What the defenders want to do is lower the standards by which we hold this President and lower the standards for our society by doing so.

I cannot in good conscience, after watching NEWT GINGRICH put the country, his caucus, his House above himself and resign, and I cannot stand before you watching BOB LIVINGSTON put his family, and I hope you will think about his family, his friends, his House and his country above any ambitions that he may have. He thought he could do a good job as Speaker. I think he would have. But for some it is no longer good enough to make a mistake, confess that mistake and accept the consequences of that mistake and change the way you live your life and keep moving and make a contribution to this country. I think you ought to think about that, both sides.

So, Mr. Speaker, we will proceed. We will elect another Speaker. This country will be better for it. I cannot say this strong enough: This is God's country, and I know He will bless America.

The SPEAKER pro tempore (Mr. LAHOOD). The Chair announces that the gentleman from Illinois (Mr. HYDE) has 14 minutes remaining, and the gentleman from Michigan (Mr. CONYERS) has 15 minutes remaining.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I yield 1 minute and 30 seconds to the gentleman from New York (Mr. NADLER), an outstanding member of the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, I am even more depressed today than I thought I would be yesterday. I believe the resignation of the gentleman from Louisiana (Mr. LIVINGSTON), while offered in good faith, was wrong. It is a surrender, it is a surrender to a developing sexual McCarthyism.

Are we going to have a new test if someone wants to run for public office: Are you now or have you ever been an adulterer? We are losing sight of the distinction between sins, which ought to be between a person and his family and his God, and crimes which are the concern of the State and of society as a whole.

On one level we could say, I suppose, that you reap what you sew, but that gives us no joy, and it gives me no joy. I wish that the gentleman from Louisiana (Mr. LIVINGSTON) would reconsider, because I do not think that on the basis of what we know he should resign. But the impeachment of the President is even worse. Because, again, we are losing the distinction, we are losing track of the distinction between sins and crimes. We are lowering the standard of impeachment.

What the President has done is not a great and dangerous offense to the safety of the Republic. In the words of George Mason, it is not an impeachable offense under the meaning of the Constitution.

As we heard from the gentleman from Michigan (Mr. CONYERS), the allegations are far, far from proven. And the fact is, we are not simply transmitting evidence, transmitting a case with some evidence to the Senate, as evidenced by the fact that we already heard leaders in this House say he should resign. God forbid that he should resign. He should fight this and beat it.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. COX).

Mr. COX of California. Mr. Speaker, we are gathered here to deal with a problem that none of us wants and we are agreed upon much more than we admit.

The censure resolution, not the articles of impeachment, but the censure resolution states that William Jefferson Clinton has violated his oath of office, damaged and dishonored the presidency, engaged in reprehensible conduct with a subordinate and wrongly obstructed discovery of the truth. This debate, therefore, is not about whether the President has abused his office. He has. And both Democrats and Republicans acknowledge it.

Some have said we should not deal with this question now while our troops are in the Gulf. It might be added that they are also in Bosnia, in Kosovo, and nose to nose with North Korean soldiers in the DMZ. A quarter million American soldiers are positioned at trip wires of global conflict, and they will be there long after this debate ends. They are protecting our freedom and our democracy. It is for them as much as for any Americans that Congress meets today.

Every one of our soldiers is held to a code of conduct. None of them could keep his or her job, the privilege of being ordered into battle, if they had committed the crimes of our Commander in Chief. For committing just the underlying acts, the so-called personal elements of the Commander in Chief's offenses, the Clinton administration has prosecuted no fewer than 67 American officers and enlisted men and women. Hundreds of Americans who have served their country in the Army, the Navy, the Air Force and the Marine Corps have lost their careers, even though they did not once lie under oath to a judge or to a grand jury or obstruct justice or tamper with a single witness. They were dismissed because of a more simple reason: They failed in their duty.

Every single man and woman in operation Desert Fox at this very moment is held to a higher standard than their Commander in Chief.

Let us raise the standard of our American leader to the level of his troops. Let us once again respect the institution of the presidency. Let us see to it indeed what the censure resolution says merely in words, that no man is above the law. Let us not fail in our duty. Let us restore honor to our country.

☐ 1030

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. MEEHAN), a distinguished member of the Committee on the Judiciary.

Mr. MEEHAN. Mr. Speaker, my God, what kind of country are we becoming? What kind of institution are we becoming? This process of impeaching the President of the United States has been partisan right from the start. An Independent Counsel spends 4½ years investigating a President and sends a one-sided report to the Committee on the Judiciary, and the Republican members of that committee put their stamp of approval on it in very, very partisan hearings and send it to this body.

One party should not have the power to impeach a President of the other party. It's wrong. How can they do it? Both parties have to participate if we are going to impeach a President of this country. And at the same time one party is going to impeach a President of the other party, our men and women are engaged in active combat at this hour.

This couldn't wait until Monday? God help our country. God help America.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. ARMEY), the distinguished majority leader.

Mr. ARMEY. Mr. Speaker, no Nation has been so blessed as America in the 1990s. We enjoy a prosperity that our parents and our grandparents could not even imagine. Each day we invent wonderful new things to make life easier and more interesting. Our scientists are uncovering the wonder of God's creation, from the secrets of our genes to the wonders of the universe.

The social problems that have caused so much pain and worry are diminishing. Crime is dropping. Welfare dependency has plummeted. Unwed teenage pregnancy rates are finally dropping. Religious belief and attention to decent moral values are on the rise in this great country.

Even abroad America is respected as the world's one remaining superpower. We have triumphed over the vile tyrannies. Democratic nations on six continents owe their elected governments to our example and to our support. We have never been safer. Our brave armed forces, though they certainly need more resources, are still unquestionably second to none, a fact we can all agree is being demonstrated today in the skies of the Persian Gulf.

How did this great Nation of the 1990s come to be? It all happened, Mr. Speaker, because freedom works. As Americans, we know that when we allow ordinary people the freedom to help each other for their common benefit great things happen. And in this land they certainly have.

But freedom, Mr. Speaker, freedom depends upon something, the rule of law, and that is why this solemn occasion is so important. For today we are here to defend the rule of law.

According to the evidence presented by our fine Committee on the Judiciary, the President of the United States has committed serious transgressions. Among other things, he took an oath to God to tell the truth, the whole truth and nothing but the truth, and then he failed to do so, not once but several times. If we ignore this evidence, I believe we undermine the rule of law that is so important to all that America is.

Mr. Speaker, a nation of laws cannot be ruled by a person who breaks the law. Otherwise it would be as if we had one set of rules for the leaders and another for the government. We would have one standard for the powerful, the popular and the wealthy, and another for everyone else. This would belie our ideal that we have equal justice under the law. That would weaken the rule of law and leave our children and grandchildren with a very poor legacy.

I do not know what challenges they will face in their time, but I do know they need to face those challenges with the greatest constitutional security and the soundest rule of fair and equal law available in the history of the world, and I do not want us to risk their losing that.

Mr. Speaker, none of us, not us Members of Congress, not the President of the United States, are here by accident. We asked for these jobs. We went before the American people and we asked for the privilege and the honor to hold these offices. The American people gave us their trust and they expect us to use it to serve the Nation, its heritage and its future. We are not supposed to use it for ourselves.

Sadly, it seems that is exactly what the President has done. He failed in his duty to comply with the law of the land, the law of the land that he swore to uphold. He did that to protect his own person; not his office; not the duties of his office. He then used the powers of his office once again for his own purposes.

The President's defenders say it is wrong to pursue our duty here because the President's transgressions, they say, which, incidentally, they do not dispute, indeed, they even condemn, they say were personal, private behavior. But, Mr. Speaker, perjury before a grand jury is not personal and it is not private. Obstruction of justice is not personal and it is not private. Abuse of the power of the greatest office in the world is not personal and it is not private.

We cannot allow the President of the United States to abuse his trust and the great authorities of his office. Not telling the truth about some transgressions will spawn bigger transgressions, and they will spread like a cancer across America's character. When those transgressions come from the Presidency, only the Congress has the constitutional authority and the responsibility to provide a check and a balance, and that can only be done through impeachment. That is why we must hold the President accountable today. If we fail to do our duty, for whatever reason, but most of all for the reason that it is uncomfortable or unpleasant, then we will be responsible for the cancer spreading through the Nation. It will create a sickness in the everyday lives of all Americans.

How will it appear? In contracts not honored; in a mother who loses custody of her children in a divorce court because the father lied under oath; in a business where the only witness to a vicious sexual harassment is given a new job and hushed up by a generous bonus; in a college where a grade is given for money; in our armed forces, where a lack of integrity means people might die needlessly; in a family where the children cannot tell the difference between a truth and a lie.

Mr. Speaker, today we have a responsibility to uphold our most sacred principle and to fulfill the duties to which we swore an oath. My great fear is that if for some reason we fail in this duty, we will be just as responsible for degrading the rule of law as the President we failed to hold accountable.

Mr. Speaker, the gentleman from Louisiana (Mr. LIVINGSTON) set before us today an example. It breaks our heart. It breaks our heart for his wife Bonnie, for his family. It confuses some of us. But the example is that principle comes before person, and it is an example we must all hold to ourselves.

There is no doubt about it, Mr. Speaker, this is a difficult day. And yet it is really a day of affirmation, a day that says our system of government works. We are showing the world that our democracy is resilient. It deals fairly and it deals effectively with a leader who fails in his responsibilities.

Mr. Speaker, today we are defending the rule of law and we are letting freedom work in the lives of Americans. This is tough for all of us. We are all saddened by it, but we will complete this work on this day and then we will go on.

We will go on in a great Nation and we will go on in a government that once again strives to hold and preserve and assert its integrity along with its authority. For, Mr. Speaker, this vote today is not about the character of a President, this vote is about the character of a Nation. And, Mr. Speaker, I intend to vote for the articles of impeachment and I intend to vote for the rule of law.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. CHARLES SCHUMER), a senior member of the Committee on the Judiciary who will be departing this House.

(Mr. SCHUMER asked and was given permission to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I thank the gentleman for yielding me this time.

The argument made by the gentleman from Texas, the best argument that the majority has made thus far, focused on upholding the rule of law. But a hallmark of rule of law is proportionality of punishment.

If the President were caught, if any President were caught speeding at a hundred miles an hour, he would have to be disciplined so that others would not feel that reckless speeding was permissible. But we certainly would not use the political equivalent of capital punishment, impeachment, to discipline that President.

On the other hand, if the President accepted a bribe, there would be no doubt he should be impeached, and all 435 of us would vote for it. Lying under oath about an extramarital relationship requires significant punishment, such as censure, but not the political version of capital punishment, impeachment.

My colleagues, the rule of law requires that the punishment fit the crime. Allow us to vote for censure, the appropriate punishment under rule of law.

Mr. HYDE. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. MCCOLLUM), a member of the Committee on the Judiciary.

☐ 1045

Mr. MCCOLLUM. Mr. Speaker, there are three principal questions each of us has to answer today:

First, did the President of the United States commit the felony crimes with which he has been charged? Secondly, are they impeachable offenses? And, third, should we impeach him?

My task is to explain how I believe and I think you should understand these four articles of impeachment we have before us today and to walk through the evidence of the crimes the President, I believe, committed.

First of all, the President was sued in a sexual harassment civil rights lawsuit by Paula Jones. As a part of her case, she wanted to prove her credibility by bringing forward evidence that the President had engaged in a pattern of illicit relations with women in his employment.

Long before the President and Monica Lewinsky were ever called as witnesses in that lawsuit, they reached an understanding that they would lie about their relationship if they were asked. One day in December of last year, the President learned that Monica Lewinsky was on the witness list in that case. He called her. He talked to her about it. During that conversation they discussed the cover stories they had previously discussed on other occasions. And the President suggested to her that she could file an affidavit to avoid testifying in that suit.

Monica Lewinsky subsequently, as we all know, filed a false affidavit that was perjurious in its own right. She testified before the grand jury that the President did not tell her to lie in that affidavit but she and he both understood from their conversations and previous understandings that in fact she would lie.

The evidence is clear and convincing, I think beyond a reasonable doubt, that at that moment the President committed the first of a series of felony crimes that led us to here today. That was a crime of obstructing justice in trying to get Monica Lewinsky to lie in an affidavit and encouraging her to lie if she were called as a witness.

That is the heart and essence of the first of seven counts of obstruction of justice in article 3. I would like to call my colleagues' attention to the fact that the way that article reads, and it is here for Members to look at in article 3. It says that the scheme the President engaged in after that included one or more of the following. There were seven of them.

I believe the hiding of the gifts, the effort to get a job for Ms. Lewinsky, the efforts to get Ms. Currie, his secretary, to corroborate his later false testimony and so forth are all proven by the evidence in the 60,000 pages of sworn testimony that we have reviewed. But whether you agree with all of them or not, all you have to do is to believe there is clear and convincing evidence that one of them is true, and certainly the affidavit is true, to send this article to the Senate for trial.

Now, in January after this affidavit incident, once it was prepared and it was filed and all of the sordid details we are aware of with regard to it took place, the President testified under oath in a civil deposition in that Jones case and he lied again and again and again. The principal lie he told then and before the grand jury concerned the question of whether or not he had sexual relations with Monica Lewinsky. The definition that he was given by the court, however convoluted people think, he did testify in the grand jury he did understand. The words that were given to him, he knew what they meant. And the actions that the President took on several occasions according to Monica Lewinsky indeed were sexual relations according to that definition.

There are more than six witnesses that Monica Lewinsky talked with contemporaneously to the engaging in those activities that corroborate what she has to say. She is very believable, unfortunately, and the President is not.

It is not a question of having to fudge around with the definition. Under the clear definition as he understood it, the President lied before the Paula Jones case in his deposition and then under oath again before the grand jury about that.

Not only that but in his deposition in the Jones case the President swore he did not know that his personal friend, Vernon Jordan, had met with Monica Lewinsky and talked about the case. The evidence indicates that he lied. It also indicates that the President swore he could not recall being alone with Monica Lewinsky. And in that case that he lied. The President said he could not recall being in the oval office hallway with Ms. Lewinsky except maybe when she was delivering pizza. The evidence indicates that he lied. The President could not recall the gifts exchanged between Monica Lewinsky and himself, and the evidence indicates that he lied. And so on down the road. He lied then, he went on to the grand jury and he lied again under oath, and that is articles 1, 2 and 3.

In article 4, he lied again to Congress. He told us the same things. He said he did not engage in the sexual relations with Ms. Lewinsky. He said that he was never alone with her. He repeated the same lies again to this Congress, and that is a grave insult to the constitutional system of government.

The President of the United States did commit impeachable offenses. Perjury rises to the same level as bribery. Treason, bribery and other high crimes and misdemeanors. That is what the Constitution says. I would submit that he should be impeached, that the evidence is clear, there is no question that he has subverted our system of government and he should be impeached unfortunately.

Mr. CONYERS. Mr. Speaker, I yield 45 seconds to the gentleman from Louisiana (Mr. JOHN).

Mr. JOHN. Mr. Speaker, I beg of my colleagues to end this sad chapter in America. We have damaged the fiber of our representative democracy. We are tearing down the greatest country in the world by the deliberations here and over the past few months.

I plead of you to stop. To stop. Please put an end to this madness. You have lost two of your own. We have lost the bipartisan spirit. But the real losers are the American people. Vote your conscience and your beliefs. I will. But let us move on.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, as Speaker Jim Wright asked from the well of this House in 1989, ''When will this mindless cannibalism end?'' How many good public officials must be destroyed because of their private sins and human imperfections? When will we stop using the fallibilities of dedicated public servants to overturn the will of the American people expressed in free elections? When will we stop the sin of focusing on the faults of others while ignoring the faults of ourselves? When will we recognize that the genius of our Founding Fathers was that they designed a system of government two centuries ago that would survive not because of the perfections of those who serve but despite the imperfections of all of us who serve? When? When?

My colleagues, I would suggest only when we recognize these things will the rule of law and equal justice under the law prevail in this the people's House.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DOGGETT) a former member of his State's Supreme Court.

Mr. DOGGETT. Mr. Speaker, our democracy has flourished throughout history because imperfect human beings have come together here to resolve differences about how our nation should proceed, recognizing that no individual, no political party has a monopoly on truth. How tragic it is that we gather this week with so much talent and so much creative energy and so many problems that the American people face and are diverted to such unworthy purpose.

The real division that troubles me today is not the division that will go along strictly party lines about how we will vote, but the division that strikes through the heart and the spirit of America. What we need to be doing is coming together, recognizing that today we have a clear choice to punish individual wrongdoing—that we could come together and censure and disapprove that wrongdoing—but we do not have to censure and punish America.

In this new year, we will have a great choice—of coming together to resolve the real problems of our country or continuing to destroy individual lives. I hope we will make the right choice.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. Goode).

(Mr. GOODE asked and was given permission to revise and extend his remarks.)

Mr. GOODE. Mr. Speaker, when the roll is called today I will vote ''yes'' on impeachment.

After assessing the evidence, testimony, and materials presented to the House Judiciary Committee, I believe that the President lied under oath in a grand jury proceeding and made false statements in a sworn deposition after acknowledging that the testimony was subject to the penalty of perjury.

In my judgment, these offenses are impeachable. They violate the rule of law which is fundamental to our democracy. To me, the issue is not what the lie was about, but the fact that the President made the choice to lie, repeatedly, after having taken an oath to tell the truth, the whole truth and nothing but the truth. Today there are hundreds of people in the United States in jail because they lied under oath.

Today is a sad day for Congress, a sad day for the Presidency, and a sad day for America.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MATSUI).

(Mr. MATSUI asked and was given permission to revise and extend his remarks.)

Mr. MATSUI. Mr. Speaker, I rise to oppose all four articles of impeachment.

The articles allege conduct on the part of the President that is undeniably distasteful and unbecoming of our Executive. The conduct alleged, however, does not rise to the high standards of impeachment spelled out in Art. II, Sec. 4 of the Constitution—''Treason, Bribery, or other high crimes and misdemeanors.'' This standard, as evidenced through records from the Framers, history, and precedents,

clearly describe only offenses against our Constitutional system of Government.

I wish to be clear that for purposes of evaluating the impeachability of the allegations against the President, I have assumed they are accurately characterized by the proponents of today's proceedings. It is important to remember, however, that none of the material and information contained in the referral from the Office of Independent Counsel (OIC)—much of it inadmissible hearsay evidence—has been subject to any sort of cross-examination.

THE CONSTITUTIONAL SYSTEM OF GOVERNMENT

The United States is divided into three co-equal branches of government. The Framers believed that the liberty of the nation would best be assured by each branch jealously guarding its prerogatives, thus ensuring that no branch would inappropriately extend its power over the nation, or usurp the power of another.

Our Government is not a parliamentary system. The President does not serve at the pleasure of the Legislature. The Executive is the only branch representing the popular will of the entire American population, to carry out the laws passed by the Congress. Correspondingly, the Constitution sets a high bar for impeachment and removal of the President. The invalidation of the popular will of the American public as expressed by a Presidential election is not an act the Framers wanted to make easy, or common. It is an act that was contemplated to be undertaken only in the face of the most serious threat to the nation. This is especially true because the Framers understood that the Public would be able to express its displeasure with a President every four years through the election process.

With this in mind, the Constitution affords the sole power of impeachment to the House of Representatives. Because the Judiciary was purposefully not given a role in the impeachment proceeding, the Constitutional standard is greater—a tell tale indication that not just any crime committed by the Executive warrants removal from office. This is a solemn responsibility, and one that should not be entered into lightly. In over 200 years of the Republic, the House has only once fully utilized this proceeding.

THE CONSTITUTIONAL DUTY OF THE HOUSE OF REPRESENTATIVES

The Constitution gives to the House of Representatives the ''sole Power of Impeachment.'' The power of impeachment is not subject to review or guidance by any other branch of government. While the impeachment process has been casually analogized to the grand jury process, with Members of the House simply acting as grand jurors possibly sending an indictment to the Senate for trial, a careful parsing of the analogy, suggests a more involved role for House Members.

A grand jury is a mechanism by which the State may commence a criminal proceeding against a criminal defendant. Both the Judiciary and the Executive branch—Prosecutors—play significant roles in order to guarantee fundamental fairness of the proceedings. However, in impeachment proceedings, the Constitution envisions that these vital roles will not be forfeited, but rather that House Members must combine within themselves the role of judge, prosecutor and grand juror.

As Prosecutor, Members of the House must determine whether it is appropriate to consider articles of impeachment. As has been often noted, prosecutorial discretion is one of the benchmarks of fairness of our criminal justice system. As grand juror, Members of the House must act with personal and political impartiality towards the Executive in deciding the issue. And as Judge, Members of the House must determine the legal standards of impeachment—in other words, the Framers' intent of ''high crimes and misdemeanors.''

In my review of the impeachment record, it is clear that the House has not exercised the mandated prosecutorial discretion in determining whether to proceed with the impeachment of the President nor acted with the impartiality required of grand jurors. Furthermore, I conclude that the House, as Judge, must conclude that the standards of high Crimes and Misdemeanors has not been met. I would like to focus on this core issue of whether the President's conduct is impeachable.

THE CONDUCT ALLEGED IS NOT IMPEACHABLE

The facts alleged on the part of the President by the OIC referral are not impeachable because they do not rise to the high standards of impeachment called for in the Constitution. The President shall be removed from office only upon ''Impeachment for, and Conviction of, Treason, bribery or other high Crimes and Misdemeanors.''

As the text of the impeachment clause makes clear, the Constitution envisions impeachment for Presidential conduct that threatens the Republic. Impeachment can be further differentiated from a criminal penalty in that impeachment serves to protect the nation, not to punish a wrongdoer. The high Crimes and Misdemeanors should be of the caliber of Treason and Bribery to rise to the impeachment threshold. The Constitution created the impeachment mechanism in order to punish serious, official misconduct. Official misconduct on the part of the Executive that was not serious could be punished by the election process. The President, for private acts of misconduct, would be—like any other American—subject to the normal judicial process.

Realizing that removal of a popularly elected Executive would be traumatic for the nation, the Framers set a very high bar. Notably, the Framers considered such a lower standard in drafting the Constitution—''maladministration.'' James Madison objected to this impeachment standard because it would imply that the President served at the pleasure of Congress, thus threatening the co-equal status of the Executive vis a vis the Legislature.

The core allegations contained in the articles of impeachment are that the President lied in a civil deposition and before a grand jury about a private, sexual affair, and that he obstructed justice and abused Executive power in attempting to conceal and obfuscate the embarrassing facts of this private affair. Further, even accepting the argument of the proponents of the impeachment articles, that the President's misstatements are perjury—a great leap of legal faith—the Constitutional standard for impeachment would still not be met.

It is inconceivable that the Framers could have imagined that the conduct alleged in the OIC referral threaten the Republic or our Constitutional system of government. As George Mason wrote in the Federalist Papers, impeachment was designed to remedy ''great and dangerous offenses'' attempting ''to subvert the Constitution.'' The President's sexual affair, and his subsequent attempts to conceal it, were distasteful, and possibly illegal, but it strains credulity to claim they were an attempt ''to subvert the Constitution.'' If they were illegal, they can be punished by the normal criminal or civil judicial process.

CONCLUSION

The House today ill serves the Constitution. The Framers set a very high standard for impeachment. They did not intend that the will of the people, as expressed in the election of a President, would be lightly set aside. Nor did they create the mechanism of impeachment to punish wrongdoing by the Executive. Impeachment was created to protect the nation—indeed, the Constitutional system of government—from serious, official misconduct by the President. There can be little doubt that the President's conduct as alleged in the report from the office of the Independent Counsel is reprehensible and embarrassing. History will show, however, it did not rise to the high threshold called for by the Constitution.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. PETERSON).

(Mr. PETERSON of Minnesota asked and was given permission to revise and extend his remarks.)

Mr. PETERSON of Minnesota. Mr. Speaker, I also rise to oppose all four articles of impeachment.

From the outset, I believed that any action the Congress chose to take to punish the President had to be bipartisan. If Republicans and Democrats could put the best interests of the country ahead of their personal political viewpoints, we could solve this problem honorably and get on with the nation's business. We had the opportunity, but we didn't take advantage of it.

I've been one of the people working for a bipartisan solution, trying to build consensus for a fitting punishment, but this process has degenerated into a purely partisan battle.

In some ways, this process has been unfair from the outset. No other President in American history has been continuously investigated by a Special Prosecutor throughout his terms of office. The President's enemies have misused this process to undo the decision that the American people made in two elections. The office of the Special Prosecutor was not established to settle political differences, but that is how it has been used in this case, and it sets a very bad precedent for the future.

When I joined with 30 other Democrats to support the Republicans' outline for inquiry by the House Judiciary Committee, I did so because I thought Chairman HENRY HYDE would conduct a thoughtful and honest examination of the facts, with testimony from witnesses, and a chance for cross-examination—but he chose not to take that course, and I have been profoundly disappointed by what he did do. Instead of conducting an investigation in the cooperative, bipartisan tradition of the Watergate hearings, the Chairman directed hearings that were unfocused, largely without any substantive examination of the facts or witnesses, and designed to deliver a pre-ordained outcome.

When the Watergate-era Judiciary Committee considered the evidence against President Nixon, it was clear that he had submitted false tax returns, and broken the law by doing so. Nonetheless, Republicans and Democrats on

the Committee voted 12 to 26 against bringing Articles of Impeachment based on this charge. They determined, together that this did not rise to the constitutional level of ''high crimes and misdemeanors.''

While I am deeply disappointed with the President's personal behavior, in my view these charges do not rise to the constitutional standard of ''high crimes and misdemeanors.''

The process conducted by the current House Judiciary Committee has been politically driven from the outset, and in the end, the course they decided to pursue will not serve the country. For their own political purposes, they have decided to lower the constitutional standard so that it can be used as a weapon in a political disagreement.

The obvious course of action—supported by both Republicans and Democrats—is that of censure. The President should be censured, fined and be subject to prosecution when he is out of office.

Unfortunately, the Republican leadership refused to allow the House—Republicans and Democrats—to debate and vote on this option. Instead of allowing an honest vote of conscience, on a rational middle ground solution, they decided to say to all of us, ''our way or no way.'' There was no room for discussion, and no effort to work with conservative Democrats like myself.

Furthermore, it is clear that the Senate will not vote to remove the President from office. From a practical standpoint, it serves no useful purpose to put the country through more weeks and months, and maybe even years, of this process. The smudge on this President's place in history is already established. What we are about to do will spread that same smudge to all of us, and it will not serve the country.

In the end, by choosing to pursue impeachment, the Republicans may actually let the President off the hook all together. By pursuing impeachment even though the Senate will not convict or remove the President from office, and disdaining any effort to censure and fine him, he may escape without paying any substantive price for his actions.

I do not believe it is legitimate to settle political differences by using the constitutional process designed to protect our country from crimes that endanger the existence of this nation. In truth, none of the President's reprehensible behavior threatens the nation, or our individual freedom and liberty. We're setting a very dangerous precedent for the future, and I shudder to think how this will come back to haunt us.

I know that this has been a very difficult process to listen to and raises unpleasant issues for the people I represent in Minnesota's 7th District. I know that they will not all agree with me this day, but having listened to their collective counsel, I believe that most of them would do as I will do—support a resolution of censure, but vote no on this tragic and obsessive effort to impeach the President.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DIXON).

(Mr. DIXON asked and was given permission to revise and extend his remarks.)

Mr. DIXON. Mr. Speaker, I rise to oppose the impeachment of the President of the United States.

I strongly believe that the allegations against him do not reach the threshold of impeachable offenses. This is a sad day, Mr. Speaker. For 20 years, I have had the privilege of serving in this distinguished body. Never in that 20 years have I seen a matter as grave as the issue before us today treated in such an unfair manner. I truly believe that the solemn duty of this body to check the power of the Executive has been degraded by the partisanship that has marked every step of this impeachment process.

What President Clinton did was wrong; I think we all agree on that point. He had an extramarital affair with an employee—betraying the trust of his family. He lied to conceal that shameful affairs—betraying the trust of the nation. These actions are deeply disappointing to me and are deeply disappointing to the nation. President Clinton has admitted his wrongdoing and, it would appear, has the forgiveness of most of the people in this nation.

Assuming that the referral from independent Counsel Starr is entirely factually correct, I do not believe that President Clinton has committed treason, bribery, or other high crimes and misdemeanors. Missing from this process is a sense of scale and context. A protracted investigation by an Independent Counsel has produced charges that are weakly supported by the evidence. Perjury is the most compelling charge against the President, though I do not find the evidence to be convincing. The alleged perjurious statements originate in immaterial statements in the course of a dismissed civil suit. In an apolitical environment, it is questionable that a person other than an elected official would be prosecuted for such statements.

Some have tried to draw parallels between this impeachment inquiry and the Nixon inquiry. However, the scope of the offenses is not comparable, nor are the actions of the Judiciary Committee. The fact that articles of impeachment were reported by the Judiciary Committee on a series of partisan votes is deeply disheartening and underlines the illegitimacy of today's process. Now that the issue has reached the full House, members will not have the opportunity to vote their consciences—a vote on censure has been ruled out by a Republican leadership decree precisely because a bipartisan majority of members would have supported that measured, responsible course of action.

For these reasons, Mr. Speaker, I urge my colleagues to reject these articles of impeachment.

Mr. CONYERS. Mr. Speaker, I yield 3½ minutes to the gentleman from Michigan (Mr. BONIOR) our distinguished minority whip.

Mr. BONIOR. Mr. Speaker, this House is shocked and saddened by the Speaker-elect's announcement. The gentleman from Louisiana (Mr. LIVINGSTON) is a respected member of this House who has served with distinction and dedication for over 20 years. Now we find ourselves in a destructive cycle that is eating away at our democracy. The politics of personal smear is degrading the dignity of public office and we must not let it continue.

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We must put an end to it, and the only way we will stop this vicious cycle is if we stand up and refuse to give in to it, whether it is Bill Clinton or BOB LIVINGSTON.

To the Speaker-elect I would say, ''This is your decision, the decision of your family, the decision of your Conference.'' But for my own part I would say, ''You should not allow a campaign of cynicism and smear to force you to resign from office, and you should not have called on the President to resign.''

Mr. Speaker, what we do here today will have long-lasting consequences, not just in this House, but for our Constitution, for our country, for our democracy. We are here to debate impeachment and should not be distracted from that.

What does a vote for impeachment really mean? It is a vote to nullify the most sacrosanct institution in any democracy: the ballot box.

What the President did is wrong, and he should be held accountable, but the offenses he has committed do not rise to the historical standards of impeachment set by our Founding Fathers. We must not lower that standard today to suit the needs of angry partisans. We must not let them accomplish through impeachment what they could not do at the ballot box. They must not succeed.

Today we stand against those who would hijack an election and hound the President out of office against the will of the American people. The American people support this President's agenda, and they want us to move forward for better health care, for stronger schools, for retirement security for every American in this country.

A vote for impeachment today will only feed the corrosive and destructive politics of personal attack. It will prolong and escalate this whole sorry episode.

Mr. Speaker, in this building are the marble halls where Daniel Webster and Henry Clay and Abraham Lincoln debated the fate of the Union. Have we sunk so low that in these same halls we would allow the likes of Ken Starr and Monica Lewinsky and Linda Tripp to ignite the constitutional crisis of our age? Does such a spectacle really strengthen our Nation? Does it dignify our democracy? Does it honor our Constitution?

The American people sent a clear message this November. They want this President to continue to do the job they elected him to do, and yet this Congress is deliberately ignoring their will. Let me tell my colleagues that people are angry, and they are frustrated, and they are outraged and bewildered at what is happening here. Six days before Christmas our troops are in battle, and a lame duck Congress is rushing to overthrow the Commander in Chief.

Mr. Speaker, this is surreal. The scenario reads like the plot of a cheap paperback novel, not the deliberation of the history's greatest democracy.

Mr. Speaker, it is not too late to step back from the brink. The American people desperately want us to restore some dignity and some common sense

to our politics, some sense of proportion. They want us to come together, they want us to move on. Has this House become so out of control, so out of touch, so consumed that we will be denied the chance to vote on the one option, the one option that commands the support of the American people, the motion to censure?

We have heard a lot of talk around here about the rule of law, but these partisan proceedings have made a mockery of our constitutional process. Across the Nation they have been announced as, and let me quote: a dreadful farce of partisan posturing; a soiling of the Constitution; a circus; a kangaroo court; an attempted coup.

Today we are offering a way out of this morass, and one last time we implore our colleagues to not use their power to block a motion to censure. Do not deny us the right to vote our conscience. Do not silence the voices of the American people. Do not let the politics of cynicism and smear prevail.

Listen to the American people. Let us vote on censure, and let us bring America together again.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Missouri (Ms. DANNER).

(Ms. DANNER asked and was given permission to revise and extend her remarks.

Ms. DANNER. Mr. Speaker, first, let me state that for anyone who believes that my vote was made on a partisan basis, let me assure you that if that had been the case, my decision could have and would have been made long ago.

However, I can assure you that was not the case. I fully recognized that this would be the most important vote in my career as an elected official and that it merited my most careful and thoughtful consideration. As late as 2:00 a.m. the morning prior to the vote I was reading Rakove's Original Meanings—Politics and Ideas in the Making of the Constitution. I have spent endless hours reading, studying and evaluating other materials and information—the Independent Counsel's Report, the Judiciary Committee Report, Committee testimony from legal scholars on both sides of the issue, the views of my constituents and the remarks of my colleagues.

After much deliberation, I came to the conclusion that since there are other remedies that exist to address President Clinton's behavior, impeachment was not the answer.

Impeachment, as defined by the Constitution, was designed to protect our nation from ''treason, bribery, or other high crimes and misdemeanors.'' Indeed, President Clinton can, after leaving office, be indicted, tried and punished in the courts for any crimes he committed while in office. This is for our judicial system to decide. Try him in a federal court when his term of office ends and let a judge and jury decide—free of partisan energy. This susceptibility to such a criminal justice process proves that the rule of law applies to everyone. Not even a President, is above the law.

The actions of President Clinton have been described in various terms: reprehensible, inappropriate, embarrassing and others too numerous to mention. All are applicable. The actions of the President have demeaned him in innumerable ways. However, as terribly inappropriate as his conduct was—that conduct did not threaten our nation's security, nor did it undermine the Constitution. And, though it may have hampered his performance, it did not prevent him from executing his Constitutional duties as President.

Central to the Articles of Impeachment is the question with regard to perjury on the part of the President. To determine if perjury is an impeachable offense, we must look to the Constitution and to historical precedent. In 1974, during the Watergate Inquiry, the Judiciary Committee decided on a bi-partisan basis that only Presidential misconduct which is ''seriously incompatible with either the Constitutional form and principles of our government or the proper performance of the constitutional duties of the Presidential office'' justifies impeachment. The Committee added, ''Not all presidential misconduct is sufficient to constitute grounds for impeachment. There is a further requirement—substantiality. . . . Because impeachment of a President is a grave step for the nation, it is to be predicated only upon the above criteria.

Indeed, a precedent was established that a crime committed in private life (i.e. President Nixon's tax fraud) did not warrant impeachment. The Committee was persuaded by the legal principles defining an impeachable offense, not by the lack of factual evidence. Actually, President Nixon, knowing that he was fraudulently claiming a $576,000 deduction, had signed his name under the words: ''Under penalty of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct and complete.'' Members of the Committee determined that President Nixon's actions in this case were not impeachable.

In addition, many Members felt impeachment of President Clinton was inappropriate and there was a great deal of bi-partisan support for a different option—censure. A Congressional censure would have allowed the House of Representatives to officially express the condemnation which the President deserved while also remaining true to long-established Constitutional principles. Although some have argued that censure is not Constitutional, the matter is not prohibited by the Constitution and is, therefore permissible. In fact, three different Presidents (Jackson, Tyler and Buchanan) have been censured in the past. Unfortunately, despite the popularity of the censure option, the House leadership did not allow a vote on this proposal. However, with support for this measure by both Democrat and Republican members, it is troubling that we were prohibited from voting on this measure.

In the final analysis, our responsibility as Members of the House of Representatives was not to the President, but to the Presidency—one of three co-equal branches of government. Impeaching President Clinton would lower the standard for impeachment for future Presidents, and would therefore necessarily weaken that branch of government.

Additionally, it would prevent Congress and the Supreme Court from devoting full attention to our national and international responsibilities, since a trial would require an unknown amount of time and attention from all involved. It would prove to be the ultimate distraction to our nation's business. And as distasteful as all have found the hearings before the Judiciary Committee to be—I feared that a Senate trial would be so salacious and sordid that all would be appalled.

