affidavit bolsters the Managers' charges of obstruction.

The Senate has never faced the question whether obstruction of justice is an offense worthy of conviction and removal from office. Luckily, this is not a difficult question. No less than perjury, obstruction of justice and witness tampering interfere with the gathering of truthful evidence and testimony that is the lifeblood of our civil and criminal courts. Our Federal Sentencing Guidelines recognize the detrimental effects of these acts, providing for tougher sentences for obstruction than for general acts of bribery.

In conclusion, consider whether instead of lying and obstructing in the Jones case, the President had paid bribes to Lewinsky and Judge Wright. Would the President's defenders still claim that this was private conduct? No, they could not, and the effect of the perjury and obstruction is the same.

CONCLUSION

Throughout these proceedings, the President's counsel and defenders have cited his popularity as a new type of legal defense to the charges: Senator Bumpers said ''the people are saying 'Please don't protect us from this man.' '' [25] In fact, I believe his popularity, largely a result of economic factors not of his making, means the Senate should give even closer scrutiny to the charges. I would argue, as did Manager CANADY, that a President able to get away with crimes because of his popularity is the greatest danger to our system of government, exactly the type of danger that the Framers envisioned when trusting the Senate with the power of removal.[26] Remember how Alexander Hamilton spoke of the Senate's role:

Where else, than in the Senate could have been found a tribunal sufficiently dignified, or sufficiently independent? What other body would be likely to feel confidence enough in its own situation, to preserve unawed and uninfluenced the necessary impartiality between an individual accused, and the representatives of the people, his accusers? [27]

As Manager GRAHAM pointed out, a Senator voting to convict the President for his actions is placing a ''burden on every future occupant'' of the office of the President to avoid this type of conduct.[28] Asking our Presidents to obey the law and to respect the judicial process are burdens that I am willing to place on future Presidents.

President Clinton is guilty of perjury. He is guilty of obstruction of justice. He must be removed from office.

The House and its Managers admirably fulfilled their Constitutional and moral responsibilities. I can say confidently that Senate Republicans kept their promises to conduct a fair and expeditious trial and to protect the Constitution. The just cause of impeachment is nearly over.

Congress will then be able to focus on its full-time job: securing a better quality of life for all Americans. During the coming months, Congress will move forward with an aggressive agenda to provide an across-the-board tax cut, improve educational opportunities for our children, strengthen our national security, and ensure a sound Social Security and retirement system that provides Americans with the best possible return on their investments.

I am anxious to roll up my sleeves, get to work, and make the most of the opportunities ahead in the 106th Congress.

Footnotes

[1] 145 Cong. Rec. S495 (January 19, 1999) (statement of counsel Ruff).

[2] 145 Cong. Rec. S963 (January 20, 1999) (statement of Manager Canady).
[3] 145 Cong. Rec. S823 (January 20, 1999) (statement of counsel Craig).
[4] Arkansas Democrat, August 6, 1974.
[5] *See* Cong. Rec. S299 (January 16, 1999) (statement of Manager Hyde).
[6] 145 Cong. Rec. S283 (January 16, 1999) (statement of Manager Buyer).
[7] 145 Cong. Rec. S286 (January 16, 1999) (statement of Manager Buyer).
[8] 145 Cong. Rec. S887 (January 22, 1999) (statement of Manager Hyde).
[9] Legal Times, January 18, 1999, at 26.
[10] 145 Cong. Rec. S266 (January 15, 1999) (statement of Manager McCollum).
[11] House Serial 68, at 11.
[12] *See* 145 Cong. Rec. S879 (January 22, 1999) (statement of Manager Rogan).
[13] 145 Cong. Rec. S812 (January 20, 1999) (statement of counsel Craig).
[14] House Doc. 105–311, at 532.
[15] Clinton *Jones* deposition at 58.
[16] 145 Cong. Rec. S969 (January 25, 1999) (statement of counsel Seligman).
[17] House Doc. 105–311, at 511.
[18] 145 Cong. Rec. S830 (January 20, 1999) (statement of counsel Mills).
[19] *See* 145 Cong. Rec. S994 (January 26, 1999) (statement of Manager McCollum).
[20] House Doc. 105–316, at 559.
[21] House Doc. 105–310 at 507–508, 583.
[22] 145 Cong. Doc. S1225 (February 4, 1999) (deposition of Monica Lewinsky).
[23] 145 Cong. Rec. S1219 (February 4, 1999) (deposition of Monica Lewinsky).
[24] 145 Cong. Rec. S275 (January 15, 1999) (statement of Manager Barr).
[25] 145 Cong. Rec. S846 (January 21, 1999) (statement of counsel Bumpers).
[26] *See* 145 Cong. Rec. S295 (January 16, 1999) (statement of Manager Canady).
[27] 145 Cong. Rec. S296 (January 16, 1999) (statement of Manager Canady) (quoting The Federalist No. 65).
[28] 145 Cong. Rec. S289 (January 16, 1999) (statement of Manager Graham).

Ms. LANDRIEU. Mr. Chief Justice, as I begin, as so many of my colleagues have, I would like to thank our leaders for their tremendous patience—TOM, for your steady hand and, TRENT, for your good sense of humor.

Before I get into the core of my remarks, I would like to say that this ordeal has been, indeed, trying for all of us, but I believe it has strengthened us individually and as a body. We have come to know each other far better. We have gained a deeper appreciation of our individual strengths and gifts. And I am more than satisfied, particularly in listening to my colleague, OLYMPIA SNOWE, that this country is in good hands with the men and women here in this chamber.

Besides gaining a deeper appreciation for each other and for the Senate itself, we have also shared a great history lesson. For some of us, it has been our first in-depth study of these portions of our history; for others, it has been a timely refresher course; and to one among us, Senator ROBERT C. BYRD, I trust a rewarding experience as your words and writings on this important constitutional question have brought calm and clarity to our deliberations.

So many excellent points have been made in these last days. And I don't want you all to repeat this outside—and I know you can't—because people would say I am crazy, but I have enjoyed every single moment of these last three days. There has been a lot of talk about our Constitution and the Framers intent regarding the impeachment clause. Many have been mentioned. I will only venture to offer one that has to my knowledge not been mentioned yet because it strikes me as particularly timely, important and ironic. That is the argument of the anti-Federalist faction who fought vigorously for an impeachment provision, because they believed according to Madison, ''. . . that the limitations of the period of service''—and they were speaking about an Executive—''was not sufficient security.''

They believed that in creating a federal government it would quickly get out of control and out of step with the sentiments of the American people. Their fears were palpable. According to some scholars, as outlined in Senator BIDEN's brief, this charge of possible ''corruption, intrigue, tyranny and arrogance'' between elections by the chief executive was so strong that it was almost fatal to the ratification of the Constitution by the states.

It is, indeed, ironic that we are in the process of conducting an impeachment against a president that seems by all impartial and objective analysis—despite his personal failings—to be in step with the American people, in step with their wishes and their hopes for this country, in step with their ideas for a domestic and an international agenda.

The latest independent analysis by the New York Times and CNN published today shows that 70% of the American people—a clear majority—believe that the President should not be removed from office. I know that people have rejected talk of analysis and polling. When I was writing this, I felt some hesitation of even bringing it up because I come from a family that wears as a badge of honor the ability to stand alone against great odds. In the 1950's, 60's, and 70's, as one of nine siblings born to parents who were civil rights leaders, it is the only way I knew. I grew up listening to my father tell stories about his lone vote against the Jim Crow laws in the Louisiana Legislature. I grew up thinking that was the right thing to do. I believe at this time, it still is.

But as the Bible would infer, there is a time to lead and there is a time to listen. For those who are still struggling at this last hour with your decision, regardless of how strongly you might feel about what the President did, I respectfully suggest that you can find comfort in the wisdom of the people.

Should we make all of our decisions based on polls and public opinion surveys? Absolutely not. However, this particular situation is different. Let me point out two important distinctions.

One, this is not a regular issue. The people know a lot about this case. They have a clear high-tech, 20th century view of the currents and events shaping it. All of them: the good, the bad, and the ugly. It has been the most publicized and analyzed political/legal case of this century and perhaps all of history.

Two, this is the greatest and most admired democracy on the face of the earth. As PATRICK MOYNIHAN so eloquently pointed out: One so rare and precious, it is truly a treasure. In such a democracy, the people's voices should count.

Thomas Jefferson said, ''Democracy is cumbersome, slow and inefficient.'' Over the last twelve months, we can certainly attest to that. ''But,'' he said, ''in due time, the voice of the people will be heard and their latent wisdom will prevail.''

As for me, I voted to dismiss both articles at the first appropriate opportunity. I did so after careful review of the facts, the evidence and a reading of the relevant parts of the Constitution and the other appropriate historical documentation. My colleague, OLYMPIA SNOWE, and others have eloquently gone through many of the details of the case, and I will not take time to repeat them now.

I concluded that the charges of perjury and obstruction of justice, while serious indeed, overlaid an immoral but not a criminal act against the state, one that is essentially private and not a public act. Therefore, in my judgment the charges did not rise to the level of high crimes and misdemeanors, a high constitutional bar which has served us exceedingly well over the last 223 years.

So today for those same reasons, and in respect for the people of this democracy, I will vote to acquit the President on both charges.

As I said in an earlier statement, which at this time I would like to add to this record, this vote should not be interpreted as approval of the President's actions which were reckless, irresponsible and showed a serious lack of judgment. A sexual dalliance with a White House intern and the subsequent breach of the public trust will cast a deep shadow over his other notable accomplishments and will forever tarnish his presidential legacy.

I cast this vote and find my comfort in a clear conscience, in the Constitution, and in the will of the people.

In closing, let me make one last appeal. Let us put forth a strong censure resolution. One that doesn't attempt to provide cover for either political party or to make us feel better or worse about our votes. We can all defend our votes, and certainly we will be called on to do so. Let us, rather, craft a resolution which could receive a majority support of both parties. The wording should condemn the President's actions in the strongest terms and call for a national reconciliation.

UPHOLDING THE CONSTITUTION

Several weeks ago the Senate took up the somber Constitutional task of sitting in judgment of a president in an impeachment trial. Throughout the trial, I have limited public comment to underscore the impartiality I have brought to this process. Both sides have now spoken and I have reviewed all of the evidence as required by the

Constitution. My decision has been made: the actions of President Clinton, while wrong, indefensible and reckless, do not meet the Constitutional standards for removal from office. Therefore I have voted to dismiss the Articles of Impeachment against the President.