In closing I believe it is important to once again refer to the intent of those who framed our Constitution. Impeachment, George Mason proclaimed, was for ''crimes against the state.'' In the Federalist No. 65, Alexander Hamilton wrote that a clear sign of when not to impeach was when the dispute between Congress and the president was ''connected to pre-existing factions,'' Old World parlance for ''partisan.'' At the Constitutional Convention in 1787, when George Mason proposed the impeachment clause, he described it as the most drastic remedy to ''great and dangerous offenses''—to only ''the most extensive injustice.''

Our Founding Fathers in their wisdom, and for the stability of our nation, placed the bar for impeachment high: at high crimes and misdemeanors. The President's actions, while worthy of contempt, do not meet this threshold.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SANDLIN).

(Mr. SANDLIN asked and was given permission to revise and extend his remarks.)

Mr. SANDLIN. Mr. Speaker, I submit for the RECORD certain deliberations by the Committee on the Judiciary.

[From the Washington Post, Dec. 9, 1998]

DEC. 9: FOURTH PANEL OF WHITE HOUSE WITNESSES

Rep. HYDE. Very well. Would the witnesses please stand and take the oath? Thank you.

Do you solemnly swear or affirm that the testimony you're about to give to the committee is the truth, the whole truth and nothing but the truth?

ALL. I do.

Rep. HYDE. Thank you. Let the record show the witnesses answered the question in the affirmative. We have a distinguished panel today, as we have had all week. Thomas P. Sullivan is a senior partner at Jenner (sp) & Block (sp) and has practiced with that firm for the past 44 years. He's a former United States attorney for the northern district of Illinois. Mr. Sullivan specializes in civil and criminal trial and appellate litigation, and he has served as an instructor at Loyola University School of Law and for the National Institute for Trial Advocacy.

Richard Davis is a partner with the New York law firm of Weil, Gotschal and Manges. He clerked for the United States District Court Judge Jack B. Weinstein (sp) from 1969 to 1970. He also served as an assistant U.S. attorney in the southern district of New York from 1970 through 1973 and was task force leader for the Watergate special prosecution force, 1973–1975. From 1977 to 1981, he served as assistant secretary of the treasury for enforcement and operations.

Edward S.G. Dennis Jr. is a partner in the litigation section of the Philadelphia law firm of Morgan, Lewis and Bockius. He joined the firm after 15 years with the Department of Justice, during which he held the following positions: Acting deputy attorney general, assistant attorney general for the criminal division, and U.S. attorney for the eastern district of Pennsylvania. He is co-chairman of the corporate investigations and criminal defense practice group.

William F. Weld is a former two-term governor of Massachusetts, graduate of the Harvard Law School. Governor Weld began his legal career as a counsel with the House Judiciary Committee during the Watergate impeachment inquiry. He then served as U.S.

attorney and as head of the criminal division at main Justice under President Reagan before being elected governor of Massachusetts in 1990. Governor Weld is currently a partner in the Chicago law firm of McDermott (sp), Will (sp) & Emory (sp), and he is also the author of the recently published comic political crime novel, ''Macro by Moonlight.'' I hope it's not a violation of any rule or regulation give a plug for the governors book. (Laughter.)

Ronald Noble is associate professor of law at NYU Law School. He served as undersecretary of the treasury for enforcement, 1994–1996; as deputy assistant attorney general and chief of staff in the criminal division of the Department of Justice, 1988–1990; and as assistant United States attorney in the eastern district of Pennsylvania, 1984–1988.

Before recognizing each of you, in whatever order you choose to go, although it's probably just as simple to start on my left to the right, I would like to recognize the ranking minority member, John Conyers, for a statement if he wishes to make one.

Rep. JOHN CONYERS (D–MI). Could I delay my statement, Mr. Chairman?

Rep. HYDE. You surely could.

Rep. CONYERS. Thank you.

Rep. HYDE. Very well. Mr. Sullivan.

Mr. SULLIVAN. Thank you.

Rep. Mr. Sullivan, turn the mike toward you and put the switch on, please.

Mr. SULLIVAN. Thanks. Is that all right?

Members of the Judiciary Committee, I appreciate the opportunity to appear before you today to discuss the professional standards for obstruction of justice and perjury. My qualifications to discuss this subject include over 40 years of practice in federal criminal cases, chiefly in Chicago but also in other cities.

During most of that time, I have acted as defense counsel for persons accused of or under investigation for criminal conduct. For four years, from 1977 to 1981, I served as the United States attorney for the northern district of Illinois. Chairman Hyde and Mr. Schippers are known to me from the practice in Chicago, and I believe they can vouch for my qualifications.

Rep. HYDE. Extraordinarily high.

Mr. SULLIVAN. Thank you, sir.

During the past 35 years, I have taken an interest in, but no part in, politics. While I am a registered Democrat, I consider myself independent at the ballot box and I've often voted for Republican candidates. I have acted for the Republican governor of Illinois, a Democratic senator, and Mayor Harold Washington. I have prosecuted as well as defended Democrat and Republican office holders. I appear today not as an advocate or partisan for President Clinton or the Democrat Party, but rather as a lawyer of rather long experience who may be able to assist you in your deliberations on the serious and weighty matters you now have before you.

The topic of my testimony is prosecutorial standards under which cases involving alleged perjury and obstruction of justice are evaluated by responsible federal prosecutors. In the federal criminal justice system, indictments for obstruction of justice and perjury are relatively rare. There are several reasons. One is that charges of obstruction and perjury are not substantive crimes but rather have to do with circumstances peripheral to underlying criminal conduct. The facts giving rise to the obstruction or perjury arise during the course of an investigation involving other matters, and, when prosecuted, are usually tagged on as charges additional to the underlying criminal conduct. Second, charges of obstruction and perjury are difficult to prove because the legislature and the courts have erected certain safeguards for those accused of these ''ripple effect'' crimes, and these safeguards act as hurdles for prosecutors.

The law of perjury can be particularly arcane, including the requirements that the government prove beyond a reasonable doubt that the defendant knew his testimony to be false at the time he or she testified, that the alleged false testimony was material, and that any ambiguity or uncertainty about what the question or answer meant must be construed in favor of the defendant.

Both perjury and obstruction of justice are what are known as specific intent crimes, putting a heavy burden on the prosecutor to establish the defendant's state of mind, Furthermore, because perjury and obstruction charges often arise from private dealings with few observes, the court have required either two witnesses who testified directly to the facts establishing the crime, or, if only one witness testifies to the facts constituting the alleged perjury that there be substantial corroborating proof to establish guilt. Responsible prosecutors do not bring these charges lightly.

There is another cautionary note, and this, I think, is very significant here. Federal prosecutors do not use the criminal process in connection with civil litigation involving private parties. The reasons are obvious. If the federal prosecutors got involved in charges and counter-charges of perjury and obstruction of justice in discovery or trial of civil cases, there would be little time left for the kinds of important matters that are the major targets of the Department of Justice criminal guidelines. Further, there are well-established remedies available to civil litigants who believe perjury or obstruction has occurred. Therefore, it is rare that the federal criminal process is used with respect to allegations of perjury or obstruction in civil matters.

The ultimate issue for a prosecutor deciding whether or not to seek an indictment is whether he or she is convinced that the evidence is sufficient to obtain a conviction; that is, whether there is proof beyond a reasonable doubt that the defendant committed the crime. This is far more than a probable-cause standard, which is the test by which grand jury indictments are judged. Responsible prosecutors do not submit cases to a grand jury for indictment based upon probable cause. They do not run cases up the flagpole to see how the jury will react. They do not use indictments for deterrence or as a punishment.

Responsible prosecutors attempt to determine whether the proof is sufficient to establish guilt beyond a reasonable doubt. If the answer is yes and there are no reasons to exercise discretion in favor of levity, the case is submitted to the grand jury for indictment, which, where I come from—and everywhere else I know about—is routine and automatic. if the answer is no—that is, even if the evidence establishes probable cause, but, in the prosecutor's judgment, will not result in a conviction—the responsible prosecutor's will decline the case.

Some years ago, during the Bush administration, I was asked by an independent counsel to act as a special assistant to bring an indictment against and try a former member of President Reagan's cabinet. Having looked at the evidence, I declined to do so because I concluded that when all the evidence was considered, the case for conviction was doubtful and that there were innocent and reasonable explanations for the allegedly wrongful conduct.

Having reviewed the evident here, I have reached the same conclusion. It is my opinion that the case set out in the Starr report would not be prosecuted as a criminal case by a responsible federal prosecutor.

Before addressing the specific facts of the several of the charges, let me say that in conversations with many current and former federal prosecutors in whose judgment I have great faith, virtually all concur that if the president were not involved, if an ordinary citizen were the subject of the inquiry, no serious consideration would be given to a criminal prosecution arising from alleged misconduct in discovery in the Jones civil case having to do with an alleged cover-up of a private sexual affair with another woman, or the follow-on testimony before the grand jury. This case would simply not be given serious consideration for prosecution. It wouldn't get in the door. It would be declined out of hand.

A threshold question is whether, if the president is not above the law, as he should not been, is he to be treated as below the law? Is he to be singled out for prosecution because of his office in a case in which, were he a private citizen, no prosecution would result? I believe the president should be treated in the criminal justice system in the same way as any other United States citizen. If that were the case here, it is my view that the alleged obstruction of justice and perjury would not be prosecuted by a responsible United States attorney.

Having said that, I would like to address several of the specific charges in the Starr report. The first has to do with perjury in the president's deposition and before the grand jury about whether or not he had a sexual affair, relationship or relations with Ms. Lewinsky. The president denied that he did based on his understanding of the definition of the term, quote, ''sexual relations,'' quote, adopted by the court in the Jones case. That definition, which you have before you in the papers, is difficult to parse, and one can argue either side; but it is clear to me that the president's interpretation is a reasonable one, especially because——

Rep. HYDE. Mr. Sullivan, I hate to interrupt, but your time has expired. Now, do you think in another three minutes you could wind up?

Mr. SULLIVAN. Yes.

Rep. HYDE. Could you? Very well.

Mr. SULLIVAN. I will—I think I can.

Rep. HYDE. Then we'll continue it for three minutes.

Mr. SULLIVAN. Thank you very much, Mr. Hyde.

It's clear to me that the president's interpretation is a reasonable one, especially because the words which seem to describe oral sex—the words which seem to describe directly oral sex were stricken from the definition by the judge.

In perjury prosecution, the government must show beyond a reasonable doubt, that the defendant knew when he gave the testimony, he was telling a falsehood. The lying must be known and deliberate. It is not perjury for a witness to evade or frustrate of answer non-responsibly. The evidence simply does not support the conclusion that the president knowingly committed perjury, and the case is so doubtful and weak that a responsible prosecutor would not present it to the grand jury.

Let me turn to the issue of obstruction through delivery of gifts to Ms. Lewinsky by Mrs. Currie. Some of the evidence on this subject is not recounted in the Starr Report, but a responsible prosecutor will not ignore the proof consistent with innocence, or which shows that an element—an essential element of the case is absent.

The evidence is that when talking to the president, Ms. Lewinsky brought up the subject of having Mrs. Currie hold the gifts. And the president either failed to respond or said ''I don't know,'' or ''I'll think about it.'' According to Mrs. Currie, Ms. Lewinsky called Mrs. Currie and asked Mrs. Currie to come to Ms. Lewinsky's home to take the gifts and

Mrs. Currie did so. Ms. Lewinsky testified that Mrs. Currie placed the call to Ms. Lewinsky. But the central point in this is, that neither Mrs. Currie nor Ms. Lewinsky testified that the president suggested to Ms. Lewinsky that she had the gifts, or that the president told Mrs. Currie to get the gifts from Ms. Lewinsky.

Under these circumstances, it is my view that a responsible prosecutor would not charge the president with obstruction, because there is no evidence sufficient to establish beyond a reasonable doubt, that the president was involved. Indeed, it seems likely that Ms. Lewinsky was the sole moving force, having broached the idea to the president, but having received no response or encouragement, she called Mrs. Currie to take the gifts without the president's knowledge or encouragement. That is not the stuff of which an obstruction charge is made.

Because of time, I'm going to skip over my third example, and go to my conclusion.

Rep. HYDE. Thank you.

Mr. SULLIVAN. Which was about influencing Mrs. Currie's testimony. Time does not permit me to go through all of the allegations of misconduct in the Starr Report. Suffice it to say, that in my opinion, none of them is of the nature which a responsible federal prosecutor would present to a federal grand jury for indictment. I will be pleased to respond to your questions. Thank you very much, and particularly for the extra time.

Rep. HYDE. Thank you, Mr. Sullivan. This is a formal proceeding. And in the chamber of Congress, we never—unlike in certain state legislatures—introduce people in the gallery. But this is a special day, and we have someone in the audience that I think ought to be introduced. And with the permission of the gentleman from Massachusetts, I'd like to introduce Elsie Frank, Barney Frank's mother.

[Applause.]

Rep. HYDE. Thank you. Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman, Mr. Conyers, members of the committee——

Rep. COBLE. Mr. Chairman. Mr. Chairman.

Rep. HYDE. Yes.

Rep. COBLE. I'm reluctant to do this, but in the sense of fairness, do you think that since Mr. Sullivan was afforded an additional three minutes, that we should make that offer to the other members of the panel, if it comes to that?

Rep. HYDE. I'd rather face that critical decision——

Rep. COBLE. Very well. Very well.

Rep. HYDE [continuing.] On a piecemeal basis.

Rep. COBLE. But for the remaining four, at least I tried.

Rep. HYDE. Thank you. Mr. Davis.

Mr. DAVIS. Thank you. I will try and summarize my longer, written statement, which the committee has. There can be no doubt that the decision as to whether to prosecute a particular individual is an extraordinarily serious matter. Good prosecutors thus approach this decision with a genuine seriousness, carefully analyzing the facts in the law, and setting aside personal feelings about the person under investigation.

In making a prosecution decision, as recognized by Justice Department policy, the initial question for any prosecutor, is can the case be won at trial. Simply stated, no prosecutor should bring a case if he or she does not believe that, based upon the facts in the law, it is more likely than not that they will prevail at trial. Cases that are likely to be lost, cannot be brought simply to make a point, or to express a sense of moral outrage, however justified such a sense of outrage might be. You have to truly believe you will win the case.

I would respectfully suggest that the same principle should guide the House of Representatives as it determines to, in effect, make the decision as to whether to commence a prosecution by impeaching of the president. Indeed, if anything, the strength of the evidence should be greater to justify impeachment, than to try a criminal case.

In the context of perjury prosecutions, there are some specific considerations which are present when deciding whether such a case can be won. First, it is virtually unheard of to bring a perjury prosecution based solely on the conflicting testimony of two people. The inherent problems in bringing such a case are compounded to the extent that any credibility issues exist as to the government's sole witness.

Second, questions and answers are often imprecise. Questions sometimes are vague, or used summarily to define terms, and interrogators frequently asked compound or inarticulate questions, and fail to follow up imprecise answerers. Witnesses often meander through an answer, wandering around a question, but never really answering it. In a perjury case, where the precise language of a question and answer are so relevant, this makes perjury prosecutions difficult, because the persecutor must establish that the witness understood the question, intended to give a false, not simply an evasive answer, and in fact did so. The problem of establishing such intentional falsity is compounded, in civil cases, by the reality that lawyers routinely counsel their clients to answer only the question asked, not to volunteer, and not to help out an inarticulate questioner.

Third, prosecutors often need to assess the veracity of an ''I don't recall'' answer. Like other answers, such a response can be true or false, but it is a heavy burden to prove that a witness truly remembered the fact at issue. The ability to do so, will often depend on the nature of that fact. Precise times of meetings, names of people one has met, and details of conversations, and sequences of events, indeed, even if those events are of fairly recent origin, are often difficult to remember. Forgetting a dramatic event, is however more difficult to justify.

The ability to win a trial is not however the only consideration guiding a decision whether to prosecute. Other factors reflected in the Justice Department guidelines include federal law enforcement priorities, the nature and seriousness of the offense, the impact of the offense on any victim, whether there has been restitution, deterrence, in the criminal history of the accused.

Before turning to the application of these principles to the facts at hand, I should say that in my work at the Watergate Special Prosecutor's office, I was involved in applying these principle in extraordinarily high profile cases. While we successfully prosecuted a number of matters, we also declined to proceed in a number of close cases. We did so even in circumstances where we believed in our heart that a witness had deliberately lied under oath, or committed some other wrongful act, but simply concluded that we were not sufficiently so certain that we would prevail at trial.

I will not turn to the issue of whether, from the perspective of a prosecutor, there exists a prosecutable case for perjury in front of the grand jury. The answer to me is clearly no. The president acknowledged to the grand jury the existence of an improper intimate relationship with Monica Lewinsky, but argued wit the prosecutors questioning him, that his acknowledged was not a sexual relationship as he understood the definition of that term being used in the Jones deposition. Engaging in such a debate, whether wise or unwise politically, simply does not form the basis for a perjury prosecution.

Indeed, in the end, the entire basis for a grand jury perjury prosecution comes down to Monica Lewinsky's assertion that there was a reciprocal nature to their relationship, and that the president touched her private parts with the intent to arouse or gratify her, and the president's denial that he did so.

Putting aside whether this is the type of difference of testimony which should justify an impeachment of a president, I do not believe that a case involving this kind of conflict between two witnesses would be brought by a prosecutor, since it would not be won at trial.

A prosecutor would understand the problem created by the fact that both individuals had an incentive to lie—the president to avoid acknowledging a false statement at his civil deposition, and Miss Lewinsky to avoid the demeaning nature of providing wholly unreciprocated sex. Indeed, this incentive existed when Miss Lewinsky described the relationship to the confidantes described in the independent counsel's referral.

Equally as important, however, Mr. Starr has himself questioned the veracity of his one witness, Miss Lewinsky, by questioning her testimony that his office suggested she tape record Ms. Currie, Mr. Jordan, and potentially the president. And in any trial, the independent counsel would also be arguing that other key points in Miss Lewinsky's testimony are false, including where she explicitly rejects the notion that she was asked to lie and that assistance in her job search was an inducement for her to do so.

It also was extraordinarily unlikely that in ordinary circumstances a prosecutor would bring a prosecution for perjury in the president's civil deposition in the Jones case, First, while one could always find isolated contrary examples, under the prosecution principles discussed above, perjury prosecutions involving civil cases are rare and it would be even more unusual to see such a prosecution where the case had been dismissed on unrelated grounds and then settled, particularly where the settlement occurred after disclosure of the purported false testimony.

Second, perjury charges on peripheral issues are also uncommon. Perjury prosecutions are generally filed where the false statement goes to the core of the matter under inquiry. Indeed, in order to prevail in a perjury prosecution, the prosecutor must establish not only that the testimony was false, but that the purported false testimony was material.

Here, the Jones case was about whether then-governor Clinton sought unwanted sexual favors from a state employee in Arkansas. Monica Lewinsky herself had nothing to do with the actual facts at issue in that suit. This deposition was about the Jones case. It was not part of a general investigation into the Monica Lewinsky affair, and that is important on the materiality issue. Given the lack of connection between these two events, under the applicable rules of evident, her purely consensual relationship with the president half a decade later would, I believe, not have even been admissible at any ultimate trial of the Jones case.

While the court allowed questioning in the civil deposition about this matter, the judge did so under the very broad standard used in civil discovery. Indeed, while not dealing with the admissibility issue, had there been no independent counsel inquiry after the controversy about the President's relationship with Miss Lewinsky arose, the court considered this testimony sufficiently immaterial so as to preclude testimony about it at the trial.

Finally, the ability to prove the intentional making of false statements in the

civil deposition is compounded by inexact questions, evasive and inconsistent answers, insufficient follow-up by the questioner, and reliance by the examiner on a definition of sexual relations rather than asking about specific acts. But whatever the ability to meet the standard of proof on this issue as to any particular question, this simply is not a perjury case that would be brought. It involves difficult proof issues as to, at best, peripheral issues where complete and truthful testimony would be of doubtful admissibility, in a settled civil case which had already been dismissed. This simply is not the stuff of criminal prosecution.

Turning to the issues of obstruction of justice involving the Paula Jones case, a prosecutor analyzing the case would be effected by many of the same weaknesses that are discussed above. These weaknesses, as well as additional problems with such a case are discussed in my written statement and I will not comment on them, you know, orally, in the interest of time.

Before concluding, I would like to make two closing observations, and I will be, with your permission, just a minute or so. In August, 1974, prior to the pardon, the Watergate special prosecution force commenced the extraordinarily difficult process of whether—determining whether—to indict then-former President Nixon. In my 1974 memorandum analyzing the relevant factors which should ultimately affect such a decision, and proceeding in that memorandum on the belief not present here that adequate evidence clearly existed to support the bringing of such criminal charges, I articulated two primary and competing considerations which I believed it appropriate for us then, as prosecutors, to consider.

The first factor was to avoid a sense of a double standard by declining to prosecute a plainly guilty person because he had been president. The second was that prosecutors should not proceed with even provable charges if they conclude that important and valid societal benefits would be sacrificed by doing so. In the Nixon case, as articulated in my memorandum, such a benefit was the desirability of putting the turmoil of the past two years behind us so as to better be able to proceed with the country's business.

The second was the prosecutor should not proceed with even provable charges if they conclude that important and balanced societal benefits would be sacrificed by doing so. In the Nixon case, as I articulated in my memorandum, such a benefit was the desirability of putting the turmoil of the past two years behind us so as to better be able to proceed with the country's business. I believe today, 25 years later, that it is still appropriate for those deciding whether to bring charges to consider these factors.

Finally, prosecutors often feel a sense of frustration if they cannot express their sense that a wrong has been committed by bringing charges. But not every wrong is a crime, and wrongful noncriminal conduct sometimes can be addressed without the commencing of any proceeding.

Apart from issues of censure, we live in a democracy, and one sanction that can be imposed is by the voters acting through the exercise of their right to vote. President Clinton lied to the American people, and if they believe it appropriate they were free to voice their approval by voting against his party in 1998, and remain free to do so in 2000, as occurred in 1974 when the Democrats secured major gains. The answer to every wrongful act is not the invocation of punitive legal processes. Thank you.

Rep. HYDE. Thank you, Mr. Davis.

Mr. Dennis.

Mr. DENNIS. Thank you, Mr. Chairman. Mr. Chairman, Mr. Conyers, members of the House of Representatives committee on the Judiciary, I am opposed to the impeachment of President Clinton. My opposition is grounded in part in my belief that a criminal conviction would be extremely difficult to obtain in a court of law. There is very weak proof of the criminal intent of the president.

The Lewinsky affair is of questionable materiality to the proceedings in which it was raised. And I believe that a jury would be sympathetic to any person charged with perjury for dancing around questions put to them that demanded an admission of marital infidelity; that is, unless the answers were essential to the resolution of a very substantial claim.

On another level, I sense an impeachment under these circumstances would prove extremely divisive for the country, inflaming the passions of those who would see impeachment as an attempt to thwart the election process for insubstantial reasons. Perjury and obstruction of justice are serious offenses. They are felonies. However, in my experience perjury or obstruction of justice prosecutions of parties in private civil litigation are rare. Rarer still are criminal investigations in the course of civil litigation in anticipation of incipient perjury or obstruction of justice. In such circumstances prosecutors are justifiably concerned about the appearance that government is taking the side of one private party against another.

The oath taken by witnesses demands full and truthful testimony at depositions and in grand jury proceedings—excuse me, demands truthful testimony at depositions and in grand jury proceedings. Nonetheless, imprecise, ambiguous, evasive and even misleading responses to questions don't support perjury prosecutions, even though such responses may raise serious questions about the credibility of a witness on a particular subject. Proof that a witness's testimony is untrue is not sufficient alone to prove perjury, and to prove that a witness is intentionally evasive or nonresponsive is not sufficient to prove perjury either.

Courts are rigorously literal in passing on questions of ambiguity in the questions and the responses of witnesses under oath, and generally give the accused the benefit of any doubt on possible interpretations of the questions and the meaning of the allegedly perjurious response. Perjury cases are very difficult to win under the most favorable circumstances.

I believe the question of whether there were sexual relations between the president and Ms. Lewinsky is collateral to the harassment claim in the Jones case. The president has confessed to an inappropriate relationship with Ms. Lewinsky. The Jones case was dismissed and is now settled. These circumstances simply would not warrant the bringing of a criminal prosecution, and a criminal prosecution would most likely fail. Certainly the exercise of sound prosecutorial discretion would not dictate prosecuting such a case.

The consequences of the impeachment of the president of the United States are far reaching. These consequences are grave, and they impact the entire nation. Impeachment in my view should not serve as a punishment for a president who has admittedly gone astray in his family life, as grave as that might be in personal terms.

Where there is serious doubt, as there must be in this case, prudence demands that Congress defer to the electoral mandate. Thank you, Mr. Chairman.

Rep. HYDE. Thank you, Mr. Dennis.

Mr. Noble.

Mr. NOBLE. I too will attempt to keep my remarks within 10 minutes, Mr. Chairman. Mr. Chairman, Mr. Ranking Minority Member, and members of the committee, before I begin my formal remarks, let me extend my thanks to the following people who helped prepare me under these rushed circumstances: my brother, James Noble, who is here with me today; my research assistant, Russell Morris (sp), of NYU Law School is here with me today; my students in my evidence class, with whom I have spent the last two weeks talking about impeachment, but not the impeachment of a president, the impeachment of a witness. I have been trying to give them hypotheticals with which they could learn or from which they could learn. I told them I will be the best prop they will have today.

I am honored to appear before you today. I will discuss the factors ordinarily considered by federal prosecutors and federal agents in deciding whether to investigate, indict and prosecute allegations of violations of federal criminal law.

I submit that a federal prosecutor ordinarily would not prosecute a case against a private citizen based on the facts set forth in the Starr referral. My experience, which forms the basis of my testimony, is as follows: I have served as an assistant U.S. Attorney, a chief of staff and deputy assistant attorney general in the Justice Department's Criminal Division during the Reagan and Bush administrations, and undersecretary of the Treasury for enforcement in the Clinton administration, and I am currently a professor at the New York University School of Law where I teach, as I said, a course in evidence.

When investigating a possible violation of the law, every federal prosecutor must heed the guidelines of the Department of Justice. DOJ guidelines recognize that a criminal prosecution entails profound consequences for the accused and the family of the accused, whether or not a conviction ultimately results. Career federal prosecutors recognize that federal law enforcement resources and federal judicial resources are not sufficient to permit prosecution of every alleged offense over which federal jurisdiction exists. Federal prosecutors are told to consider the nature and seriousness of the offense, as well as available taxpayer resources. Often these resources are scarce and influence the decision to proceed or not to proceed and a decision how to proceed. Federal prosecutors may properly weight such questions as to whether the violation is technical or relatively inconsequential in nature, and what the public attitude is towards prosecution under the circumstances of the case. What will happen in the public confidence and the rule of law if no prosecution is brought, or if a prosecution results in an acquittal?

Even before the Clinton-Lewinsky matter arose, DOJ guidelines intimated that prosecutors should pause before bringing a prosecution where the public may be indifferent or even opposed to enforcement of a controlling statute, whether on substantive grounds or because of a history of nonenforcement, or because the offense involves essentially a minor matter of private concern and the victim is not interested in having it pursued.

Yet public sentiment against should not discourage prosecutors from bring charges simply because a biased and prejudiced public is against prosecution. For example, in a civil rights case or a case involving an extremely popular political figure, it might be clear that the evidence of guilt viewed objectively and by an unbiased fact-finder would be sufficient to obtain and sustain a conviction. Yet the prosecutor might reasonably doubt whether the jury would convict. In

such a case, despite his or her negative assessment of the likelihood of a guilty verdict, based on factors extraneous to an objective view of the law and facts, the prosecutors may properly conclude that it is necessary and desirable to commence of recommend prosecution, and allow the criminal process to operate in accordance with its principles.

During the civil rights era many prosecutions were brought against people for locally popular but no less heinous crimes against blacks. However, prosecutors should not bring charges on public sentiment in favor of prosecution when a decision to prosecute cannot be supported on grounds deemed legitimate by the prosecutor.

DOJ prosecutors are discouraged from pursuing criminal prosecutions simply because probable cause exists. And a number of the witnesses have already addressed this point. Why? Because probable cause can be met in a given case, it does not automatically warrant prosecution. Further investigation may be warranted, and the prosecutor should still take into account all relevant considerations in deciding upon his or her course of actions. Prosecutors are admonished not to recommend in an indictment charges that they cannot reasonably expect to prove beyond a reasonable doubt by the legally sufficient evidence at trial.

It is one of the most important criteria that prosecutors must consider. Prosecution should never be brought where probable cause does not exist, and both as a matter of fundamental fairness and in the interest of the efficient administration of justice, no prosecution should be initiated against any person unless the government believes that the person will be found guilty by an unbiased trier of fact.

Federal prosecutors and federal agents as a rule ought to stay out of the private sexual lives of consenting adults. Neither federal prosecutors nor federal investigators consider it a priority to invest allegations of perjury in connection with the lawful, extramarital, consensual, private sexual conduct of citizens. In my view, this is a good thing. From a proactive perspective, who among us would want the federal government to initiate sting operations against private citizens to see if we lie about our extramarital affairs or the nature of our sexual conduct. Imagine a rule that required all federal job applicants to answer the following question under oath: ''Because we are concerned about our employees being blackmailed about unusual or inappropriate sexual conduct, and because we want to know whether you would be at risk, please name every person with whom you've had a sexual relationship or with whom you've had sexual intercourse during your life. It certainly would be relevant and it certainly might lead to blackmail.''

Such a question would naturally lead to allegations of perjured responses. Irrespective of constitutional challenges from a public policy standpoint, most Americans would object to federal prosecutors and federal agents investigating and prosecuting those cases that came to our attention. Could we trust our government to make fair, equitable and restrained decisions about how much to investigate any one of these allegations?

The potential for abuse and violation of our right to privacy would be great. Indeed, assigning federal agents to interview witnesses, install wiretaps and insert bugs to learn about the private, legal, sexual conduct of U.S. citizens would concern us all. But aggressive prosecutors and agents would do exactly that to make cases against those citizens where prosecutions would garner publicity and thereby act as a deterrent. In my view, the biggest target would be politicians.

As a general matter, federal prosecutors are not asked to bring federal criminal charges against individuals who allegedly perjure themselves in connection with civil lawsuits. As a rule, federal prosecutors on their own do not seek to bring criminal charges against people who perjure themselves in connection with civil depositions, for the reasons that have already been articulated. in addition, this would open a floodgate of referrals. Parties by definition are biased, and it would be difficult to discount the potential bias.

By their nature, lawsuits have remedies built into the system. Lying litigants can be exposed as such and lose their lawsuits. The judge overseeing the lawsuit is in the best position to receive evidence about false statements, deceitful conduct, and even perjured testimony. She can sanction violating litigants by initiating civil or criminal contempt proceedings.

Notwithstanding the reasons generally, there are 10 good reasons, taken in combination, which support the view that a career federal prosecutor asked to investigate allegations like those in the Clinton-Lewinsky matter would not pursue federal criminal prosecution to the indictment or trial stage. One, the alleged perjury occurred in a civil deposition and concerned private, lawful, sexual conduct between consenting adults. Two, the alleged perjured testimony was deemed inadmissible by the trial judge. Three, that evidence arguably was dismissed as immaterial by the trial judge. Four, in any event, the alleged perjured testimony was, at most, marginally relevant. Five, the alleged perjured testimony did not affect the outcome of the case.

Six, the parties settled and a court dismissed the underlying civil suit. Seven, the settlement of the suit prevented the appellate court from ruling on a dismissal and on the materiality of alleged perjured testimony. Eight, the theoretically harmed party knew of the alleged perjury prior to settlement. Nine, alleged—and I say alleged—political enemies of the defendant funded it in a plaintiff's suit. Ten, a federal government informant conspired with one of the civil litigants to trap the alleged perjurer into perjuring himself.

Given the above considerations, most federal prosecutors would not want to use taxpayer dollars, federal agents and sensitive federal investigative resources to uncover the most intimate and embarrassing details of the private sexual lives of consenting adults when there is a risk of bias and when there is a judge in a position to address the alleged criminal conduct.

The judgment that a career prosecutor might make about an ordinary person might be very well affected by the knowledge that the alleged perjury was committed by the president. That is to be conceded. Even the most experienced, fair-minded prosecutor will find it difficult not to pursue allegations of criminal misconduct against a president, a senator, a governor, any member of Congress. The interest in targeting, threatening and harming the president, especially, can be explained in part by the power and visibility of his office. Even a prosecutor with exceptional judgment might be tempted by the challenge of bringing down a president. A prosecutor with unchecked power, unlimited resources and only one target might find the temptation even stronger.

Mr. Chairman, I believe I can conclude in two minutes, with the permission of the chairman.

Rep. HYDE. Two minutes?

Mr. NOBLE. Two minutes.

Rep. HYDE. Surely.

Mr. NOBLE. Thank you, Mr. Chairman.

Rep. (Off mike.)

Mr. NOBLE. Thank you, Mr. Coble.

It is difficult to think of a fail-safe structure that could protect anyone from allegations of bias in a decision to prosecute or not prosecute the president. Not the attorney general, the independent counsel, the Justice Department, the FBI, the Secret Service, the federal judiciary, the congress, the bar and the academy can escape some person or act in their background that could create a conflict or an appearance of a conflict. No one for or against prosecution would be safe from attack on the merits or from false personal attacks. For this reason, a prosecutor or a committee assigned such a case must strive to be objective, knowing that criticism of bias will be unavoidable.

In a prosecutorial context, a 13-to-10 vote by the grand jury constitutes enough votes to proceed, but reflects that there must be, or might be, a serious problem with some aspect of the case. Similarly, a vote for impeachment based on a party-line vote or near party-line vote is a signal that something is wrong or may be wrong with the case and that the case may not be worth pursuing. This is particularly true where the overwhelming majority of Americans appear to be well-informed about the allegations and unbiased as a group, yet they do not want this president impeached.

While indictments and impeachment proceedings are different, they carry at least two similarities. One, most of us know it when we see the clear cases for criminal conviction and for impeachment. Two, public confidence in the rule of law and our system of government would suffer if we regularly indicted cases or impeached presidents, only to have juries or the Senate vote to acquit.

In closing, I believe that the Justice Department got it right and Independent Counsel Donald Smaltz got it wrong. Indictments and impeachments that result in acquittal ought to be avoided where possible. No prosecutor would be permitted to bring a prosecution where she believed that there was no chance that an unbiased jury would convict. Almost no one in this country believes that the U.S. Senate will convict the president on any potential article of impeachment. Members of Congress should consider the impact that a long and, no doubt, sensationalized trial will have on the country, especially a trial that will not result in a conviction.

In the end, I am confident that you will give the weighty responsibility that you must discharge serious consideration. A vote against impeachment need not be viewed as a vote against punishment. As Professor Steve Saltzburg noted before you earlier this week, Judge Susan Webber Wright retains jurisdiction over the case wherein the allegedly perjured testimony occurred. She can hold civil or criminal contempt hearings. Of all the arbiters of justice in this matter, she is perceived as being the least biased. She can punish the president for false and misleading conduct even if it does not rise to the level of perjury or obstruction of justice. Trust her to mete out the appropriate punishment.

I thank you.

Rep. HYDE. Thank you, Mr. Noble.

Governor Weld.

Mr. WELD. Mr. Chairman, Mr. Ranking Member, members of the committee, my name is William Weld and I am sincerely honored to appear before you this morning.

I'm no Tom Sullivan, but I have knocked around the criminal justice world a little bit, from 1986 to 1988. Under President Reagan I was the assistant attorney general in charge of the criminal division in Washington, which is relevant because that's the policy, or political appointment, charged with ensuring the uniformity of charging decisions—decisions of whether to seek an indictment

around the country, in various districts. Prior to that, for five years I was the United States Attorney in Massachusetts.

And I became familiar, in the course of that seven years, with the handbook, ''The Principles of Federal Prosecution,'' and with the United States attorneys manual and, when I was in Washington, with the practices and procedures that also have been developed over the years to try to ensure uniformity in charging decisions.

It so happens that in 1974, for nine months, I also worked for this committee under Chairman Rodino on the impeachment inquiry into President Nixon. And I worked on the constitutional and legal unit there, which was charged with reading every precedent—in Britain (sp), in Heinz (sp), in Cannon (sp), in reported cases in the records of the 1787 debate on the Constitution—having any relevance at all to what high crimes and misdemeanors means in the United States Constitution.

Like Mr. Sullivan, like many others, I do not consider myself an advocate here before you. I do have a couple of points of view that I would like to share with the members of the committee, and you can take them for what they're worth. Ordinarily, in a civil context, you don't qualify as an expert on the basis of nine months' experience, but for whatever they're worth.

I do believe, Mr. Chairman, that under the Reagan administration it was not the policy of the U.S. Justice Department to seek indictments solely on the basis that a prospective defendant had committed adultery or fornication, which are not lawful, but it simply wasn't the policy to go there. It was also not the policy to seek an indictment based solely on evidence that a prospective defendant had falsely denied committing unlawful adultery or fornication.

And let me say a little bit about perjury cases. I don't think they're all that rare, and I've prosecuted a lot of them, but I do think that what one or two of the witnesses said is true; there's usually something else involved in a federal perjury prosecution. There's a pass-through aspect here—you're really going to something else. I once prosecuted a guy who stated that he was in Florida on November 28th and 29th, 1981. You may say, that's kind of, you know, stooping to pick up pins. Why would you prosecute him for that? Well, that was the day the city of Lynn, Massachusetts burned down, and this guy was an arsonist and three people made him in the Porthole Pub in Lynn, Massachusetts, that day, so—and we found his fingerprints on a ticket to Florida the next day after the fire, so we thought it would be a good idea to bring a perjury prosecution there to rattle the cage a little bit, and we did. And often, we brought them where we were trying to penetrate a wall of silence, as in cases of public corruption or narcotics, when you're trying to break through this omerta, everyone's got to dummy up, phenomenon. But there is something else that you're trying to get at here.

Until this year, the policy of the Department of Justice was that in cases of false statements they would not seek an indictment solely on the basis of somebody denying that they themselves had committed misconduct. This is called the ''exculpatory no'' doctrine, and it was adopted in a lot of circuits. It was kicked out by the Supreme Court in a decision by Justice Scalia early this year, based on bad facts—you had a ranking union official who'd taken money from employers in violation of an independent federal statute—so that's the ''something else'' that the prosecution was trying to get at. So, a very unsympathetic case for the court applying the exculpatory no doctrine.

In my view, it would have been a handy idea to carve out an exception to the abrogation of that doctrine for cases involving personal misconduct as opposed to a violation of an independent federal statute such as was involved there. Certainly, a responsible prosecutor could apply that filter in the exercise of his or her discretion.

The last thing, let me just say, on the law of impeachment, I am pretty well convinced that adultery, fornication or even a false denial—false—I'm assuming perjury here—false denial of adultery or fornication, they do not constitute high crimes and misdemeanors within the meaning of the impeachment clause of the U.S. Constitution. They're not offenses against the system of government, they don't imperil the structure of our government.

The remedy of impeachment is to remove the officeholder. Get the worm out of the apple. It's a prophylactic—prophylactic remedy, it is not punitive. If any of you are thinking, we've got to vote yes on impeachment to tarnish the president, he's already tarnished, and that's really not the purpose of the impeachment mechanism.

Nobody's going to forget this stuff. This is a man who's been elected president of the United States twice, and thus entitled to this office, after allegations very similar to those now before you.

I hate to open old wounds, but you remember back in 1992 and the Gennifer Flowers matter; if there are two people in a room and they both deny that something happened, then you can't prove that it happened. Well, that's very similar to what we're talking about here, and this officeholder was elected president of the United States twice after all those facts were before the people.

So, I come out thinking that the most appropriate result is something other than removing this person from his office, taking his office away from him. There's a lot of talk about censure. I think, personally, the dignity of Congress and the dignity of the country demands something more than merely censure here, and I would suggest, in conclusion, Mr. Chairman, four things that you might want to think about, in addition to censure.

Number one, it's not unknown for grand juries investigating corruption in a city or a county, for example, to issue a written, detailed report of their findings. That could easily be done here, be entirely proper. Number two, there could be a written acknowledgement of wrongdoing on the part of the president, and for reasons which will become evident in a moment, I would not propose that there be insistence on the use of the word ''lie'' or ''perjury'' there, but it's something that could be negotiated to reflect the gravity of what he has done.

Number three, there could be an agreement to pay a fine. This is something tangible, more tangible than censure, and it involves the respondent as well as the moving party, the moving party here being the House.

And that would mark the moment. That would mark the solemnity of the occasion. And the agreement would remove any doubt about somebody going to court and saying there's no basis for this. It would be thrown out on the basis of the political question doctrine anyway, I think.

I'm not here to say what the fine should be, but if memory serves, Speaker Gingrich had to pay quite a large fine not so long ago because people didn't like either the content or the market of a college course that he taught. The members might wish to consider providing that the fine could not be paid out of the proceeds of a legal defense fund, given all the background circumstances.

Finally, what I am proposing, the final element would be that the president would have to take his chances with respect to the criminal justice process post his presidency. I do not agree with those in the media who say that any deal on censure has to protect the president against criminal proceedings after he leaves office.

First of all, there doesn't have to be any deal on censure. That's entirely within your power. The White House has no leverage there. Second, the Constitution explicitly says that even if a president or anybody is impeached, convicted and removed from office, they remain liable to trial and indictment. It's very explicit. It's right in the Constitution. If the objection is that the spectacle of a former president being prosecuted would be tawdry and degrading, it really couldn't be much more tawdry and degrading than what we've already been subjected to through the constant daily reports of the Lewinsky affair.

Lastly, I agree with everyone who's spoken before about whether a perjury prosecution here really lies. I think there's quite a low risk of that from the point of view of the president. So that's the suggestion. It's a political suggestion, but this is in part a political process about a five-part deal, if you will. And I think the dignity of the House would be upheld if something like that were to be approached, and everybody could perhaps get on more easily with attending to the public's business.

Thank you, Mr. Chairman.

Rep. HYDE. Thank you, Governor. Mr. Sensenbrenner.

Rep. SENSENBRENNER. Thank you very much, Mr. Chairman.

As I'm sure all members of the panel know, the last impeachment took place nine years ago, in 1989, against Judge Walter Nixon of Mississippi. And in that impeachment, the House of Representatives, by a vote of 417 to nothing, declared that making false statements to a grand jury were impeachable offenses. The Senate apparently agreed with the House's judgment, because Judge Nixon was removed from office on a 91–8 vote on both of those articles of impeachment.

I'm wondering if members of the panel think that the House made a mistake nine years ago in unanimously declaring that making false statements to a grand jury were impeachable offenses.

Mr. DAVIS. One, I think you have to look at the proof. I mean, first of all, I assume that there was proof as to what the perjury that took place. I assume also that the perjury, as I recall, went to the core issue in the matter in which the perjury took place. So you had certain important factual differences.

I also think that there's an important difference when one is considering the issue of a judge versus the president; that judges, as others have testified, sit in terms of good behavior, and so the standard is not precisely the same as would be in removing a president who's elected by the public and sits for only four years.

And finally, I think that in terms of perjury, I do think that one has to look a bit about what the underlying events are. And I do think that since what we're talking about is a private consensual relationship as being at the core of it, that that affects the impeachability. But the bottom line is, as I said in my statement, I don't think there's really the proof, particularly as to grand jury perjury.

Rep. SENSENBRENNER. Well, just by way of background, the events that led up to the Judge Nixon impeachment, which is contrasted to the President Nixon impeachment—you've got to be very particular here—involved a private affair, a financial affair, where Judge Nixon allegedly accepted an illegal gratuity of a sweetheart deal in an oil and gas lease. He was acquitted of that charge by the jury at a criminal trial.

So here we're saying that the jury made a determination that Judge Nixon did nothing wrong in terms of entering into this oil and gas lease, but he was convicted by the jury of the two counts of making false statements. So while there are some differences, there are also some similarities in that private misconduct was alleged as a part of the grand jury investigation.

I am concerned with the answers to your question, in that you seem to be implying that the standard of truthfulness for the president of the United States is less than a federal judge someplace in the country because the president is elected and the judge is appointed and holds office for good behavior.

Mr. DAVIS. No, I'm not saying——

Rep. SENSENBRENNER. You know, am I wrong on that?

Mr. DAVIS. I'm not really saying that. I'm saying that the standard for truthfulness is really the same. I'm saying that here I don't think there's the proof, particularly as to the grand jury, that you can make the case of perjury. And second, what I'm saying is the standard for impeachment, not the standard for truthfulness, but there are differences in the standard of impeachment for a judge as opposed to the president. And I think there's a lot of scholarship (for that?).

Rep. SENSENBRENNER. Well, yesterday many of the president's defenders were troubled about the alleged false statements to the grand jury. And at least one of the witnesses that the White House brought up here, former Congressman Owens, flat out said that the president lied before the grand jury. That's what the House found in terms of Judge Nixon. And, you know, I'm concerned that if a judge lies to the grand jury, we all agree that it's impeachable, and if the president lies before the grand jury, then there is a huge debate about whether or not that's impeachable. Now, who's going to stand up for the truth here?

Mr. DAVIS. Well, respectfully, I don't think that the evidence supports the perjury in the grand jury, as articulated in my statement.

Rep. SENSENBRENNER. Okay, thank you. I yield back my time.

Rep. HYDE. The gentleman from Michigan, Mr. Conyers.

Rep. CONYERS. Gentlemen, I want to pay my highest commendations to all of you here because you have now put on the record, once and for all, all of these pestering questions that have been tempting to be dealt with for so many weeks and months now. You should, Ron, feel proud to go back to your evidence class. You can hold your head high. And I thank you all.

Now, the important thing about this was that, unless I missed something, none of you contradicted each other—nobody. And it seems to me that this testimony of you five gentlemen ought to be bound up and delivered, which I would elect to do. I need Pat Buchanan to get a copy of this, Tim Russert, Cookie Roberts, George Will, Sam Donaldson and Ms. Buchanan, Pat's sister, not because they object to all of this, but because they are the ones that in the media continue—with many others, of course—this nonsensical debate about obvious legal questions that a first-year law student could dispose of.

And so what you've done here is of signal importance, from my point of view. This should be studied carefully by everybody that makes public utterances about the questions of perjury and obstruction and how and when materiality figures into the prosecutorial role.

Now, this question has come up. I think I called it the Scott question. Is there any case on record for a prosecution, based on a case in which it was dismissed?

It was an immaterial statement. There was a settlement to boot. I mean, we are going through everything—has anybody ever heard of a case like this? We need the citation right away if there is, because I'll stop making this assertion.

Mr. SULLIVAN. Mr. Conyers——

Rep. CONYERS. [continuing]. I can't guarantee you that there is no such case, but I doubt it. As I said in my remarks, the—well, the thrust of what I'm saying is that the federal criminal process is simply not used to determine truth or falsity in statements in civil litigation. And it's particularly true—I mean, that's true, and it's also even more true when you take a situation, as you have here, that the testimony is even peripheral to the civil case involved. The federal criminal justice system is not designed or intended to enforce a code of moral conduct. That's not what we do, or what I used to do and what the good federal prosecutors do. I'm not saying you can't find an errant one somewhere that will bring charges. But so far as I know, this would be totally unprecedented, if such a case were brought.

Rep. CONYERS. Thank you.

Mr. Davis, Mr. Noble, Governor, any other comments on this, this matter?

Mr. DENNIS. Well, I agree. I mean, I do not disagree with any of the statements that have been made by my colleagues here on the panel. I have not considered the suggestions that Governor Weld had made with regard to possible political disposition of the matter. But I think that it's fairly clear and that if a poll were taken of former U.S. attorneys from any administration, you'd probably find the overwhelming number of them would agree with the assessment that this case is a loser and just would not be sustained in court.

Rep. HYDE. The——

Rep. CONYERS. Well, thank you, Mr. Chairman. I think that this is one of the most important panels that we've had before us in the course of these proceedings.

Rep. HYDE. Thank you, Mr. Conyers.

The gentleman from Florida, Mr. McCollum.

Rep. BILL MCCOLLUM (R–FL). Thank you very much, Mr. Chairman.

Mr. Sullivan, have you had an opportunity to review the District of Columbia Circuit Court of Appeals decision regarding the question of materiality and the issue before us, you know, and the question of the independent counsel and Lewinsky?

Mr. SULLIVAN. I have read about it in the Starr report.

I don't think I read the opinion of——

Rep. MCCOLLUM. Well, it's—the decision just is unsealed and available to us in the last week.

Mr. SULLIVAN. That's why I have not.

Rep. MCCOLLUM. And you may not be aware that the District Court of Appeals opinion squarely addressed that issue of materiality, and it found that her false sworn statement would be material for the purposes of perjury law. In other words, a false statement by the President in that case would have been material. So I think we can put that materiality question to rest that Mr. Conyers just raised.

I also want to make a comment to you, Governor Weld. You said that ''I do not believe that adultery, fornication, or false denial of adultery or fornication constitutes high crimes and misdemeanors within the meaning of the impeachment clause of the Constitution of the United States.'' I agree with you. But in this case, we're not dealing simply with false statements or fornication or adultery, we're dealing with potentially perjury, obstruction of justice, witness tampering, things of that nature. And there's where you and I may differ. And I think it is significant, albeit a civil case.

Mr. Sullivan, you and Mr. Davis and several others on the panel pointed out how rare you think it for perjury cases to be brought in federal court in civil cases, and yet we just had Mary—Barbara Battalino, I should say, in here last week as a witness, a very recent case in which a perjury case was brought in a civil suit involving the Veterans' Administration psychiatrist. And on August 4, 1998, a former employee of the United States Postal Service, Diane Parker (sp), was sentenced to 13 months in prison and three years of supervised release for lying in a civil case regarding a sexual relationship with a subordinate. And that, of course, was a federal case. And I've got citations for 29 of these cases, at least, sitting right here. There are 115 people, minimally—maybe more than by now—serving in federal prison today for perjury and, as I say, most of those or a great many of those for civil perjury. So maybe the policy a few years ago was different, but certainly prosecutors are prosecuting in these sexual harassment-type cases and the type of Battalino and Parker cases that we—that we're seeing more of today than maybe we did back in 10 or 15 years ago.

I also want to address the question that, Mr. Sullivan, you raised and, I think, Mr. Davis, you raised in particular, about perjury with regard to a single witness. Section 1623, as you've pointed out, rightfully, does allow prosecution with a single witness. And I dare say that about 90 percent of the cases brought today that have resulted in people going to prison in the federal system have been brought under that.

I've looked at it, and that's who those 115 people constitute.

Now I'll agree with you, I think your analysis is good. You need corroborative witnesses, even though it may not be required. But let me go through what's here in the grand jury case with respect to the perjury charged, and it's the same underlying main issue in the deposition. You have a situation in which the President of the United States says that he did not commit or have sexual relations with Monica Lewinsky under the definition as given in the court in the Jones case. That court included in its definition explicitly the touching of breasts or genitalia.

Now, the president said, ''I didn't do that.'' He repeated it very carefully in the grand jury testimony. Monica Lewinsky said on nine occasions in her sworn testimony before the grand jury the president touched her breast and on four occasions, they had genital contact and that all of this was to arouse.

Now, the issue of corroboration, there are 10 corroborative witnesses. Interestingly enough, strangely enough, Monica Lewinsky talked contemporaneously with family members, friends and relatives about these matters in great detail. And we have 10 of those whose testimony is before us in sworn testimony. Seven of the 10 corroborate the explicit detail with regard to this touching under the definition of sexual relations that Monica Lewinsky describes.

Now, it seems to me that that kind of corroboration is precisely the kind of corroboration that would in fact engender a prosecution, would give confidence to a prosecutor to take perjury cases forward, and would indeed give a high probability of conviction if this were taken before a court in any case—any court in this land. A jury would be hard pressed not to convict under those circumstances.

Mr. DAVIS. Mr. McCollum, if I——

Rep. MCCOLLUM. So it strikes me as very strange that we're dismissing this. Nobody, nobody on this panel and nobody yesterday has mentioned the fact that these corroborating witnesses exist. It seems to be something that the president's advocates simply

want to ignore. It's a bottom-line question in here, Mr. Davis.

Mr. DAVIS. I think I did address the——

Rep. SENSENBRENNER. Gentleman's time has expired.

Rep. NADLER. Mr. Chairman. Mr. Chairman.

Rep. SENSENBRENNER. The gentleman from Massachusetts is recognized.

Rep. NADLER. Mr. Chairman.

Rep. FRANK. Mr. Chairman, I——

Rep. NADLER. Mr. Chairman, before the gentleman from Massachusetts, I request recognition for a moment.

Rep. SENSENBRENNER. For what purpose does the gentleman from New York seek——

Rep. NADLER. Mr. Chairman, the question that Mr. McCollum just asked the witness is perhaps that central question of this case.

Rep. FRANK. I'll give them time to answer.

Rep. NADLER. And I'd ask that you give them time.

Rep. FRANK. I was just about to do that.

Rep. SENSENBRENNER. The—with yielding to continue on the debate, that's going to mean that we're going to be here until midnight. The chair will enforce the clock and the rules that were laid down by Mr. Hyde at the beginning of this hearing. If further members down the list want to have questions answered when the time has run out, they can decide to use their time to do that.

The gentleman from Massachusetts is recognized.

Rep. FRANK. Anybody want to answer that question?

Mr. DAVIS. Yes, I'd like to answer that. I think the reasons why that prosecution would not win is one, as I said in my statement, that both witnesses, including Miss Lewinsky, had an incentive to lie. And she had an incentive to lie not only to the grand jury on this issue but to her confidants, because otherwise she would be acknowledging an unreciprocated sexual relationship.

But just as important, if you're talking about one witness that Mr. Starr or any prosecutor is going to put forward, Mr. Starr and his prosecutors themselves are going to have to argue in this case that Miss Lewinsky's testimony in other issues is not accurate. They're going to have to argue that. They're going to be in a position where they're going to have to say she's telling the truth as to this, not telling the truth as to other things.

Also, Miss Lewinsky in her testimony various times said she had a similar definition of sexual relations.

So I think that if you look at this from the perspective of a trial lawyer, in terms of how this would play out, I think this would be really an impossible case to develop.

Rep. FRANK. Mr. David, you've convinced me. We'll go on to the next issue. I think that's absolutely right. All those corroborating witnesses corroborated only what Ms. Lewinsky had told them. No one has yet alleged that there was a kind of Peeping Tom slot outside the Oval Office, where they could have made any observation that would have made them in any way relevant to the trial.

We also ought to know telling the truth was not the most noticeable characteristic of this set of interrelationships. But I mean, I think, had the guy with the lamp been there, he'd still be outside looking for someone to talk to if he got involved with all of them.

Ms. Lewinsky was herself threatened with prison, as was her mother. And I do think that Mr. Starr's penchant for threatening people with prison if they did not say bad things about the president has some credibility relevance.

But I wanted to just also talk about Judge Nixon. I'm reading from the majority, and the gentleman from Wisconsin said, ''Well, he perjured himself only about''—or he didn't say ''only''—''he perjured himself about an oil and gas deal.'' But I am reading from the majority's report, which the majority issued earlier this year and staff kindly gave to me, on pages 9 and 10, ''Judge Nixon lied about whether he had discussed the case with the state prosecutor and had influenced the state prosecutor to essentially drop the case.'' In other words, the underlying issue here was not simply a private oil and gas deal, but a federal judge intervening with a state prosecutor to get him to drive (sic) the case. And that's what I—I was particularly interested in Mr. Weld's presentation and others.

One of the arguments we've had here is that looking at the underlying issue in a perjury allegation is somehow a—to traduce the law and to undercut it. And I would like to ask all of you, because I think this becomes now a central issue in this case—when you are deciding how to deal with allegations of perjury—because I don't believe that anybody would be able to prove grand jury perjury; I do think that with regard to the deposition, it would be easier, and the president did unfortunately, in my judgment, when he said he couldn't remember being alone, transgress—but on the question about whether or not you take into account the underlying issue, in the case of Judge Nixon, the underlying issue was talking to a state prosecutor and intervening to get his partner's son's conviction lessened—I think very different.

This is the central case—as prosecutors, all of you, is it wrong to take into account the underlying cause where there is a perjury allegation? Mr. Weld has said that in his experience, perjury is usually a way to get at a broader issue. So let me start with Mr. Weld.

Mr. WELD. Well, I agree, Mr. Congressman. I think the underlying conduct is important. I mean, I would agree, in a way, on the law, with Representative Sensenbrenner, Representative McCollum; I do think that false statements to a grand jury can easily be grounds for impeachment.

I think I had the Judge Nixon case for a while when I was at Justice, and my recollection is that there was clouds of corruption in the background of that——

Rep. [off mike]—foreground.

Mr. WELD [continuing]. And perhaps in the foreground, of that case. So, you know, I think, looking at the underlying conduct—and that's another way of saying what Mr. Dennis, Mr. Noble, others have said, that there's a test of substantiality—Mr. Davis said it, as well—in assessing the totality of circumstances in making a charging decision whether to go forward in a perjury case. And it's really more substantiality than materiality that I think might be the rock you run up against.

Rep. FRANK. Thank you, Mr. Weld.

Let me just say in closing, there's a point I wanted to make, and I was particularly grateful to the former governor of my state for making it, as a man who understands the broader democratic, with a small ''d,'' implications here. He made a very important point when he acknowledged the president has been tarnished. Bill Clinton is a man who clearly thinks a lot about how he is going to be regarded, and the argument that somehow he will be walking away unpunished if he is censured and has had this and other proceedings, I think, is very inaccurate, and I appreciate Mr. Weld bringing that out.

Rep. SENSENBRENNER. The gentleman's time has expired.

The gentleman from Pennsylvania, Mr. GEKAS.

Rep. GEORGE GEKAS (R–PA). I thank the chair.

Mr. Sullivan, you had repeated today what we have heard in different ways over the months of this controversy, that the president is neither above the law nor below the law, implying, I believe, on your part that if it were an ordinary citizen, not the president of the United States, that this case would have been dismissed out of hand, and therefore, the same premise should have been accorded to the president because he's not below the standard or above the standard that you would apply to an ordinary citizen.

I see such a big difference that it's hard for me to articulate it, but suppose the ordinary citizen in your set of circumstances had pleaded the Fifth Amendment. You would have, undoubtedly, honored that and then we may never have heard of it at all, that case, in the body politic. And I would submit that the Fifth Amendment is pleaded regularly across the land and we never get results from that kind of case. But if the president of the United States had pleaded the Fifth Amendment, you would agree that there would have been headlines acorss the world and that there would have been a shaken seat of government in Washington, D.C. Or don't you think that would have been as dramatic as I think it would have been?

Mr. SULLIVAN. Had the president, instead of testifying in the grand jury, had taken the Fifth Amendment, I'm certain it would result in a great deal of publicity, probably adverse.

I don't think that it changes the issue of whether he's above or below the law.

Rep. GEKAS. But my point is that you are asserting with me that this high-profile case that would have been a result of the president pleading Fifh Amendment makes it a different situation. It is possible, I believe, that the Congress, that the House, could begin impeachment proceedings if that alone had happened—the pleading of the Fifth Amendment by the presieent—as being a political problem, a political affront to the system of government.

Mr. SULLIVAN. Do you think taking the Fifth Amendment is a high crime or misdemeanor?

Rep. GEKAS. No, no, no. No, I'm saying that it——

Mr. SULLIVAN. The Constitution gives everyone the right to take the Fifth Amendment and the jury is instructed that they are not to take any inference from that.

Rep. GEKAS. No, no, no, no. What I'm saying is that it could serve—it could—what I'm saying to you, sir, is that in pleading the Fifth Amendment it becomes a high profile case, and——

Mr. SULLIVAN. There's no doubt about that.

Rep. GEKAS. And when——

Mr. SULLIVAN. I'm sorry if I interrupted.

Rep. GEKAS. If the president did so, you can't argue that case. It would be—you already admitted that it would be a high-profile case.

Mr. SULLIVAN. I admit that, of course. But I don't think it's relevant here.

Rep. GEKAS. Well, I'm asking questions concerning it.

Mr. SULLIVAN. Go ahead.

Rep. GEKAS. The fact that it becomes a high-profile case means that when the president of the United States takes some kind of legal action, like committing false or stating falsehoods under oath, that we cannot treat it as just another case, but whether or not the president attacks the system of government that is so important to us. Governor Weld makes a great deal out of the fact that what the president did, no matter how we couch it, is not an attack on the system of government.

Yet we submit, many of us, that when he undertakes to make false statements under oath that he is directly attacking two segments of our system of government: one, the

rights, the constitutional rights of a fellow American citizen who has instituted a case in which he, if he did those falsehoods, was trying to destroy that individual's right to pursue a case. That is an attack, some of us might conclude, against our system of government.

And secondly, in affronting the judicial system, the other third branch of government by directly giving false statements under oath could be considered, could it not, as an attack on the delicate balance of separation of powers, his disdain for the judicial system? We have to take that into consideration, do we not, Governor?

Mr. WELD. It could be so considered, Mr. Congressman; those arguments, while fair on their face, strike me as on the technical side, but I understand what you're saying.

Rep. GEKAS. I thank. I have no further questions.

Rep. SENSENBRENNER. The gentleman from New York, Mr. Schumer.

Rep. CHARLES SCHUMER (D–NY). Thank you, Mr. Chairman.

First, I want to compliment this panel. I think it was an extremely strong and erudite presentation from all five of you. It was an excellent panel, and I appreciate your putting the time and effort into it.

When I look at where we're headed here, I think there are sort of three levels of argument. The level we addressed yesterday was dispositive for me and for some of us, and that is that even if you assume all of Mr. Starr's facts to be true and that the president did wrong, however one would define that wrong, it does not rise to the level of high crimes and misdemeanors and doesn't merit impeachment. I think that case was made very well yesterday by the first panel.

The second level of the case would be—the next two levels relate to you folks, and that is, if you assume the opposite, that if Starr's facts are correct, if Mr. Starr's facts are correct, then impeachment is warranted, there are two parts to that. One is the abuse of power and obstruction of justice charges, which seem to most, myself included, to be at a higher level, and the next go to the perjury charges. So let me ask you about each of those.

First, on the abuse of power charge, which even many on this committee feel went too far, do any of you think there's any merit to that charge being filed, whether it be—well, you can't even make the case to a citizen, because it relates to the president being president. Do any of you feel that charge has any merit whatsoever? (No audible response.) Okay. Let the record show that nobody did. And I don't want to spend much time on that.

On the obstruction of justice, there seem to be three specific areas that at least Mr. Starr talked about. One was the finding of the attempt to find Ms. Lewinsky a job; the second, the discussions between Ms. Lewinsky and the president about what they would say if confronted with their relationship; and the third about Ms. Currie's testimony and so-called being coached about that testimony.

When we examined that, and when I questioned actually Mr. Starr himself about those and I asked him what greater evidence did he have to the president making a determination that he wished to influence the judicial process, as opposed not having his wife, his friends, his staff, the nation find out about his relationship, Starr didn't point to any evidence. It was simply surmise.

Would any of you care to comment on that group of charges?

Mr. SULLIVAN. Mr. Schumer——

Rep. SCHUMER. Mr. Sullivan?

Mr. SULLIVAN [continuing]. Can I comment on the one about Mrs. Currie?

Rep. SCHUMER. Yes.

Mr. SULLIVAN. Because that's the one I didn't allude to in my statement.

Rep. SCHUMER. Correct.

Mr. SULLIVAN. Mrs. Currie testified that she did not feel that the president came and asked her some questions in a leading fashion—''Was this right? Is this right? Is this right?''—after his deposition was taken in the Jones case. And she testified that she did not feel pressured to agree with him and that she believed his statements were correct——

Rep. SCHUMER. Correct, right.

Mr. SULLIVAN [continuing]. And agreed with him. He—the quote is, ''He would say, 'Right,' and I could have said, 'Wrong.'''

Now that is not a case for obstruction of justice. It is very common for lawyers, before the witness gets on the stand, to say, ''Now you're going to say this, you're going to say this, you're going to say this.''

Rep. SCHUMER. Right.

Mr. SULLIVAN. Now it doesn't make a difference if you've got two participants to an event and you try to nail it down, so to say.

Rep. SCHUMER. Do you all of you agree with that, with the Currie—the Currie——

Mr. ———. Yeah.

Rep. SCHUMER. And on the other two, the Lewinsky parts of this, is there——

Mr. DAVIS. I think to some——

Rep. SCHUMER. I mean, I don't even understand how they could—how Starr could think that he would have a case, not with the president of the United States, but with anybody here, when it seems so natural and so obvious that there would be an overriding desire not to have this public and to have everybody—have the two of them coordinate their stories—that is, the president and Miss Lewinsky—if there were not the faintest scintilla of any legal proceeding coming about. It just strikes me as an overwhelming stretch. Am I wrong to characterize it that way? You gentlemen all have greater experience than I do.

Mr. DAVIS. I think you're right. And also, the problem a prosecutor would face would be that in these cases, there is relationship between these people unrelated to the existence of the Paula Jones case—the relationship. And that's the motivation——

Rep. SCHUMER. Correct.

And Mr. Weld, do you disagree with—do you agree with that?

Rep. SENSENBRENNER. The gentleman's time—the gentleman's time——

Rep. SCHUMER. Could I just ask Mr. Weld for a yes or no——

Rep. SENSENBRENNER. I'm sorry, Mr. Schumer. Mr. Schumer——

Rep. SCHUMER [continuing]. For a yes or no answer on that?

Rep. ———. Can you answer that yes or no, Governor?

Mr. WELD. I think it's a little thin, Mr. Congressman.

Rep. SCHUMER. Thank you.

Rep. SENSENBRENNER. The gentleman from North Carolina, Mr. Coble.

Rep. HOWARD COBLE (R–NC). Thank you, Mr. Chairman.

Good to have you all with us.

Governor Weld, I have a handful of friends who reside in your state, and Democrats and Republicans alike, without exception, speak very favorably of you.

Mr. WELD. Well, I have friends in your state, too, Mr. Congressman.

Rep. COBLE. Do they speak favorably of me, governor? [Laughter]

Governor, last fall, you appeared on the Today Show, alluding to the possibility of resignation of the president, I'm quoting in part here, you said, ''My sort of rule of thumb here, I think it comes down to this: If when the president goes to a high school and colleges and universities, really his strongest point, if he looks out at those kinds, those students and their teachers and sees a sea of signs that says, ''liar, liar, pants on fire,'' it's time to go. ''Do you think, Governor, at this late stage of the game, what is your view on the possibility of resignation?

Mr. WELD. Well, in a way, I say this with a heavy heart, because I was troubled by the conduct at issue here. But I think that events have overtaken that possibility. I remember saying and thinking that the president would be well advised, when he looked in the mirror shaving every morning to say, ''Are people taking me seriously? Are they taking me seriously at home? Are they taking me seriously abroad?''

I was concerned that some international events that were happening around then were happening because of a perception of weakness at the core of the executive of the U.S. government. But what happens, you know, the week after I deliver myself of these wise sentiments, the president goes to the United Nations and gets a standing ovation. Then he goes into the budget negotiation with members of the opposite party, and by most accounts, gets, you know, better than half a loaf. Then he has the Wye agreements on the Middle East.

So, it appears to me that people are taking him seriously.

Rep. COBLE. Thank you, sir.

Mr. Davis, in a Washington Post interview comparing the impeachment process with Watergate, you indicated that we're in an uglier political time now. Now much has been said about the late President Kennedy's sexual indiscretions that were not publicized but however were commonly known. And many of those same people insist that those indiscretions would be publicized today. And I'm not convinced, sir, that we're in an uglier political climate or a political time, I think, rather, the members of the media are probing more thoroughly and probing more consistently. And I think probably that may be why more attention is focused today.

Now let me ask you this, Mr. Davis.

Would you—I started to say ''wouldn't you'' but I'd be speaking for you. Would you acknowledge that this committee's consideration of whether grand jury perjury and civil deposition perjury and potential witness tampering by the president—not saying it happened, but assuming that it did—that it merits impeachment is a legitimate exercise for this committee? Would you acknowledge that?

Mr. DAVIS. I think that it's appropriate for the committee to be conducting a review. I think there are issues in terms of whether the committee can meet what I believe is the committee's burden, if it's going to decide that there should be impeachment, without really itself satisfying itself as to the credibility of some of the core witnesses, like Ms. Lewinsky. But I think given—once you received the referral, I think, obviously, it was appropriate for you to consider that referral and consider it seriously.

Rep. COBLE. Governor Weld, neither am I Tom Sullivan. But Mr. Sullivan—this has been broached previously, but I want to broach it as well. You indicated that it was your belief that probably the average citizen probably would not be prosecuted for similar circumstances that are now before us.

Mr. SULLIVAN. Yes, sir.

Rep. COBLE. And it was referred that two average citizens last week—one a physician, one a basketball coach appeared—sat where you are sitting now, and they in fact were prosecuted. I'm inclined to think, Mr. Sullivan—and I'm not mad; by no means am I taking you to task for this, but I think what you said may well be subject to interpretation. I think perhaps—and maybe it's because of the uglier time or the fact that the

media is more focused now, I think probably that you would see more and more average citizens prosecuted for perjury. But I'll be glad to hear from you in response to that.

Mr. SULLIVAN. Well, Mr. Coble, I'm aware of the fact that there are some few prosecutions for perjury arising out of civil matters when—but——

Rep. COBLE. Mr. Sullivan, I hate to do it to you, but I see time's up.

Rep. SENSENBRENNER. Time's up.

Rep. COBLE. Thank you, Mr. Sullivan.

Rep. SENSENBRENNER. The gentleman from California, Mr. Berman.

Rep. HOWARD BERMAN (D–CA). Thank you, Mr. Chairman.

Actually, the question I'm most curious about is whether, Mr. Davis, if there had been a cooling-off period, and if President Ford hadn't issued the pardon, what do you think Mr. Jaworski would have done?

Mr. DAVIS. The answer is I don't know. Indeed, the reason that in my memorandum I recommended a cooling-off period and felt that we should defer that decision was because I thought the emotions at the time were too high and one would have to balance the factors very carefully including, as I said in my statement, whether the public interest in saying, you know, ''we've had two years of this we need to get on to something else, and shouldn't we do it'' and that a prosecution would drag that out.

Rep. BERMAN. Well, I agree with the other comments. I think this panel has presented some very compelling testimony on all the pitfalls in pursuing a perjury prosecution in this situation and raised doubts about whether all the elements of perjury are present in this case. We're not a courtroom; some people keep wanting to analogize us to that. I thought the professors yesterday were a political body, and this is a political process in many, many ways. The Founding Fathers would have given this process to the Supreme Court if they had wanted a strict legal analysis.

So your testimony perhaps on the question of whether there would be a prosecution for perjury is less relevant to whether there are high crimes and misdemeanors here than it is to the question of whether one of the articles of impeachment should actually assert the conclusion, the legal conclusion, that perjury has been committed, and I would hope the framers of these articles would look at this testimony carefully in making that decision.

The point that does interest me—for those who want to analogize it to a legal proceeding, this notion of—even if I think, as a prosecutor, that I have probable cause and I believe that the accused is guilty, that if I known I can't get a conviction from an unbiased jury, I don't bring the case. Develop that a little bit more. Is this some—is this a—is this some formalized process that prosecutors use? Where did you get this from?

Mr. SULLIVAN. Mr. Berman, I can only speak from my experience as a prosecutor, but I have had situations where not my assistants, but agents, have said to me after the discussion about the evidence and we concluded that we cannot get a conviction, or it's likely we'd lose, ''Let's indict him anyhow to show him.'' My response to that is, ''Get out of my office and never come back.''

Rep. FRANK. But you might try to become an independent counsel, you might tell that person. [Laughter.]

Rep. BERMAN. So, then, for those who want to—let me ask you, are there any other comments on that? Yeah.

Mr. WELD. This is written into the principles of federal prosecution, Mr. Congressman, which is the handbook that guides federal prosecutors. And what it says about the charging stage of the criminal justice process is that the prosecutor has to believe that there's sufficient admissible evidence—admissible evidence—to obtain from a reasonable, unbiased jury a conviction and to sustain it on appeal.