From the start, I have tried to focus on what the Framers of the Constitution had in mind when they carefully crafted the Impeachment Clause. It is important to remember that for more than 100 years the colonies suffered under the thumb of the tyrannical kings of the English monarchy. A principle goal of the Framers was to have a mechanism to protect the populace from corrupt and oppressive leaders.

In the Federalist Papers, Alexander Hamilton and James Madison argued that impeachment be used only for ''distinctly political offenses against the state.'' Our Founders were trying to guard against tyranny and oppression, and not personal actions no matter how reprehensible. More than 700 noted legal and historical scholars, both conservative and liberal, agree with this constitutional interpretation of the impeachment clause.

The Founders were also rightly concerned that impeachment might be employed as a partisan tool to undermine, even destroy, high ranking government officials—especially the President. They worried a ''powerful partisan majority'' might misuse it for public gain. The House impeachment vote, which essentially fell along party lines, is troubling. Such partisanship was absent during the Watergate proceedings. At that time Republicans and Democrats on the House Judiciary Committee joined together to vote for impeachment because the evidence showed crimes were committed against the government.

I also voted against calling witnesses because it is clear that a complete and fair trial can and should be conducted on this voluminous and well-publicized record. Our nation deserves to be spared this protracted spectacle, particularly at a time when public disillusionment of government is at an all-time high and issues like Social Security, education and international crises demand our immediate attention.

Critics of this position will somehow believe that President Clinton has avoided punishment. On that issue, let me make two points. First, the power of impeachment was never meant to punish the president, but to protect the nation. Second, the president has already suffered by his reckless behavior and, unfortunately, so has his family. In addition, criminal charges could be brought against him once he leaves office, and he is still subject to civil charges. Worst of all, his inappropriate and reckless behavior and the subsequent breach of public trust will cast a permanent shadow over his other notable accomplishments and will forever tarnish his presidential legacy.

In 1868 Senator James G. Blaine voted to convict and remove Andrew Johnson, the only other president to be impeached. Twenty years later he said he had made a ''bad mistake'' and recanted. Upon further reflection he realized that the charges did not warrant the ''chaos and confusion'' of removing President Johnson from office. Likewise, these charges do not warrant the ''chaos and confusion'' that could occur should our last presidential election be overturned.

At the conclusion of this trial, I plan to cosponsor a strong censure resolution of President Clinton concluding that his conduct in this matter has brought shame and dishonor to himself and the Office of the President. In my opinion, it would bring a sensible end to this regrettable chapter in American political history. Finally, the ultimate political judgments will be made by the people in future elections. And the lasting judgment will be made by the only One who can.

Mr. SMITH of New Hampshire. Mr. Chief Justice, thank you very much. I would certainly give more than a penny for your thoughts on this matter. But I am afraid we will probably never know.

Mr. Chief Justice, I have been proud to be a U.S. Senator ever since that day over 8 years ago when I took the oath of office and my colleague, Senator BYRD, told me that I was the 1,794th person to serve in the U.S. Senate.

During my tenure in the Senate, I have learned to respect my colleagues even when I strongly disagree with them on the issues of the day. I have challenged colleagues on issues and maybe at times even criticized their votes. But I have never challenged a colleague's motives and I never will. I respect each and every one of you and the high office you hold.

I consider it a great honor to serve in this body, and serve with some giants here—Senator HELMS, Senator THURMOND, Senator BYRD, to name a few.

I remember when I came to the floor of the Senate and signed that book as No. 1,794. Senator BYRD reminded me of the significance of that. And I have never forgotten it.

I also sit at the desk of Daniel Webster. It is a constant reminder that I am just a temporary steward occupying this seat in the U.S. Senate. It is also a reminder that we will move on. But the Constitution will not move on. The Constitution will endure forever. Our role here in this proceeding is to preserve the Constitution and the Presidency. Yes—even if it means we have to remove the President.

Mr. Chief Justice, when the rollcall is called tomorrow, I will be voting ''guilty'' on both of the articles that are now before the Senate. It is clear that the Senate will not be finding President Clinton guilty on either article. But I just want to say regarding censure that my vote is my censure. I think anyone who votes to find him guilty does not need to be concerned about censure.

As I contemplate my vote, I am reminded of a prayer offered in 1947 by a former Chaplain of the Senate, Rev. Peter Marshall. Reverend Marshall prayed: ''Our Father in Heaven . . . help us to see that it is better to fail in the cause that will ultimately succeed than to succeed in a cause that will ultimately fail.''

I have faith that the cause in which I believe will ultimately prevail, because I believe that history will judge that President Clinton is, in fact, guilty of high crimes and misdemeanors that warrant his removal from office. I know others respectfully disagree. And believe me, I respect that disagreement.

Many of my colleagues have spoken on the instability a guilty verdict would cause for the Nation. We should never remove a President unless there is clear and present danger to the Nation, they say. With respect, colleagues, I submit to you that the double standard that we have set for our leader will ignite a cynicism directed against all of us. A cynicism is a clear and present danger to society.

With a not guilty verdict, you will tell the American people that perjury and obstruction of justice for the President are acceptable; that those who put their lives on the line for our Nation every day in our Armed Forces have a higher standard than the Commander in Chief; and that for everyone else in America who lose their jobs because of perjury and obstruction, that is not acceptable.

We reap what we sow. In my view, respectfully, history will judge us harshly for this. And I say that in great humbleness. It is my view. A not guilty verdict is a short-term victory for the President. It is a long-term defeat for truth, for honor, for integrity, for the Presidency, and, in my view, for the Constitution.

As Peter Marshall intimated in his prayer, with a not guilty verdict we have succeeded in a cause which I believe will ultimately fail.

My colleagues, we are all elected officials. And I want to comment about this partisanship. I say it in the spirit of bipartisanship. We have all been through the same ordeal together here. The nasty fundraising, the ad wars, dirty campaign tactics, thousands of miles of travel, neglecting our families, hours and hours away from home, much to the detriment of our own health and financial well-being. We do it all the time. And for anyone inside or outside this institution to suggest that my vote, or your vote, or anyone's vote in here is based on partisanship not only makes me sick, it makes me bristle with anger.

What are my colleagues really saying when they invoke the word ''partisanship''? Do you really believe that the impeachment of the President of the United States by a majority of the Members of the House of Representatives, the body that is elected every 2 years, gives closure to the people, and

the body elected by the same voters who elect one-third of us every 2 years would impeach the President of the United States because he is a Democrat? Even to imply that is unworthy, it is arrogant, and it is below the dignity of this very seat that you now hold. Have you forgotten the ''war'' that James Carville declared on Ken Starr a year or so ago, and on the Republicans, to protect the innocent Bill Clinton?

Was that partisan? Was the President totally innocent? Partisanship has no place in this Senate, especially when it sits as a Court of Impeachment. We are here to do impartial justice, to be unbiased triers of fact. Yet, we have allowed that runaway partisan train of White House apologists, I might say, to rumble into the Senate with no brakes.

One of my colleagues mentioned the courage of Republicans who voted against impeachment in the House. How about the Democrats who voted to impeach? Are they, by implication, cowards?

Alexander Hamilton would be appalled at the notion of partisanship in an impeachment trial. Indeed, writing in the Federalist Papers, Hamilton said that the impeachment of the President ''will seldom fail to agitate the passion of the whole community, and to divide it into parties more or less friendly to the accused.

''There will always be the greatest danger,'' Hamilton warned, ''that the decision will be regulated more by the comparative strength of the parties, than by the real demonstrations of innocence or guilt.''

Mr. Chief Justice, there was a hero of the Revolutionary War era, Dr. Joseph Warren. He was a doctor. He didn't have to serve; he was 34 years old. His colleagues begged him not to go. But he picked up arms at Bunker Hill at 34 years old and he said, ''Our country is in danger. On you depend the fortunes of America. You are to decide the important questions upon which rest the happiness and the liberty of millions yet unborn. Act worthy of yourselves.'' He was killed at the Battle of Bunker Hill.

We don't act worthy of ourselves when we let partisanship enter into this trial, or even accuse one another of it. Why is it, when Democrats march in lockstep on a vote, that we Republicans are the only ones being accused of partisanship?

Why are the House Republicans partisan because they vote out the articles, yet the Democrats who vote to block them are not partisan?

I have served with HENRY HYDE in the U.S. House of Representatives, and so have many of you. There is not even a remote chance—and every single one of you knows it—not even a remote chance that HENRY HYDE would bring articles of impeachment against the President of the United States of any party if he didn't believe they were justified.

Honorable men and women can disagree on these articles, but leave your politics at the door. Act worthy of yourselves.

If the articles were so outrageous, so political, so partisan, so vindictive, and it is nothing more than a private sexual matter, then why do those of you who say those things want to censure this President using such terms to describe his actions as ''shameful,'' ''disgraceful,'' ''reprehensible,'' ''false'' and ''misleading,'' and so forth?

Before I leave the matter of partisanship, let me say a few words about the case of our former colleague, Senator Packwood. My colleagues know I was a member of the Ethics Committee, and I supported the expulsion of Senator Packwood. I lost a colleague, and I lost a friend over that.

That case, too, was ''about sex.'' My colleagues and I didn't shrink from doing our duty in the Packwood case because this outrageous behavior was about sex.

In addition, those organizations advocating that the Senate take strong action against Senator Packwood were, by and large, liberal feminist groups, which I disagree with on nearly every issue.

That, however, did not matter. Instead of being partisan or being deterred because the case was about sex, those of us on the Ethics Committee painstakingly investigated that case in all of its sordid and unpleasant detail. We considered the shameful behavior in which Packwood engaged. We considered how his behavior reflected on his fitness to serve. We considered his obstruction of the investigation with respect to his diaries.

And in the end, the committee, Republicans and Democrats alike, voted to recommend to the full Senate that he be expelled. In doing our duty as we saw fit, we were not deterred by the argument that we were ''overturning an election,'' nor were the Republican members of the Ethics Committee—at the time, Senators MCCONNELL, CRAIG and myself—deterred by the fact that Senator Packwood was a member of our own party, nor were we deterred because liberal feminist groups were aggressively supporting many of the women accusers of Senator Packwood. The heart of the issue is not who Paula Jones' lawyers are, my colleagues, but, rather, did Bill Clinton expose himself in the presence of Paula Jones against her wishes? That is at best sexual misconduct, and at worst it is sexual harassment. Right wing groups did not find Paula Jones. Bill Clinton did. He says he didn't do it. Do you really believe him? The women accusers of Senator Packwood received justice in spite of those who promoted their cause. Paula Jones deserves the same treatment. The Supreme Court agreed 9 to zero. It is outrageous to say, as some have on this floor, that it is acceptable to expel Senator Packwood and acquit the President. That kind of debate should not take place on the floor of the Senate. How can you say that Senator Packwood is equal under the law, and yet the President is above the law?