Rep. BERMAN. Now, as I understand, though, in the Justice—there is a second paragraph in the Justice Department qualification. If you are bringing in the case in the South involving civil rights with an all-white jury and where certain practices were prevalent, you wouldn't refuse to bring that case against some crimes against a black victim simply because your fears in the 1960s or '50s that an all-white jury might never convict. But—so if that's the—you wouldn't—that wouldn't cause you to stop bringing in the case, I assume.

Mr. WELD. That's why it says ''reasonable and unbiased.''

Rep. BERMAN. Right. And, of course, so you'd have to conclude here that the United States Senate, by conclusion, you'd have to reach a conclusion that they were somehow not a reasoned and unbiased jury to apply that logic in this situation.

Mr. NOBLE. May I just respond? And let me quote you from the Department of Justice guidelines, because they use precisely that example to make that point. And they say, and I quote:

''For example, in a civil rights case or a case involving an extremely popular political figure, it might be clear that the evidence of guilt viewed objectively by an unbiased fact-finder would be sufficient to obtain and sustain a conviction if the prosecutor might reasonably doubt whether the jury would convict. In such a case, despite his or her negative assessment of the likelihood of a guilty verdict based on factors extraneous to an objective view of the law and the facts, the prosecutor may properly conclude that it is necessary and desirable to commerce or recommend prosecution and allow the criminal process to operate in accordance with its principles.''

Rep. HYDE. The gentleman's time has expired.

The gentleman from Texas, Mr. Smith.

Rep. LAMAR SMITH (R–TX). Thank you, Mr. Chairman. Mr. Chairman, I have an observation and then a question for Governor Weld.

I have to say that I fundamentally disagree with the premise of this panel, which is that the President should be considered, quote, ''an ordinary citizen.'' And therefore I disagree with their conclusion.

To me, the president has a special responsibility that goes beyond that of an ordinary citizen.

He holds the most powerful position in the world. He is the number one law enforcement official of our country. He sets an example for us all. Other people in other positions of authority, such as a business executive or a professional educator or a military officer, if they had acted as the President is alleged to have acted, their careers would be over, and yet they don't hold near the position of authority that the President does.

Let me read a statement from the rules under which President Nixon was tried for impeachment. It says, ''The office of the President is such that—the office of the President is such that it calls for a higher level of conduct than the average citizen in the United States.'' Because of the President's special authority, I think it makes the charges against him more serious, and therefore, in my judgment, at least, demands that any punishment be more severe. the way there, let me compliment you for offering a well thought-out alternative to impeachment. And that's not to say I agree with it; it's just a well though-out alternative, I think.

I want to read a couple of statements from students at Roxbury Latin School, which is, I'm sure you know, a school in Boston. This was a column that appeared in the Boston Globe that was written by their headmaster. And apparently, he conducted a couple of school forums, and these are for students aged 12 to 18, and suggested to the students that they accept the president's statement of regret. He said, ''They would have none of it,'' and then he generalized their reactions, which I want to read. And these are quotes.

''You've got to be kidding. This wasn't some one-time lapse in the face of sudden and unexpected temptation. The president did this over and over, plotting meetings with Monica Lewinsky in the White House, including one on Easter just after he was pictured coming out of church, Bible in hand.''

''Clinton lied passionately, looking us in the eye; then he played word games; but he never told the truth until he was caught.''

''Cheating by students usually results in suspension. Repeat cheating brings expulsion. Clinton cheated repeatedly. The only difference is that Clinton is a lot older than we are, supposedly a lot wiser, and he holds the highest public office there is.''

''Maybe we're naive, but people our age want to look up to the president. What we see when we look at Clinton is someone who can't control himself and lies to his fellow citizens.'' End quote.

Governor Weld, aren't those students generally right in their assessment?

Mr. WELD. Well, Mr. Congressman, I don't think anybody's saying this is a day at the beach or a walk in the park. This is not a strong outing by the president, and I find those statements as depressing as you do. And as I was discussing with Mr. Coble a moment ago, if that kind of attitude and reaction had persisted in the citizenry at large——

Rep. SMITH. I understand your answer, and I appreciate it. Thank you very much.

I'll yield back the balance of my time.

Rep. HYDE. Thank the gentleman.

Mr. Boucher.

Rep. RICK BOUCHER (D–VA). Thank you very much, Mr. Chairman.

I would like to join with you and the other members who have congratulated this panel on what I think is the very excellent presentation this morning. And I would like to join in the welcome of these distinguished witnesses here.

Mr. Weld, I was very interested in your statement, with which I would wholly concur, that the intent of the impeachment power was to protect the public interest, and that the standard that Congress should apply in determining whether acts of the President constitute impeachable conduct is the public interest; and your further statement that impeachment should not be deemed to be punishment for that individual misconduct, that the punishment can occur in the regular course.

You cited the constitutional provision that says that for any crimes that are committed during the tenure of the presidency, the president can be indicted and tried, just as any other American.

I gather, however, from the thrust of the testimony of this panel of witnesses, that perjury prosecutions in civil actions are rarely undertaken. I gather also that perjury prosecutions generally, while undertaken on occasion, are not the first resort of prosecutors in most cases. But in this particular instance, there is yet another avenue in which the president potentially could be sanctioned for any misconduct that may have occurred in his testimony under oath, and that is in the U.S. district court in Arkansas, which had jurisdiction of the Jones case.

It has been suggested by a number of witnesses to this committee that that judge retains jurisdiction even though the case itself

has now been formally dismissed by the eighth circuit court of appeals; that if she decides it is appropriate to do so, that she could impose sanctions based on any misconduct that may have occurred in the deposition that was taken in her court.

I would like the opinion of these witnesses with regard to whether or not that is an accurate statement of the jurisdictional posture of that case. Does she have the jurisdiction to do that? And based on your very extensive experience with regard to criminal prosecutions, do you think there is a probability or likelihood, or how would you rate the chances that if she deems that misconduct occurred there that she might be led to take actions and impose some sanction? That might be the more probable way in which some sanction occurs, as opposed to a criminal prosecution. So who would like to answer? I'll ask you first, Mr. Sullivan.

Mr. SULLIVAN. There is, under the United States Supreme Court decisions, inherent power in the district court in civil cases to impose sanctions for misconduct occurring before the court. So there's no question about that. That case was decided several years ago.

Your second part was, what would happen if she were to do this? Not having brought my crystal ball with me, I can't tell you. But she does have that power to pursue that, so far as I know. I do not know whether the dismissal of the case terminates that power. That's an issue I really haven't looked at.

Rep. BOUCHER. Does anyone else have a comment on that issue? Let me ask this additional question. Mr. Noble, I was very interested in your saying that this Congress should consider, in deciding whether or not to vote articles of impeachment, the effect that the House voting articles of impeachment and the Senate being put to trial would have on the country, the further polarization that would occur, the diversion of the President and the Congress from their real responsibility, which is attending to our national agenda, the potential immobilization of the Supreme Court while the chief justice presides, the lowering of the standard of impeachment in proceedings in future years.

I am concerned that, in fact, some members of this Congress, not fully having considered those effects, may have decided to apply a lower standard to determining whether or not articles of impeachment should be approved and believe that perhaps the House should act as a grand jury and simply vote on probable cause. Do you agree that there ought to be a higher standard than probable cause for us to consider this weighty matter?

Mr. NOBLE. This follows on Mr. Smith's comments. It's clear that before the public the President is not an ordinary citizen. It's clear that before Congress the President is not an ordinary citizen. It's clear that any rational criminal investigator or federal agent investigating an allegation of perjury by a president of the United States is not going to treat it like the ordinary case. It's clear, based on everything we've heard, that most of us believe, without looking at specific evidence, that the President either did perjure himself or didn't perjure himself.

Rep. HYDE. The gentleman's time has expired. Do you have a finishing sentence or two?

Mr. NOBLE. I can do it in one minute—or I'll just wait. I'll wait.

Rep. HYDE. Thank you.

Rep. BOUCHER. Thank you, Mr. Chairman.

Rep. HYDE. Thank you. The gentleman from California, Mr. Gallegly.

Rep. ELTON GALLEGLY (R–CA). Thank you, Mr. Chairman. Gentlemen, thank you for being here this morning. Mr. Sullivan, for the record, do you believe that the knowing and willful misleading of a judge or federal grand jury represents an effort to thwart the judicial system from discovering the truth?

Mr. SULLIVAN. Could you repeat the question, please?

Rep. GALLEGLY. Do you believe that willful misleading of a judge or federal grand jury represents an effort to thwart the judicial system from discovering the truth, for the record?

Mr. SULLIVAN. It sounds like what you said is correct, if I understand it.

Rep. GALLEGLY. [Laughs.] Thank you. You know, the evidence indicates that the President and Mrs. Lewinsky, or Ms. Lewinsky, had three conversations about her testifying in the Jones case within one month before his deposition. When the President was asked, ''Have you ever talked to Ms. Lewinsky about the possibility that she might be asked to testify in this lawsuit?'' he answered, ''I'm not sure.'' Governor Weld, do you think it's reasonable—you know the president pretty well—to believe that the President completely forgot about these three conversations?

Mr. WELD. I really don't know, Mr. Congressman.

Rep. GALLEGLY. Thank you, Governor. When the president was asked, ''At any time, were you and Monica Lewinsky together alone in the Oval Office?'' he answered, ''I don't recall.'' The evidence indicates that he was, in fact, alone with Ms. Lewinsky on many occasions, including the time that they exchanged gifts less than 20 days before the deposition. Mr. Sullivan, for this not to be perjury, the President must have genuinely forgot his numerous encounters with Ms. Lewinsky. Is that correct for it not to be perjury?

Mr. SULLIVAN. Yes, the evidence in a perjury case requires proof beyond a reasonable doubt that the defendant not only made a false statement but knew it was false at the time it was made. That's correct.

Rep. GALLEGLY. And if—and the test would be that he genuinely forgot in order for that not to be perjury. Is that correct?

Mr. SULLIVAN. That's my understanding.

Rep. GALLEGLY. Thank you very much, Mr. Sullivan. You know, the president's action of being less than truthful has caused and continues to cause serious problems. I'm concerned about how his lying affects the ability of the American people to trust the highest elected official in the land.

One of my constituents called me yesterday, a constituent by the name of Les Savage (sp). I've never met this gentleman before. But his question was very sincere. How do we know when the president is telling the truth? And maybe even more importantly, how do the leaders of other countries around the world know when he's telling the truth?

President Clinton has had many occasions to come clean, and to date I don't believe he has. The president's failure to present any substantive evidence is consistent with his obvious lack of concern about how serious the offense of lying under oath truly is.

Mr. Chairman, I yield back.

Rep. HYDE. The gentleman from New York, Mr. Nadler.

Rep. JERROLD NADLER (D–NY). Thank you, Mr. Chairman. Before my five minutes beginning, I have a parliamentary inquiry.

Rep. HYDE. State your inquiry.

Rep. NADLER. Thank you. Mr. Chairman, a few weeks ago, when Mr. Starr was here, in answer to a question I asked, he referred to a court case which was then under seal, and I was not able to characterize his—I felt myself unable to characterize the accuracy of his statement about that case lest I be accused of violating the seal.

A few moments ago, Mr. McCollum referred to the same court case, which is no longer under seal, but which is within the possession of this commmittee in executive session. Would I be violating the confidentiality rule if I were to state that Mr. McCollum misquoted and misstated what the court found and that the court did not conclude that the president's testimony about Lewinsky was material to the Jones litigation, but rather found the truthfulness of Monica Lewinsky's affidavit was material enough to her motion to quash her subpoena in that case to justify the OIC's issuance of a grand jury subpoena to her lawyer and that this is a distinct issue from whether the president's testimony in the Jones deposition was material to that case? And if I were not permitted to state that, why is Mr. McCollum permitted to quote this case?

Rep. HYDE. You will be provided with a copy of the opinion.

Rep. NADLER. But am I permitted to state this?

Rep. HYDE. Well, I'd ask you to read the opinion before you make any statements. I'm told you have mischaracterized Mr. McCollum's characterization.

Rep. NADLER. Well, whether I've mischaracterized it or characterized it, since that is——

Rep. HYDE. You can say anything you want, Mr. Nadler.

Rep. NADLER. Thank you. Then I will simply——

Rep. HYDE. But I'm suggesting that you'll get a copy of the opinion very shortly, and i'm suggesting you read it before you make statements about it. But that's up to you. All right, now your five minutes starts.

Rep. NADLER. Thank you, Mr. Chairman. Mr. Chairman, I should note that I have written to the attorney general asking that Mr. Starr be disciplined for breaking the confidentiality of that case when he mischaracterized it two or three weeks ago.

Let me ask Mr. Davis, I think, starting off. You stated very carefully and clearly in your testimony that you really—no prosecutor would prosecute a perjury case on the basis of the evidence that we have before us from the Starr referral, that there really holds—that it's not likely that a jury would convict, that there is no real perjury case there.

You said that, for example, that you wouldn't bring a prosecution of perjury based on two conflicting statements of two witnesses, one of whom disagrees with the other; that the alleged corroboration that Mr. Starr cites for Monica Lewinsky's testimony is not corroboration at all, because that she told 10 or 11 friends of hers and relatives the same thing, that she had a motive to embellish or falsify the statement. And, in fact, I think law school tells us that such a statement would be inadmissible in a court as hearsay in prior consistent statements in any event.

I would simply—first of all, do I characterize your testimony correctly?

Mr. DAVIS. Generally, yes.

Rep. NADLER. Okay. Thank you. Secondly, some people on the other side here, have talked about the president being impeachable, not only for perjury, but for a lesser crime, that if perjury isn't a high crime and misdemeanor and a great offense threatening the safety of the republic, that maybe false statements under oath are.

Would the same or similar constraints prevent a successful prosecution under these circumstances, with this evidence of false statements under oath, as would prevent a successful prosecution for perjury?

Mr. DAVIS. Yes. I mean, the false statement under oath section of the U.S. Code really——

Rep. NADLER. Could you speak up, please?

Mr. DAVIS. The false statement under oath section of the U.S. Code will formally eliminate the so-called two witness rule, the same

prosecutorial judgment would come into play in which you'd have to assess can you win the case, and for the reasons that I articulated before, it seems to me that with the one-on-one testimony, and as I said, the fact that Mr. Starr would have to disassociate himself, and criticize Ms. Lewinsky's testimony, and say that it's not true in various regards, would make such a prosecution, in my view, doomed to failure.

Rep. NADLER. For false statements under oath as well as for perjury.

Mr. DAVIS. That is correct.

Rep. NADLER. All right. So there would be no successful prosecutions for false statements under oath, and again, to summarize, Ms. Lewinsky is a weak witness because the Special Prosecutor would have to point out that she lied under oath at some other place.

Mr. DAVIS. Yes. And in a grand jury context, that's really the core perjury.

Rep. NADLER. And it's further weakened by the fact that the alleged corroboration witnesses would be inadmissible in any court as hearsay?

Mr. DAVIS. Well, they would probably be, you know, inadmissible. There may be some arguments that they could come in at some point, depending upon cross-examination. But the point is, whatever motive she had to falsify in the grand jury on this——

Rep. NADLER. The same motive.

Mr. DAVIS [continuing]. The same motive would exist.

Rep. NADLER. So in other words, if I want to falsify or embellish my statement, or have a fantasy, or lie, the fact that I lied to 12 people, doesn't make it any less of a lie than if I lied only to one person.

Mr. DAVIS. That is correct.

Rep. NADLER. And—yes, Mr. Noble.

Mr. NOBLE. Yes, can I talk about that for just a moment, because it's very important. A good prosecutor is going to try this case with the defense theory in mind. And the defense theory is going to be: can I prove that the president did what she said the president did? She's going to be impeached for every prior inconsistent statement she has. But the person's not going to cross-examine her, and make it seem as though her testimony was recently fabricated. Because that way, she can bring in every prior statement.

All of us ought to worry about someone lying about us to a thousand people and having that come in as admissible evidence, making what we lied about the first time was true, if the motive to lie began in the very beginning.

So, for that reason, a smart——

Rep. NADLER. Her motive did begin at the very beginning.

Mr. NOBLE. And her motive arguably did begin at the beginning.

Rep. NADLER. And that applies to false statements under oath, as well as to prejury.

Rep. NOBLE. That applies to false statements under oath, as well as perjury. I tried a case, a false statement case, I convicted it at the jury level, was reversed on appeal because of a literal truth defense, the same defense that——

Rep. NADLER. Thank you. I have one further question, if I can quickly get it in. Mr. Smaltz, the special prosecutor in the Espy case, said that an indictment is as much a deterrent sometimes as a conviction, so you might as well get it——

Rep. HYDE. The gentleman's time has expired.

Rep. NADLER. Do you agree with that?

Rep. Hyde. The gentleman from Florida, Mr. Canady.

Rep. CHARLES CANADAY (R–FL). Thank you. Mr. Chairman, I'd like to thank you all for being here today. You've done a good job in presenting what I believe are some of the best arguments in defense of the president, and I understand that's why you're here, and we appreciate your perspective on this.

I have agreed with some of the points that have been made. Obviously, I disagree with some of the others. But when you talk about prosecutorial discretion, and the question that a prosecutor has to ask about whether he can have some expectation of winning before a jury. I think that's right. And I think that's an appropriate way for a prosecutor to view the case.

Now, my judgment about the facts of this case, differ from yours, based on what I've seen today, because I think there is compelling evidence here that points to the conclusion that the president engaged in a pattern of lying under oath and other misconduct.

But on the standard for prosecution, I think you've raised some good and valid points. But I want to quarrel a little bit with the application of that in this context. The argument has been made that in essence, we in the House should, in carrying out our responsibility, look to the Senate, and make a guess about how the proceedings would turn out in the Senate, to determine how we exercise our responsibility under the Constitution.

I would suggest to you, I don't think that's a proper way for us to proceed. I believe that we have an independent responsibility, under the Constitution, to make a judgment concerning the conduct of the president, and whether he should be impeached or not. And it would be in derogation of our constitutional responsibility to attempt to count noses in the Senate. I will have to say that it's a very difficult thing to count noses in the Senate anyway, and in a proceeding like this, it's hard to predict the outcome.

But aside from that, I just don't think that's a proper undertaking for us to be involved in. And I'd also point out that the very structure of the Constitution indicates that. In the Constitution, the framers provided that the House could impeach with a simple majority. They provided that conviction in the Senate would have to be by a two-thirds majority.

Now, I would suggest to you that that structural feature of the Constitution suggests that the framers would have contemplated circumstances in which the House might very well impeach, but the Senate would not convict. Now, I think that's obvious on the face of the documents. Some of these arguments I think have to be brought back to the text of the Constitution and evaluated in that light.

But on this issue of prosecutorial discretion, let me pose a scenario here, which I think is very analogous to what we have before us. Suppose the chief executive of a Fortune 500 corporation, a major national corporation in the United States, was accused of sexual harassment, and the corporation had been sued—sexual harassment or any other civil rights offense. And in the course of the discovery in that case, the chief executive of that major national corporation lied under oath to impede that civil rights action.

Now, I believe that the fact that the chief executive of a major national corporation was engaged in that type of conduct, would be a relevant consideration for the prosecutors who were evaluating the case and whether to bring it, because of the impact of that conduct.

Now, I do believe that bringing prosecutions have a deterrent impact. And that is one of the considerations that has to be factored into prosecutorial discretion.

So, I think if we step back from this situation—and again, we can argue about the weight of the facts, and I understand you disagree with the evaluation some of us may have made about the weight of the facts here. But if the president of the United States did engage in obstruction of justice, and committed multiple acts of lying under oath, I think that we have to look at that conduct, in light of the consequences that it has, and the message it sends, just as we would look at the conduct of the chief executive of a major national corporation who was the defendant in a civil rights case brought against that corporation.

So, I think that's something to look at. There's really not time for you to respond. But do you disagree, that that sort of high-profile case has to be evaluated in light of those circumstances?

Mr. DENNIS. I think there's one point on this. I mean, the analogy isn't quite there. I think if you were looking at the—a president of a Fortune 500 corporation, you'd be talking about a suit that was brought by, perhaps, someone prior to them taking that position and——

Rep. CANADY. Oh, no! No, no, absolutely not. He could have been guilty of that in the course of his conduct as chief executive. But thank you.

Mr. DENNIS. Well, I think that the issue of materiality is one that's been discussed here. And I think that's where the nub of it is—that the Jones matter was something prior to the president becoming president of the United States. We weren't talking about issues of how the president deals with subordinates in that respect. And I think that that really makes a huge difference in terms of how that person should be perceived insofar as these kinds of charges.

Rep. CANADY. Thank you.

Rep. HYDE. The gentleman's time has expired.

The gentleman from Virginia, Mr. Scott.

Rep. ROBERT SCOTT (D–VA). Thank you, Mr. Chairman.

Mr. Sullivan, in your prepared testimony you said that no serious consideration would be given to a criminal prosecution rising from an alleged misconduct and discovery in the Jones civil case, having to do with alleged cover-up of a sexual affair with another woman, or the follow-up testimony before the grand jury; it simply would not have been given serious consideration for prosecution. It wouldn't get in the door. It would be declined out of hand.

Are you aware that we are not straight as of now as to all of the allegations, specific allegations of perjury, that even yesterday that gentleman from Arkansas specified in a different statement that he believed to be perjurious? ABC News said that the Republicans—on December 7th said the Republicans might shy away and come up with new charges from the grand jury. Is it fair to have an accused respond to a perjury charge without stating with specificity what the statement is that was false?

Mr. SULLIVAN. No.

Rep. SCOTT. Thank you.

Mr. Noble, in fact-finding, is there a problem using conflicting grand jury testimony, copies of FBI interview sheets, and prior consistent statements in order to make a case against an accused?

Mr. NOBLE. I believe there's a problem using only those bases for making prosecutive decisions, yes.

Rep. SCOTT. And why is conflicting grand jury testimony and copies of FBI interview sheets inherently unreliable as testimony?

Mr. NOBLE. Because our system of justice is based on testing the testimony of someone, under oath, in front of the finder of fact, subject to cross-examination, and in a grand jury that doesn't exist.

For that reason, prosecutors, at the very least, interview the principle witnesses themselves; try to test that witness as much as they can in terms of deciding whether or not he or she can withstand cross examination. Otherwise, you just have hearsay.

Rep. SCOTT. And because of that unreliability, is it—you can't make a case just using grand jury testimony to make a case against someone?

Mr. NOBLE. I say this with all due respect: only a foolish or inexperienced prosecutor would attempt to indict and convict someone based on hearsay grand jury testimony.

Rep. SCOTT. Thank you. Mr. Davis, in your testimony, on page 13 of your prepared testimony, right at the top—you didn't have time to go through the specifics of why the obstruction of justice case could not be made. Could you start at the top of page 13—I assume you have—where it says, ''But there are—,'' draw the factor——

Mr. DAVIS. Yes. Another complicating factor in the obstruction of justice case which makes this such a difficult case to bring is the reality that the principle players in this drama, the president, Miss Lewinsky, and Ms. Currie, had relationships and motivations to act, wholly unrelated to the Jones case. This kind of thing would seriously complicate the ability of a prosecutor to establish the intent to obstruct some official proceeding, which is required to prevail in an obstruction of justice case.

Examples: The job search began before Miss Lewinsky was on the witness list, and frankly, there's nothing surprising that someone who had an illicit relationship with a woman would, when it was over, be willing and want to help her to get a job in another city. Ms. Currie had her own relationship with Miss Lewinsky. People who have an illicit relationship often understand that they will lie about it without regard to the existence of a litigation and here it appears that such an understanding was discussed prior to Miss Lewinsky being identified as a potential witness.

The evidence, you know, about retrieval of the gifts is contradictory, with Ms. Currie and the president offering versions of the events which exculpate the president and which differs from Miss Lewinsky's testimony, and Miss Lewinsky herself provided varying and sometimes exculpatory interpretations of these very events in terms of her testimony.

These are the kinds of things that make winning a case—and I do think when you're talking about——

Rep. SCOTT. Let's—do you have the next paragraph, which I think you can get in?

Mr. DAVIS. And the reality that at the time of the president's conversation with Ms. Currie in the immediate aftermath of his civil deposition, Ms. Currie was not a witness in any proceeding. And given the status of the Jones case, there was no reason to believe that she ever would be, and that the president was likely focusing on the potential public relations repercussions from his relationship.

You know, it isn't a question, I must say, of counting votes in the Senate. The issue is in thinking through the standard of whether to proceed at the House level, whether you think you have adequate evidence to prevail. So you are making the judgment.

Rep. HYDE. The gentleman's time has expired.

The chair will declare a 10-minute recess, and it—and I mean it, that it's 10 minutes! [Laughter.] Please come back.

Mr. ?. We won't move. [Laughs.]

Rep. HYDE. Thank you. Well, you're entitled to move; that's why I'm calling the recess.

[A 10-minute recess is taken.]

Rep. HYDE. The committee will reconvene.

I must say, the panel looks refreshed. That's good.

Mr. ?. On behalf of the panel, thank you, Mr. Chairman.

Rep. HYDE. Mr. Watt, the gentleman from North Carolina.

Rep. MELVIN WATT (D–NC). Mr. Inglis was next.

Rep. HYDE. All right, Mr. Inglis is next.

Rep. BOB INGLIS (R–SC). Thank you, Mr. Chairman.

And I want to thank the panel for being here.

Mr. Sullivan, if this case, the facts of this case ever resulted in a prosecution of Bill Clinton after leaving the White House, would any of what we've heard this morning be admissible as a fact in a case involving the prosecution of Bill Clinton, the private citizen? Any of your testimony, would any of that be admitted as a fact in that case?

Mr. SULLIVAN. On, no. Absolutely not.

Rep. INGLIS. Would anything that anyone else has said here this morning be admitted as a fact in that case?

Mr. SULLIVAN. Absolutely not.

Rep. INGLIS. I'm keeping score, Mr. Chairman, as you know. So this makes panel 4, Mr. Craig, the fourth panel—no facts. And Mr. Craig said yesterday to us, ''In the course of our presentation today''—that was yesterday—''and tomorrow''—that's today—''we will address the factual''—underlined factual—''and evidentiary issues directly.'' The score now is zero to four; zero panels, zero witnesses dealing with facts. Everybody that we've heard from in these four panels has given conclusions, has given legal opinions. Not a single person has presented a fact.

Mr. Sullivan, would a memorandum of law be considered a fact in trial?

Mr. SULLIVAN. Not unless the—normally no, if the issue arose out of that. But no.

Rep. INGLIS. Right. Unless the memorandum of law itself was an issue. Then it could be a fact, correct?

Mr. SULLIVAN. Right. Right.

Rep. INGLIS. So this 184-page document—it really, I think, can only be described as a memorandum of law, possibly a brief—contains no facts—no facts in the case before us today.

Mr. SULLIVAN. It's similar to the Starr report in that regard. They're about equal. [Laughter.] I mean, they do deal with the facts, but there are no witnesses that you've heard to testify directly about the facts, whereas in a trial the people would have to appear and give their testimony personally.

Rep. INGLIS. Right.

Mr. SULLIVAN. Yeah.

Rep. INGLIS. Well, of course, the difference, would you have to concur with me, is the Starr report is based on sworn testimony gathered by an independent counsel, which are the same facts that I guess are discussed here. It's just that there you have a direct quotation of those facts and a summary of those facts. Is that correct?

Mr. SULLIVAN. Yes. And I think that the White House submission, although I have not read all of it, I've read part of it—the part I read did deal in great detail with a great many of the facts, including a lot of the facts that are not highlighted in the Starr report.

Rep. INGLIS. Right. But none of those are facts in a case, and the point that I'm making is that, again, Mr. Craig yesterday made a very high bar for him to get over.

And the thing that I find wonderful about these proceedings is that for the—really, it's a rare opportunity to bring accountability to the White House spin machine. What happens, I think, with the spin machine is the reporters get worn down. They get tired of trying to pursue it, so they just accept it. But here we have accountability.

Yesterday Mr. Craig said that in the course of the presentation, we will address the factual evidentiary issues directly. The score is zero to four; zero of these panels, Mr. Craig, have addressed facts. All of them are doing what the other panels have done in times past. In other words, here again, very helpful discussion—I appreciate the time of all these witnesses, but there's nothing new here, no new facts, no new evidentiary issues that have been addressed directly. And once again we do have that the president was—had personally instructed you not to obscure the simple moral truth. But all this 184-page document is, is more of the hairsplitting, more of the legal technicalities that are so maddening in what the president has to say to us. That's what the 184 pages is.

Rep. HYDE. The gentleman's time has expired.

The gentleman from North Carolina, Mr. Watt.

Rep. MELVIN WATT (D–NC). Thank you, Mr. Chairman.

We got a 445-page referral from independent counsel Starr. Is there anything in that 445 pages that in that form would be admitted in a criminal case.

Mr. SULLIVAN. No.

Rep. WATT. So I suppose that what Mr. Inglis is talking about is the same thing that—what we've been talking about all along. We keep waiting on some facts to be developed here, and without that development, the score remains zero to zero, I take it, with the presumption of innocence being in favor of the president.

Mr. Noble, you had a response?

Mr. NOBLE. Yes, I would like to respond to the previous congressman's comments.

Rep. WATT. Before you go there, let me——

Mr. NOBLE. But the direct response to your comment, and that is, if it was a trial and the prosecution presented no admissible evidence, zero, not guilty, there would be no defense case.

Rep. WATT. That's right.

Okay. Now that brings me to the point that I wanted to make, because I got a call from—everybody seems to be getting calls from constituents; I got mine last week from a constituent who started out by saying that the president was engaging in a legal attempt to distinguish what he had said in some way. And I reminded the caller that this in fact is a legal proceeding that we are involved in. Is there anybody on this panel that disagrees with that? (No audible response.) Okay.

So the standards that are applicable in a legal proceeding, Mr. Sullivan, you referred to that—on the first page of your testimony you said, ''The topic of my testimony is prosecutorial standards under which cases involving alleged perjury and obstruction of justice are evaluated by responsible federal prosecutors.'' I take it that you are equating this panel to responsible federal prosecutors and what you're saying, I guess—I take it from your testimony this morning, is if a responsible federal prosecutor wouldn't prosecute this case, then we ought not be moving it along to the Senate—or to the House floor. Is that—is that the essence of where you come down?

Mr. SULLIVAN. I'm not sure I would presume on the—that issue of what your responsibility is. I'm only saying that since your judgment here is high crimes and misdemeanors—that's the test—in my opinion, a responsible federal prosecutor would not bring a case based on these charges in the Starr report. Now, you can draw whatever conclusions you wish politically from that conclusion.

Rep. WATT. All right. So, Mr. Noble, what would be your response to that, and in the context of what some of my Republican colleagues on the committee have suggested ought be the standard under which we are evaluating this evidence?

Mr. NOBLE. I believe that—and I'm not one—I was not elected by anyone, not by prosecutors or by citizens, to comment. But

my best advice would be that there's a lesson to be learned from the Justice Department. The parallels are quite striking. In the Justice Department, before bringing a criminal prosecution, the hurdle is very low—probable cause. However, before getting a conviction, you need proof beyond a reasonable doubt.

Here, in order for it to get voted out of this House, you'll need a majority. However, in order for a conviction to occur, you need two-thirds of the Senate. I believe you ought to look and think about what a rational, fair-minded senator would do, how he or she would vote. If you conclude they would not convict, think about the precedent you would have set if after two, three, four, five, six, seven impeachments and no convictions. You would not restore public confidence; if anything, you will have started to undermine public confidence in the impeachment proceedings.

Rep. HYDE. The gentleman's time has expired.

The gentleman from Virginia, Mr. Goodlatte.

Rep. ROBERT GOODLATTE (R–VA). Thank you, Mr. Chairman.

Rep. HYDE. Mr. Goodlatte, would you yield to me for just a question?

Rep. GOODLATTE. Sure.

Rep. HYDE. Maybe, Mr. Sullivan——

Rep. WATT. Mr. Chairman, on whose time are we operating?

Rep. HYDE. Pardon? [Off mike response.] I'm sorry. I asked staff to do that, and sometimes they forget. They're enchanted by my question. [Laughter.]

Rep. WATT. Thank you, Mr. Chairman.

Rep. HYDE. Thank you.

The question I was going to ask, when someone is granted immunity, as Ms. Lewinsky was done, is it customary—and of course we could get the answer by looking at the immunity agreement—but is it customary that they are obliged to tell the truth thereafter, and if they lie or tell a falsehood about some substantial issue that they forfeit their immunity? Is that the custom?

Mr. SULLIVAN. There are two kinds of immunity. But the normal immunity—and I haven't seen her agreement—is what's called ''use immunity'' which means that any testimony that she gives that is not truthful could be used against her in a subsequent perjury prosecution. If she gets ''transactional immunity'' she's entirely free. But that's not normally the case; it's usually use immunity. However, in my experience, when the federal prosecutors give use immunity to a witness, it is—I don't like to say never happens, because that's usually wrong, but I just don't know of a case in which they've brought prosecution for perjury.

Rep. HYDE. I think the thing to do is to see what the agreement held.

Mr. SULLIVAN. Right. But generally, the agreement requires truthful testimony—

Rep. HYDE. Right.

Mr. SULLIVAN [continuing]. And you are subject to perjury prosecution if you do not give truthful testimony.

Rep. HYDE. Thank you, Mr. Sullivan.

I thank you, Mr. Goodlatte.

Rep. GOODLATTE. Gentlemen, welcome.

Governor Weld, when you were governor of Massachusetts, if you were convicted of a felony that was serious that included jail time, what would happen to you as governor of the state of Massachusetts?

WELD. I think you're out automatically, but I never got close enough to the border to focus on that question—[Laughter]—Mr. Congressman.

Rep. GOODLATTE. We hope not. We hope not. But the point is, I think that's true not only in Massachusetts, but in virtually every other state in the country, that if the chief executive is convicted of a felony, that they are automatically removed from office. And I do have the annotated laws of Massachusetts here in front of me, and that is exactly what they provide.

In addition, it's my understanding that you would not be exempt from prosecution during the time that you served as governor. In other words, the prosecution could go forward, you could be tried and convicted during that time, unlike the prevailing opinion with regard to the President of the United States.

Mr. WELD. Well, sure. I think that's true.

Rep. GOODLATTE. And if that were to occur, that would be a serious disruption of your duties as governor of Massachusetts, to go through a—what could conceivably be a lengthy trial. But nonetheless, the laws of that state and virtually every other state, provide for that to be done to protect the public trust and the interest of the public in not having someone with a serious charge and then subsequently a felony conviction serving in the office of highest trust of that state. Is that correct?

Mr. WELD. That's right. That's right. Actually, one of the reasons I resigned in '97 was because the Mexico ambassadorship was taking up so much of my time I didn't think it was fair to the people to continue drawing a full salary. So a lengthy criminal proceeding would be problematic also.

Rep. GOODLATTE. Now, also, if the judgment against he governor is reversed at a later time, the governor can be restored to that position according to Massachusetts law unless it is so expressly ordered by the terms of a pardon.

The President of the United States has the power to pardon, and the prevailing opinion is that the president can pardon himself. Are we all in agreement that the likelihood of any kind of subsequent prosecution of this case, regardless of your opinions of the merits, is not going to take place because of the reality of the circumstances, that either for practical reasons after the president leaves office or because he could bestow a pardon upon himself that that would take place?

Mr. WELD. Well, I can't imagine the president pardoning himself, Mr. Congressman.

When I said I thought that the post-term risk was low, that's because of my assessment of the merits of the prosecution case.

Rep. GOODLATTE. Be nonetheless, he has that power, and the Constitution is very explicit about the one exception to the use of that power, and that is in circumstances where the president is impeached. He cannot then pardon himself and restore himself to office as a result of impeachment, obviously.

Mr. Noble, in my last question, if I may, would you be able to keep your job as professor of law at New York University if these charges were brought forward before you and made known to the public and to your employer?

Rep. SENSENBRENNER. The gentleman's time has expired.

Rep. GOODLATTE. The activities that we know the president——

Rep. SENSENBRENNER. Mr. Noble, you don't have to answer that, because time is up.

[Remarks off mike.]

Rep. CONYERS. Could he answer it if he wanted to?

Rep. SENSENBRENNER. I think so. [Mild laughter.]

Rep. CONYERS. Okay.

Mr. NOBLE. I can't even imagine me being accused of anything along these lines. [Laughter.]

Rep. GOODLATTE. Professor Noble, I can't imagine your being accused of anything as heinous as this, either, but nonetheless, I think you would agree that you would not be able to hold that position.

Rep. SENSENBRENNER. Thank you. The gentlewoman from California, Ms. Lofgren.