Today, I ask my colleagues in the Senate to do in the impeachment case of President Clinton what we did in the ethics case of Senator Packwood. Put aside your political affiliation. Put aside your friendship or your personal disdain for President Clinton. Put all of that aside and do the right thing.

The House managers have established, I believe, beyond a reasonable doubt that President Clinton perjured himself and obstructed justice. As such, I don't believe we have any option other than to remove him from office and replace him with the Vice President—a fine, decent man, as many of his predecessors who have assumed the office of the Presidency during difficult times, and the Nation has persevered.

As I have listened to my colleagues in these final deliberations, I have heard time and again that the House managers did not prove their obstruction of justice charge because of conflicts in testimony. We heard about all these conflicts—conflicts in testimony about the hiding of the gifts, conflicts in testimony about the job search, conflicts in testimony about the President's coaching of Betty Currie.

Well, let me ask you, colleagues, if you believed that these conflicts needed to be resolved, then why didn't you join some of us who signed a letter to call for the President of the United States to come here to the Senate and tell the truth? What were you afraid of?

We could have called President Clinton here to a closed session of the Senate. It need not have been a media spectacle. It can and should have been a closed session—just the Senate and the President.

Time and again, I have heard my colleagues say that there should be a higher standard for removing a President of the United States than for removing a Federal judge or expelling a Senator Packwood. If there is such a higher standard for the law, then why not insist on a higher standard for the man?

One of my colleagues mentioned the Iran-contra matter. At an earlier time, not too many years ago, when impeachment talk was in the air, President Ronald Reagan walked to the microphone, and he said, ''I take full responsibility for my own actions and for those of my administration. As angry as I may be about activities undertaken without my knowledge, I am still accountable for those activities. As disappointed as I may be in some who served me, I'm still the one who must answer to the American people for this behavior. And as personally distasteful as I find secret bank accounts and diverted funds—well, well, as the Navy would say, this happened on my watch.''

Oh, what a little honesty and candor can do for the soul of the Nation. Why didn't we call the President? Why didn't every Member of this Senate sign that letter? What would be wrong

with having him come, either in deposition or in person? I will always regret that we failed to do so. We will never know whether the President's own testimony here before us could have better enabled us to do our constitutional duty. We will never know. The President testified before the grand jury. He testified before the Paula Jones case. He should have testified at his own impeachment trial so we could get the truth, so those of you who want to know whether or not he obstructed justice or committed perjury could have heard from him, not his lawyers. It is a permanent black mark on this trial, and I believe historians will ask for a long, long time: Why didn't the President testify? It could have changed the outcome of the trial.

Speaking of constitutional duty, I am reminded of the President's oath. Article II, section 1, clause 7, of the Constitution provides that:

> Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation: ''I do solemnly swear (or affirm) that I will faithfully execute the Office of the President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.''

The Constitution considers the oath so important that it requires the man or woman who is elected President to take it. So given the importance of an oath—it is so important that no one elected can serve unless they take it—how can we say that willful violation of that oath, being perjury and obstruction, doesn't rise to the level of impeachment?

President Clinton has discredited the oath that the chief law enforcement officer of the Nation must take. We have compounded that discredit by not holding him accountable.

Manager LINDSEY GRAHAM said that ''we could leap boldly into the 21st century by ignoring the rule of law.'' Unfortunately, the Senate opted to crawl.

My colleagues, we all in politics know what a user is. With all due respect, Bill Clinton is a user. He used Monica Lewinsky; he used his friends; he used his Cabinet; he used the American people; and now he is using the Senate.

The President has never been held accountable. He wasn't held accountable for not telling the truth about the draft; he was not held accountable for not telling the truth about marijuana; he was not held accountable for lying about his relationship with Gennifer Flowers; he was not held accountable for his actions towards Paula Jones; he was not held accountable for lying about Monica Lewinsky. He will walk away from this trial with an acquittal, and yet again he will avoid accountability for his actions. He will avoid being held accountable for the actions that every American citizen, every teacher, every CEO, every military man and woman, would have lost his or her job over, and we let it happen. We did. With the greatest respect, that is not a profile in courage.

After the acquittal, I hope we will not be a party to the party. The champagne corks will pop; cigars will be lit; maybe even the bongo drums will be played. I implore you, colleagues, don't go to the party. There is nothing to celebrate. Act worthy of yourselves.

In 1880, when Dostoevsky, the great Russian author, wrote ''The Brothers Karamazov,'' he could not even have dreamed that there would ever be a Bill Clinton, but here is what he says, and it goes right to the heart of this entire case:

> The important thing is to stop lying to yourself. A man who lies to himself and believes his own lies becomes unable to recognize the truth, either in himself or anyone else, and he ends up losing respect for himself as well as for others.
>
> When he has no respect for anyone, he can no longer love. And in order to divert himself, having no love in him, he yields to his impulses, indulges in the lowest form of pleasure, and behaves in the end like an animal in satisfying his vices. And it all comes from lying, lying to others and to yourself.

The rule of law and the President's constitutional oath must pass the test of truth. President Clinton, regrettably, failed that test.

Mr. Chief Justice, I am satisfied beyond a reasonable doubt that William Jefferson Clinton is guilty of perjury, is guilty of obstruction of justice, and must be removed from office. I have only to answer to my conscience, to the Constitution, and the judgment of history, and I stand ready for that judgment.

I yield back any time.

Mr. BINGAMAN. Mr. Chief Justice, colleagues, I will vote to acquit the President on the two articles of impeachment. I will vote ''no'' for two reasons. First, the House has failed to allege acts by this President which in the context of this case constitute high crimes and misdemeanors. And, second, the House managers allege that the President committed crimes, but they have failed to establish the elements of those crimes.

The illicit sexual affair which the President engaged in, and the President's efforts to conceal that affair, are permanent black marks on his Presidency. His actions were deplorable, indefensible, and immoral.

But however reprehensible these acts were, they are not impeachable offenses. They did not endanger the Government. They were not the ''stuff'' which the writers of the Constitution had in mind when they used the phrase ''high crimes and misdemeanors.''

I think we should act accordingly. Our duty, as I see it, is to look at the record, look at the arguments, judge our own authority as it has been given to us in the Constitution, and then vote either to remove the President or to acquit the President.

I want to spend just a minute on this issue of our own authority. As I hear some of the discussion, it seems to me we have lost sight of our own authority. Some have argued that if a university president were to have engaged in these acts, clearly the board of regents of the university would fire that president. Some have said if a chief executive officer of a corporation were to engage in a course of conduct like this, the board of directors of the corporation would fire the chief executive officer.

I was visiting the United Parcel Service facility in Albuquerque right before Christmas, and I was talking to various people there. One of the men said, ''I hope you throw the President out of office because if I did what he has done my boss would sure fire me.'' That is the way a lot of us tend to think about this issue. And the discussion here this afternoon has been consistent with that. So I think it is worth focusing on what is wrong with that argument.

What is wrong with that argument is that we are not the President's boss. We did not hire the President. The American people hired the President, just like the American people hired each one of us. And we have very limited authority under the Constitution to step in and interfere with the decision of the American people in that regard. I do not believe that the Constitution intended that we would set ourselves up as the judge of the President's character, or to determine whether we believe this President is trustworthy enough to remain in office. That issue is not for us to decide. That was decided by the American people. They have not delegated that decision to us.

I am reminded of a story from New Mexico politics. We had a mayor in Albuquerque many years ago named Clyde Tingley. He was very proud of the city zoo, which he had built with city funds. He was showing the zoo to a high official in the Catholic Church one day. And the official at one point said, ''Well, Mr. Mayor, this is an amazing project here. The people of Albuquerque ought to canonize you for this.'' The mayor shot back, ''A bunch of them tried during the last election. But they didn't get away with it.''

I think a bunch of people tried to throw this President out of the White House in the last election because of questions about his character, but they didn't get away with it. These are not new questions about this President. These are questions which have been raised and raised and raised about whether this President is trustworthy, whether this President has demonstrated the character necessary to serve as President. And we really did already have a vote. Every one of us has already voted on whether to remove this President from the White House. Each one of us voted on that issue in November of 1996. I would assume a majority of us in this Chamber voted to remove him from the White House. But the American people chose to keep him there. The American people judged him to be worthy of the job and chose him to be their President for another four years. And they did not authorize us to second guess that decision.

So we need to look at our own job here, and say to ourselves, ''Are we here to pass judgment on the President's character, are we here to pass judgment on the President's trustworthiness, are we here to determine whether he is a proper example for young people, or instead are we here to decide whether he has committed high crimes and misdemeanors that would justify removing him from office?''

Senator JOE BIDEN put it very well by saying that this branch of government—the House and Senate—should be very reluctant to reach across and remove the head of another branch of government. That is an extraordinary act. It has never occurred in the history of this country. For good reason it has never occurred. It would be a major mistake for us to take that action at this time.

The framers of the Constitution did not intend Congress to remove a duly elected President on the basis of facts such as these, and they were right to deny the Senate that authority. The stability of the executive branch must not be put at risk by Congress, contrary to the ''electoral will'', absent a clear showing of ''high crimes and misdemeanors'' by the President. There is no such clear showing here. The proper remedy for this kind of improper conduct is in the voting booth, not here on the floor of the United States Senate.

In my view, the House misused the power of impeachment when it voted these articles of impeachment against the President. It would compound the misuse of power if the Senate were to vote to convict and remove. My vote will be to acquit.

Mr. BENNETT. Mr. Chief Justice, as I have sat through this trial, I have not spent much time on questions of reasonable doubt or where the preponderance of evidence lies. Whatever the importance of those concepts in a typical court, the constitutional implications of what we are considering are much more serious than the issues decided in a normal trial. I will not vote to remove a sitting President on the turning of a legal issue.

Accordingly, early in the trial I decided that I would not vote to convict under the First Article of Impeachment. It struck me as overly legalistic. I listened to the lawyers argue about the proper form of the article, and I heard about questions of materiality—not a term I use in everyday conversation—and I decided that while the case was there, it was shaky. In order to be sure I would render impartial justice, I asked myself if I would remove Ronald Reagan in a similar circumstance. When I realized I would not, I decided that I could not vote to remove Bill Clinton.

Once I had made that decision, I more or less tuned out further discussions on Article One, from either side, and concentrated on Article Two.

Here the issues seemed more disturbing. The Constitution guarantees that the most ordinary of citizens has the right to her day in court, regardless of her hair or her nose or her choice of attorneys. The man she sues, even if he is the most powerful man in the country, does not have the right to lie while testifying under oath in her case, to deny her truthful discovery just because it would embarrass him. He does not have the right to encourage others who are beholden to him, either for their jobs or for favors he has done for them, to do the same, even by interference. He does not have the right to coach and mislead potential witnesses. He does not have the right to use the awesome power of the White House public relations apparatus to spread false and malicious rumors about people—calling them ''stalkers,'' ''trailer park trash'' and ''liars''—just because he thinks they might embarrass him if they tell the truth.

It has been said that it was understandable for President Clinton to do all these things because he was just trying to cover up a sexual affair, and, after all, everyone lies about sex. Well, not everyone. We have had other Presidents whose sexual improprieties have been made public at awkward times—Grover Cleveland, while a candidate for President, was exposed as having fathered a child out of wedlock. Asked by his panicked political allies what to do he said, ''Tell the truth, of course,'' and won the election. Bill Clinton should take such notes.

What finally convinced me to vote for Article Two was the statement of my good friend, Dale Bumpers. I thought he was magnificent. He told us that the fundamental purpose of the Constitution was to ''keep bullies from running over weak people.''

I was struck by that. I wrote it down. Then I asked myself, ''In this case, who is the bully, and who are the weak people?''

While publicly posing as a helpless victim of a relentless prosecutor, it was President Clinton and the people in his famous ''war room'' who were the bullies, using presidential powers and presidential lies to run over the rights of Paula Jones and, if necessary, Monica Lewinsky.

Any President who is willing to lie and smear and stonewall, whether under oath in a courtroom or before a TV camera, speaking confidentially to his aides or privately to his family—any President who is so ruthless, disdainful of the truth and callous of the rights of others that he is willing to do anything to ''just win, then''; any President who readily uses the power of his office for his personal ends regardless of who is hurt—that President is a bully and, as such, a threat to the constitutional liberties of us all.

Dale Bumpers said that the Constitution was written to keep bullies from running over weak people. That's called justice. William Jefferson Clinton tried to obstruct that justice. And I decided to vote to remove him from office.

So there I was—ready to vote not guilty on Article One, guilty on Article Two. I sat down and wrote a fancy speech outlining these conclusions, showed it to a few friends, notified my staff and sat back to let things play out.

As the trial proceeded, however, something was gnawing at me. The perjury charge kept creeping back into my mind. That something, as I confronted it, was my experience with the Clinton political apparatus and its modus operandi. At the heart of everything that apparatus and its operatives do, whatever the situation, is the process of lying.

Some of their lies have been whoppers, some trivial. Most have been dismissed as mere ''spin,'' relatively few have been under oath, but the continuing pattern of distorting, avoiding and, when necessary, simply denying the truth goes back to the 1992 campaign. It has carried through the three Senate investigations in which I have participated. On a parochial note, it defined the process of creating a stealth National Monument in my state. It has permeated the entire PR campaign connected with the Lewinsky affair. The New York Times calls it ''habitual mendacity.''

If this were a standard trial, as juror I would not know any of that. I would have to make up my mind solely on the basis of the evidence presented here. Some would say I still should.

I believe that the Framers of the Constitution dictated otherwise. They chose the Senate as the trial court of impeachment deliberately, giving us extensive powers as both judge and jury, and they were not naive enough to think that we would check our understanding of the history of the accused President at the door as we took up this burden. They intended for this to be different than a typical trial court.

When I realized that, I began to rethink my earlier decision. With such a pattern of ''habitual mendacity'' running through his entire public career, could I really say that Bill Clinton's perjurious testimony before the Grand Jury didn't warrant removal?

I made my decision to change my vote to ''guilty'' on Article One during the closing arguments when Charles Ruff, the President's attorney, asked us a question with respect to an alleged high crime or misdemeanor. He asked, ''would it put at risk the liberties of the people?''

As I watched a replay of the President's testimony repeating obvious lies while under oath, I realized that the answer is yes. A President who has demonstrated a capacity to lie about anything, great or small, whether or not under oath, does threaten our liberties. We cannot be sure of anything he says, we cannot trust his word, whatever the issue. We will always be fearful of where that trait of his could take us, and we should be.

So now I will vote guilty on both Articles, with a clear conscience that I have done my duty. And I would vote

the same if the President's name were Ronald Wilson Reagan.

Mr. REED. Mr. Chief Justice, for the past six weeks, the Senate has been engaged as a Court of Impeachment to try President William Jefferson Clinton—the first trial of an elected President in the history of the United States. Our deliberations will bring to a close more than a year of controversy which has left the American people both frustrated and dismayed. And, hopefully, our decision will serve as a means of rededicating the energies of our Government to the service of the American people.

In this endeavor, our solemn duty to the Constitution is paramount.

Conscious of these responsibilities and based on the evidence in the record, the arguments of the House Managers and the counsels for the President, I conclude as follows. The President has disgraced himself and dishonored his office. He has offended the justified expectations of the American people that the Presidency be above the sordid episodes revealed in the record before us. However, the House Managers failed to establish that the President's conduct amounts to ''high Crimes and Misdemeanors'' requiring his removal from office in accordance with the Constitution. Moreover, the House Managers also failed to prove, beyond a reasonable doubt, that the allegations in the Articles would constitute the crimes of perjury or obstruction of justice.

The Constitutional grounds for Impeachment, ''Treason, Bribery, or other high Crimes and Misdemeanors,'' indicate both the severity of the offenses necessary for removal and the essential political character of these offenses. The clarity of ''Treason'' and ''Bribery'' is without doubt. No more heinous example of an offense against the Constitutional order exits than betrayal of the nation to an enemy or betrayal of duty for personal enrichment. With these offenses as predicate, it follows that ''other high Crimes and Misdemeanors'' must likewise be restricted to serious offenses that strike at the heart of the Constitutional order.

Certainly, this is the view of Alexander Hamilton; one of the trio of authors of the Federalist Papers which is the most respected and authoritative interpretation of the Constitution. In Federalist No. 65, Hamilton describes impeachable offenses as ''those offenses which proceed from the misconduct of public men, or, in other words from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself.'' [1]

This view is sustained with remarkable consistency by other contemporaries of Hamilton. George Mason, a delegate to the Federal Constitutional Convention, declared that ''high Crimes and Misdemeanors'' refer to ''great and dangerous offenses'' or ''attempts to subvert the Constitution.'' [2] James Iredell, a delegate to the North Carolina Convention which ratified the Constitution and later a justice of the United States Supreme Court, stated during the Convention debates:

> The power of impeachment is given by this Constitution, to bring great offenders to punishment. . . . This power is lodged in those who represent the great body of the people, because the occasion for its exercise will arise from *acts of great injury to the community*, and the objects of it may be such as cannot be easily reached by an ordinary tribunal.[3]

Iredell sustains the view that an impeachable offense must cause ''great injury to the community.'' These interpretations strongly indicate that private wrongdoing, without a significant, adverse effect upon the nation, does not constitute an impeachable offense.

Later commentators expressed similar views. In 1833, Justice Story quoted favorably from the scholarship of William Rawle in which Rawle concluded that the ''legitimate causes of impeachment . . . can have reference only to public character, and official duty. . . . In general, those offenses, which may be committed equally by a private person, as a public officer, are not the subject of impeachment.'' [4]

This line of reasoning was manifest in the careful and thoughtful work of the House of Representatives during the Watergate proceedings in 1974. The Democratic staff of the House Judiciary Committee concluded that:

> [b]ecause impeachment of a President is a grave step for the nation, it is to be predicated only upon conduct seriously incompatible with either the constitutional form and principles of our government or the proper performance of constitutional duties of [the President's] office.[5]

This view was echoed by many of the Republican members of the Judiciary Committee when they declared:

> . . . the Framers . . . were concerned with preserving the government from being overthrown by the treachery or corruption of one man . . . [I]t is our judgment, based upon this constitutional history, that the Framers of the United States Constitution intended that the President should be removable by the legislative branch only for serious misconduct dangerous to the system of government.[6]

This authoritative commentary on the meaning of ''high Crimes and Misdemeanors'' is supported by the structure of the Constitution which makes impeachment independent from the operation of the criminal justice system. Regardless of the outcome of an impeachment trial, the accused ''shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.'' [7] The independence of the impeachment process from the prosecution of crimes underscores the function of Impeachment as a means to remove a President from office, not because of criminal behavior, but because the President poses a threat to the Constitutional order. Criminal behavior is not irrelevant to an Impeachment, but it only becomes decisive if that behavior imperils the balance of power established in the Constitution.

The House Managers argue that we should apply the same reasoning to the removal of the President that we have applied to the trial of Federal judges. They make their argument with particular urgency in regard to Article I and its allegations of perjury since several judges have been removed for perjury.[8]

This reasoning disregards the unique position of the President. The President is elected and popular elections are a compelling check on Presidential conduct. No such ''popular check'' was imposed on the Judiciary. They are deliberately insulated from the public pressures of the moment to ensure their independence to follow the law and not a changeable public mood. As such, impeachment is the only means of removing a judge. And, the removal of one of the 839 Federal judges can never have the traumatic effect of the removal of the President. To suggest that a Presidential impeachment and a judicial impeachment should be treated identically strains credibility.

Moreover, the Constitution requires that judicial service be conditioned on ''good Behavior.'' This adds a further dimension to the consideration of the removal of a judge from office. Although ''good Behavior'' is not a separate grounds for impeachment, this Constitutional standard thoroughly permeates any evaluation of judicial conduct. Judges are subject to the most exacting code of conduct in both their public life and their private life.[9] Without diminishing the expectations of Presidential conduct, it is fair to say that we expect and demand a more scrupulous standard of conduct, particularly personal conduct, from judges.

The House Managers' argument is ultimately unpersuasive. Rather than reflexively importing prior decisions dealing with judicial impeachments, we are obliged to consider the President's behavior in the context of his unique Constitutional duties and without the condition to his tenure of ''good Behavior.''