Rep. ZOE LOFGREN (D–CA). I am someone who believes that the issue before the Congress is whether behavior of the chief executive is so severely threatening to our Constitutional system of government that it requires us to undo the popular will of the people and remove the executive and go through that trauma—that that's the issue that faces us.

However, not every person is analyzing this in the same way, the appropriate way. There are some who say that lying about sex, although deplorable, is not enough to impeach, but it's the crime that causes them to think that there ought to be an impeachment. Unfortunately for the president, there's no forum, really, to address the issue—to defend against allegations of crime. People say, well, those are technicalities, but that's what the criminal law is all about.

I've been thinking about my old, my late professor, Graham Douthwaite (sp), my crimes professor, who told us all that in order to convict of a crime you had to prove every element of a crime, and that, necessarily becomes technical. And in the case of perjury you have to have the person under oath and it has to be a statement about a material fact in the case and it has to be an unambiguous question, and it has to be a knowingly false answer, and it has to be actually false and it has to be competent evidence for all of those elements, to get a conviction.

For example, I recently—and I'm not arguing this case, but I read an article in the Legal Times and also the American Lawyer Today that points out that the president was probably—well, he was not under oath when he testified before the grand jury because the oath was administered by an officer who did not have the capacity to administer the oath, to wit, a prosecutor. And there is a case on that, U.S. v. Doshen (sp) that requires that in such a case, the case must be dismissed. So if it was not William Clinton but John Smith in court, any courtroom in America, that case of perjury would have to be dismissed. It's a technicality, but that's what the criminal law is about.

I went home this weekend and asked a friend who is a deputy district attorney whether a conviction could be had in this case, and the answer I got was, no way, this could never yield a conviction if it were John Smith.

And so I'm wondering, Mr. Sullivan, could you help the American people who have had the benefit of not going to law school to understand and to appreciate why we have these technicalities, and why it could be possible, if it was John Smith in court, to sday something was obviously, you know, misleading but it would not yield actually a criminal conviction? How could that be, and what's the point of that, Mr. Sullivan?

Mr. SULLIVAN. The law has raised very, very high barriers against any citizen being convicted of a crime, the presumption of innocence. We have it in the United States. It is not common throughout the world. We are very privileged in many ways, and this is one of them.

In perjury cases, you must prove that the person who made the statement made a knowingly false statement. Now, where I think the defect in this prosecution is, among others—and I don't think it would be brought, because it's ancillary to a civil deposition—is to establish that the president knew what he said was false. When he testified in his grand jury testimony, he explained what his mental process was in the Jones deposition, and he said the two definitions that would describe oral sex had been deleted by the trial judge from the definition

of sexual relations and I understood the definition to mean sleeping with somebody.

I don't want to get to particular here.

Rep. LOFGREN. Thank you.

Mr. SULLIVAN. But that is were the case, in my opinion, wouldn't go forward even if you found an errant prosecutor who would want to prosecute somebody for being a peripheral witness in a civil case that had been settled. That's my answer to that.

Rep. LOFGREN. Let me ask you, Mr. Nobel. You're an evidence professor. It's been all sorts of—oop, my time is up. Well, perhaps someone else can ask you about hearsay. And I will yield back, Mr. Chairman.

Rep. SENSENBRENNER. I thank the gentleman from California for watching the red light.

The gentleman from Indiana, Mr. Buyer.

Rep. STEVE BUYER (R–IN). I would like to respond to this frivolous argument about the oath that we just now heard. The president's deposition oath was administered in a civil deposition by Judge Susan Webber Wright, according to the court reporter who recorded the deposition. The Federal Rule of Civil Procedure 28 specifies three types of persons before who depositions may be taken within the United States; before an officer authorized to administer oaths by the laws of the United States or place—or of the place where the examination is held, or before a person——

Rep. ?. Will the gentleman yield?

Rep. BUYER. No, I will not.—or before a person appointed by the court to administer oaths and take testimony.

There is no dispute that Judge Wright has the authority to give the oath in the civil deposition.

Note also in addition 5 U.S.C. 2903 provides, quote, ''an oath authorized or required under the laws of the United States may be administered by the vice president or an individual authorized by local law to administer oaths in that state, district, or territory, or possession of the United States where an oath is administered.''

Now before the grand jury, Rule 6(c) of the Federal Rules provides that the foreperson of the grand jury, quote, ''shall have the power to administer oaths and affirmations, and shall sign all indictments,'' end quote. This does not mean that the foreperson is the only person who administers oaths in the grand jury. In the District of Columbia, a notary public could administer an oath and affirmation. In the president's grand jury testimony, the oath was administered by the court reporter/notary public, who's authorized to administer oaths by the federal law and District of Columbia. The District of Columbia Code provides that a notary public shall have the power to administer oaths and affirmations. That's Chapter 8, D.C. Code 1–810.

I have a question for you, Mr. Noble, with regard to——

Rep. SCOTT. Mr. Chairman, could—was the reading off—from a document?

Rep. SENSENBRENNER. Time belongs to the gentleman from Indiana.

Rep. SCOTT. Well, if he was reading off a document, we'd like to see what he was reading.

Rep. ? [Off mike.]

Rep. SENSENBRENNER. The time belongs to the gentleman from Indiana. He will proceed.

Rep. BUYER. Mr. Noble, with regard to prosecutorial discretion, I was pleased to hear some of your testimony. As I am referring here to the principles of federal prosecution, I have a series—a couple questions I'd like to ask. Prosecutors end up having to exercise discretions a lot of times because—sometimes there's more crime that occurs, and you have less resources, so you have to exercise good judgment. Is that correct?

Mr. NOBLE. That's correct.

Rep. BUYER. And there are many different factors that you need to take into consideration, and that's why you also have these guidelines in the federal sector, correct?

Mr. NOBLE. Correct.

Rep. BUYER. And one other factor that you even talked about here today is the strength of evidence, right?

Mr. NOBLE. Yes, sir.

Rep. BUYER. Another factor would be—is the gravity of the offense, correct?

Mr. NOBLE. That's correct.

Rep. BUYER. And the other is the deterrence, the deterrent effect——

Mr. NOBLE. Correct. Correct.

Rep. BUYER [continuing]. By prosecuting or not prosecuting. Is that correct?

Mr. NOBLE. Correct, yes.

Rep. BUYER. Now, in this case, when I refer to the guidelines under the section of the nature and the seriousness of the offense, I thing it is somewhat informative, it says in here, it even states, ''The public may be indifferent or even opposed to the enforcement of a controlling statute whether on substantive grounds or because of the history of non-enforcement or because the offense involves essentially a minor matter of private concern.'' And that's what you—some of you have tried to articulate here today.

Mr. NOBLE. I believe I quoted that in my prepared remarks. That's correct.

Rep. BUYER. Right. But if you go down further, it reads, ''While public interest or lack thereof deserves the prosecutor's careful attention, it should not be used to justify a decision to prosecute or to take other action that cannot be supported on other grounds. Public and professional responsibilities sometimes require the choosing of a particularly unpopular course.'' Do you agree with that?

Mr. NOBLE. Again, I've quoted most of what you've said, yes.

Rep. BUYER. Well, we've had other panels come in and testify, and they like to cite public opinion polls. And they say, ''Well, you know, you need to listen to public will here and exercise, you know, sound public discretion here and go with the polls.'' But as in the prosecution of cases, you don't have that luxury, do you?

Mr. NOBLE. I believe that what one is supposed to do is try to make one's best judgment in terms of what an unbiased decider of fact would decide. If the public polls are deemed to be based on unbiased opinion, then that should be considered. But if they're deemed to be based on bias, then I think they should be ignored.

Rep. SENSENBRENNER. The gentleman's time has expired.

The gentlewoman from Texas, Ms. JACKSON-LEE.

Rep. SHEILA JACKSON-LEE (D–TX). I thank the chairman very much, and I think it is important as these days come to a close to make all of ourselves clear.

Let me again clearly state that I find the president's behavior unacceptable and morally wrong. But I take issue with my colleague from South Carolina, who continues to restate the premise that there are no new facts. Unfortunately, what I would offer to say is there's been no new thinking in this room, because as I read the provision ''treason and bribery and other high crimes and misdemeanors,'' I do not hear the claim ''treason and bribery and unfit morally.''

So we're discussing actuality apples and oranges for the American people. That confusion causes the divide and the inability for us to come together in a collaborative and bipartisan manner.

I would offer to say that maybe the panel that is missing here are spiritual leaders who might address the question of the schoolhouse in Texas; to be able to talk about redemption or the fact that ''no, liars are not excused and it is wrong''; to teach parents how to teach their children; church houses and synagogues and parishes how to lead America morally.

But the impeachment process is not a spiritual process, it is a process, in fact, that we must deal with one, the farmers's intent, and as these gentlemen, who I applaud for your presence, your intellect and your experience, have come to answer concerns as put forward by the president's defense, so I would like to get to what you're here for—to present information that is relevant to the impeachment question. That is not a spiritual question, it's not a moral question, but we condemn morally the behavior of the president.

Now, my friends say there's no new evidence. If they would turn to page 93 in the president's presentation, there's a statement that say there is no evidence that the president obstructed evidence in connection with gifts. But the point is, the independent counsel, Mr. Starr, said the president and Ms. Lewinsky met and discussed what should be done with the gifts subpoenaed by Ms. Lewinsky (sic). Here, the answer—here is Ms. Lewinsky's testimony, not ever put forward: ''He really didn't. He really didn't discuss it.'' And so you have it where there is an absolute new fact, of which my friends seem to reject.

Another point is, in the Paula Jones deposition, Mr. Bennett objected to the definition this is a sexual relations or sexual affairs. He was on the record saying, ''I think this could really lead to confusion. I think it's important that the record is clear. I do not want my client answering questions not understanding exactly what these folks are talking about.''

Another co-defendant, Danny Ferguson's lawyer said, ''Frankly, I think it's a political trick definition—the definition, and I've told you before how I feel about the political character of this lawsuit.''

Let me ask, Mr. Sullivan, Mr. Davis and Mr. Noble, as my time eases on, one, Mr. Davis, give the American people, most of whom have not been charged with crime, never been inside of a grand jury, as to what it is like; whether it ends there with the probative value of that.

Mr. Sullivan, if you would, if you could remember the question so I could quickly get it answered, you mentioned the fact that it is unlikely to prosecute for these issues for perjury. Say that again for us quickly.

Mr. Noble, do we have the authority in this proceeding not to go foward if we don't think we have a case?

Mr. Davis, inside the grand jury room.

Mr. DAVIS. The grand jury is really the instrument of the prosecutor, or they may ask some of their own questions. It really is the agenda of the prosecutor. And what it is not is a vehicle for getting an assessment of the credibility of witnesses that appear there. There is no cross-examination. It is the prosecutor's presentation and really is not sufficient to determine what ultimately will happen in a trial.

Rep. JACKSON LEE. Mr. Sullivan?

Mr. SULLIVAN. The reason, I think, a perjury prosecution on the sexual-relations issue would fail is that the President has clearly explained in detail, and repeatedly, in his grand jury testimony what his understanding of the term meant, when he gave his testimony in the Jones case. And I do not think, in light of the obscure definition and in light of what happened, that it can be said that there is proof beyond a reasonable doubt that he did not honestly have that interpretation.

Rep. SENSENBRENNER. The gentlewoman's time has expired.

Rep. JACKSON. Sorry, Mr. Noble.

Thank you.

Rep. SENSENBRENNER. The gentleman from Tennessee, Mr. Bryant.

Rep. ED BRYANT (R–TN). I thank the chair, and I thank the distinguished panel.

I always want to remind those that might be watching that this is the President's defense. And the witnesses who have been testifying the last two days, are all called by his lawyers to testify in his favor.

I want to commend Mr. Craig for the outstanding strategy he has presented today. He is truly a very fine lawyer. He has brought a defense to us today that this President should not be impeached because he almost committed perjury, obstructed justice, tampered with witnesses, caused someone to false affidavit, but because he didn't actually cross that line exactly, then he should not be impeached.

This extraordinarily talented wordsmiths, or the extraordinarily talented wordsmiths, and people who can make those extremely sharp distinctions for the President allow him to redefine such words as ''sexual relationships,'' the word ''is,'' the word ''alone'' and defend this cover-up story with such statements that, actually in this 184-page report, that the cover story of Monica could be that she was delivering papers. And that's because she did, maybe two times of the numerous times that she went there, and she said there was a lot of truth in there.

Well, there was also a lot of lies in there, in addition to that truth, but again, this is good wordsmanship and I have to commend, again, the counsel for the President for the defense that's been so crafted carefully, and say it is consistent with the President's statement so far.

Summarizing, though, I would say that the defense of today that he almost did these things is like saying close only counts in horseshoes. I don't think, though, and let me say, I think like Mr. Canady and so many others on this committee, that I think the proof is there that he is—didn't almost commit these offenses, that in fact, he crossed that line. There's compelling evidence of that.

But for those who don't agree, who might accept your view, I want to remind the people of the other witnesses who said that you don't have to have a crime to impeach. I think that's unanimous among all the experts who've testified, and as a Congress, if we accept your view, I think we have to be careful that you don't box us in to the Nixon standards or that you don't box us in that there has to be a crime with—and that a technical defense would escape impeachment.

I think what we have to look at and what is so important to me was Mr. Craig's statement yesterday, admission on the part of the President that the President, under oath, the chief law enforcement officer, the President who appointed all of us as U.S. attorneys, who appoints the attorney general, the commander in chief, evades the truth, gives incomplete answers to the truth, gives misleading testimony, and he says it's maddening. It's maddening. I think it's sickening. I think it's sickening that the President does this. And for us to allow this President to do that and do damage in a civil rights lawsuit I think is improper, and for Congress to turn the other way and look the other side, I don't think we can do that.

Now, we all, in the end, have to vote our conscience, but we should not continue to hear about Nixon is the standard, is the threshold. That's not the case. But in the end, I do want to thank you for your able presentation. You've done, again, what you were supposed to do as part of this presentation. I think you've done a good job at it. But again, I think—I would address my colleagues, let's don't get boxed in this idea that he almost did it, in your view, and we can't impeach. I also, again, would give the disclaimer that I do believe he committed these crimes and I think the evidence is there to show that. And I thank you again.

Rep. SENSENBRENNER. The gentleman's time has expired.

The gentlewoman from California, Ms. Waters.

Rep. MAXINE WATERS (D–CA). Thank you very much.

I'd like to thank our panelists for being here today. I am extremely impressed with the way that they have used their very limited time. And I am extremely frustrated. I would like to see each of you take one aspect of these allegations and present a summation about why they're not impeachable, but this process doesn't allow for it, and you're not able to do what you have shown you could do so well because you don't have the time.

You're setting here with so-called legal minds and lawyers talking about they want to impeach the President because they are sickened by his actions, they feel his actions are reprehensible, they don't—they feel they are unacceptable. And we keep trying to make the case they have a righ to feel anything they'd like to feel, but just becasue they are sickened by this actions does not mean they're impeachable. I don't know how we're going to get that message through.

I think you did a fine job, Mr. Sullivan, of talking about the state of mind of the president and why he could rationally say that he did not have sexual relations, based on the definitions and his belief. He did not consummate the sexual act that he thought was central to sexual relations. And simply because he got on television and said, ''I did not have sexual relations,'' somehow these would-be lawyers on this committee think that he has done something that's impeachable.

Let's move on to the gifts, Mr. Davis. Betty Currie did not say that she was instructed to go get gifts and burn them up or dump them in the river. If she wanted to obstruct justice, do you think she could not have found a better hiding place than putting them under her bed? Would you illuminate on that as obstruction of justice for us—just for a minute. And then I've got one more.

Mr. DAVIS. I think there would be both a better hiding place, and in terms of obstruction of justice, I think there's also the significant issue as to the lack of evidence as to the president's real role in that whole process, even when you look at a lot of Ms. Lewinsky's testimony, Betty Currie's testimony, and the president's testimony.

Rep. WATERS. Mr. Dennis, this business about bribery—somehow there's an attempt to make the case that because there were discussions about jobs, that Miss Lewinsky was trying very much to get a lot of help from anybody she could get it from, to get a job, that somehow there's some bribery involved here and obstruction of justice, because they would like to make the leap that there was an exchange of some kind of informaiton or communication that said, ''If you give me this job, I will not''—or an offer, ''If I get you a job, will you not—?'' Will you help us with that?

Mr. DENNIS. Well, two things I recall—one from President Clinton's grand jury testimony, which was not challenged, I don't believe, that issues related to her employment were taken up long before she became a witness in ths case. It's also my understanding that Miss Lewinsky herself denied that there was any attempt to use help with her employment in order to get her to testify one way or the other. I would think that that would basically close the whole issue.

Rep. WATERS. Exculpatory information that was never presented to us——

Mr. DENNIS. It's right in the record.

Rep. WATERS [continuing]. In this so-called case.

Mr. DENNIS. That's correct.

Rep. WATERS. In addition to that, there were some discussions about conversations with the president and Ms. Currie about trying to remember what was said or what took place. Is there anything in that exchange that would cause us to move toward impeachment because the president said, ''Were we ever alone? Do you remember what''—give us—would you illuminate on that somewhat, Mr. Noble?

Mr. NOBLE. Again, it's a specific-intent crime, and the question is, what was the president thinking when he said this? We can look at his words and try and analyze his words.

But Ms. Currie says that she didn't believe he was trying to influence her and that if she'd said something different from him, if she believed something different from him, she would have felt free to say it. So for that reason, I beliee, you just don't have the specific intent necessary to prove obstruction of justice with regard to the comment that you just asked me.

Rep. WATERS. Thank you very much.

Mr. Weld, someone offered that there were other people serving time for perjury, and they gave these piddling little numbers, despite—we have the kind of population that we have in the country. they did not give you facts in the case of the woman who came before us. Dr. Battalino, I think, is her name. And I think it was not fair to use that and say to you, ''See, she was prosecuted. How can you not say the president should be prosecuted?''

Do you know the facts of that case? If so, could you illuminate on them?

Rep. SENSENBRENNER. The gentlewoman's time has expired.

Governor, you got a quick answer to that one? [Laughter.]

Mr. WELD. [Chuckles]. Saved by the bell, Mr. Chairman.

Rep. SENSENBRENNER. Okay. The gentleman from Ohio, Mr. Chabot.

Rep. STEVE CHABOT (R–OH). Thank you, Mr. Chairman.

Mr. Dennis, in your statement you said, and I quote: ''I sense an impeachment would prove extremely divisive for the country, inflaming the passions of those who would see impeachment as an attempt to thwart the election process for insubstantial reasons.''

I can assure you that there are many citizens who feel just as passionately that this president deserves to be impeached. Would you acknowledge that that is true?

Mr. DENNIS. I'm sure that passions do run in both directions, high in both directions.

Rep. CHABOT. Thank you.

Mr. Davis, let me quote from your opening statement as well. You said, and I quote: ''Prosecutors often need to assess the veracity of an 'I don't recall'' question—or ''answer. The ability to do so will often depend on the nature of the facts at issue. Precise times of meetings, names of people one has met and details of conversations and sequences of events, even if fairly recent, are often difficult to remember.''

Let me ask you this. In your experience, is it common for people to forget things such as whether or not they had sex with somebody or whether or not they were alone with someone? Just yesterday, we were presented with the president's 184-page defense report and were told that the world ''alone'' is a vague term unless a particular geographic space is identified. Do you find that sort of legal hair-splitting defense helpful? Don't you think we ought to at least be able to

agree that ''alone'' means you're by yourself, not with anybody?

Mr. DAVIS. I think ''alone'' in essence means that you're by yourself; but I think that, while you don't forget that you had sex with somebody, I think you have to go back and look at the confusing nature of the answers. What basically was going on, there's no question the president was trying his best to avoid and was playing word games in his deposition.

Rep. CHABOT. Thank you.

Mr. DAVIS. He shouldn't have been doing it, and he was doing it. The issue is, what is the legal consequences now? And that's what we're all struggling with.

Rep. CHABOT. Thank you. I think the president should set a standard for all the citizens in this country, and I think we all ought to be able to agree on what the word ''alone'' means.

Mr. Sullivan, in your opening statement, in discussing how much evidence a prosecutor should have before he brings a case to a grand jury, you stated that they should not run cases up the flagpole to see how a jury will react. Do you think it's responsible for a president to take a poll, to, in a sense, run something up a flagpole to see whether or not he ought to tell the truth or lie?

Mr. SULLIVAN. No.

Rep. CHABOT. Thank you.

Mr. Noble, in your statement you said ''Members of Congress should consider the impact of a long and no doubt sensationalized trial, what effect that will have on the country.'' Should we also consider what the impact that a president committing perjury, obstructing justice, tampering with witnesses, and getting away with it might have on the country, particularly when that president is the chief law enforcement officer and is sworn to uphold the laws in this country and, in fact, is sworn and took an oath himself that he would uphold the laws?

Mr. NOBLE. I believe you ought to consider whether or not you could prove those allegations that you've just made. From my review of the evidence, I don't believe you could prove any of the allegations that you just articulated in front of a jury, and I think you ought to take into account in deciding whether or not you want to base your impeachment, as I've read, on perjury. You can base your impeachment on whatever you want. But if it's on perjury, I believe you would not be able to sustain a conviction for perjury before a jury in this country.

Rep. CHABOT. Thank you very much. And I—the final time that I have here, I think as Mr. Bryant just said, it's very important for all of those folks that may be watching the testimony today not to forget that these witnesses were sent here, and I think they've done a very good job. But they're witnesses on behalf of the president, not impartial witnesses. They're advocates. And I think that the president should set a standard that our kids in this country ought to be able to look up to, and we ought to know that the chief law enforcement officer, the president of this country, is somebody that we can respect and who actually tells the truth.

I yield back the balance of my time.

Rep. HYDE. The gentleman's time has expired.

The gentleman from Massachusetts, Mr. Meehan.

Rep. MARTIN T. MEEHAN (D–MA). Thank you, Mr. Chairman. Mr. Chairman, Mr. McCollum earlier referred to a case from the United States Court of Appeals in the District of Columbia circuit and seemed to indicate that that case, the ruling in the case, which had been sealed, put to rest the issue of whether or not the president's testimony was material in the Paula Jones case. Well, it just so happens that I got a copy of that ruling that was under seal, and this is not a ruling on that at all. This is a ruling on a motion to quash by Ms. Lewinsky's attorney because Ms. Lewinsky did't want to testify. This ruling in no way, shape or manner says that the president's testimony was material to the underlying civil case in the Paula Jones-filed lawsuit. So just to set the record straight, and I would ask that this be submitted for the record that members might want to read it.

Rep. HYDE. Without objection, so ordered.

Rep. MEEHAN. Thank you, Mr. Chairman.

In any event, I'm delighted to see the former Masschusetts governor here back in the public arena—on the right side. [Laughter.]

I heard my friend from South Carolina, Mr. Inglis, talk about the high bar over the last few days. The high bar, that Mr. Craig has to make sure that Mr. Craig has to make sure that he gets over that high bar, because it's a very high bar. They're prepared to vote for impeachment of the President of the United States on Saturday. It's the second time we'll have a trial in the United States Senate if the full House goes along with it. And he's talking about the high bar that Mr. Craig has to pass, to get witnesses before this committee to prove the president's innocence.

Now, Governor Weld, you're a former prosecutor.

I am sure that you have heard many on the other side say that this is sort of like a grand jury proceeding.

Now, have you ever had a case where you as the prosecutor appeared before a grand jury and gave your presentation as to why you thought a defendant had committed crime yet called no material witnesses—no witnesses—yet, nonetheless, you got an indictment?

I don't subscribe to this theory, but let's assume we are in the grand jury system. Have you——

Mr. WELD. I have had cases where the case went in through an agent at the grand jury and a lot of the agent's testimony would be hearsay. He would be a cumulative witness.

Rep. MEEHAN. But you have never had a case where you didn't appear—where you didn't present basically a forensic case—you never went in, said, ''We should indict this person''?

Mr. WELD. I don't think you'd get too far that way, Mr. Congressman.

Rep. MEEHAN. Right.

But apparently though, Governor Weld, you do here is the point because we haven't heard from a material witness yet. And I hear the other side saying: ''Wait a minute. The Democrats, the president, they haven't brought a material witness here. They should prove the president's innocence.''

Isn't the fact of the matter in a judicial proceeding, any judicial proceeding, that the prosecution or the person seeking to pass that high bar has the obligation to provide the material witnesses? Mr. Sullivan, isn't that the way our system works?

Mr. SULLIVAN (?). Yes.

Mr. DAVIS. It clearly works and must. And indeed, I think that the burden to proceed with an impeachment should have a higher evidentiary threshold than the burden for a prosecutor to bring a criminal case, because of the consequences of impeachment—are such more important national——

Rep. MEEHAN. Let me go on to another instance. There is all of this obstruction of justice that is being thrown around here, as if we had a case of obstruction of justice.

And there is a talk about who initiated the events relative to the gifts, who transferred the gifts? Betty Currie testified before the grand jury that Ms. Lewinsky called her and asked her to come over and pick up the gifts. Monica Lewinsky claimed that Ms. Currie made the initial phone call.

Now, I know this is probably hard to believe. But one of the Articles of Impeachment are going to be on obstruction of justice, but this committee has never called either one of them to try to determine what the truth is.

Now, Mr. Sullivan, have you ever heard of drafting an Article of Impeachment where there is a conflict in the facts, like on this particular instance, and we didn't call either one of the witnesses to try to correct what the grant jury testimony says?

Mr. SULLIVAN. Well, no, but let me——

Rep. HYDE. The gentleman's time ha expired. Can you answer briefly?

Mr. SULLIVAN. Yeah, I can, Mr. Hyde. Even if you take what Miss Lewinsky said when she talked to the President about what to do with the gifts, you wouldn't have a case, because she says he said, ''I don't know,'' or ''Let me think about it.'' That's all. That's the total sum of what Lewinsky said Mr. Clinton said.

Mr. MEEHAN. Thank you, Mr. Sullivan.

Rep. HYDE. The gentleman from Georgia. Mr. Barr. And, Mr. Barr, would you yield to me just briefly.

Rep. BOB BARR (R–Ga). Certainly.

Rep. HYDE. Mr. Davis, in law, if you have a prima facia case, the burden then shifts to the other side to come forward with some evidence, does it not?

Mr. DAVIS. Well, not really. In order—the burden in a criminal case always remains on the prosecutor to show proof beyond a reasonable doubt. And that burden stays with the prosecutor from beginning to end.

Rep. HYDE. Well, I understand that, but can you be critical of not producing witnesses when you have 60,000 pages of under-oath testimony, deposition testimony, grand jury testimony? Are you not entitled to take that into consideration? And then if you reject that, if you think that's wrong, don't you have some obligation to come forward yourself with a scintilla—by the way, what is a scintilla? [Laughter.]

Mr. DAVIS. A scintilla is very little. But I think——

Rep. HYDE. Well, don't you think you'd have an obligation to come forth with a scintilla of evidence invalidating the 60,000 pages that the independent counsel has developed?

Mr. DAVIS. It's not a question of the number of pages. The real issue is whether those pages were uncontradicted facts is to which there's not factual issue. The problem here is that when you have——

Rep. BARR. Mr. Chairman, I'm going to have to reclaim my time. I have some matters to go over here, with all due respect. [Laughter.]

[Cross talk.]

Rep. ROTHMAN. Mr. Chairman, let the witness finish his answer please.

Rep. HYDE. Well, he's been very generous, please.

Rep. BARR. Mr. Chairman.

Rep. SCOTT. Mr. Chairman, I'd ask unanimous consent that you be allowed to finish and Mr. Barr's time be restored.

Rep. BARR. Mr. Chairman, could we restart the clock then? If they want to give this gentleman time to answer the question, let him answer and then restart the time for me. That's fine with me.

Rep. HYDE. Please, please. On nobody's time but the chair's time, the gentleman may finish his answer. And it's not—we'll start again with Mr. Barr. I want to be fair.

Rep. BARR. Thank you, Mr. Chairman.

Rep. HYDE. And I really intruded in his questioning. Go ahead, Mr. Davis.

Mr. DAVIS. I think it does depend upon what's in those 60,000 pages.

Rep. HYDE. Of course.

Mr. DAVIS. If there are conflicts that are revealed so that there are factual issues, the issues then becomes credibility. And credibility is important.

Rep. HYDE. Sure.

Mr. DAVIS. And even as Mr. Starr recognized, he didn't want to give immunity to Miss Lewinsky unless he saw her. Of course, actually he didn't see her. He wanted his office to see her.

So if you're going to make credibility judgments, and as to a number of these issues, there are credibility issues, that's when it becomes important for the person with the responsibility for making the decision—and that is in this case this committee—in my view to actually test the credibility of the witnesses.

Rep. HYDE. And of course, where there's no conflict, that isn't an issue; isn't that so?

Mr. DAVIS. If there is no conflict——

Rep. HYDE. Yes, no conflict.

Mr. DAVIS [continuing]. Then it's a question of the significance of what is said and understanding that.

Rep. HYDE. Right. Thank you.

Now, forgive me, Mr. Barr. I won't do that again. You'll start all over.

Rep. BARR. [chuckles] Mr. Chairman, if you can ask questions and then start the time for me, you can do that anytime you want.

Rep. HYDE. All right!

Rep. BARR. Thank you, Mr. Chairman.

I know Mr. Craig is here. And I don't know whether he is delighted or dismayed by the panel today, because after promising us yesterday that we would not be hearing technicalities and legalities, that's all we hear today. And that's fine. We have a panel of very distinguished criminal attorneys here, and that is the essence of criminal law, finding clever ways to parse words and definitions, and so forth, and determine why certain principles don't apply, and I understand that.

But we really have gone, Mr. Chairman, today from the technical to the absurd. From the technical, we have lawyers here that would apparently agonize greatly over a definition of ''sexual relations'' that is very, very broad, uses terms that are deliberately broad to encompass a whole range of activities—using the term ''any person''. Now, to Mr. Sullivan, ''any person'' may not mean any person, but I think to the average person of common sense it would. So we still have this legal, technical parsing over definitions and words that really leaves us precisely where we were before Mr. Craig made a promise yesterday that we would have no more technicalities and legalities to hang our hats on.

We have gone then to the absurd, Mr. Chairman, and that is the preposterous presumption or scenario that the president, in talking with Ms. Currie the day after he gave his grand jury testimony—or his testimony in his deposition before the court, was really acting as her attorney. Because according to Mr. Sullivan, it is entirely proper for an attorney to go over somebody's testimony in advance of that testimony to make sure that it fits. I don't think the president was contemplating serving as her attorney, nor do I think that Ms. Currie was contemplating hiring the president for that purpose.

Therefore, we'd have to look elsewhere, and the elsewhere is that he was trying to coach her and that fits within the definition, in the statute, of tampering.

For those on this panel, all of whom have tremendous and very noted experience in dealing with criminal law, many including dealing with very serious drug cases, I would ask them rhetorically, since they seem so enamored of the propriety of evasive and crafty answers being the tools in trade of an attorney, why they would find it interesting—or maybe they wouldn't—that the acting deputy administrator of the Drug Enforcement Administration—for whom, I would presume, you would all agree it is important to have agents testifying in court, testify truthfully—why that deputy administrator believed it necessary on September 15th of this year in a memo to all DEA personnel admonishing them—and I've never seen a memo like this before—admonishing them, quote, ''Evasive or craftily worded phrases, testimony or documents designed to omit or distort key facts are similarly unacceptable and will not be tolerated. Making false statements in any matter or context is completely unacceptable and will not be tolerated.''

That, I think, Mr. Noble—and I noticed you did not answer the specific question put to you, by, I think it was my colleague and another former U.S. attorney, Mr. Bryant—that is why this case is so important. Not necessarily that we know for a fact that there are DEA agents out there developing crafty or evasive answers to be used in court, but apparently the head of one of our preeminent law enforcement agencies, because of the president, the chief law enforcement officer, using crafty and evasive answers in court before judges, because that sets a certain standard.

That is why it's important that we are here today, that is why it's important why we're here today, not to argue over the technicalities, niceties and legalities of whether or not a specific case of perjury can be made, but because of the damage that is already being done to our law enforcement by having a president who excels at evasive and crafty answers that, in the case of the average DEA agent, would be unacceptable, would get them thrown out of court and probably cashiered from the government. That's why this is important, and Mr. Craig, shame on you for putting together a panel here of technicalities and legalities when you promised us yesterday there'd be no more of that.

[Groans, faint applause.]

Rep. HYDE. The gentleman's time has expired. The chair would appreciate no demonstrations, although we've had them, but we can get along better without them.

Mr. Delahunt.

Rep. BILL DELAHUNT (D–MA). Thank you, Mr. Chairman.

You know, I want to speak to the issues of technicalities and legalities and what have you because I think it's important, when we speak about the rule of law, oftentimes we're talking about technicalities and questionable legalities because it's embedded in our constitution that there are certain standards and requirements. Is that a fair statement, Mr. Sullivan?

Mr. SULLIVAN. Yes, and it's——

Rep. DELAHUNT. This is not about technicalities.

Mr. SULLIVAN. It is—in response to what Mr. Barr said, and somewhat——

Rep. DELAHUNT. Mr. Sullivan, I'm just going to speak to you because I want to have a little——

Mr. SULLIVAN. It is interesting to me because in my experience, persons who make such statements, when they become the subject or the object of investigation——

Rep. DELAHUNT. Correct.

Mr. SULLIVAN [continuing]. Are the first ones to get the mantle of the constitutional protections, wrap them around them——

Rep. DELAHUNT. Right, and start yelling about technicalities and legalities.

Mr. SULLIVAN [continuing]. Insisting on their rights. And you don't hear that kind of a speech from them anymore when they hire me to defend them; I can guarantee you that.

[Laughter.]

Rep. DELAHUNT. Right. Thank you.

Let's talk about perjury. To evade is not to perjure, is it, Mr. Sullivan?

Mr. SULLIVAN. No.

Rep. DELAHUNT. To obfuscate is not to perjure.

Mr. SULLIVAN. No.

Rep. DELAHUNT. To be non-responsive is not to perjure either; it's not a crime, is it?

Mr. SULLIVAN. No, it is not. The definition of perjury and the proof required to prove perjury is very specific, very technical, and properly so.

Rep. DELAHUNT. Right. However it might be maddening, it might be frustrating, it might not be right, it might very well be immoral, but it's not a crime.

Mr. SULLIVAN. The criminal code is not enacted to enforce a code of morality.

Rep. DELAHUNT. You know, I was listening to my friend from Tennessee, Mr. Bryant, and I thought his comments were interesting. You know, the ''almost did it'' theory. You know, I don't think he and I disagree all that much. I do think, however, that there are ways to deal with a president who has evaded, who has been non-responsive and who has obfuscated the truth. And I suggest that there are alternatives that are open to this Congress to deal with that particular issue.

You know, I think it was Mr. Chabot that raised the issue about recollection and forgetfulness. You're all experienced trial lawyers. We know as human beings that memories—people can answer in good faith and memories can fail.

Is that a fair statement, Mr. Sullivan?

Mr. SULLIVAN. Of course it is.

Rep. DELAHUNT. Well, I just want to submit this for the record, because hearing the issue being raised yesterday or several days ago, I went back to the testimony that was provided by Kenneth Starr. And according to my review, the independent counsel expressed difficulties in recalling information at least 30 times during the course of his testimony. And it's fully detailed here, and I want to submit it, Mr. Chairman, for the record.

Rep. HYDE. Without objection, may be received.

Rep. DELAHUNT. You know, I think it's important to—also to note that credibility is an issue here, Mr. Davis. It's a real issue. And I think it's important to note too that the majority, represented by Mr. Schippers, has acknowledged that in their report to this committee.

I'm going to read to you his statement. ''Monica Lewinsky's credibility may be subject to some skepticism. At an appropriate stage of the proceedings, that credibility will, of necessity, be assessed, together with the credibility of all witnesses in the light of all the other evidence.''

I would suggest that it's an obligation of this committee to make that assessment before we proceed?

Mr. DAVIS. I believe it is, because you're the people who have to be comfortable that there is sufficient evidence to establish what is put in a piece of paper——

Rep. DELAHUNT. Miss Lewinsky has on numerous occasions lied, if you have read the—if you accept the transmittal by Mr. Starr.

Mr. DAVIS. I think Mr. Starr's transmittal references that.