Authoritative commentary on the Constitution, together with the structure of the Constitution allowing independent consideration of criminal charges, makes it clear that the term, ''high Crimes and Misdemeanors,'' encompasses conduct which involves the President in the impermissible exercise of the powers of his office to upset the Constitutional order. Moreover, since the essence of impeachment is removal from office rather than punishment for offenses, there is a strong inference that the improper conduct must represent a continuing threat to the people and the Constitution, and not simply an episode that either can be dealt with in the Courts or raises no generalized concerns about the continued service of the President.

[1] See footnotes at end of speech.

Measured against this Constitutional standard, the allegations against the President do not constitute ''high Crimes and Misdemeanors.'' The uncontradicted facts of the case paint a sordid picture of the President's involvement in a clandestine, consensual affair with a young woman. His atempts to disguise this affair collided with the Jones lawsuit; a lawsuit filed against him in his capacity as a private citizen, and not in anyway directed at his conduct as President. Over many months, he misled and he dissembled about his relationship with Monica Lewinsky. He lied to his family, he lied to his colleagues, and, on January 26, 1998, he lied to the American people. All of these lies were designed to disguise his illicit but consensual relationship with Ms. Lewinsky. Only after being compelled to testify before a Federal Grand Jury in August of 1998, did the President finally admit his relationship with Ms. Lewinsky.

The House Managers take this tale of deception and betrayal, more soap opera than high drama of State, and urge that it rises to behavior evidencing an impermissible exercise of his powers as President or an impermissible failure to discharge his duties as President which threatens the Constitutional balance of government and can only be remedied by the removal of the President. They urge too much. The allegations, even construed in the most favorable light to the House Mangers, do not constitute ''high Crimes and misdemeanors'' as that term has been consistently interpreted over the course of American history.[10]

One could confidently stop at this point and reach a judgment to acquit the President. Such a judgment does not forgive the disreputable behavior of the President. Rather, it does, as it must, keep faith with the Constitution.

However, to stop at this juncture and ignore the allegations of criminal conduct could leave several misperceptions. First, such an approach could be criticized as failing to afford the House of Representatives in appropriate recognition as the proponent of Articles of Impeachment. The House of Representatives acted in the discharge of its exclusive Constitutional prerogative to Impeach the President. They cast these Articles as criminal violations, and due deference must be given to the decision of the House. Second, failing to examine the allegations of criminal conduct may leave the erroneous impression that criminal activity by the President can never rise to the level of ''high Crimes and Misdemeanors.'' And, finally, failing to examine these allegations leaves in doubt charges of criminal misconduct against the President. Although the Senate does not sit as a criminal court, a condemnation or exoneration ''by silence'' would be unfair to both the President and to the American people.

The House Managers argue in Article I that the President committed the crime of perjury while testifying before the Federal Grand Jury on August 17, 1998. They argue in Article II that the President committed the crime of obstruction of justice in the Jones case. After considering the evidence and the arguments of the House Managers and the White House counsels, I believe that the House Managers have not shown, beyond a reasonable doubt, that the President is guilty of the alleged crimes.

It is without dispute that the House Managers have the burden of proof. It is also without dispute that each Senator has the right individually to determine what constitutes the appropriate burden of proof. Because of the gravity of this impeachment process, but, more significantly, because of the urging of the House Managers,[11] I believe that a standard of beyond a reasonable doubt should be used.[12] This is the standard used in the prosecution of criminal cases.

Article I alleges that the President committed perjury before the Grand Jury by knowingly making false, material statements. The first great hurdle that the House Managers must overcome is the fact that the House refused to adopt an article of impeachment regarding the President's testimony at the Jones deposition. However one characterizes these two statements under oath, no one can argue that the President was more truthful at the Jones deposition. Most, if not all, would argue that he was considerably less truthful at the Jones deposition. This discrepancy fatally undercuts the contention that this Article constitutes ''high Crimes and Misdemeanors,'' and it seriously erodes the claim that the President committed the crime of perjury before the Grand Jury. Unlike the Jones deposition, the President admitted up front in his Grand Jury testimony that he had engaged in ''inappropriate intimate behavior'' with Ms. Lewinsky while they were ''alone.''

Confronted with this preemptive statement by the President, the Article generally alleges perjury without citing specific statements from the Grand Jury testimony and leaves the House Managers with the task of sifting through the record to suggest examples of the President's alleged perjury. They suggest four general areas.

First, they point to discrepancies between the testimony of the President and Monica Lewinsky about intimate details of their relationship. This is a difficult proposition to prove without corroborating evidence, and the House Managers offer none. Moreover, some of these details, such as the number of times they engaged in sexual banter on the phone, are just not material.

Second, the House Managers attempt to ignore the President's preliminary statement and argue that he adopted the ''perjurious'' testimony of his Jones deposition. This is simply not true. To make this assertion, the House Managers use the President's Grand Jury testimony that ''I was determined to walk through the mind field of this deposition without violating the law, and I believe I did.''[13] But, the President's peremptory statement clearly indicated that he was not vouching for the facts of his Jones deposition. The President's statement expresses his state of mind. It is not an affirmation of the Jones testimony. Not even Independent Counsel Starr alleged that the President committed perjury in this way.

Third, the House Managers allege that the President's silence, while his counsel made representations about the Lewinsky affidavit, constitutes perjury. This novel theory of ''unspoken perjury'' fails from the lack of any conclusive evidence concerning the President's state of mind at this time. Such evidence is necessary to prove the specific intent to establish the crime.

Fourth, the House Managers alleged that the President committed perjury when he denied his involvement in the obstruction of justice, particularly his alleged involvement in the exchange of gifts between Monica Lewinsky and Betty Currie. This topic will be discussed in more detail with respect to Article II. At this juncture, it is sufficient to note that the House Managers have not presented evidence to indicate beyond a reasonable doubt that the President committed perjury.

Fifth, the House Managers allege that the President committed perjury when he denied ''coaching'' Betty Currie. Again, this issue will be addressed in more detail with respect to Article II. But, this allegation also fails from the absence of persuasive evidence establishing the President's specific intent in conducting this conversation with Ms. Currie.

Finally, the House Managers allege that the President committed perjury when he gave false information to his aides about his relationship with Ms. Lewinsky. This too raises the issue of the President's state of mind. His Grand Jury testimony expressed his belief that he tried to say things that were true. He acknowledged that he misled, but he asserted that he tried not to lie. To prove that these statements are perjurious, the House Managers had to prove that the President had the necessary specific intent. They have not done so.

Article II alleges that the President obstructed justice. The article sets forth seven ''acts'' which the House Managers argue the President used to implement this ''scheme.''

Three of these alleged ''acts,'' encouraging Monica Lewinsky to file a false affidavit, urging her to give false testimony, and finding her a job to obtain her silence, crash on an immovable evidentiary rock: Monica Lewinsky's uncontradicted and often repeated statement, ''no one ever asked me to lie and I was never promised a

job for my silence.''[14] The House Managers offered other circumstantial evidence, but this too failed to be persuasive.

The fourth ''act'' involves the transfer of gifts between Ms. Lewinsky and Ms. Currie. Although Ms. Lewinsky's testimony strongly suggests that the President directed Ms. Currie to retrieve gifts, the two parties to this suggested transaction, the President and Ms. Currie, flatly deny any such conversation. Certainly, there is more than a reasonable doubt based on this conflicting testimony; particularly, since no one has ever impeached Ms. Currie's credibility.

The fifth ''act'' recharacterizes the President's silence, while his attorney made representations about Ms. Lewinsky's affidavit, as obstruction of justice. This allegation fails based on the lack of any conclusive evidence of the President's state of mind.

The sixth ''act'' involved the purported coaching of Betty Currie by the President after his Jones deposition. This allegation too turns on the President's state of mind. The House Managers argue that the President's intent was to influence the testimony of Ms. Currie as a potential witness. White House counsels argue that the President had no reasonable anticipation that she would be a witness. But, more decisively, they argue that his intent was to confirm his story in anticipation of a media onslaught. The lack of persuasive evidence about his state of mind also undercuts this allegation.

Finally, the last allegation involves the President's purported attempt to influence the testimony of his aides. Again, the House Managers have not shown beyond a reasonable doubt that the President intended to make his statement to influence their testimony. There is an equally plausible inference that the President was simply continuing his public campaign to deny his relationship with Ms. Lewinsky. This campaign led him to lie to the American public and no one suggests he was then tampering with witnesses. Indeed, as a result of these public statements, it seems unlikely that he would tell his aides anything else.

The House Managers have not sustained their burden of proof in regard to Article II.

It is clearly evident that the facts of the case require acquittal. As such, serious questions can and should be raised about the unwarranted extension of the trial. Given the significant doubts surrounding the case of the House Managers, a motion to dismiss, followed by a debate on censure should have been utilized to properly put an end to these proceedings. Instead, a majority of the Senate accommodated the desire of the House Managers to excessively pursue allegations that were politically damaging to the President. Indeed, had members of the House of Representatives been allowed to consider censure this matter may never have reached the Senate.

We, as a nation and as the Senate, have come to the end of a long and wearisome road. It has wandered through scandal and deception. Many of those who have trod this road, both individuals and institutions, have seen their reputations besmirched. The journey emanated from the reckless conduct of William Jefferson Clinton. But, the passage has also exposed vicious political partisanship and the reckless and relentless exploitation of the powers of the Independent Counsel. In the midst of this dishonor, deception, and rancor, we could have easily lost our way. But, we reached this moment because we have been guided by the Constitution and inspired by the common sense and common decency of the American people, and with such a guide and such inspiration, we will do justice with our votes, whether they be to conflict or acquit.

And for my part, the Constitution and the evidence compels me to vote to acquit the President on both Articles of Impeachment.

FOOTNOTES

[1] *The Federalist Papers, No. 65* (Hamilton) at 396 (Clinton Rossiter, ed., 1961) (emphasis in original).

[2] Max Farrand, ed., *The Record of the Federal Convention of 1787*, at 550 (1966).

[3] Jonathan Elliot, *Debates on the Adoption of the Federal Constitution*, at 113 (emphasis added).

[4] Joseph Story, *Commentaries on the Constitution* §799 at 269–270 *quoting* William Rawle, *A View of the Constitution of the United States* at 213 (2d ed. 1829).

[5] *Constitutional Grounds for Presidential Impeachment, Report by the Staff of the Impeachment Inquiry*, House Comm. On Judiciary, 93rd Cong., 2d Sess. at 26 (1974).