Rep. DELAHUNT. And earlier Mr. McCollum talked about nine corroborative witnesses. My memory of the Starr communication is that she told different stories to different people.

Mr. DAVIS. I think they're set out there, and as I said before, it's also just the same—if she had a preconception or motivation to tell a false statement in the grand jury, it was the same with those people, in any event.

Rep. HYDE. The gentleman's time has expired.

The gentleman from Tennessee, Mr. Jenkins.

Rep. BILL JENKINS (R–TN). Thank you, Mr. Chairman.

And let me say to this panel, thanks. Mr. Chairman, I regard this as a very able panel, and I suppose you saved, Mr. Craig, the best till last, a very bright panel.

And I certainly—I feel like I would be unarmed to get engaged in any mental gymnastics with any member of the panel.

But you've all announced that you're here as witnesses, not advocates. You are advocates in a sense as witnesses. And I suppose the tendency for all of us who practice law or been judges is to get back in the arena.

The last two or three panel members I think have gone in the direction that we need to continue to go in. They've talked about getting away from legalistics, talked about getting away from lawyer talk, and talked about talking about things that the American public would understand. Now, I've got a question along those lines. I'd like to ask Mr. Sullivan.

Mr. Sullivan, you testified that you have read from the president's deposition that he had denied that he had sex with somebody based on the interpretation of sex——

Mr. SULLIVAN. In the grand jury testimony.

Rep. JENKINS [continuing]. In the grand jury testimony.

Mr. SULLIVAN. Right. The grand jury testimony about his deposition testimony.

Rep. JENKINS. And you commented that you thought the president's interpretation was reasonable. Is that——

Mr. SULLIVAN. No. No, I said it is not—yeah, I think it's a reasonable interpretation, and that it was—he insists that that is his interpretation. And it seemed to me, given the necessity of proof beyond a reasonable doubt that he thought he was telling a lie, that you could not make a criminal case against him.

Rep. JENKINS. Well, now, this is a solemn matter, and I want to keep it that way. But for those people across this land who are viewing this, now, I want to ask you if—you've come down here and testified. And actually what—when it comes down, when you pull the shuck back and look at the corn, what you're asking the American people to believe is that we've got a guy down at 1600 Pennsylvania Avenue who's smart enough to get himself elected, who's smart enough to serve as President of the United States, and he doesn't know what sex is.

Mr. SULLIVAN. No, I'm not suggesting that at all. It's absolutely not what I'm saying. I have said it three or four times. The judge in the Jones case gave a specific definition of the term ''sexual relations.'' She deleted two sentences that specifically read on, as the patent lawyers say, oral sex. The president said in his mind that took oral sex out of it, and that what was left was, we would call it normal sexual intercourse. And he said ''That is the definition I was responding to.'' Now, you can say ''That's silly, that's ridiculous, I don't believe it,'' but that's what he says. And it seems to me that if you were to bring this as a criminal case with that background in mind and what was left in that definition, you can't make a case. That's all I'm saying.

Rep. JENKINS. Well, you and Mr. Noble have both indicated that you don't believe—and perhaps other—I guess other panel members have indicated that——

Mr. NOBLE [off mike].

Rep. JENKINS. Well I haven't asked you to, Mr. Noble.

Mr. NOBLE. I thought you just mentioned my name. I'm sorry. I apologize.

Rep. JENKINS. Wait just a minute and I'll try to give you an opportunity. I'm about to burn up all the time I have.

But do you know anything, Mr. Sullivan, about the Battalino case, the lady who came here and testified?

Mr. SULLIVAN. Just what I've read in the newspapers about it. I did not——

Rep. JENKINS. So you're not—you're not able to compare——

Mr. SULLIVAN. No—well, I could compare it this way, that in the cases that have been referred to—I have not heard of any in which it is analogous to this case where the witness's testimony was peripheral to the issues in the case, the alleged perjury was not dealing with the specific facts like of the Jones case, but of some other peripheral case that might not even be admissible in evidence.

Rep. HYDE. The gentleman's time——

Rep. JENKINS. Thank you, Mr. Sullivan. My time has expired.

Rep. HYDE. The gentleman's time has expired.

Mr. Wexler.

Rep. ROBERT WEXLER (D–FL). Thank you, Mr. Chairman.

Mr. Sullivan, I was very struck by your testimony in terms of your examination of the allegations against the president because it seems to me one of the most critical elements against the president's and the president's lawyers' in this process is that they have engaged in legal hair-splitting, and they have been condemned for it, and in some cases maybe appropriately so.

But as you analyzed the nature of the case against the president with respect to perjury, what struck me was it seems that in order to make that same very case against the president, you have to engage in legal hair-splitting to do so. Because when it all comes down to that very essence of the case against the president on perjury, it comes down to a discrepancy—a discrepancy between the testimony of the president and Ms. Lewinsky over the precise nature of the physical contact involved in their relationship. The president, on the one hand, at the grand jury says, ''I had an intimate relationship, an inappropriate intimate relationship with Ms. Lewinsky that was physical in nature.''

And he goes on to say it was wrong, and then, of course, as you have pointed out here today on several occasions, he denied, in essence, having sexual relations as it was defined by the judge. Miss Lewinsky, on the other hand, in response to the independent counsel's several questions, goes into graphic detail in recollection of her encounters with the president. That's what it seems the perjury is all about.

But let's take the advice of the members on the other side. Throw away the legal technicalities, throw away the requirements that the law provides we prove for perjury. Forget all about that. Tell the American people what is the false statement that the president allegedly made to the grand jury? Forget the consequences, forget the law. What is the false statement?

Mr. SULLIVAN. Well, if you—it could be one of two. It could be when he denied having sexual relations and I've already addressed that, because he said, ''I was defining the term as the judge told me to define it and as I understood it,'' which I think is a reasonable explanation. The other is whether or not he touched her—touched her breast or some other part of her body, not through her clothing, but directly. And he says, ''I didn't,'' and she said, ''I (sic) did,'' so it's who-shot-John. It's, it's, you know, it's one on one.

The corroborative evidence that the prosecutor would have to have there, which is required in a perjury case—you can't do it one on one, and no good prosecutor would bring a case with, you know, I say black, you say white—would be the fact that they were together alone and she performed oral sex on him. I think that is not sufficient under the circumstances of this case to demonstrate that there was any other touching by the president and therefore he committed this—you know, he violated this—and committed perjury.

Rep. WEXLER. Well, Mr. Sullivan, I only hope that a vast majority of Americans have heard your answer right now. What this is about, at its worst, is the president making false statements about sexual relations and about where he touched Monica Lewinsky?

That's what the alleged perjury is about. I hope I am not misstating what your answer was.

Mr. SULLIVAN. No, you're not. What the other side is saying is that perjury in any regard is so important that the president oughtn't to engage in it, and we can all probably agree with that. The issue for you is whether or not it justifies impeachment.

Rep. WEXLER. I agree. I agree.

So it's about sexual relations, and it's about touching. And now we are about to impeach a president because we think he gave false answers about sexual relations and about touching. How many times does it have to be said? How many times do we, the Congress of the United States, have to now set up a standard that says the president may have falsely told us an answer about sexual relations and about touching, and now we are going to impeach him?

Thank you.

Rep. HYDE. The gentleman's time has expired.

The gentleman from Arkansas, Mr. Hutchinson.

Rep. ASA HUTCHINSON (R–AR). The investigation was opened up because of a concern about an attempt to obstruct and suborn perjury in a civil proceeding in which a plaintiff that had a right to bring a suit, that the courts determined had a right to bring a suit, was pursuing that. And our review is looking into those allegations of obstruction of justice and perjury.

There are some questions raised about whether Monica Lewinsky is truthful or not, and I think that's a legitimate question that can be raised. But I think she does have an incentive for telling the truth.

I have here before me the immunity agreement, which I have seen before, and these witnesses have seen before, as well, that said that if Ms. Lewinsky has intentionally given false, incomplete or misleading information or testimony, she would be subject to prosecution for any federal criminal violation. And so certainly she has immunity, would you agree, Mr. Sullivan, but if she does not tell the truth, then she would be subject to prosecution?

Mr. SULLIVAN. If that's the standard use-immunity agreement, that is correct.

Rep. HUTCHINSON. Now, I believe, Mr. Sullivan, going to your testimony, you talked about prosecutions for perjury are relatively rare, difficult to prove, and the United States does not do it generally in pursuit of civil litigation.

And we got the statistics for federal prosecutions. And I think Governor Weld mentioned this, that he didn't believe that they were that rare.

And in fact, in 1993 there were more federal perjury prosecutions by United States attorney than there were kidnapping prosecutions. I don't think that means that kidnapping is not significant. In '94, the same fact was true; there were more perjury prosecutions—('93/93?)—than there were kidnapping prosecutions. The same in '95. It's really a pattern that goes back to the 1960s. And I wish I could give credit to all of my staff that did such great work, but talking about United States attorneys prosecuting perjury

in civil litigation, here's a stack of cases. Now, I could go through them, but I only have five minutes. And so I won't take advantage of that. I did find one in Illinois and in different parts of the country. But a rather impressive arena of cases in which U.S. attorneys prosecute perjury in civil cases.

Now, I agree with your point that sometimes there's a history behind it, but I think there's a history here in this case, as well. There's an investigation of obstruction of Justice.

Now Mr. Sullivan, you mentioned that it was in a peripheral matter. Am I correctly——

Mr. SULLIVAN. Yes. Yes.

Rep. HUTCHINSON. Has anyone on this panel ever represented a woman as a plaintiff in a sexual harassment case? (Pause.) If you have, raise your hand. Well, I have. And whenever you look at the most difficult thing in a sexual harassment case, it would be to prove who's telling the truth. And many times you have to go to a pattern of conduct because there's a denial. And so if you try to prove a pattern of conduct, you've got to ask questions in a deposition as to what has happened in the past. And I don't think that's a peripheral matter. I don't think you can make sexual harassment cases if you do not ask those questions. And when the president in that deposition denied ever having in his lifetime sexually harassed a woman, is that a material statement in the civil deposition? And I invite your answers.

Mr. DAVIS. Well, I think, you know, the issue is—I don't think, I don't think—believe it is, because——

Rep. HUTCHINSON. The question is, is it material?

Mr. DAVIS. No, I don't think it's material, because you're entitled to ask the question under the broad discovery rules, but the question is—was, if a truthful answer here would have revealed the true facts, would it have been admissible in that Jones case?

Rep. HUTCHINSON. If he had admitted he had sexually harassed someone, you don't think that——

Mr. DAVIS. No, no. Actually, the truth is it would not have been because it would not have been admissible in the Jones case.

Rep. HUTCHINSON. Does anyone disagree that that would be a material statement?

Do you disagree, Mr. Noble?

Mr. NOBLE. I'm sorry, maybe I misunderstood the question. But—and I don't know the record to reflect this question, but if your hypothetical question is: In a sexual harassment suit, if a person is asked ''Have you ever sexually harassed someone?'' would that be material, I believe it would be material.

Rep. HUTCHINSON. Okay. Would anybody else agree with Mr. Noble, who gave a very straightforward answer? I know you all haven't handled sexual harassment cases; perhaps that's a little bit of a disadvantage. But I thank you for your testimony.

Rep. HYDE. The gentleman's time has expired.

The gentleman from New Jersey, Mr. Rothman.

Rep. STEVE ROTHMAN (D–NJ). Thank you, Mr. Chairman.

Let me start off by saying that with respect to my colleagues on the other side of the aisle, I don't think it aids the search for truth to demonize the White House counsel. Mr. Craig said that he was going to be presenting us with some factual rebuttal to the factual arguments made by Mr. Starr. As I've read the 184 pages of the White House submission, there are pages 70 through 89 and pages 93 through 182 which address each and every one of the factual charges made by Mr. Starr.

So what we now have is Mr. Starr, who was a witness to no facts, making his statements, 450 pages in writing and then 2½ hours in his initial testimony, and we have Mr. Kendall, who made several written rebuttals, and now this 184-page rebuttal to all the facts, neither of which are admissible in a court of law, as we all know and have accepted the testimony of these experts. And we're left without one single fact-witness to help us clarify when Monica Lewinsky was telling the truth and when she wasn't, because Mr. Starr said—Judge Starr said sometimes she was telling the truth and sometimes she wasn't. But no fact witnesses have yet been called to aid us in finding the truth.

But we all agree that there is a basic, fundamental American notion of due process and fairness; that those bringing charges must bear the burden of proof, and in this instance, it is a clear and convincing standard of proof. Yet not one single fact-witness has yet been presented. That will be telling, unless it's remedied, my friends.

But I understand, though, that my colleagues on the other side of the aisle, despite the fact that these distinguished prosecutors have said they would never bring a criminal indictment on these matters—and remember the standard is ''treason, bribery or other high crimes or misdemeanors''—they wouldn't bring an indictment on these alleged crimes. But my colleagues say that, well, even if it wasn't a crime, it's a pattern of lying, it violates—it's not right. Well, I'm not sure that the standard is ''treason, bribery, high crimes, misdemeanors, evasiveness and lack of respectability.'' Although some might argue that ''high crimes and misdemeanors'' should say that, it doesn't say that.

With regards to the rule of law, we've said many times President Clinton has already paid or will pay an $850,000 fine, or settled his case for $850,000.

In a civil case, that's not an incentive to lie in a civil case. He can be sued criminally once he leaves office and go to prison if the charges against him were proven true. That's certainly no incentive to anyone to lie under oath in a criminal—in any proceeding. And the rule of law is upheld because the president is not above the law. He can be sued civilly and criminally, and our kids know that. And this whole process has demonstrated that.

The question for our committee and for all of America is to decide, if no reasonable prosecutor would bring these matters up for a crime, how could it be a high crime or misdemeanor? Should we interpret, say the Founders got it wrong, that they should have added ''evasiveness'' as a high crime or misdemeanor, or ''lack of respectability'' as a high crime and misdemeanor? Some might argue yes, some might argue no. What we have to be aware of is the consequences to our nation if we expand on that definition when we already know the president can be punished civilly, as he has been in the settlement, and criminally by going to prison if the charges are proven against him.

I yield back the balance of my time.

Rep. HYDE. I thank the gentleman.

The gentleman from Indiana, Mr. Pease.

Rep. ED PEASE (R–IN). Thank you, Mr. Chairman. I have a few questions and then an observation.

I wanted to—well, first of all, let me say I have found this panel very helpful on the questions dealing with criminal prosecutions. I understand that there is a difference between criminal prosecutions and impeachment. But on the questions of criminal prosecutions and the parallels that may be argued, I am grateful.

I wanted to be certain—let me back up. I especially—without diminishing the work done by any of you, I especially want to thank Mr. Noble, whose presentation was most helpful to me, and I had some follow-up questions I wanted to ask you based on questions that you were asked by other panelists but didn't get the chance to conclude. And the first deals with questions from Mr. Boucher on the standards that are used, or the—the standards that are used in assessing when to prosecute cases where there is a high profile potential defendant. Can you share with us the standards in the Department of Justice in those cases?

Mr. NOBLE. I must say I'm humbled to answer this, because on my left was the assistant attorney general from the Criminal Division when I was an assistant U.S. attorney and on my right was a U.S. attorney and the assistant attorney general for the Criminal Division. So I will see if I learned anything from these two wise fellows.

As soon as you get an allegation that there is a political figure who has engaged in criminal activity, as a U.S. attorney or as a prosecutor, one of the first things you will think about is: Will people have confidence that my office's investigation of this will be deemed independent and unbiased? You ask yourself that before you do anything. Can my office handle this? Or should I send it to the criminal justice—to the Justice Department's Criminal Division in Washington and have Mr. Weld or people from Public Integrity handle it?

And then you want to know who is the person bringing it. Does he or she have a bias, a stake in this—the outcome of this matter? And if it's a matter involving parties that are already involved in a dispute, you've got to worry about that.

And how did this person become aware of this information, if—in the case of someone cooperating with you, one of your informants, giving information to someone and having that information lead to possible criminal activity, like a perjury trap? All of the considerations, so that after all is said and done, a rational citizen who's looking at you—I can't help the fact that I was asked by the Democrats to be here; if the Republicans had asked me to come, I would have come willingly—but that a rational, independent person would say, ''Yes, I can look at the evidence and see why this prosecution's brought.''

No rational, seasoned prosecutor would bring any criminal prosecution against any person for perjury or obstruction of justice, based on the evidence I've seen. And I'm thankful of that, and we should all be thankful of that, because if you want to prosecute me, prosecute me for something I did, but not for something you thought I did. If I've got a weird thought process, don't prosecute me criminally for it; say that I'm a weird person and disassociate yourself from me.

Rep. PEASE. Thank you, Mr. Noble. And I appreciate your efforts to be concise.

I don't know if this question was directed to you or to the panel, but Mr. Boucher was getting into the question of whether dismissal of a case terminates the authority of a court to sanction parties or witnesses. And I don't know that that was addressed, and I would appreciate it if someone could.

Mr. SULLIVAN. I addressed that. I said that there is inherent power under the Supreme Court decision and that I do not know that—whether or not the dismissal of the case terminates——

Rep. PEASE. That's my question. So you don't know——

Mr. SULLIVAN. I do not know.

Rep. PEASE. Does anybody else have a response or a thought on that?

Mr. NOBLE. I believe that she does not lose jurisdiction to investigate and recommend the prosecution or hold criminal contempt hearings for anyone that might have engaged in criminal conduct during the time period that she had this matter.

Rep. PEASE. I also, as I began, want to thank all of you.

It's been—your presentation has been very helpful in understanding the issues surrounding charging and conviction in criminal matters. I'm concerned, though, that we not assume that either the standards in a criminal prosecution or the burden of proof or the procedures employed are the same as those which face this committee.

A criminal prosecution is not the same as an impeachment and we should not succumb to an argument that because a criminal prosecution might not succeed that Congress is unable to act under its constitutional obligation regarding impeachment. No matter my eventual conclusion on the matters before us, I'm not prepared to say that the expected standard of conduct for an American president is simply that he or she may not be indictable.

I yield the balance of my time.

Rep. HYDE. I thank the gentlemen. The gentleman from Wisconsin, Mr. Barrett.

Rep. THOMAS BARRETT (D–WI). Thank you, Mr. Chairman. Mr. Sullivan, you indicated in your testimony that you did not think that this would be a case that would be brought by a United States attorney for perjury. We have heard many—many witnesses and many members saying that the president, when he leaves office, is open to criminal prosecution. The sense of the American people, I think, remains that the president did something wrong, that he should be held accountable for his actions and that he should not be impeached.

So in your discussion, where is the justice? In this case, in the civil suit, since every one of us would explore not telling the truth, or lying, where is the justice, in your analysis here?

Mr. SULLIVAN. Well, we live in an imperfect world, and justice is not always achieved in this world. We sometimes have to wait and hope. But all I'm saying is that the law—you have to follow the law. If the law provides that the president can be indicated after he leaves office, and if some prosecutor wants to take this up who has jurisdiction over it, they may—they may reach a different conclusion than I do. I doubt that a responsible prosecutor would bring a perjury case against the president on these facts. Now, I think that the—I mean, look what the man has already gone through, though. I mean we're sitting here, the third time in the history of the country that they're considering removing a president from office.

It seems to me that there's been terrible retribution on this man for what he did.

Rep. BARRETT. Well, let's take the president out of it, and let's leave it as a civil case where a person has lied. Where's the justice system work in this case if a person in the civil case has lied under oath or misrepresented themselves or obfuscated the facts? Tell me where the justice comes into the system, if there is not going to be perjury. There has to be justice. We can't just say, well, that's the way it goes.

Mr. SULLIVAN. Well, in the—we're talking about the Jones civil case. And in that case, after the president made his disclosures and Monica Lewinsky made her disclosures and the cases had been dismissed, but before it was decided by the Court of Appeals Ms. Jones settled the case. So it seems to me it's washed away, because she, then, knew at the time she settled that if that evidence was going to be admissible, you know, she would take that into consideration in determining the amount of her settlement. The case was thrown out, as I understand, for reasons entirely different, that she couldn't demonstrate that there was any connection between what may have happened in her—detriment to her in any employment.

Rep. BARRETT. Do you think that the amount of the settlement reflects some of that? It was——

Mr. SULLIVAN. Well, I think that Ms. Jones, she voluntarily took that settlement in light of all the facts, including the facts that we are now talking about today.

Rep. BARRETT. Okay.

Mr. Weld, you've offered some interesting observations, I think, one of which was the notion of a fine. And I've heard commentators talk about a plea bargain or a deal. And I bristle when I hear those words, because I do think that this is a vote of conscience and that every member on both sides of the aisle should be listening to their conscience and be guided by that.

I also am mindful of the fact that we cannot impose a fine on the President of the United States, that there are bill of attainer problems. How conceivable do you think it is that the president, if we were to censure him, would come forward and say ''I recognize that as part of the process I should reimburse the Treasury for part of this investigation''?

Mr. WELD. Well, politically, I guess, I had anticipated that all that might be the subject of negotiation before the votes were taken. I was trying to think of things that would mark the solemnity of the occasion, do justice to the dignity of the House and its role, having the sole power of impeachment. And it would say to the American people there has been justice here, this person, this president has paid a penalty here short of being removed from office, which I think we've kind of slid by that one.

But the fine, the written acknowledgment of wrongdoing and the exposure to future criminal prosecution, as well as a censure, and a Starr report as the committee or the House wished to put on the public record in perpetuity, those are the five things I could think of to mark the events.

Rep. BARRETT. Okay. My time has expired.

Rep. HYDE. The gentleman's time has expired.

Rep. BARRETT. Thank you, Mr. Chairman.

Rep. HYDE. The gentleman from Utah, Mr. Cannon.

Mr. CHRISTOPHER B. CANNON (R–UT). Thank you, Mr. Chairman.

I would like to begin by thanking this panel today. This is an important issue, and I think your presence has added weight to the issue. And I appreciate your comments and testimony.

I would also like to just point out at the very beginning that, without any parsing of words or equivocation, I agree with my frind Mr. Delahunt and with the comments by Mr. Sullivan, that the essence of the rule of law lies in the technicalities, and the technicalities are very, very important to us here.

Now, I'd like to refer to some of the things that my good friend Ms. Lofgren commented on earlier. Ms. Lofgren and I are on two subcommittees of this committee, together, and I have the greatest respect for the way she thinks.

She said or pointed out that perjury about sex is relevant essentially—and I am paraphrasing—is relevant to this side because it's a crime, and then went on to point out some of the technical elements of the crime that may in fact be missing here.

And the first is that—there was the suggestion that the person who administered the oath to the president may not have been authorized to do so. I think that was rebutted fairly effectively by Mr. Buyer, and I agree with his responses.

Secondly, she said that the question must be unambiguous. Now, I don't read the statute as requiring an unambiguous question, but I think the perjury ultimately has to be quite clear.

Later, Mr. Sullivan, I think in response to some of this questioning, suggested that the president can defend on the basis that the definition was changed—that is, the definition of ''sex''—and that the new definition may somehow have excluded a certain act or type of sex.

Let me just suggest in response to that, that I have read that definition very carefully, as I think many of the members of this committee have. The president pointed out that he answered the question very carefully, because he answered the question in the context of the definition that he read very carefully. And obviously, minds can disagree on this sort of thing, but I just don't see how you could exclude that particular act from the definition that remained after the striking of the two sentences.

Now a lot has been said about whether or not the president could be prosecuted for this crime, where these technical defenses may be relevant. But I think the real potential for understanding the likelihood of a criminal prosecution actually lies in the president's own actions. He refuses to acknowledge or deny the underlying facts of the case, and it's like there's an allergy to the L-word. Mr. Crain, yesterday said, in answer to a question, ''No, he deceived, he misled, but he did not lie.'' Later, ''No, he was technically accurate, but he did not disclose information.''

This—I mean, I think all the commentators in the editorial pages have pointed out that the president is caught between the Fifth Amendment and coming clean with the American public. And I think it's his actions, the fact that he won't deal with the facts of the case, that make it clear to me that there may actually be, in another context, rather than this one, a criminal problem that he's concerned about.

But unlike Mr. Wexler, who says that this is about sexual—lying about sexual relations and touching, let me suggest that I believe that this—that this proceeding is really about—not about crime—I believe that it's about the government's ability to secure the——

Rep. [off mike].

Rep. CANNON. I have to protect my mike frommy compatriot on this side.

This is about the government's ability to secure the rights of the governed. And John Jay was quoted yesterday. Let me just repeat part of that quote. ''If oaths cease to be sacred, our dearest and most valuable rights become insecure.''

I know, Mr. Weld, you've actually governed, and you're a person for whom I have the greatest respect. Would you mind responding? What do you think those rights are? And if we can be very particular, because my time is almost up, what are those rights that Mr. Jay is concerned about keeping secure?

Mr. WELD. I think it's the rights to life, liberty, property, and the pursuit of happiness.

Rep. CANNON. Thank you. I view property and the pursuit of happiness as the same right—life, liberty, and property. And since my time is gone, I would love to hear a little bit about that.

I believe that John Jay was right. What this panel is all about doing is maintaining for Americans for generations and centuries to come the security of those basic rights of life, liberty, and property, or the pursuit of happiness. That's what we're about here. And I yield back the balance of my time, Mr. Chairman.

Rep. HYDE. The gentleman from California, Mr. Rogan.

Rep. JAMES ROGAN (R–CA). Thank you, Mr. Chairman.

I join my colleague from Utah in welcoming the panel, and particularly in welcoming

the distinguished former governor of Massachusetts, whose service to our country I have long admired and thank you for to this day.

Gentlemen, let me start off by saying that I've noticed a recurring theme among most of the panelists over the last few hours. The first one, with the exception of Governor Weld, is that perjury generally is a crime not prosecuted. The second one is the statement made over and over that somehow the statements made by the president were not material, even if they were lying under oath. And I must tell you, I take exception to both of those claims.

In the federal government since Bill Clinton became president, according to the Offenders Sentenced Under the Guidelines table, just during the Clinton administration, almost 700 people have not only been convicted for perjury in federal court, they've been sentenced for perjury. In my own state of California, since Bill Clinton became president, some 16,000 perjury prosecutions have occurred. And so I just don't know where this novel claim comes from that this is a crime that is ignored by the courts. The record simply does not reflect that.

A couple of members raised the name of Dr. Battalino and there were some blank stares by members of the committee. Let me share with you briefly the story of Dr. Battalino. She was here a week or so ago and testified before this committee. She was a doctor who worked for the Veterans Administration. She is also an attorney. In her capacity as a V.A. physician, she had a one-time consensual relationship, sexual relationship with a male patient of the hospital, but not her patient. He later sued the hospital for a sexual harassment claim and named her in the claim. She was asked in a civil deposition whether she had ever had a sexual relationship, a one-time sexual encounter with this patient. Out of embarrassment and out of concern for her job and her career, she denied it.

The civil case was later dismissed—the gentleman's case against the hospital and the doctor was later dismissed. Despite that dismissal, the Clinton Justice Department filed perjury charges against her. She is now precluded form practicing law as a result of her conviction. She lost her medical license and she is under incarceration. She appeared before us with an ankle bracelet because she is under house arrest.

You might imagine that Dr. Battalino has some grave concerns over the incredible double standard as to her loss of livelihood and the shame that she's had to face as a result of the Clinton Justice Department prosecuting her for this, and the claim now being proffered by some of the president's supporters that this is all much ado about nothing.

I have to also say that I take very grave exception to some of my beloved colleagues on the other side who keep insisting to the American people that this is simply about sex. That just is not true. Governor Weld is absolutely right. Fornication, adultery not only are not impeachable offenses, they clearly, they patently are not the business of the House Judiciary Committee. But that is not what was at stake here. The president was a defendant in a federal sexual harassment civil rights case. And as a result of that case, a federal judge ordered him to tell under oath whether in his capacity as governor or president he had ever had sexual relations with subordinate female employees. And the judge specifically found that was relevant to show a pattern of conduct. That's how sexual harassment cases are proven. And so this idea among some folks that if they just say it enough and if their histrionics are dramatic or theatrical enough, if the volume is raised enough, that somehow we can reduce this to being just a case about sex may play well for the talk show circuit, but it doesn't play well for the truth. And I want to make that observation before my time expires.

I thank the chair, and I yield back my time.

Rep. HYDE. The gentleman from South Carolina, Mr. Lindsey Graham.

Rep. LINDSEY GRAHAM (R–SC). Thank you, Mr. Chairman. I have a couple observations and some questions for the panelists here. And I, too, have appreciated your being here.

Please understand that when I vote, I will look at it in a very legal sense. I don't believe due to the nature of what's going on that we should send a case forward that doesn't meet certain legal standards. And I just happen to disagree with you about whether or not this is a provable case of perjury. I think this is a very clear case of perjury, and it's not just about intimate touching. It goes much further. And I can't explain all that in five minutes. I've seen the president's deposition in Paula Jones where he testified. I saw Mr. Bennett lay the affidavit of Monica Lewinsky in front of the president. I saw the president's eyes follow the affidavit, his head nod, and I believe his grand jury testimony where he said he wasn't paying any attention is a lie. And I believe I could convict him with fair-minded people.

But this is really more than just about the law. It's about the national interest. And I'm a politician. And there's a unique political aspect to this case that's probably good. I've said before, impeachment without outrage should be difficult. And it should be, in a democratic society. But let me tell you the mood of my district to let you know a little bit about what I'm up against here.

The Washington Post sent, apparently, four reporters to the four corners of the country, and they happened to pick my district to feel out how people feel about the president and his misconduct. There is a portion of my district, very good friends of mine, who want to get this over with and understand this. In their mind, it doesn't rise to the level of overturning an election. That's a real dynamic. Very nice, rational people. But that's the minority opinion.

You can take the pools and reverse them. The reporters said ''I think I need to come home now'' because they never got out of the clothing department of Wal-Mart to figure out what people thought about the president. It wasn't good. Being evasive, deceptive, immoral and non-responsive are not resume-builders in my district. Forget about perjury.

So I'm a congressman that comes from an area—[laughs]—of the country that's got no use for this kind of stuff. But I have publicly said that we're going to play it straight with the president, we're not going to take our emotions and our political disagreements and try to use that in the impeachment process. And I'm going to stand by that.

I've said to Mr. Craig and others I believe the president committed serious crimes, but if he would reconcile himself with the law so that we could end this thing on a note of honor, I may consider a different disposition than impeachment. But if he continues to flout the law, I don't think he should be the president for the next century. I stand by that statement.

But there's another aspect to this that I think we need to talk about. Ms. Waters has—I really do—have gotten to know my colleagues on the other side, and we do get along pretty well. She says, well, it's really silly to believe the president would have his secretary hide gifts under her bed. Well, that sounds silly, but the day that people stop doing silly stuff is the day all of us as lawyers go out of business. [Laughter.] I think it's silly to fool around with an intern while you're being sued. But those things happen. And they happen to smart people like Bill Clinton. And if we impeach people for being silly and doing inappropriate things we'll wipe the Congress out.

So I'm not saying that those type things ought to be the reason we get rid of the president. But don't underestimate what people can do that really is inappropriate and defies understanding. And I believe that's a lot of what Bill Clinton's problems really are at the end of the day.

And if I've got to cast my vote based on knowing what the Senate's going to do, I'd never vote in the House, because I can't tell you what they're going to do half the time. And I think what they ought to do is wait 'til they get a case before they decide it. And everybody in Congress ought to let this committee do its work, whether you like us or not, before you decide what you're going to do, because the day you start deciding the case before the case is over is the day we lose a lot in this country.

Governor Weld, hypothetically, you're the governor. There's a person out there that possesses damaging information about you. You're in a consentual relationship that's wrong. That person, you know, if asked to testify, could hurt you legally and politically. If you used the resources of the governorship, if you got people in your office to plant lies, flasehoods, malicious rumors, and tried to use your office as governor to trash out that potential witness against you, what should be your fate?

Mr. WELD. Well, in a clear enough case, my fate should be ''out of here''.

Rep. GRAHAM. Thank you.

I yield back the balance of my time.

Rep. HYDE. The gentlelady from California, Ms. Bono.

Rep. MARY BONO (R–CA). Thank you, Mr. Chairman. And to my panel, thank you, first and foremost, for your patience. I woke up this morning and I thought, What do I get to do today? And question top—five of the top attorneys in the entire country. What a great way to start off my day.

I want to ask you a question, Governor Weld, to begin with, and it's a follow-up to something that Congressman Coble has asked earlier on. You discussed how you had changed your position, your initial reaction in February was that you said the president should resign. And you indicated that you've changed your thinking because of events during the past year and the general reaction to the president. As a congresswoman I also sit on the National Security Committee, and so issues concerning our military readiness and standing around the world greatly concern me.

Earlier this year, the United States engaged in some military activity. Many people accused the White House of following a wag-the-dog strategy. It troubles me that the president may be in some ways hamstrung to lead and act decisively and swiftly on the international military state without the complete trust of the American people. In other words, if the office of the president does not enjoy the complete public trust this might affect our national security.

So governor, if there is new evidence that the president does not have the trust of the international community or of our armed forces—and I'm not talking about polls, but more specific evidence from leaders around the world, would you revisit your February advice that the president should resign for the good of the country?

Mr. WELD. Yes. I think actually it was September, Madame Congresswoman. And as I indicated or alluded to earlier, one of the things I was troubled by in September was we'd had, frankly, some acts—some bombings and similar actions abroad which coincided with the Lewinsky matter really coming to a head. And that's precisely what I

was worried about. So I think, you know, anybody on an ongoing basis has got to ask themselves the question, Can I do the job? And if you can't do the job, you shouldn't do the job.

Rep. BONO. So will your opinion vacillate, though, depending on what is happening with attacks on us, or if——

Mr. WELD. Well, you know, we don't have a parliamentary system here, we have presidents who are mighty unpopular. Harry Truman was mighty unpopular even when he was by and large, you know, in retrospect people think, doing the right thing on a lot of stuff. So I don't think it should be following the public opinion polls. It's a question of ability to discharge the duties of the office, and I will confess that I was somewhat surprised at the alacrity with which all seemed to be forgiven and forgotten in terms of people saddling up and doing business with the president and taking him seriously.

Rep. BONO. Well, my point, sort of, here, is, is that, you know, the public trust, though, is something you also have to anticipate and its's easy to have it now, today, while the economy is strong, the stock market is great, although some of us still can't get Furbys— [laughing]—so it's not strong enough. But how about tomorrow? Will we have it tomorrow? Will the public trust be there tomorrow? It cannot change. It's something that we can't—we have to sort of guess. Will it be there? And I'm sort of hearing, as you're saying, too, I guess you're echoing with me that here today, gone tomorrow. And we on this committee cannot have that. We have to decide, will the public trust be there a month from now when Osama bin Laden rears his ugly head again?

Mr. WELD. Well, I don't think you want to go the removal route because of a concern that the trust might not be there. It would have to be a little bit more solid than that.

Rep. BONO. There is a concern, right? Thank you. And I guess—I still have a green light—this is a miracle. I have a question based on Mr. Sullivan's testimony, but I'll leave it open to the whole panel, but first I want to—oh, it's yellow, so I'll just comment briefly.

Mr. Sullivan, I had a fun moment earlier; it's not a comment or anything, but, you know, we're here because of the president's, sort of, dancing on the head of a pin, as Lindsey (sp) would say, over the definition of sex, and oral sex was omitted from the description before the Paula Jones testimony. But then here in this room you've changed it to sleeping with somebody, and I know you were trying to sort of elude references to salacious materials again, but isn't that what got us in this whole mess? And now you're changing the wording—and I'm not a lawyer so I'm getting used to listening to every word we're saying—that you did the very thing that got us in this whole mess to begin with. And I just thought it was a fun moment, so I wanted to leave you with a good experience here with the House Judiciary Committee. So thank you all. Thank you, Mr. Chairman.

Rep. HYDE. Thank you very much. We are going to take a break. I'll yield to Mr. Conyers.

Rep. CONYERS. Well, I wanted to take a few minutes on the reservation that I had earlier.

Rep. HYDE. All right, well, you're recognized for——

Rep. CONYERS. I'll move as quickly as I can, Mr. Chairman, and thank you. I first wanted to let Sheila Jackson Lee utilize 30 seconds of the time.

Rep. JACKSON LEE. Thank you very much, Mr. Conyers.

Just very briefly, there was a comment on the presentation of the witnesses. Let me assume that you can come forward here because you are fact or expert witnesses. But I did want to very quickly comment on Dr. Battalino's case and Ms. Parsons's case.

Dr. Battalino's case, the issue of perjury went to the fact that she was attempting to reclaim monies for litigation costs. It was insurance fraud, if you will. That went to the question; that's why the Department of Justice prosecuted her. And you were unfairly asked about it.

Pam Parsons, she was accused of being a lesbian. She was a plaintiff and sued the newspaper that accused her of such and lied that she was not. And there was definite or definitive proof—otherwise.

And so it went to the heart of the cases. And I think it's important that we clarify the record on those grounds. I thank the gentleman. I yield back my time.

Rep. CONYERS. Mr. Chairman and members of the committee, and to this very-much-appreciated panel; this is a critical phase of the hearings. And it's helping us to recognize how the experts on this panel, seasoned and experienced prosecutors all, which Mr. Starr acknowledged that he was not, would have rejected bringing a criminal case against the president, based on Mr. Starr's allegations, if he were an ordinary citizen.

It's critical in this part of our hearing to understand the vast difference between the allegations being considered by the committee and the system of criminal justice that applies to the rest of us. If no ordinary citizen, who had faced even a criminal prosecution based on the allegations in the referral—how can we justify considering the rarely used remedy of impeachment for the same conduct? If no ordinary citizen would face a criminal prosecution based on these allegations, how can it be argued that to decline to vote for impeachment places the president above the law? If no ordinary citizen would face a criminal prosecution based on these allegations, why should we bother to take the Senate and the chief justice of our highest court, to spend months resolving undignified and trivial questions of fact, rather than in tending to the important business of the country? I hope these questions raise serious issues and reservations for all of my colleagues in the committee about the wisdom of proceeding on the path that we apparently are on.

May I acknowledge the chairman of this committee's accommodations that he has offered me concerning prompt notice to all of us on the committee of any draft Articles of Impeachment and his further willingness to consider the motion that will be offered by the gentleman from Virginia, Mr. Scott, to require that the specific allegations against the president be provided to him before his counsel responds, when we conduct our business session today or tomorrow.

May I reiterate my strong view to the Republican leadership that fairness dictates that the American people not be muzzled on the all-important issue of censure. Overwhelmingly, the American people that we have referred to, we've tested in the districts and the nation, do not want the president impeached.

Our citizens either support doing nothing, under the theory that the president has already been censured, or they support an additional resolution of censure. But the important point is that for the vast majority of those who do not want an impeachment, a six-month Senate investigation with all of the attendant political and economic turmoil, for all of those who want a proportional and sensible alternative shouldn't be muzzled.

And so your testimony here and this panel may well be the most important that we will have because you have dealt so significantly with these fact questions that have been troubling us. And thank you, Mr. Chairman.

Rep. HYDE. I thank you, Mr. Conyers, and I want to say that I, too, deeply appreciate the contribution which was and is substantial that you've made to some of our knowledge on this very difficult question. You've all been enormously helpful, highly qualified, very forthcoming and you've made a great contribution.

Now, we should take a 30-minute recess, but before I reach that happy point I yield to Ms. Jackson Lee.

Rep. JACKSON LEE. Very briefly, Mr. Chairman, I'd like to submit into evidence of this proceedings the Constitution of the United States, particularly noting that there is no prohibition on censure noted in the Constitution of the United States. I'd like to submit this into the record, Mr. Chairman.

Rep. HYDE. Well, certainly, without objection, even though ours is a government of delegated powers. But, nonetheless, your motion is granted.

Rep. JACKSON LEE. I thank you very much, Mr. Chairman. I appreciate it.

Rep. HYDE. Thanks. Thank you.

And now I will try again, we will have a half-hour recess. Please come back at the end of a half-hour.

[Recess.]

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. BARRETT) a distinguished member of the Committee on the Judiciary.

Mr. BARRETT of Wisconsin. Mr. Speaker, I am the junior member of the House Committee on the Judiciary, and when I walked in that room the first time, I honestly felt that we would be addressing this issue not as Democrats and Republicans, but as Americans. I was so naive I did not even think that we would be sitting along our normal spots as Democrats and Republicans. But I was wrong.

But I entered that room with hope, and I want to leave today with hope because I have tremendous confidence not only in this institution but this country.

I begged from the first hearing on that we not allow this process to become what it has become because I fear for this institution. We are consuming ourselves. We are lowering the respect for our democratic institutions in this country by what we are doing today.

This is the great tragedy. The tragedy of the loss of the presidency for Bill Clinton would be a personal loss. The tragedy of the loss of two Speakers is a personal loss. But the greatest tragedy is if the young men and women in this country do not respect this government, because if they do not respect this government, we all lose.

That is why, Mr. Speaker, I tried time and time again to offer an olive branch, to say to my colleagues, please, let us recognize that the President's actions were wrong, because they were very wrong; let us recognize the gravity of what we are doing; let us recognize that after he leaves office he should remain accountable to appropriate criminal and civil remedies. But, Mr. Speaker, I beg that we move on because I could see no good coming from this for our country, and I stand here

today and say if this process continues, we will continue to consume ourselves, and that is not good for this country.

So, Mr. Speaker, today I again offer the olive branch. For the sake of this institution, for the sake of this country, for the sake of our children, please let us work together. This country will not accept a partisan solution to this problem. This country recognizes that the President's actions were wrong and he has to be held accountable. But they do not want us to tear ourselves apart.

When I talk to young people about entering government, I tell them, ''Think of the worst thing you have ever done in your life. Don't tell me what it is. Now think about having it on the 10 o'clock news.''

If that becomes more and more prevalent, what are we going to become? We are going to become a Nation where people who have sins, and every one of us is a sinner, will be afraid to enter the ranks of public service.

Is that what we want?

Is that what we are coming to?

I pray not, Mr. Speaker. For if that is what we are coming to, our country is in grave danger.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. DELAHUNT), a member of the Committee on the Judiciary.

Mr. DELAHUNT. Mr. Speaker, I too come to extend the olive branch, and I am deeply saddened by the events of today.

The American people have made it clear that their desire is for us to censure the President and move on to the Nation's business. It is wrong that there has been a decision made by the Republican leadership that would not allow censure to come to the floor. Whether my colleagues agree with censure or not, I submit it is their obligation to do so.

They say that censure is unconstitutional, but most historians and constitutional scholars disagree with them. The founder of their party, Abraham Lincoln, supported a censure of President Polk. Congress actually did censure President Andrew Jackson. Earlier this session, the majority whip, the gentleman from Texas (Mr. DELAY) introduced a resolution censuring President Clinton.

They have told us over again that this is a vote of conscience. But what about the consciences of Democrat Members? And what about the will of the people?

Mr. Speaker, I fear that we will do a terrible disservice for the Constitution and to our country.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Georgia (Mr. LEWIS), the minority deputy whip.

Mr. LEWIS of Georgia. Mr. Speaker, today is a very sad day for this House. This morning when I got up, I wanted to cry, but the tears would not come.

Before we cast this one little vote, we all should ask the question:

Is this good for America?

Is this good for the American people?

Is this good for this institution?

When I was growing up in rural Alabama during the 40s and the 50s as a young child, near a shotgun house where my aunt lived one afternoon an unbelievable storm occurred.

□ 1115

The wind started blowing. The rain fell on the tin top roof of this house. Lightning started flashing. The thunder started rolling. My aunt asked us all to come into this house and to hold hands, and we held hands.

As the wind continued to blow, we walked to that corner of the house, and as the wind blew stronger, we walked to another corner; as it tried to lift another corner, we would walk there. We never left the house. The wind may blow, the thunder may roll, the lightning may flash, but we must never leave the American house. We must stay together as a family: one house, one family; the American House, the American family.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Illinois (Mr. HYDE) is recognized for 5½ minutes.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, those of us who are sinners must feel especially wretched today, losing the gentleman from Louisiana (Mr. BOB LIVINGSTON) under such sad circumstances. One's self-esteem gets utterly crushed at times like this. I think of a character in one of Tolstoy's novels who feels so crushed, he asked God if he couldn't be useful in wiping something up, or filling a hole, or being a bad example.

But something is going on repeatedly that has to be stopped. That is a confusion between private acts of infidelity and public acts, where as a government official, you raise your right hand and you ask God to witness to the truth of what you are saying. That is a public act.

Infidelity, adultery, is not a public act, it is a private act. The government, the Congress, has no business intruding into private acts. But it is our business, it is our duty, to observe, to characterize public acts by public officials. So I hope that confusion does not persist.

''The rule of law,'' a phrase we have heard, along with ''fairness'' and ''reprehensible'', more often than not, is in real danger today if we cheapen the oath, because justice depends upon the enforceability of the oath.

I do not care what the subject matter is, if it is important enough to say, I raise my right hand and swear by the almighty God that the testimony I am about to give is the truth, the whole truth, nothing but the truth, if it is solemn enough for that, it is solemn enough to enforce.

When we have a serial violator of the oath who is the chief law enforcement officer of the country, who appoints the judges and the Supreme Court, the Attorney General, we have a problem. Members recognize that problem because they want to censure him. That is impeachment lite. They want to censure him with no real consequences, except as history chooses to impose them.

But we suggest that censuring the President is not a function permitted in this Chamber. Maybe across the Rotunda, where the sanctions of an impeached person are imposed, that is another situation. I daresay, they are innovative and creative over there on Mount Olympus, but here we are confined by the strictures of the Constitution which affords us one avenue, and that is impeachment, impeachment.

There is a doctrine of separation of powers. We cannot punish the President. Yet, a censure resolution, to be meaningful, has to at least harm his reputation. We have no power to do that, if we believe in the Constitution. The Constitution did not enumerate for us a power of punishing the President. Again, I speak not for the gentlemen across the hall.

No fact witnesses, I have heard that repeated again and again. Look, we had 60,000 pages of testimony from the grand jury, from depositions, from statements under oath. That is testimony that we can believe and accept. We chose to believe it and accept it. Why reinterview Betty Currie to take another statement when we already had her statement? Why interview Monica Lewinsky when we had her statement under oath, and with a grant of immunity that if she lied she would forfeit?

If Members on the other side did not trust those people, if they did not accept their credibility, Members had the opportunity to call them and cross-examine them to their heart's content. But no, they really did not want to bring them in and cross-examine them, but they want to blame us for having no fact witnesses. I think that is a little short of the mark.

Lame duck? The cry was, get this over with, get this behind us. We have an election, they pick up a few seats, and ''lame duck'' becomes the cry. Please, be fair. Be consistent.

Now, equal protection of the law, that is what worries me about this whole thing. Any of the Members who have been victimized by injustice, and you have not lived until you have been sued by somebody and pushed to the wall, and turned to the government and the government is on the wrong side, justice is so important to the most humble among us, equal justice under the law. That is what we are fighting for.

When the chief law enforcement officer trivializes, ignores, shreds, minimizes, the sanctity of the oath, then justice is wounded, and Members on that side are wounded and their children are wounded. I ask Members to follow their conscience and they will serve the country.

Mr. LATHAM. Mr. Speaker, I quote: ''Do you solemnly swear in the testimony you are about to give that it will be the truth, the whole truth and nothing but the truth, so help you God?''

Mr. Speaker, that is the oath President Clinton took before his August 17th testimony of this year. The President answered ''I do''. And despite repeated attempts by Deputy Independent Counsel Sol Wisenberg to warn him of the consequences of providing false or misleading testimony, the President went on to make perjurious statements pertaining to his relationship with Monica Lewinsky and his sworn testimony in the Paula Jones civil trial.

But why? Why would this President, who by anyone's account is a very intelligent man and a very good lawyer, and thus knowing the consequences of his actions, why would be proceed to commit perjury before the grand jury?

I think the answer lies in the testimony of the President's political consultant and confidant Dick Morris. After the story of the President's extramarital relationship and his false testimony in the Jones civil trial broke, he consulted with Morris about what strategy he should employ. It was decided a poll should be taken to gauge what conduct the American people would and would not forgive. According to Morris' testimony, his poll found that the President's adultery could be forgiven by the public.

However, the results also showed that if it were found that the President committed perjury or obstructed justice, the public would consider that grounds for removal from office. It is then when the President made a defining statement to Morris. He said, ''Well, we just have to win, then.'' And so it was, back in January, that the President determined to continue his pattern of lies and deceit, to his staff, his cabinet, the American public and to the grand jury on August 17th.

This first article of impeachment is perhaps the most serious. It is clearly evident that President William Jefferson Clinton perjured himself before a federal grand jury—certainly a ''high crime'' as delineated in Article II, Section 4 of our Constitution.

We cannot, in good conscience, ignore the President's callous disregard for the laws made on the floor of this House.

''Do you swear and affirm to tell the truth, the whole truth and nothing but the truth, so help you God?''—The oath taken by President Clinton in the Jones versus Clinton civil trial.

There are some who say the second article, regarding the President's perjurious testimony in the Jones versus Clinton case, does not amount to an impeachable offense since it occurred as part of a civil and not a criminal trial and since, ultimately, the case was thrown out of court. In fact, some even claim the President's statements do not amount to perjury.

However, one of the President's own special counsel, Gregory B. Craig, in his testimony before the House Judiciary Committee, ''conceded that in the Jones deposition, the President's testimony was evasive, incomplete, misleading—even maddening,'' Given this and the evidence derived from the sworn testimony of Vernon Jordan, Betty Currie, Monica Lewinsky and others, there is clear and convincing evidence that the President lied under oath and committed perjury in the Jones deposition.

The fact that the case was subsequently thrown out of court does not acquit the President from the perjury count. Because, in fact, the President's perjurious statements denied Paula Jones a continuance of that trial, and, in effect, her civil rights.

Obstruction of justice is an equally grave crime. The third article of impeachment delineates how President Clinton set out on a course to obstruct justice in seven instances, including the President's tampering with witnesses in the Jones versus Clinton case, notably Betty Currie and Monica Lewinsky.

The President's actions prevented Paula Jones' suit from receiving a fair and just decision in court on whether her civil rights had been violated by the President. Each of us would expect that our grievance would receive a fair hearing in a court of law, it is our Constitutional right. No one, including the President of the United States—especially the President of the United States—should be able to deny someone that right and not suffer the consequences of their actions.

President Clinton has displayed a pattern of lying, putting forth perjurious testimony, and obstructing justice, all which undermine our Constitution and the principle that no one individual is above the law—that the law is applied equally to all. This despite his oath before the American people on two occasions to ''faithfully execute the Office of the President of the United States, and to . . . to the best of [his] ability, preserve, protect, and defend the Constitution of the United States.''

Furthermore, while I do not believe Article 4 necessarily rises to the level of an impeachable offense in this instance, the President has, with great disrepute, used his office to proliferate his own lies and destroy the character of those who have sought to serve justice. Unfortunately, this behavior is in no way a revelation to this generation or to those past. In fact, in 1788, Sir Edmund Burke, in his opening speech for the impeachment of Warren Hastings, the British Governor General of Bengal and India, noted the employment of such familiar tactics as character assassination and twisting the truth when he criticized Hastings and his defenders that . . . ''When they cannot deny the facts, they attack the accuser—they attack their conduct, they attack their persons, they attack their language in every possible manner.''

However, I bear no personal grudge against President Clinton. I forgive him for what he has done. But forgiveness is not justice, and since we are a nation of laws, we must see to it that the laws are upheld and applied equally to all citizens. That principal is what this nation was built on, it is for what our Founding Fathers pledged their lives, their fortunes and their sacred honor.

And it is in this great legislative body that we are charged with making the laws that govern our nation. To permit the chief executive enforcing those laws to cast them aside as he pleases would, in effect, sanction such actions. To do nothing would be to place a stamp of approval on illicit conduct and transfer power to the executive branch, thus upsetting the system of checks and balances devised by the Framers. It would cheapen the law, which, in turn, would cheapen the work by this House.

So it is with a heavy heart but a clear conscience that I cast my votes in favor of three of the four articles of impeachment today. Of course, the people of northwest Iowa did not send me 1000 miles from my home in Alexander to the U.S. Congress to make the easy decisions. But if a democratic republic were an easy system of government, America would not be unique in this world. A republic is so difficult to maintain because it demands greater sacrifice and restraint on the part of the ruler and than the ruled. Part of this sacrifice is that our leaders are held to a higher standard of conduct as they set the example for the rest of the citizenry and are placed in a position of trust.

It pains me to say that this President has placed himself above the Office of the Presidency and above the people he took an oath to serve. The House of Representatives is doing today what is our duty to do. We should wait no longer, for as Burke opined, ''To have forborne longer would not have been patience but collusion.''

Mr. RAMSTAD. Mr. Speaker, this has been the most difficult, gut-wrenching decision I have made in my 18 years of public service. In making my decision, I have been obligated to put personal feelings and political concerns aside to focus solely on my constitutional obligation.

The impeachment matter is a trauma for our nation and the decision demands careful and thoughtful deliberation and much soul searching. A decision of this magnitude required me to examine all of the evidence, listen to all the legal arguments and search my conscience.

As a former Criminal Justice Act lawyer, I have objectively reviewed all the evidence, heard all the arguments and searched my conscience. I have regrettably and sadly concluded that sufficient evidence of perjury exists to send this matter to the Senate.

I cast my votes solely on the evidence and the law consistent with my conscience.

Impeachment is similar to an indictment, or a formal charge of wrongdoing, and I believe the evidence of perjury before the grand jury and obstruction of justice meet the ''clear and convincing'' threshold for moving the process forward. I have also concluded these charges rise to the level of an impeachable offense pursuant to the Constitution of the United States.

In the final analysis, it all comes down to perjury and covering up perjury. The compelling reason for impeachment is that the President's perjury has undermined the rule of law.

The laws against perjury are the glue that holds our legal system together. To remain a nation of laws governed by the rule of law, all people, including the President, must be treated equally and held accountable. The President must abide by the same laws as every other American.

In analyzing the four articles of impeachment, I have concluded that the charge of perjury before the grand jury is substantial by clear and convincing evidence. As the chief law enforcement officer of the United States, the President has an obligation to tell the truth, under oath, in judicial proceedings. He chose not to.

Similarly, I concluded that there was sufficient evidence that the President obstructed justice in order to cover up his perjury.

At the same time, I have concluded that Articles 2 and 4 do not present clear and convincing evidence of impeachable offenses by the President.

In my judgment, the second article concerning perjury in a civil deposition does not meet the ''clear and convincing'' standard because

of questions about materiality. In addition, the charge of abuse of power—for the answers by the President's lawyers to the Judiciary Committee's questions—is not justified by the evidence and raises Due Process concerns.

This is truly a sad day for America and the American people. But, long after the words spoken today have faded, and long after this painful ordeal is concluded, we will remain a nation of laws. This means we must sometimes make difficult decisions to ensure that our national principles survive and public trust is maintained.

By the grace of God, I pray that this painful chapter in our nation's history will be quickly put behind us by the Senate so we can address our nation's pressing needs, heal our wounds and show the world America's enduring strength and resiliency.

Mr. SANDLIN. Mr. Speaker, on this somber occasion I rise in strong support of the Constitution of the United States of America and the rule of law and in strong opposition to the Articles of Impeachment before us today.

Impeachment is possibly the most difficult issue to face any Congress. Attempting to impeach and remove a president strikes at the very foundation of our constitutional scheme of government.

As has been correctly stated many times today, the Constitution of the United States of America sets the standard for impeachment and provides that the President can be removed only upon ''Impeachment for and Conviction of Treason, Bribery or other high crimes and Misdemeanors.''

Under our law and interpretations of the Constitution, it is clear that impeachment requires wrongdoing by public officials while acting in their public capacity. English precedent clearly illustrates that impeachment applies only in cases of fundamental attacks against the system of government itself. Further, legal scholars agree that the Framers of our Constitution understood English precedent and intended to authorize impeachment only in cases of serious harm to the state such as treason or bribery.

Recent interpretations are consistent. In fact, a memorandum prepared by the Republican Members of the Judiciary Committee in 1974 stated, in a pertinent part, as follows:

> . . . It 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 established by the Constitution. [Nixon report at 364–365 (Minority views of Messrs. Hutchinson, Smith, Sandman, Wiggins, Dennis, Mayne, Lott, Moorhead, Marazati and Latta)]

Obviously, the historical and constitutional standards are clear. Justice as obviously, the articles before us today do not even attempt to allege official misconduct resulting in damage to our system of government. Therefore, the articles must be rejected.

Is the conduct of the President disappointing? Certainly it is. Has it been offensive to the American public? Again, the answer is yes. However, neither of those standards is the test. We must follow the law.

Attempting to impeach a President for any reason other than the reasons set out in the Constitution will seriously erode our constitutional order and will ignore the constitutionally-imposed limits on legislative authority.

This is a serious matter. Either we respect the Constitution or we do not. Either we follow the rule of law or we do not. I intend to vote against the Articles of Impeachment. I urge my friends and colleagues on both sides of the aisle to do the same.

Mr. WISE. Mr. Speaker, as you, know, the President has acknowledged the shameful personal conduct that he engaged in to a grand jury, to his family and to the American people. I think everyone agrees that such indefensible behavior was reprehensible and immoral, and appropriately, President Clinton has apologized for misleading the country on this matter. Even more appropriately, he has repeatedly recognized how harmful his conduct has been and the damage it has caused to the nation and his family.

Congress has spent the last few months attempting to determine what action should be taken in response to the President's offenses. Unfortunately, I believe that the process by which the House of Representatives has approached this matter has become tainted and unfair.

From the start, the House Judiciary Committee promised a thorough, bipartisan investigation that would command public support as in the 1974 Watergate hearings. Sadly, the Committee failed this test. Unlike 1974, they relied exclusively on the one-sided case of independent counsel Ken Starr rather than interviewing the major participants in this case who have contradicted allegations made by Starr. Unlike 1974, there was no cross-examination opportunity for the President's lawyers. Unlike 1974, there was littel access given to the President's counsel for most of the proceedings. Unlike 1974, there was no bipartisan decision to proceed with articles of impeachment, instead only a strict party-line vote.

The Congress is considering resolutions which direct that President Clinton's actions ''warrants impeachment and trial, and removal from office.'' I am voting against these resolutions because I feel that while the poor judgment and reprehensible behavior in which the President engaged was wrong, it simply does not rise to the standard of impeachment outlined in the Constitution—a crime comparable to treason or bribery. This vote lowers the standard our Founding Fathers set for such a drastic action. From this point forward, a simple vote of no confidence by the majority party will empower them a president and overturn a popular election.

I have called for the congressional censure and rebuke of President Clinton as an appropriate punishment. Censure would be a shame of historical proportion and would allow the President to be indicated and tried in a court of law when he leaves office. Unfortunately, we will be denied the opportunity to vote on this option on the floor of the House.

Some have expressed concern that failure to impeach the President sends a bad message to our families and children. I believe that public officials need to strive constantly to set a high standard. However, America's families are strong enough that the don't have to depend on Congressional action to tell them right from wrong. In my family and in every family across the country, the President's behavior has been discussed, evaluated and rebuked. Wherever the President goes, he will always carry this brand for his personal behavior, both now and throughout history. That is why I believe censure in the proper and appropriate formal declaration against his behavior. However, impeachment under the high standards set by the Constitution is not appropriate.

I vote against impeachment not to approve of the behavior of this president, but to support the Constitution and the institution of the Presidency.

Mr. QUINN. Mr. Speaker, article I section 2 of the United States Constitution says in part that, ''. . . the House shall have the sole Power of Impeachment.'' It is one of the most awesome responsibilities that Members of this chamber face, but one which we cannot ignore. Today, it is with a heavy heart and much regret that I will support three articles of impeachment against the President of the United States.

The President, while appearing before a grand jury and answering questions presented to him in a deposition, took an oath to, ''. . . tell the truth, the whole truth and nothing but the truth.'' By offering false and misleading testimony, the President failed to honor that oath, and in doing so, committed perjury and obstructed justice.

Mr. Speaker, I did not reach this decision easily. In fact, this is the most difficult decision I have made since being a member of Congress. I arrived at my vote after speaking and meeting with my constituents and after talking to clubs, school groups, friends and neighbors. Most importantly, I reached my decision after a great deal of soul searching. It is a decision based on principle, not politics. My vote is one of conscience.

My decision is also based upon the clear evidence of perjury and obstruction of justice as presented by the House Judiciary Committee. After examining the record of the House Judiciary Committee, I am convinced that the President committed an impeachable offense. The more I learn about the serious details of perjury and obstruction of justice, the more I am concerned about the President's failure to tell the truth. All Americans must tell the truth while testifying in a court of law. What precedent are we establishing within our legal system if we do not uphold the most basic legal concept of telling the truth, the whole truth and nothing but the truth? If the truth is lacking, justice can not and will not prevail.

Some have said that a vote to impeach is unfair. I disagree. Impeachment puts this matter right where it belongs, in the Senate, where the evidence can be weighed, where the public can have time to understand the charges and where a proper judgment can be reached.

Every Representative must swear or affirm to uphold the Constitution of the United States. It is that very oath that demands this vote that we are casting today. The right vote is not always the easy vote. I would have liked nothing more than to have had this matter resolved before it was taken under consideration by the full House of Representatives. However, that was not the case. I see it as my duty to cast a vote for justice.

Mrs. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, the Republican majority will vote to pass Articles of Impeachment against President William Jefferson Clinton. This is truly a sad day for the nation. The Republican majority has seen fit to trample the Constitution in railroading these Articles through both the Judiciary Committee and the House of Representatives.

The Republican majority insists that this is being done to preserve the Presidency. This is not their true concern. The Republican majority wants to destroy this President. He has been too effective for too long. President Clinton is truly a representative of the American people. He rose from poverty to gain an education, to gain the highest office in the State of Arkansas, and finally, to gain the highest office in the United States and the world. He has long been a threat to the Republican party, and now the majority is looking to destroy this man to save themselves.

The Republican majority insists that this is being done to preserve the Constitution. The unfair and partisan process followed by the Republicans is evidence that this is not true. The Framers of the Constitution did not intend impeachment to be taken lightly. The constitutional standard calls for impeachment when ''treason, bribery and other high crimes and misdemeanors'' have been committed. This standard envisioned crimes against the state—crimes which truly cut deep through the fabric of the nation. The Republican majority's Articles of Impeachment do not reflect such crimes. The President has betrayed himself and his family. He exercised bad judgment. He did not betray this nation.

The Republican majority insists that this is being done for the good of the American people. This is clearly not true. The majority of Americans have come out in opposition to impeachment and yet the Republicans have gone forward with this process. Instead of listening to the desire of the people to move forward, the Republicans have chosen to ignore the public. This is not democracy, this is tyranny.

The Republicans have pushed forward in an atmosphere fraught with unfairness, forcing through Articles of Impeachment without concern for the rule of law. The Republicans have abandoned all due process in their investigation, calling only the Independent Counsel to attest to the so-called ''facts'' brought to bear in this case. The Republicans have argued that the President is not above the law. Neither should the President be held beneath the law. He deserves the basic protections that we give all Americans in cases of this magnitude. The Office of the President deserves better, the American people deserve better.

During the Iran-Contra investigation, the current chairman of the Judiciary Committee, the Honorable HENRY HYDE, was quoted as, ''mock[ing] those who 'sermonized about how terrible lying is and sa[ying] it made no sense to 'label every untruth and deception an outrage'' by the Los Angeles Times. Further, he characterized the investigation of Col. Oliver North a ''witch hunt.'' What a difference an election makes. The Republicans became the majority party in the House of Representatives, and have long since forgotten those words. The Republicans have embarked on a forty million dollar, six year fishing expedition, hoping to find something to pin on the President. What the Republicans have caught should be thrown back.

I do not condone the past actions of the President, but his actions do not constitute ''high crimes and misdemeanors.'' I only hope that history will forgive this House for the grave mistake we have made today.

DECEMBER 17, 1998.

To: HON. EDDIE BERNICE JOHNSON:

DEAR MS. JOHNSON. The Constitution is not the Bible. It is bothersome to see Republicans wrap themselves so tightly around this document as the truth, the whole truth, and nothing but the truth. The Bible is the only publication that claims this posture.

Interpreters of this same Constitution at one point did not believe that blacks had the same rights as whites. Women were not equal to men, they said. We have amended the Constitution many times as time has revealed more and more reasons to do so. Using the Constitution as a truth text disregards all the amendments that have been added to it.

The President tried to cover up an affair. It was a wrong to his wife and daughter. The only impeachment he deserves is from them. Adultery is a sin. Bearing false witness is a sin. It seems then, that the Bible is the best text to deal with this sin, not the Constitution.

The Constitution gives all life, liberty, and the pursuit of happiness. It also gives each of us rights—rights to defend ourselves when accused, rights to legal counsel. Hiring counsel or using our legal system should not be twisted into a charge of obstruction of justice. Is it abuse of power to defend yourself?

Hiding the truth about an adulterous affair is something human beings often do. It is a character flaw that comes with the territory. Those who are faithful to their wives and husband are to be commended. Let's not be in denial, however, about our country's divorce rate and the cheating rate in history and in present times.

Let me get this straight. We're going to impeach the President for: 1. Defending himself (a.k.a abuse of power?); 2. Hiring legal counsel (a.k.a. obstruction of justice?); 3. Trying to conceal an affair (a.k.a. perjury?).

The Constitution gives all Americans a right to privacy. Kenneth Star has violated Bill Clinton's right to privacy. That's constitutional. To investigate this sexual affair is not the governments' business—never was and never will be. That's constitutional. A citizen can defend himself against prosecution. That's constitutional. A citizen can hire a legal counsel. That's constitutional. Lying under oath about a constitutional right to privacy is constitutional.

The Bible should be our guide on this matter. The Constitution is not the Bible.

Sincerely,

THOMAS HENDERSON.

Mr. SPENCE. Mr. Speaker, I rise to address the matter before the House regarding the four Articles of Impeachment that have been reported by the Committee on the Judiciary. This is a situation that demands our most careful consideration and devotion to duty as Members of Congress. It is a matter that is not to be taken lightly. Each Member of this body must reason individually to reach the determination that must be made in order to fulfill our constitutional responsibilities in the impeachment procedure. This is a process that should not be partisan, as it should be based on the application of the rule of law.

I believe that all of us recognize the seriousness of President Clinton being charged with violations against the Constitution. Much time and effort have been devoted to investigating and reviewing the actions on which this resolution is based. I have followed the hearings of the Committee on the Judiciary concerning this matter with great interest and I am in agreement with the resolution (H. Res. 611) that has been submitted by Chairman HYDE. H. Res. 611 outlines four articles as the basis for impeachment, which I shall summarize:

Article I—President Clinton willfully provided perjurious, false and misleading testimony to a Federal Grand Jury. I agree.

Article II—President Clinton willfully corrupted and manipulated the judicial process, in that, he willfully provided perjurious, false and misleading testimony in response to written questions seeking information in a Federal civil right action, which was brought against him, as well as in a deposition in that action. I agree.

Article III—President Clinton prevented, obstructed and impeded the administration of justice through a course of conduct or scheme in a series of events between December 1997 and January 1998. I agree.

Article IV—President Clinton has engaged in conduct that resulted in misuse and abuse of his high office, impaired the due and proper administration of justice and the conduct of lawful inquiries, and contravened the authority of the Legislative Branch and of a coordinate investigative proceeding, in that, he refused and failed to respond to certain written requests for admission, as well as willfully made perjurious, false and misleading sworn statements in response to certain written requests for admission that were propounded as part of the impeachment inquiry that was authorized by the House. I agree.

It is clear to me that convincing evidence has been presented in regard to each of the four Articles that have been reported by the Committee on the Judiciary. Accordingly, I support the Articles as stated in H. Res. 611.

Mr. Speaker, I would also like to address the assertion that I have heard today that the consideration by the Congress of the impeachment of President Clinton, who is the Commander in Chief of our Armed Forces, would have a demoralizing effect on our men and women in uniform, especially while our Nation is engaged in military operations against Iraq. I can speak from experience, based on numerous conversations with Americans from all walks of life, who are now serving or who have previously served in our Nation's military, that such a charge has no merit. In this regard, I would like to submit the following article by Major Daniel J. Rabil, of the United States Marine Corps Reserve:

[From the Washington Times, Nov. 9, 1998]

PLEASE, IMPEACH MY COMMANDER IN CHIEF

(By Daniel J. Rabil)

The American military is subject to civilian control, and we deeply believe in that principle. We also believe, as affirmed in the Nuremberg Trials, that servicemen are not bound to obey illegal orders. But what about orders given by a known criminal? Should we trust in the integrity of directives given by a president who violates the same basic oath we take? Should we be asked to follow a morally defective leader with a demonstrated disregard for his troops? The answer is no, for implicit in the voluntary oath that all servicemen take is the promise that they will receive honorable civilian leadership. Bill Clinton has violated that covenant. It is therefore Congress' duty to remove him from office.

I do not claim to speak for all service members, but certainly Bill Clinton has never been the military's favorite president. Long before the Starr report, there was plenty of anecdotal evidence of this administration's contempt for the armed forces. Yes, Mr. Clinton was a lying draft dodger, yes his staffers have been anti-military, and yes, he breezily ruins the careers of senior officers who speak up or say politically incorrect things. Meanwhile, servicemen are now in jail for sex crimes less egregious than those Paula Jones and Kathleen Willey say Mr. Clinton committed.

Mr. Clinton and his supporters do not care in the least about the health of our armed forces. Hateful of a traditional military culture they never deigned to study, Mr. Clinton's disingenuous feminist, homosexual and racial activist friends regard the services as mere political props, useful only for showcasing petty identity group grievances. It is no coincidence that the media have played up one military scandal after another during the Clinton years. This politically-driven shift of focus, from the military mission to the therapeutic wants of fringe groups, has taken its toll: Partly because of Mr. Clinton's impossibly Orwellian directives, Chief of Naval Operations Jay Boorda committed suicide.

So Clinton has weakened the services and fostered a corrosive anti-military culture. This may be loathsome, but it is not impeachable, particularly if an attentive Congress can limit the extent of Clinton-induced damage. As officers and gentlemen, we have therefore continued to march, pretending to respect our hypocrite-in-chief.

Then came the Paula Jones perjury and the ensuing Starr Report. I have always known that Clinton was integrity-impaired, but I never thought even he could be so depraved, so contemptuous, as to conduct military affairs as was described in the special prosecutor's report to Congress. In that report, we learn of a telephone conversation between Mr. Clinton and a congressman in which the two men discussed our Bosnian deployment. During that telephone discussion, the Commander-in-Chief's pants were unzipped, and Monica Lewinsky was busy saving him the cost of a prostitute. This is the president of the United States of America? Should soldiers not feel belittled and worried by this? We deserve better.

When Ronald Reagan's ill-fated Beirut mission led to the careless loss of 241 Marines in a single bombing, few questioned his love of country and his overriding concern for American interests. But should Mr. Clinton lead us into military conflict, he would do so, incredibly, without any such trust. After the recent American missile attacks in Afghanistan and Sudan, my instant reaction was outrage, for I instinctively presumed that Mr. Clinton was trying to knock Miss Lewinsky's concurrent grand jury testimony out of the head-lines. The alternative, that this president—who ignores national security interests, who appeases Iraq and North Korea, and who fights like a leftover Soviet the idea of an American missile defense—actually believed in the need for immediate military strikes, was simply implausible. And no amount of scripted finger wagging, lip biting, or mention of The Children by this highly skilled perjurer can convince me otherwise.

In other words, Mr. Clinton has demonstrated that he will risk war, terrorist attacks, and our lives just to save his dysfunctional administration. What might his motives be in some future conflict? Blackmail? Cheap political payoffs? Or—dare I say it—simply the lazy blundering of an instinctively anti-American man? It is immoral to impose such untrustworthy leadership on a fighting force.

It will no doubt be considered extreme to raise the question of whether this president is a national security risk, but I must. I do not believe presidential candidates should be required to undergo background investigations, as is normal for service members. I do know, however, that Bill Clinton would not pass such a screening. Recently, I received a phone call from a military investigator, who asked me a variety of character-related questions about a fellow Marine reservist. The Marine, who is also a friend, needed to update his top-secret clearance. Afterward, I called him. We marveled how lowly reservists like us must pass complete background checks before routine deployments, yet the guardian of our nation's nuclear button would raise a huge red flag on any such security report. We joked that my friend's security clearance would have been permanently canceled if I had said to the investigator, ''Well, Rick spent the Vietnam years smoking pot and leading protests against his country in Britain. His hobbies are lying and adultery. His brother's a cocaine dealer, and oh, yeah—he visited the Soviet Union for unknown reasons while his countrymen were getting killed in Vietnam.''