[6] *Impeachment of Richard M. Nixon, President of the United States*, Report of the House Comm. on the Judiciary, 93rd Cong., 2d Sess., H. Rep. 93–1305 at 364–365 (Aug. 20, 1974) (Minority Views of Messrs. Hutchinson, Smith, Sandman, Wiggins, Dennis, Mayne, Lott, Moorhead, Maraziti, and Latta).

[7] U.S. Const. Art. I §3. Cl. 7.

[8] For example, both Judge Walter L. Nixon, Jr. and Judge Alcee L. Hastings were convicted based on charges of perjury.

[9] The Judicial Conference of the United States publishes a Code of Conduct for United States Judges, as prepared by the Administrative Office of the United States Courts. Cannon 2 of the Code requires federal judges to ''avoid impropriety and the appearance of impropriety in all activities.'' (March, 1997.) This Cannon requires a Judge to at all times act in ''a manner that promotes public confidence in the integrity and impartiality of the judiciary.'' Perceived violations of the Code could result in a complaint to the Judicial Conference, which can make referrals to the House Judiciary Committee.

[10] These allegations are a far cry from the most relevant historical precedent, the Watergate affair of President Richard M. Nixon. For example, President Nixon attempted to cover up a burglary of the Democratic National Committee by enlisting the authority and the assistance of the Central Intelligence Agency. The precipitating event of this crisis was a direct attack on a fundamental Constitutional tenet, the right to free and fair elections unimpeded by the criminal attempts to steal information and wiretap telephones. Moreover, President Nixon liberally exercised the formal powers of his office to impede the investigation.

[11] Mr. Manager McCollum stated, ''none of us, would argue . . . that the President should be removed from the office unless you conclude he committed the crimes that he is alleged to have committed.'' 145 Cong. Rec. S260 (daily ed. Jan. 5, 1999) (Statement of Mr. Manager McCollum). The House Managers invited the Senate to arrive at a conclusion beyond a reasonable doubt before voting to convict the President. I take them at their word.

[12] The adoption of a standard of ''beyond a reasonable doubt'' in this matter should not be construed as implying that the same standard must be utilized in each and every Impeachment proceeding. Conduct of ''civil officers'' in the performance of their official duties might pose such an immediate threat to the Constitution that a less exacting standard could properly be used. Any choice of a standard of proof must, at a minimum, consider the nature of the allegations and the impact of the alleged behavior on the operation of the government.

[13] Grand Jury Testimony of President Clinton on 8/17/98 as cited in the House Managers' Trial Brief, p. 60.

[14] *Part I, Appendices to the Referral to the U.S. House of Reps.*, Communication from The Office of the Independent Counsel, Kenneth W. Starr, 105th Cong. 2d Sess., H. Doc. 105–311 (September 18, 1998) at 1161. (Ms. Lewinsky responding to a question from a juror). *See also* Counsel to the President's Trial Brief, p. 57.

Mr. ENZI. Mr. Chief Justice and Colleagues of the Senate.

This has been a month long ethics and Constitution class—with mandatory attendance. That should have value for each of us.

I'm getting more mail each day than I normally get in a month—and most of it is from your constituents. That's right. Out of every 1000 letters I get, only 30 are from Wyoming. I have some ideas what your constituents are saying. I'm not a lawyer. I'm not going to present any legal arguments. Most of my constituents aren't lawyers. I notice that most of your constituents aren't either.

I've only served on one jury before and we didn't even get to render a verdict. A boy was being tried for poaching deer out of season—shot with a twenty-two. He was caught red-handed in the barn with the twenty-two and two of the six deer hanging to be butchered. The Boy's argument began claiming he hadn't been properly read his rights. His dad, supporting from the audience, stopped the trial by asking the judge if he could speak with his son. They went into the hall a couple minutes. A boy freshly chastised said, ''I want to plead guilty. In our family we don't believe in getting off on technicalities.'' A successful trial. I watched a boy become a man.

I thought about propounding a unanimous consent that anything already said couldn't be repeated as testimony even though it could be submitted. I thought that would speed up the proceedings. I will not propound it but will attempt to follow it. Instead of the smooth transitions and brilliant arguments, you will only hear what is left. I trust you will rush to get a copy of my whole statement. Here goes!

The President was so thorough in denying any relationship with Monica Lewinsky, that Janet Reno believed him. Janet Reno is the person who expanded the investigation into the Monica Lewinsky matter. The President told all of us he had done nothing wrong. His own Attorney General believed him. Janet Reno was helping to clear the air on these ludicrous charges when SHE gave Ken Starr the approval, direction and budget.

When our country was founded oaths meant everything. A man's word was his bond. Their oath was honor and duels were fought to defend honor. When this trial started you and I had to take an oath. It struck me that I might be taking an oath to determine if oaths still mean anything.

The White House argues that the President's actions will not have an affect on anyone. I am hearing from

judges who say people before their court are asking for the same treatment given the President. They do not feel their situation is as blatant as the President and they are more repentant and remorseful. Some have even taken action to correct their wrong. All feel they should get a suspended sentence.

I was disappointed with the White House failure to explain all of the charges. Their rebuttal was focused on those charges for which they felt they could answer or, more accurately use to create the most confusion. Skipping the tough issues is not an answer. This is not an issue of spin or even polls.

Impeachment is the most serious indictment a President or judge can get. The President was impeached by the House of Representatives. His reaction was to celebrate in the Rose Garden of the White House—spin again—more spin than a kid's top. Truth was needed. Dizzy deception is what we've gotten.

The President's Counsel admit he lied, was evasive, misleading. The words and adjectives used by the White House Counsel during the trial should be enough to condemn the President. But they still expect us to trust the President with the country? Do you think he will only lie about sex? This man sends our children into war. He has to be held to the highest standard. I would feel more comfortable if even one person would have said, ''He didn't do this.'' Only the President said that, and we all know he wasn't truthful.

Last year an Air Force pilot, an officer, was forced to resign. She was having a consensual sexual affair. It was adultery. She didn't lie about it. She was forced to resign—removed from office—because we couldn't trust her with deadly weapons. The President pushes the button on the whole world—not just on one plane. Oh, that's right, this isn't about personal sex. No one would ever be removed from office for that.

But the President is doing a great job. Job performance cannot be the defense for perjury or obstruction of justice or sexual harassment or any other crime. If a bank president embezzled even a little money from his bank would we leave him alone? Would we say, ''That's okay because the bank was doing well''?

We had a hypothetical situation posed to us—an employee who controlled the whole computer system and he did what the President did. If there is any parallel, you'd fire him! You'd fire him because you have been cross-training a vice president of computer systems. I've listened to the arguments about world peace and I've got to say, that's a terrible indictment of the capabilities of the Vice President.

When the video evidence was countered, White House Counsel had one presentation on Ms. Lewinsky's testimony. A second presentation was made on Vernon Jordan's testimony. Why didn't White House Counsel counter Sidney Blumenthal's testimony at all? Charges made, charges unanswered. If you have enough votes, I guess you only need to look credible.

Presidents have power. Power draws loyalty. Are we a country with one set of standards for the rich, famous, or powerful? Is that the way we want our country to be? This isn't even a popularity contest. Popularity cannot be a defense in an impeachment trial.

House manager ROGAN said he would risk his political future for the Constitution. He said, ''Dreams come and dreams go, but conscience is forever.'' We are supposed to be the collective conscience of our nation. Are we trying instead to salve our conscience?

We talk of censure? Isn't that just another way to salve our conscience. When this trial is over we better come together as a nation—undivided and behind whoever is the President—not debating again to what degree he is bad.

Some have been wrestling with whether the offenses ''rise to the level of impeachment''. The founders may have been a lot tougher than we are. We've talked about a guilty vote by a two thirds majority removing from office. The founders provided for a second vote—a vote that takes away more rights and honor—the right to hold public office ever again. Should we suggest the offenses, especially in the cumulative, rise to the level of impeachment and then wrestle with the question and vote on ''forever''? Judges are appointed for life. Presidents have the title for life.

I heard a suggestion that we can't remove the President for sexual harassment because we are not his boss or because he has such a critical position. The founders recognized both those circumstances. We are not the President's boss—but we have been given that responsibility through impeachment. He holds a critical position, that's why the founders established the succession. And remember, that was when impeachment could put another party into the presidency. And that was when the Senate was appointed, not elected.

''The Rise and Fall of the Roman Empire'' was a book we were introduced to in high school. Rome went through this phase too. Free lunches for the masses, an emphasis on entertainment, and no accountability for the powerful. We have seen the rise of America. Will we be listed in history as the start of the fall? Our society is eroding. Our values are disappearing. If you watch the news, many nights the main lead even during this trial is about the multiple murders right around us.

We've been talking about ''an impeach able standard''. We've talked about the ''Reagen Test'' I'm going to suggest two more tests. The ''Mom Test'' and the ''Spouse Test''. When you were growing up, did your mom need proof ''beyond a reasonable doubt'' before punishment? Did she ever say, ''Don't put yourself in a position where it even looks like you did something wrong.'' Circumstantial evidence was enough. Did your mom ever say, ''Watch out who you hang out with. It reflects on you.'' Did your mom say, ''Watch your actions—they reflect on you and your family''? Did your mom ever say, ''Act so I won't be embarrassed tomorrow reading the front page of the paper about what you did today.'' The President has complained that others are out to get him. That he is the most investigated President in history. Perhaps he ought to apply the ''Mom Test''.

What about the ''Spouse Test''? My wife has applied that test. She said, ''If this were a Republican President, I would have already chained myself to the White House fence until he resigned.'' She is absolutely stymied that women's groups haven't done that. For years she and I fought the accusations that women's groups were only about allowing abortion—but their silence on the President has changed my mind. I will not defend them as they have not defended any woman defamed by the actions and the words of the President. And a final ''Spouse Test''—when you are playing games with sex definitions ask, ''What would my spouse think I was doing?''

While we may have a country doing well economically we are headed toward moral bankruptcy if the trend is not reversed. We are becoming ''De-Moralized''

With this case we are all in a ''no-win'' situation. We have heard the media and the Democrats note that the Republicans are committing political suicide. But just as many mention the Democrats are filing moral bankruptcy. History will be the judge of us all. Our constituents just expect us to do ''What is right''! They will expect us to do what is right based even on what comes out in the future. Yes, what is right based on the books and future disclosures of the participants. They will judge us even based on the future actions of this President. Our words will be forgotten, our verdict won't.

This isn't about politics. Its about our country. Its not about Bill Clinton. Its about the future of the Presidency. The process is on trial. The Senate is on trial. No, Truthfully, Truth is on trial!

As we enter into our final deliberations on whether or not to convict President Clinton on the two articles of Impeachment presented to us by the House of Representatives, I think it is imperative that we remember the oath each of us took at the outset of this historic process. Each one of us took an oath before God to do ''impartial justice according to the Constitution and the laws.'' That oath should guide our thoughts and actions for it reminds us of the gravity of this process and the weighty responsibility we assumed by our own free will. We must finally remember that we answer not only to future generations who will judge whether we did right by the Constitution we swore to uphold, but also to that eternal witness of our most solemn oath.

I will be the first to admit that striving to be impartial has been very difficult. To be a good juror is a heavy burden. That duty is heightened when one is also called to wear a judge's robe when sitting as a silent juror weighing the evidence, probing the credibility and motives of the various witnesses, and ascertaining the appropriate law which applies to the facts before you. There are few duties we will face in our life as grave as this one: to decide the political fate of the President of the United States.

Before the trial started I read everything I could find that dealt with impeachment history. As the trial progressed, I read volumes of published evidence including the prior testimony of the witnesses in this proceeding. I have attended all of the proceedings in the Senate from start to finish. I have carefully watched all of the videotaped depositions. I have read all of the transcripts of these depositions. I watched many parts of the depositions several times to be sure I understood exactly what each witness was saying and how that testimony fit with that witnesses' prior testimony and with the testimony of other witnesses who testified under oath. These depositions were very helpful in focusing the key points of this trial and deciding who was testifying truthfully and who was lying in instances where the testimony is in conflict. In short, I believe I have taken into account nearly all of the pertinent information in this case in coming to my final decision.

This case challenges us to consider whether, in light of all the evidence, President Clinton's actions indicate that he has, in the words of Alexander Hamilton, ''abused or violated some public trust.'' In making this determination, we must first decide whether allegations presented by the House Managers do in fact constitute ''high crimes and misdemeanors'' as contemplated in Article II, Section 4 of the Constitution. I have come to the conclusion that they do.

I believe that perjury and obstruction of justice demonstrate intentional, pre-meditated violations of an indispensable public trust. In taking the oath of office, President Clinton twice raised his right hand and placed his hand on the Bible swearing to uphold and defend the Constitution and to faithfully execute the laws of the United States. By this oath, he took upon himself the duty to be the chief law enforcement officer of the United States. Actions which undermine this high duty, whether they involved committing perjury in a judicial proceeding or obstructing justice, strike at the very heart of the rule of law.

There is no contradiction that perjury and obstruction of justice are serious crimes for the average citizen in the United States. Both of these offenses presented by the House managers are felonies under the federal criminal code, and both carry equivalent or even higher minimum sentences than bribery under the federal sentencing guidelines. Nor is the seriousness of these crimes simply a matter of abstract speculation. We heard video testimony of a real, live citizen who has paid a very heavy price indeed for the crime of perjury. In July of 1995, Dr. Barbara Battalino, a physician who worked for the Veterans Administration, lied under oath about an encounter she had had with one of her patients. As a result of this perjury, Dr. Battalino was fired from the Veterans Administration, she lost her license to practice medicine, she was prohibited from ever practicing law (she also had a law degree), and she was required to wear an electronic ankle bracelet for 3 years. Those who argue that perjury about sexual matters is not serious owe Dr. Battalino a heartfelt apology. Dr. Battalino lied one time about one consensual act of oral sex.

Moreover, both perjury and obstruction of justice were counted among the list of ''public wrongs'' as opposed to private wrongs under Common Law at the time of the American founding. These are the very kind of crimes the founders contemplated when they included the impeachment and removal mechanism in the Constitution. These crimes were not considered to be private offenses by the Common Law, nor by the Founding Fathers. The pre-eminent commentator on the English Common Law at the time of the American founding, William Blackstone, described perjury, or false swearing in a judicial proceeding, as an ''offense against public justice.'' As with perjury, obstruction of justice was considered a ''high misprision'' or ''high misdemeanor'' at the time of the drafting of our own Constitution.

It should be remembered that this Senate has convicted and removed federal judges for perjury. In the 1980s alone, this body removed three federal judges for lying under oath. Many in this chamber had occasion to vote in those cases and voted to remove these judges because they saw that the act of perjury, even if it involved lying about one's taxes, was incompatible with a judge's duty to uphold the constitution and laws of the United States.

When confronted with these very recent precedents, the White House lawyers have argued that this Senate should apply a lesser standard to the President than to federal judges. They argue that federal judges should be held to a higher standard because they are given life tenure under Article III of the Constitution. I must admit, that this is an argument that I cannot square either with the plain language of the Constitution or with common sense. Do we really want to hold our President to a lower standard than the federal judges he appoints? It is our President, after all, who appoints all the United States attorneys and the federal marshals, who names all the cabinet officials, who has the authority to send American troops into battle, and who can sign treaties with foreign nations. A corrupt federal district court judge can work injustice on the litigants who enter his courtroom. A corrupt President, by contrast, has the power to wreak havoc on the entire political order.

The President's oath forbids him to selectively decide whether to follow the laws of the land based on a calculation of political expediency or determination of personal gain or loss. He is bound to follow Constitution and the laws of our country in and out of season. By intentionally violating this duty, the president's actions display the tendencies of an unbridled monarch rather than a constitutional executive who must bow before the law he swore to faithfully execute.

On the specific article of perjury, there is abundant evidence that President Clinton violated his oath to ''tell the truth, the whole truth, and nothing but the truth'' on several occasions. As the chief law enforcement officer of the United States, the President was bound to ''tell the whole truth'' and act in a manner becoming of the dignity of his office. President Clinton did not do this. When asked before the federal grand jury on August 17, 1998 whether he understood that he had an obligation to tell the truth, the whole truth, and nothing but the truth in his prior deposition of January 17, 1999 in a federal civil rights suit, the President testified that ''His goal was to be truthful, but not particularly helpful''. He later admitted that his testimony had been ''misleading''. For any plain speaking American, to be misleading is the same as lying. In short, the President violated his oath to ''tell the whole truth'' when he misled the court.

The facts indicate that President was not attempting to be truthful and was not truthful in his deposition in the Jones federal civil rights case. Moreover, he lied about the nature of his relationship with a subordinate employee before the federal grand jury. The President also allowed his attorney, Robert Bennett, to file a false affidavit on his behalf denying his relationship with Monica Lewinsky. The President continued this pattern of deception by lying to his top aides with the knowledge that they were likely to be called as witnesses before the federal grand jury. He then attempted to cover up these lies by claiming he had possibly ''misled'' his aides, but he did not lie to them since he knew they were likely to be called as witnesses before the federal grand jury. These were lies. They were lies under oath. They were lies that adversely impacted the rights of a United States citizen to obtain relief in a civil rights case in federal court. They were lies under oath in a federal grand jury after he had been begged by his aides, his friends, and some in this chamber to finally tell the truth. They were lies of a public character and they were unbefitting the chief law enforcement officer of our country.

What is perhaps most disturbing about these lies, is that the President's

actions indicate he had no intention of ever telling the truth of his relationship. He had already lied under oath in a federal civil rights action, he lied to his top aides and cabinet officers, he lied to his friends and political allies, and he lied with perfect calculation to the American public, including myself. I remain convinced that the only reason the President admitted his relationship at all was the discovery of the now famous ''blue dress''. Only when it became clear that he could no longer continue his pattern of judicial and public deception did the President admit that he had in fact had an ''improper relationship'' with Monica Lewinsky. Unfortunately, the President's deception did not end with the revelation of the DNA. Rather, it graduated to legal hairsplitting, attempts to torture plain English language, and statements which degraded the judicial process and insulted the intelligence of the American public. The President has not carried out the public trust the American public entrusted to him when he was twice elected President.

When the President's actions became public, the President even turned his sword of deception against his partner in perjury. Once the Washington Post broke the story on the President's extra-marital affair and his possible perjury and obstruction of justice, the President called in his top aides to deny the story and destroy the character of Monica Lewinsky. We have seen and heard the video testimony of one of President Clinton's top aides, Sidney Blumenthal. Immediately after the story broke, President Clinton called Sidney Blumenthal into the Oval Office and denied the entire story. He went on to say that Monica Lewinsky was a troubled young woman who was called the ''stalker'' by her peers. He said that she came on to him and made a sexual demand of him, but he rebuffed her. The President went so far as to claim that Ms. Lewinsky had threatened to tell people that she had had an affair with him, even though it was not true. In the words of Mr. Blumenthal, the President ''lied to him.'' As expected, Mr. Sidney Blumenthal repeated these lies before the federal grand jury. There is also growing evidence that Mr. Blumenthal, or other key White House aides, circulated these lies to the popular media. Such conduct further establishes that the President was willing to go to all lengths to prevent anyone from discovering the truth about his illegal conduct in a federal civil rights case.

The President's lawyers argued that the President could not have intended to corruptly influence the grand jury proceeding since the lies the President told his top aides were no different than the lie the President told the American people when he adamantly denied having ''sexual affairs, with that woman, Miss Lewinsky.'' If this is the best defense the White House lawyers can wage for their client, it speaks volumes about the President's character. Unfortunately, it is also false. The President never told the American people that Monica Lewinsky was a stalker, or that she wore her skirts too tight, or that she came on to him and made sexual demands on him. This is exactly what the President told his aide, Sidney Blumenthal. The President never enumerated the sexual acts he ''did not commit'' with Monica Lewinsky. He did deny with great specificity, these acts when questioned by his assistant chief of staff, John Podesta. The President did lie to the American public. However, he also told other lies to his top aides, knowing that they were likely to be called as witnesses before the criminal grand jury.

There is also substantial evidence that the President attempted to obstruct justice in both the civil rights case brought against him and the federal criminal investigation conducted by Judge Starr. It should be noted that Judge Kenneth Starr's investigation was not the creature of President Clinton's political enemies, as some have asserted. President Clinton's own Attorney General, Janet Reno, directed Judge Starr to expand his investigation to include the allegations in this case. If Janet Reno is a member of the vast right wing conspiracy, then that operation is very vast indeed.

We now know that the Monica Lewinsky filed a false affidavit in the Jones civil action. We also know that the President called Ms. Lewinsky at home at 2:30 in the morning to inform her that she had been named on the witness list in the Jones Civil Rights case. We also know that in this conversation, the President also suggested Ms. Lewinsky could file an affidavit to avoid testifying. Finally, we know that the President reminded Ms. Lewinsky of their agreed upon ''cover stories'' to conceal their relationship. While President's lawyers have made much over Ms. Lewinsky's statement that ''the President never asked me to lie'', they are unable to put a positive spin on the cover stories and the President's attempts to encourage Monica Lewinsky to file an affidavit in the first place.

It stretches the bounds of credulity beyond recognition to believe that the President intended Ms. Lewinsky to tell the truth when: 1) he himself lied under oath about their relationship, 2) he reminded Ms. Lewinsky of their cover stories in the same conversation in which he suggested that she file an affidavit, and 3) he relied on Ms. Lewinsky's false affidavit in his own testimony denying their relationship. Finally, when Ms. Lewinsky asked President Clinton if he wanted to see her signed affidavit, he said he didn't need to see it because he had ''seen fifteen others like it''. This response remains one of the more puzzling in this case and leaves open the possibility that the President tampered with other witnesses in the Jones Civil Rights case.

We also now know that the President's personal secretary, Betty Currie, hid presents under her bed that had been subpoenaed in the Jones case. These are the gifts the President had given to Monica Lewinsky during their relationship. Ms. Lewinsky has testified that Bettie Currie definitely called her about the gifts, and the only way Ms. Currie could have known about the gifts is if the President instructed her to pick them up. While the President's lawyers deny this explanation, the only phone record we know about is a phone call made from Betty Currie to Ms. Lewinsky on the day she picked up the gifts. The President's lawyers have failed to produce any concrete evidence to contradict this explanation. Concealing gifts that are under subpoena in a legal proceeding is illegal and it obstructs the administration of justice.

Moreover, the conclusion that it was in fact President Clinton who directed Betty Currie to conceal the presents is bolstered by the fact that the President corruptly attempted to influence Ms. Currie's testimony in a federal civil rights suit. President Clinton made several false statements to Betty Currie on Sunday, January 18, 1997, the day after he testified in the Jones lawsuit. Ms. Currie, who explained that it was very unusual for the President to ask her to come in to work on a Sunday, testified that President Clinton made a series of false statements to her as if asking for her consent. Specifically, the President stated to Ms. Currie: 1) ''You were always there when she [Monica Lewinsky] was there, right? We were never really alone.'' 2) ''You could see and hear everything.'' 3) ''Monica came on to me, and I never touched her, right?'' 4) She wanted to have sex with me and I couldn't do that.'' All of these statements were false, and all of them occurred the day after Judge Wright had expressly forbidden any of the parties deposed or their attorneys from discussing the deposition with anyone.

The President's lawyers have argued that the President made these statements to refresh his recollection or to find out what Ms. Currie knew in the event of a press avalanche. Neither of these explanations is plausible. It is impossible to refresh one's recollection with false, leading questions. It is also impossible to find out what someone else knew if you tell them what they are supposed to believe. The plausibility of either of these explanations is entirely discounted when you consider that the President called Betty Currie in a second time, on January 20th to ''remind'' her of these statements. The most likely explanation for these statements is far more sinister. That President was intending to influence the testimony of a likely witness in a federal civil rights proceeding. President Clinton was, in fact, trying to get Betty Currie to join him in his web of deception and obstruction of justice.

The inescapable conclusion I have come to is that the President of the United States set upon a deliberate, premeditated plan to deceive the court

in two separate legal proceedings and to encourage others to deceive the court as well. The President first defended himself by claiming to be the unfortunate victim of a vast right wing conspiracy. Only after the physical evidence uncovered the truth about his affair did the President claim he was only trying to protect his family from these embarrassing revelations. Neither of these excuses justifies the President's actions. A defendant in a legal proceeding does not have the right to perjure himself because he questions the motives of the plaintiff. There are proper legal procedures and remedies available to any defendant who believes he has been the victim of a lawsuit predicated on frivolous legal theories or springing from personal malice. It is, however, never legitimate to respond to even a frivolous lawsuit by lying under oath.

There has been a great debate on how the President's actions will impact our nation, especially if those actions go unpunished. Last year I read of a town in Midwestern America that had experienced a number of killings in the first two months of the year. A consultant was hired to find the cause of these brutal acts. I believe the findings in his report should cause all of us to take pause. He explained that first a window is broken and nobody fixes it. That leads to a lawn that isn't mowed. Through a series of similar instances, the kids think nobody cares about them. If we let the President off for intentionally violating the rule of law, what do we tell our children when they are caught breaking the law? That we have one law for the rulers and another for the ruled? Do we tell them they have to follow the law until they become powerful enough, or clever enough, or rich enough to violate the law with impunity? What do we tell the federal judges who have lost their robes and gavels for committing perjury? What do we tell military officers who have lost their livelihood for violating their oaths and rules of their office? What do we tell average citizens who have lost their jobs, their freedom, and their fortunes for violating their oaths to tell the truth in a court of law? If the legacy we leave to our children is one of cynical duplicity, I fear that even an ever-increasing Dow Jones' average will be incapable of salvaging our next generation, or even, I fear, our civilization.

I must conclude that while the power of Impeachment and removal is a strong measure and one that should never be taken gently, it is an indispensable remedy in our government for those public officers who have so violated their public trust as to be unworthy to continue holding offices of public trust. The great Supreme Court Justice and Constitutional scholar Joseph Story perhaps best summarized the impeachment mechanism as one which ''holds out a deep and immediate responsibility, as a check upon arbitrary power; and compels the chief magistrate, as well as the humblest citizen, to bend to the majesty of the laws.'' Those who would disregard this rule of law for their own personal or political ends must not be allowed to remain in offices of public trust. For this reason, I will vote to convict President Clinton on both articles of Impeachment.

I thank the chair and yield the floor.

OPINION OF SENATOR RUSSELL D. FEINGOLD IN THE TRIAL OF WILLIAM JEFFERSON CLINTON

Mr. FEINGOLD. Mr. President, I ask unanimous consent that my opinion in the recently concluded impeachment trial of President William Jefferson Clinton be printed in the RECORD.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

OPINION OF SENATOR RUSSELL D. FEINGOLD

Only 154 Senators have ever been sworn to sit in a Court of Impeachment for the trial of an American president. For this senator, to sit in judgment of this President was a sorrowful experience. The President and I began our careers in Washington together in January 1993. On the crisp, winter day of his first inauguration, I was moved by the poetry of Maya Angelou, which celebrated the ''pulse of . . . [a] new day'' in American politics and culture. All along in this process, I have regretted that his presidency has come to this, but have sought not to personalize that regret in a way that would affect my judgment. Taking the oath of impartiality on January 7 helped me to do that, but let me say, I very much regret that the President's conduct brought us to this day.

This somber experience requires a senator to blend three different considerations: (1) the historical purposes of impeachment and the record of past impeachments; (2) the current legal and political merits and implications of these impeachment proceedings; and (3) the potential impact of the current impeachment proceedings on future impeachments and the stability of the American constitutional system.

In attempting to reconcile these considerations, a senator has only the Andrew Johnson impeachment trial to look to for precise precedents for a presidential impeachment trial. Each senator is expected to render independently his or her judgment about the applicable law and then to apply that law to his or her own individual understanding of the facts of the case. This Opinion is an explanation of my attempt to meet that challenge.

I. INTRODUCTION

Strive as they may to minimize its import, the House Managers and those advocating removal of the President must recognize that the single most salient fact in this entire case is that on November 5, 1996, 47,402,357 Americans voted to reelect William Jefferson Clinton. That decision was the right and the responsibility of the American people.

By contrast, impeachment and removal from office prior to the expiration of a president's four year term of office must be viewed as an extreme and radical remedy, given that it overrides the solemn, quadrennial decision of the American people. For us to remove a duly elected president could well be the most momentous constitutional event in the history of our country, save the Civil War. The people choose their leaders in America, and we must not lightly reverse their will. To overrule the voters, the offense must be grave and the case must be very strong.

Too much of the rhetoric in this impeachment debate has focused on whether the President should be permitted to keep ''his'' job, in light of his unacceptable behavior. The question is better phrased as whether the President's conduct is sufficiently egregious to require the Congress to undo the decision of more than 47 million Americans to give him that job in the first place. Nor is it a valid argument or palliative to suggest that the same number of Americans also voted for Vice President Albert Gore Jr., and that he would become president upon President Clinton's removal. This argument is far too dependent on the particular nature of the unusual positive connection between this President, this Vice-President, and the American people. It flies in the face of the few actual examples of past presidents who faced the prospect of impeachment.

In 1868, President Johnson, an unpopular president who had been President Lincoln's vice-president, himself had no vice president. A member of the Senate would have succeeded him had he been convicted. In the case of President Nixon, whose resignation merely substituted for a nearly certain removal from office in an impeachment trial, Gerald R. Ford was elevated to the presidency. He had never been elected popularly to an office higher than the House of Representatives. In any event, the political similarity of a vice-president to a president cannot be taken seriously as an argument that conviction will be less wrenching for the country or damaging to the institution of the presidency. The crucial fact in this case remains that on November 5, 1996, the American people hired one man and one man alone to be their president, and they have a right to expect that their decision will be honored and preserved, except in the most dire circumstances.

This principle does not apply in the same way to the impeachment of judges. Elected presidents and appointed judges are chosen differently and their removal must be considered differently. They are starkly different in the nature and scope of their duties and in the sources of their constitutional legitimacy.

In the American constitutional system, it cannot soundly be argued that every precedent from past impeachments of judges must control in the impeachment of an elected president. I do not suggest here a lower standard of behavior for presidents. Rather, I believe that our system requires a higher standard for removal of an elected president than for an appointed judge. Judges serve for life ''during good behavior.'' That is a long time, with no means of removing a judge except impeachment. Presidents are chosen by the people in a sacred democratic process. If the people become displeased with the president they have chosen, they need only wait for the next election or the end of his term.

Thus, the analogy of an elected president to an appointed judge is weak. Weaker still are the arguments that the President must be removed because a corporate manager or military officer would be removed under similar circumstances. Corporate life is an arena of private behavior and corporate positions do not proceed from popular elections. Personnel decisions in the boardroom are of no broad constitutional consequence. Military officers likewise are not chosen by the voters. The corporate and military analogies