Do I show disrespect for this president? Perhaps it depends on the meaning of the word ''this.'' If Clinton were merely a spoiled leftist taking advantage of our free society, a la Jane Fonda, that would be one thing. But you don't make an atheist pope, and you don't keep a corrupt security risk as commander-in-chief.

The enduring goodness of the American military character over the past two centuries does not automatically derive from our nation's nutritional habits or from a good job benefits package. This character must be developed and supported, or it will die. Already we are seeing declining enlistment and a 1970s-style disdain for military service, squandering the real progress made during the purposeful 1980s. Our military's heart and soul can survive lean budgets, but they cannot long survive in an America that would tolerate such a character as now occupies the Oval Office. We are entitled to a leader who at least respects us—not one who cannot be bothered to remove his penis from a subordinate's mouth long enough to discuss our deployment to a combat zone. To subject our services to such debased leadership is nothing less than the collective spit of the entire nation upon our faces.

Bill Clinton has always been a moral coward. He has always had contempt for the American military. He has always had a questionable security background. Since taking office, he has ignored defense issues, except as serves the destructive goals of his extremist supporters. His behavior with Paula Jones and Kathleen Willey was bizarre and deranged—try keeping a straight face while watching mandated Navy sexual harassment videos, knowing that the president's own conduct violates historic service rules to the point of absurdity.

For a while, it was almost possible to laugh off Mr. Clinton's hedonistic, ''college protester'' values. But now that we have clear evidence that he perjured himself and corrupted others to cover up his lies, Bill Clinton is no longer funny. He is dangerous.

William J. Clinton, perhaps the most selfish man ever to disgrace our presidency, will not resign. I therefore risk my commission, as our generals will not, to urge this of Congress: Remove this stain from our White House. Banish him from further office. For God's sake, do your duty.

Mr. SANDLIN. Mr. Speaker, yesterday, I listened as Members explained that the reason they were voting to impeach President Clinton was because he had committed perjury. The fact of the matter is—and the record is clear and undisputed—that the President did not commit and, in truth, these proposed Articles of Impeachment do not actually accuse the President of perjury.

Let's be very careful and clear about this loose talk of perjury. Whatever you may think of Ken Starr, he has never accused Bill Clinton of having committed perjury—neither in his own statement to the committee on November 19 nor in the OIC Referral sent to the Congress on September 9.

Everyone seems to have forgotten the testimony of the five expert prosecutors who appeared and testified before the Judiciary Committee. Three served in Republican administrations at the top levels of the Justice Department; two served in Democratic administrations. They were unanimous in their agreement that the evidence against Mr. Clinton could not support a perjury charge and that no responsible prosecutor would ever bring such a charge.

Let me quote Thomas P. Sullivan, the U.S. attorney from the Northern District of Illinois from 1977 to 1981, someone who has had 40 years of experience in the criminal justice system. He testified, ''It is not perjury for a witness to evade or frustrate or answer non-responsively. The evidence simply does not support the conclusion that the President knowingly committed perjury, and the case is so doubtful and weak that a responsible prosecutor would not present it to the grand jury.''

What are we really talking about in Article One when President Clinton is charged with wilfully providing ''perjurious, false and misleading testimony?'' It is not that President Clinton denied an improper, intimate relationship with Ms. Lewinsky. He admitted that relationship, and the whole world saw his testimony on that point when the video tape of the grand jury testimony was played. Instead, the allegation of perjury in the grand jury boils down to a disagreement between the President and Ms. Lewinsky as to the graphic details of their contact—whether he touched certain unclothed private parts of her body. She says, ''He did.'' He said that he didn't.

According to the expert prosecutors, this kind of dispute would never be prosecuted. To quote Mr. Richard Davis, a distinguished and experienced prosecutor from New York City, ''In the end, the entire basis for a grand jury perjury prosecution comes down to Monica Lewinsky's assertion that there was a reciprocal nature to their relationship, and that the president touched her private parts with the intent to arouse or gratify her, and the president's denial that he did so. Putting aside whether this is the type of difference of testimony which should justify an impeachment of a president, I do not believe that a case involving this kind of conflict between two witnesses would be brought by a prosecutor . . . This simply is not a perjury case that would be brought.''

For many years, it has been the practice of the Department of Justice not to bring perjury charges based on ''he says/she says'' swearing contests. That is what we have here. Nothing more.

Enough loose talk about perjury.

Mr. PITTS. Mr. Speaker, it has been several months since I called on the President to resign from office for the good of the country and the honor of the Presidency.

Today I will cast my vote in favor of his impeachment because to this day he has refused to live up to the honor demanded of that office.

For if the law is not respected and obeyed by the highest official in the land—indeed the Commander in Chief—why should each of us seek to uphold the law. Why could we not selectively choose when to lie and when to tell the truth?

It is unbelievable to me today that President Clinton still continues to lie about his affair.

He continues to deny that he had a sexual relationship with Ms. Lewinsky.

He continues to deny that he has lied under oath.

Does he believe that the subject of his words make the truth of his words irrelevant? The fact that he had an affair is not the issue.

Yet, when both the President—in swearing to tell the truth, the whole truth and nothing but the truth—disregards his oath, he fails to meet the high moral standard example demanded of our President.

Thus, such disregard for the rule of law demands impeachment action by the Congress of the United States.

For, as Chairman HYDE has said, in this country, justice depends on the enforceability of the oath.

Accoring to the evidence that I have reviewed, I see no option but to recognize the President's actions as perjurious, and to conclude that he has obstructed justice and abused the power that he has as President of the United States.

There are more than 115 people in federal prison for perjury in this country.

Should the man charged to lead our Nation with integrity and honesty be allowed to be treated any differently for charges similar or worse than those of individuals who have been convicted—solely because his position of power? the President is not a king.

America was built on the ideal of equal justice under law. This concept must apply equally to everyone, including the President.

As a Member of Congress, the very first of my duties was to swear an oath to uphold the Constitution.

My duty this week goes beyond the normal task of making law and directly reflect my sworn duty to maintain the integrity of the Constitution and apply the rule of law, which has held this nation together since its birth more than 200 years ago, to the illegal actions of the President.

I soberly take part in this process with the weight of responsibility to the Constitution on my shoulders.

Mr. FRANKS of New Jersey. Mr. Speaker, it is with a profound sense of sadness that I stand here today. All of us wish that the events connected with this matter had never occurred. But they did.

Today, we are being asked to stand in judgment and decide whether William Jefferson Clinton should become only the second president in our Nation's history to be impeached. It is the most agonizing decision I have ever been called upon to make.

As we address this matter, we must decide what is right for the country and what is required to serve the interests of justice. In making this decision, I recognize that the purpose of impeachment is not to punish a political leader, but to preserve the integrity of our institutions of government.

In order to meet our solemn responsibility, we must put aside public opinion polls and avoid the temptation to pursue the politically expedient course. Our responsibility is clear—we must uphold the Constitution of the United States.

America is a government of laws—not of men. No individual—not even the President of the United States—is above the law. These are the principles embodied in our Constitution. It's what we teach children every day in classrooms across America.

The evidence presented to this House lays out a compelling case that President Clinton committed perjury on two separate occasions and personally engaged in conduct to obstruct justice.

I recognize that some Americans question whether perjury and obstruction of justice constitute adequate grounds for impeachment.

I've tried to weigh this issue very carefully. And in the final analysis, it comes back to a basic principle—no American is above the law.

Perjury and obstruction of justice are direct attacks on the government's ability to dispense justice. Lying under oath undermines the very foundation of our judicial system. If Congress fails to confront President Clinton's violations of the law, we would fail to meet our obligation under the constitution. We would be telling America, particularly our nation's young people, that the crime of perjury, even when committed by the President, is acceptable in certain situations. Equally devastating, we would be holding the President of the United States to a different standard of justice than ordinary citizens.

I want to remind my colleagues and the American people that we are voting on impeachment today not because the Republicans control Congress or because the Independent Counsel was overzealous. We're here because William Jefferson Clinton—our Nation's chief law enforcement official—has subverted the judicial process and violated the laws he swore to uphold.

Through his actions, the President—and the President alone—has led the nation down the painful path toward impeachment. And he, and he alone, has been in a position to spare the Nation the ordeal of an impeachment trial in the United States Senate.

Over the past 2 weeks, I've written twice to the President asking him to come to terms with the fact that he broke the law and to take responsibility for his actions.

On December 3d, I urged the President to come before the American people, admit that he committed perjury and indicate that he was prepared to face the consequences.

On the eve of this debate, I wrote to the President one more time and called on him to tell the truth, the whole truth and nothing but the truth.

Tragically, President Clinton continues to put his own self interest above America's interests. The President appears to be more concerned about avoiding criminal prosecution after he leaves office than he is about sparing the nation the ordeal of an impeachment trial.

The failure of the President to come forward and publicly admit that he has broken the law, compels me to vote for impeachment articles, 1, 2, and 3 which are before the House today.

I want to issue one final plea to the President. It's not too late to demonstrate real personal and moral leadership. Save the Nation the trauma of an impeachment trial and save your Presidency. Admit that you broke the law and violated the trust of the American people.

Mr. THOMPSON. Mr. Speaker, I rise today to speak on the behalf of my country and my party. I do not come to this floor easily—indeed, I am disheartened that we are here today debating impeachment while our Armed Forces are engaged in fighting in the Middle East. I am disheartened that a distortion of the legal facts has brought us to this point today. Impeachment of a President according to the Constitution can only occur when that individual is guilty of high crimes and misdemeanors. I strongly feel President Clinton has neither violated the fundamental principles of the Constitution nor is he guilty of a high crime or misdemeanor. He has not threatened the security of our nation and this impeachment is not based on treason, bribery or a threat to our democracy. This impeachment is based on partisan party politics. Let me remind those who support impeacment that the presumption of innocence until proven guilty is central and basic to our system of justice. This impeachment is predicated on perjury which has not been proven. I urge my colleagues to remember the words of Martin Luther King, Jr., who said from his cell in the Birmingham jail—"injustice anywhere is a threat to justice everywhere . . . whatever affects one directly, affects all indirectly." Mr. LIVINGSTON's resignation proves the effect of his injustices affecting his status. As in all prior impeachments, the allegations concerned official misconduct not private misbehavior. In all of American history, no official has been impeached for misbehavior unrelated to his offical responsibilities. The Founding Fathers did not intend impeachment or the threat of impeachment to serve as a device for nullifying a duly elected President just because Members of Congress disagree with him. Again, I say the President has not committed a crime or misdemeanor and should not be impeached.

In face of this turbulent time for America, BOB LIVINGSTON's decision to resign from Congress and relinquish his position as Speaker of the House only demonstrates his personal shame for his own misdeeds. His action does not lend any credence to this procedure against the President.

America is a great county. I hope this impeachment, this attempted coup d'etat, does not begin a downward slide to our economy, our image, and our morale. I urge my colleagues to vote against impeachment.

Mr. STARK. Mr. Speaker, I would like to include in the CONGRESSIONAL RECORD a letter that I received from Mayor Roberta Cooper of Hayward, CA. Mayor Cooper writes to express the sentimant that runs strong in my district that the impeachment proceedings being conducted by House of Representatitives are not in the best interest of our Nation and not supported by our citizens.

CITY OF HAYWARD,
Hayward, CA, October 26, 1998.

Hon. PETE STARK,
Member, House of Representatives, Cannon Office Building, Washington, DC.

DEAR PETE: On the issue of the partisan driven Presidential Impeachment, its time for you and the members of California Congressional Delegation to hear from us at home!

Frankly, the speed at which this proceeding is proceeding, it's as if the voice of the American people has fallen on deaf ears and blind eyes!

Doesn't Congress see that President Clinton's ratings, among the American people, are holding steady?

Can't Congress grasp the fact that we've had enough?

Isn't it glaringly clear that pursuing this matter with the level of ruthlessness and aggression can ultimately serve no greater public good?

Is Congress completely blind to the fact that the collective mind and spirit of the United States of America will suffer a massive societal depression should it succeed in its effort to destroy President Clinton? Is it Congress's intention to bring the citizens down with the President?

I am extremely troubled by the far reaching implication and tremendously adverse outcomes presented by this partisan feeding frenzy should it succeed.

I implore you to let your colleagues know that we strongly object the proposal to impeach the President and urge that this matter be resolved by means other than impeachment.

Sincerely,

ROBERTA COOPER,
Mayor.

Ms. JACKSON-LEE of Texas. Mr. Speaker, throughout this long process as I have listened to this divisive debate, I have had to wonder about the legacy of the 18th Congressional district. The first person to hold this seat was the late Congresswoman Barbara Jordan. She was a member of the Congress in 1974 during Watergate, and she was a member of the House Judiciary Committee.

I have been careful not to mischaracterize her thoughts or words during these serious and troubling times. However, throughout the debate it seems at every moment the Republican majority continues to misuse Ms. Jordan's comments.

I think it is important to acknowledge the remarks she made today, and the impact that those words will have on the actions we take today. In her July 24, 1974 speech, in citing the Framers of the Constitution, she noted that ''the Framers confined in the Congress the power if need be, to remove the President in order to strike a balance between a president swollen with power and grown tyrannical * * *.'' This is not the case today.

She also said impeachment was limited to high crimes and misdemeanors, as she cited the federal convention of 1787. Finally, Ms. Jordan sheds light on what she might have thought of today's proceedings as she states ''A President is impeachable if he attempts to subvert the Constitution.'' I think it is important for Congress to hear these words that the late Barbara Jordan gave on July 24, 1974.

A sense of the Congress resolution on censure is not unconstitutional, it is not prohibited by the words of the Constitution. It is not specifically noted in the Constitution, but however neither are postal stamps, education, or social security. This resolution is germane and constitutionally sound. Mr. Speaker please rule and allow a free standing resolution of censure to be voted on by this House—do not deny the will of the people.

The Bible, Mark 3:25, teaches that ''[I]f a house be divided against itself, that house cannot stand.'' It's time to stop the malicious attacks because surely, we will all perish. It is time to close ranks and get back to the business of America. It is time to heal this Nation. Today let's restore the American public's faith in the Constitution do not deny their will.

We need to begin that healing process now to return America to greatness.

Mr. HOBSON. Mr. Speaker, I will vote to impeach the President because by committing perjury he has violated his oath to uphold our Constitution and has undermined the rule of law, which is the foundation of our society.

The lifeblood of our legal system is honest testimony. When falsehoods are tolerated then the system cannot function. Perjury, therefore, cannot be dismissed as a minor infraction, but instead is a serious felony offense because it undermines the very existence of our system of justice. Accordingly, I will vote for the first article of impeachment.

The second article of impeachment relates to the President's alleged false testimony in a civil lawsuit which has been settled out of court. Perjury in a civil lawsuit is a serious offense as well and, if adequately proven, would warrant criminal prosecution. However, I do not believe the evidence presented is adequate to reach the threshold of an impeachable offense.

The third article of impeachment alleges the President obstructed justice by, among other actions, engaging in a scheme to conceal and willingly encouraging his employees to provide false testimony in order to help conceal his pattern of lying under oath. This is a misuse of power and a very telling sign of the lengths to which the President was willing to go to subvert the legal system he swore to uphold in order to hide his crimes. Article III deserves the support of the House.

The last article of impeachment charges the President with contempt of Congress for presenting inaccurate testimony in response to written questions submitted to him by the House Judiciary Committee. Though a serious crime, the evidence provided by the Judiciary Committee does not reach the necessary standard of ''clear and convincing'' in order to justify impeachment.

The President's lies under oath do a disservice to the memory of those who brought us the freedoms we enjoy and endanger the hopes of future generations who will one day enjoy those freedoms. He has also demonstrated a belief that he is above the law he has sworn to uphold and enforce. Nothing is further from the truth.

The success and longevity of our republic are due to its foundation upon principles tested by time, not specific people or personalities. One of those principles is that Americans are equal under the rule of law. No one is exempt from this standard.

Our democracy will survive this difficult time because its founding principles will endure long after the players in this current drama pass from the scene, and it will be stronger for having gone through this struggle.

Mr. INGLIS of South Carolina. Mr. Speaker, as I fly back to South Carolina for the last time as a Member of this House, I'm thankful that the House has done its duty. We've kept the Republic; we've met our day of obligation.

The Speaker-elect Mr. LIVINGSTON's dramatic resignation today on the House floor has shined the light of truth and honor on the deception that private conduct does not affect public morality and on the lie that a civilization may persist where wrongdoing is devoid of consequences. Repentance accompanied by acceptance of consequences precedes true healing.

May our Land be healed as John Adams words ring down through history: ''Our constitution is meant for a moral and religious people and is wholly in adequate for the government of any other.''

Mr. CLEMENT. Mr. Speaker, I rise today with a heavy heart, a clear conscience, and a strong resolve to move our nation forward. As we stand on the edge of the 21st century, a veil of darkness hangs over our democracy. Indeed, let no member of this institution nor the American people minimize the gravity of today's actions. We are about to cast our votes on whether or not we want to impeach the President of the United States for only the second time in the history of the republic.

I have heard a lot of talk today about the ''rule of law.'' I wish I could hear more talk about the ''rule of fairness.'' Why couldn't we have debated and voted on Monday after the bombings ceased in Iraq? Why couldn't the majority party let us vote on a censure proposal where all of us in the U.S. House of Representatives could vote our conscience?

Abraham Lincoln called this a government of the people, by the people, and for the people. The people have made it abundantly clear that they do not want to see the president impeached. Are we going to put aside their wishes in favor of partisan politics that have no place in this debate?

The Framers of the Constitution created the impeachment process, not as a punishment for the president, but as a protection for the American people against a chief executive whose actions would threaten our very system of government. There are other ways to hold President Clinton responsible for his actions: censure, fine, or criminal indictment after he leaves office.

Peter Rodino, who presided over the impeachment hearings of Richard Nixon, has said that President Nixon was impeached because of ''the totality of the many actions which resulted in grave harm to the republic, which if permitted to go on, would have destroyed the constitutional system.''

If the President had stolen taxpayers' dollars or sold classified information to a foreign government, I would not hesitate to vote for impeachment. But do Members honestly believe that President Clinton's actions have resulted in grave harm to the republic and would destroy our constitutional system if he is allowed to remain in office? Or do you believe, as I do, that President Clinton's conduct, while appalling, immoral, and reprehensible, does not constitute an impeachable offense under our Constitution? If so, then you must vote no. Impeaching this President over his personal failings would be a greater threat to public confidence in government and the rule of law than all of his misdeeds.

Let's close this regrettable chapter in our nation's history and get on with the business of the American people.

Mr. McINTOSH. Mr. Speaker, after weeks of reviewing the evidence, quiet reflection and prayer, a few days ago I reached the decision that I would be voting in favor of impeaching President Clinton. I came to this decision only after a thorough review of documents from the House Judiciary Committee's investigation along with Independent Counsel Kenneth Starr's report to Congress and information supplied by the White House.

Although I have criticized the President frequently in the past because of his policies, I will cast these votes with a heavy heart. Nothing that Congress can do will completely heal our nation from the injury it has sustained. Nothing that Congress can do will restore the honor the office of the presidency previously held.

But there is one thing which our Constitution does allow Congress to do, and which I believe Congress must do.

Before I explain why I believe we must do that, I want to make one thing clear: censure will not do. What has happened over the last year represents a blow to our Constitution, and only a Constitutional solution will bring integrity back to our democracy.

A censure resolution will not unify our nation. Many of us feel that a censure would be

exculpatory, since the President has repeatedly failed to acknowledge the full effect of his action, particularly the grave damage that his perjury caused to the rule of law on our constitutional republic. Clearly, a censure resolution would not fully bring the President to account for those actions.

In addition, our Constitution does not provide for censure. Some may argue that just because the Constitution does not provide for it does not mean that it is unconstitutional. I say that it is unconstitutional, and that there is only one constitutional process.

Section 4 of Article II states: The President . . . shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.'' If the President has committed such high crimes and misdemeanors, our responsibility is clear—impeachment is the one and only mechanism that our Founders decided was necessary to resolve the question of whether a President is discharged of his duties under the Constitution.

Let us review the charges put forth by the Judiciary Committee. The four articles passed by the Committee make very serious charges.

Article I asserts that William Jefferson Clinton willfully provided perjurious, false and misleading testimony to the grand jury concerning the nature of his relations with a subordinate; concerning prior perjurious, false and misleading testimony given in a Federal civil rights action brought against him; concerning prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action; and concerning his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

Article II asserts that William Jefferson Clinton willfully provided perjurious, false and misleading testimony in response to questions in a Federal civil rights action concerning conduct and proposed conduct with subordinate employees; and to a Federal judge concerning the nature and details of his relationship with a subordinate; his knowledge of that employee's involvement and participation in the civil rights action brought against him; and his corrupt efforts to influence the testimony of that employee.

Article III asserts that William Jefferson Clinton prevented, obstructed and impeded the administration of justice, and engaged in a course of conduct designed to delay, impede, cover up and conceal the existence of evidence and testimony related to a Federal civil rights action by encouraging a witness to execute a sworn affidavit he knew to be perjurious; encouraging a witness to give false testimony; engaging in a scheme to conceal subpoenaed evidence; secured job assistance to a witness in order to corruptly prevent the truthful testimony of that witness; allowed his attorney to make false statements to a Federal judge characterizing an affidavit in order to prevent questioning; related a false account of an event to a potential witness in order to corruptly influence the testimony of that witness; and made false statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses, causing the grand jury to receive false information.

Article IV asserts that William Jefferson Clinton engaged in misuse and abuse of his high office, impaired the due and proper administration of justice and the conduct of lawful inquiries, and contravened the authority of the legislative branch and the truth-seeking purpose of an investigate proceeding by refusing and failing to respond to certain written requests for admission and willfully made perjurious, false and misleading sworn statements in his response.

I think it is clear that if we study the evidence with an open mind we will see that these actions do qualify as high crimes and misdemeanors. The cooperation of citizens and their honesty before the courts is absolutely necessary for our judicial system to work. It is all the more important to our liberty that we insist that the President, whose job it is to see that ''the laws are faithfully executed'' as the highest law enforcement official, be subject to these important legal requirements.

And here it is very important to say that we cannot make exceptions for sex. Many will argue that sexual matters should never enter the courtroom or the public domain. But I disagree with this. The days when it was ok for male employers to hit on their female subordinates, and then lie about it and not suffer any consequences, are long gone.

We cannot have a different standard for the President than we do for other citizens. Any teacher, military officer, company executive, or other person in a position of responsibility or leadership would have been immediately fired for the sort of charges brought against Mr. Clinton. To create a lower standard for Clinton is equivalent to setting him above the law. This undercuts the core of Constitutional democracy, in which the people are governed by laws, not kings or queens.

Further, not keeping the President to the same standard as the rest of the nation strikes me as fundamentally un-American. Allowing leaders to turn public office into their private playgrounds is the sort of thing that were appropriately associated with banana republics. We have always sought a higher standard, and have defined ourselves as a nation that does not tolerate corruption in its highest levels.

I would like to make reference to a recent letter signed by 96 scholars, lawyers and former government officials, including former Attorneys General Griffin B. Bell (Carter administration) and Edwin Meese III (Reagan administration), former Judge Robert H. Bork, former Education Secretary William J. Bennett, Steven Calabresi (Northwest University law school), and other luminaries. They assert that, not only will impeaching the President not harm the presidency, but that not doing so would cause irreparable harm to the presidency. They also counter the argument that this vote is against the will of the people: ''The Constitution was made in order to remove some objects from decision by momentary popular sentiment. . . Should the House and the Senate shirk their responsibilities, they will establish a precedent for lawless government.''

I am also concerned about another consequence of the President's behavior, the effect it has on public attitudes toward morality. What is the message we send to our nation's youth? How does this scandal—played out on the evening newscast for months—affect parents' efforts to teach their children the difference between right and wrong? One of the saddest moments during the last year for me when reading a letter from a mother in Indiana. She wrote:

DEAR DAVID: My sons and I were watching the news the other night. They were discussing President Clinton and his sexual affairs.

My eleven year old son commented, he wanted to grow up to be President so he could have sex in the oval office with who ever he wanted to.

I try to teach my children right from wrong and good moral values. I feel the President has made himself a very fine role model. Wouldn't we want all of America's youth to think the same way! I think he has lied to us enough and should be put out of office.

P.S. Do you now how embarrassing it was for my son to tell me that?

A concerned Mother and an American Citizen,

ELAINE LECHIEN.

My heart sank as I read Mrs. Lechien's letter. Being a parent nowadays is difficult enough. Parents who want to teach their child to live responsibly and morally already have a lot of competition. Television, popular music, and multiple other media all vie for the role of informing our youth's hearts and minds. Now parents must also contend with competition from a President who engages in sexual relations with a very young college intern, then lies to the American people about it, then encourages his subordinates to lie about it, then lies to the courts about it, and finally attempts to obstruct those whose job it is to investigate his actions.

It is not surprising that Mrs. Lechien's son wants to be able to do the same things that the President does. In his mind, the Presidency is the pinnacle of power and honor in the adult world. If the President is allowed to get away with such acts he must think, anything goes. It imagine that every parent would be thrilled to hear his or her children say they aspire to become President. But with Bill Clinton's actions, the holder of that office is no longer an unambiguously good role model.

America stands at the threshold of a new century, and as we take this vote, we also stand at a crossroad. One leads to the principles that are contained in our Declaration of Independence and our Constitution—justice, decency, honor and truth. These are the principles that for over 200 years have so affected our actions as to earn the admiration of the world and to gain for the United States the moral leadership among nations. The other path leads to expediency, temerity, self-interest, cynicism, and a disdain for the common good. That road will inevitably end in shame, dishonor, and abandonment of the high principles that we as a people rely upon for our safety and happiness. There is no third road. So this is a defining moment for the presidency and for the Members of this House.

I believe that Americans need leaders who will take us to that first path, the path of honor. Americans are yearning in their hearts for higher standards of conduct by our leaders—true fidelity to the Constitution, moral character in their private lives, and integrity is being honest with the American people.

As we vote today, we must be true to our God, true to our Constitution, true to the American people, and true to ourselves. Sadly, fidelity demands of us that we vote in favor of these articles of impeachment.

Mr. ALLEN. Mr. Speaker, President Clinton has disgraced himself and diminished the office he holds.

While this House may not censure Bill Clinton, history will.

But by failing to respond in a fair and measured way to the President's conduct, the Republican leadership has assured that history will also condemn the 105th Congress.

Others in this debate have made the point simply: the proven offenses are not impeachable and the impeachable offenses are not proven.

''To depose the constitutional chief magistrate of a great nation, elected by the people, on grounds so slight, would * * * be an abuse of power.''

These are not my words, but the temperate statement 130 years ago of a Maine Republican.

William Pitt Fessenden was one of seven courageous Republican Senators who voted against the attempt by the Radical Republicans to remove Andrew Johnson from office in 1868.

Fessenden understood the meaning of the Constitution's words, ''treason, bribery, or other high crimes and misdemeanors.''

An impeachable offense, Fessenden said, must be ''of such a character to commend itself at once to the minds of all right thinking men, as beyond all question, an adequate cause for impeachment. It should leave no reasonable ground of suspicion upon the motives of those who inflict the penalty.''

Fessenden knew what the framers meant and what the distinguished chairman of our Judiciary Committee professed to believe at the outset of this inquiry—a partisan vote of impeachment will be forever suspect.

History will find, as people across America and around the world already know, that there is more than ''reasonable ground of suspicion upon the motives'' of the Republican leadership of the 105th Congress.

Just as the Radicals of 1868 abandoned the principles of Abraham Lincoln in pursuit of a political vendetta, they have ignored the wise counsel of cooler heads like Gerald Ford and Bob Dole and recklessly abused the awesome power of impeachment for partisan purposes.

December 19, 1998 will go down with February 24, 1868 as sad days for America.

More than the tawdry behavior admitted by Bill Clinton, today will be remembered for the failure of this Congress to honor our constitutional responsibility to act with fairness and justice before recommending removal of a President elected by the people.

Let us all pray that the Senate has enough William Pitt Fessendens to correct the mistake this House will make today.

Mr. STARK. Mr. Speaker, today I rise in strong opposition to the impeachment proceedings. Impeachment of President Clinton is not warranted by the facts of this case.

Although the Republicans have couched their arguments in terms of perjury, obstruction of justice, abuse of power and their constitutional duty to do the ''right thing,'' this proceeding is in fact a political move to use private, consensual sexual conduct to subvert the constitution and remove a President.

Our constitution provided impeachment as a mechanism to remove a President for crimes against the state such as ''treason, bribery, and other high crimes and misdemeanors.'' The allegations in the Starr referral, even if assumed to be true, do not rise to the level of impeachable offenses. On this point, almost 900 constitutional scholars, law professors and American historians agree. Yet, we proceed with the impeachment process as if compelled to do so by our constitution.

It is not, however, the constitution which compels today's action; it's not even partisanship that brings us this sad day. Beyond partisanship, this majority leadership has abused their power in a dictatorial manner to impeach a President to satisfy a small block of right wing conservatives. The majority leadership rejected the request of over 200 Members of this body to allow a vote on censure, an option that has the clear support of the American public, because the conservation faction demands impeachment.

When the House completes this frenetic activity this weekend, history will judge our activity. There will be no avoiding the fact that this whole process has been propelled by a small group obsessed with political revenge, not crimes against the state. This is not what the Framers intended or what the people want. Today defines the GPO as a group of vindictive, reactionary pharisees. It is a sad day for our country.

Mr. POMBO. Mr. Speaker, I quote:

On January 20, 1993, William Jefferson Clinton took the oath prescribed by the Constitution of the United States to faithfully execute the office of President; implicit in that oath is the obligation that the President set an example of high moral standards and conduct himself in a manner that fosters respect for the truth; and William Jefferson Clinton has egregiously failed in this obligation, and through his actions violated the trust of the American people, lessened their esteem for the office of the President, and dishonored the office which they have entrusted to him.

(A) William Jefferson Clinton made false statements concerning his reprehensible conduct with a subordinate;

(B) William Jefferson Clinton wrongly took steps to delay discovery of the truth; and

(C) in as much as no person is above the law, William Jefferson Clinton remains subject to criminal and civil penalties.

These are not the words of the Articles of Impeachment but the words of the Democrat resolution which was approved unanimously by the Democrats on the House of Representatives Judiciary Committee. Even President Clinton agreed to accept this severe language.

We all agree that the President committed these crimes, and yet there is great debate over impeachment.

The President's defenders claim that this issue is only about a consensual sexual relationship. Tell that to Paula Jones. Her case started as a sexual harassment lawsuit where the President was subpoenaed and required to tell the truth, just like any other defendant. He made the decision to lie. In protecting himself from political and legal jeopardy, he deprived Paula Jones of her fair day in court. You or I would expect our fair day in court and no less.

We have also been told that these hearings and this process were unfair and partisan. Partisan? Yes, the hearings were very partisan. It was very disturbing to watch the hearings as no Democrat came forward to work with the Republican majority. The partisan protection of the President at all costs will without doubt damage future Congresses. The process was fair to a fault. The Republicans allowed the President's defenders panels of witnesses who testified over dozens of hours. The Judiciary Committee allowed the President witnesses of his choice to defend his actions in front of Congress and the country. The committee offered the President an opportunity to appear in person, which he declined. Judiciary Committee Chairman HENRY HYDE went beyond the norm to be fair.

Another desperate claim made by the President's partisans is that impeaching and convicting the President would overturn an election. If the President is forced from office, his defeated opponent Bob Dole would not become President! Clinton's own Vice President AL GORE would. GORE was elected on the same ticket as Clinton and would step in, as the Constitution requires. Our Founding Fathers included impeachment in our Constitution to remove a sitting President. There is never a good time nor the right time to conduct an impeachment and convict a President, but unfortunately it has become necessary.

When I had to make this very difficult decision I tried to put aside ideological and partisan differences. I cleared my head and made a decision based on facts, not emotion. I read the report, supporting documents and the conclusion the committee came to.

I made the decision to support the four articles of impeachment, not as a matter to punish Bill Clinton, but to protect the rule of law. Future presidents and congresses will look at this precedent to determine the proper behavior of those presidents and congresses. Perjury on multiple occasions, obstruction of justice, and abuse of power are impeachable offenses and Bill Clinton and no future President should be allowed to hold office after having committed these offenses.

Mr. CASTLE. Mr. Speaker, I had hoped not to have to make this statement today. I love this country and our democratic institutions, which are the strongest and most unique in the world. I have the highest respect for the Office of the President, and I respect the talents and accomplishments of President Clinton, with whom I have worked on a number of important national issues. My respect for much of the President's work makes this decision even more difficult. Yet, based on a careful review of the evidence in the record, watching the Judiciary Committee hearings and listening to the presentations by all sides, I have come to the conclusion that there is clear and convincing evidence that the President's material false statements to a federal grand jury meet the standard for impeachment and I will vote to refer Impeachment Article One to the United States Senate. I intend to vote against Articles Two, Three and Four.

This is certainly the most difficult decision I have faced in thirty years of public life. It has been personally agonizing for me and it has also tremendously affected the people of Delaware and our nation. In the last week alone, I have received many thousands of calls, letters and E-mails from people in Delaware on this issue. I have never seen this number of heartfelt comments and this level of intensity in the arguments from people on both sides of any issue. Delawareans have not reacted purely along partisan lines. I have heard from people who describe themselves as ''life long Democrats'' who believe the President should be impeached. I have also heard from Republicans who have urged me to vote against impeachment. Individuals have shared their experiences of having to testify in legal proceedings or their painful discussions with their children about the President's behavior. One man said it was the first time in fifty years that he moved to write to a public official. Their words

have further impressed upon me the seriousness of this decision.

I delayed my decision as long as possible to review the evidence carefully and also to attempt to find a solution that would be fair and just and would allow us to end the turmoil that has enveloped our nation. No one wants this process to go on any longer than necessary. I still believe that a strong censure and financial penalty could be a solution to bring this matter to a close in the best interest of our nation.

Nevertheless, it is clear that the President acted deceitfully in attempting to hide his adulterous sexual relationship with Monica Lewinsky. He made false statements in his deposition before a federal judge in the Paula Jones lawsuit; he made false statements to his staff, his Cabinet and the American people. Finally, he made false statements before a federal grand jury. In short, he lied to all of us. The President's wounds are self-inflicted. One can almost understand his initial effort to hide his sexual affair which was wrong, but certainly not impeachable. However, he continued to weave a fragile pattern of deceit which he allowed to build to the point where he was not only repeating falsehoods to the public, but he continued them before a federal grand jury.

It is critical to note that the President's lawyers have not attempted to rebut the essential facts of any of the allegations. The only question that remains is whether the President's lies and other steps to hide his relationship with Miss Lewinsky posed the type of threat that the Founding Fathers envisioned when the provided for impeachment of the President in our Constitution, the greatest democratic document in the world.

In reviewing the Articles of Impeachment, I believe that the most troubling issue is in Article One—whether the President made material false statements under oath to a federal grand jury on August 17, 1998. I have reviewed the President's grand jury testimony and the arguments on both sides regarding this issue. The President had months to decide whether to appear before the grand jury and to prepare his testimony, he was permitted to have his attorney present—a privilege no other person would be afforded—and to set a time limit on his testimony. In short, there was little chance the President could be surprised by questions and he was able to ask for breaks to confer with his attorney. So it is especially disturbing that in his testimony, he continued the pattern of false statements and evasions regarding his relationship with Miss Lewinsky and his efforts to conceal it. He did not tell the truth in his grand jury testimony. That is the inescapable fact that troubles so many Americans because it poses a real threat to the credibility of our legal system and raises the question of the President's fitness for office.

I have known President Clinton for over a decade. We have worked together on a number of policy issues when we served as governors and since he became President. He is very capable on policy matters. In meetings with the President, I have seen him display an excellent recall of policy details on complex issues. Because I have seen this sharp intellect and memory in other settings, it is difficult for me to believe his statements to the grand jury that he does not recall key events involving his own actions in the Lewinsky matter. It is necessary to conclude that whatever happened prior to his grand jury testimony, the President had the opportunity to set the record straight and tell the truth and he chose not to do it.

The evidence supporting Impeachment Articles Two, Three and Four, while showing the President's actions to be morally and legally questionable, is not clear and convincing as required to meet the standard for high crimes and misdemeanors under the Constitution. There are very real and serious doubts regarding the truthfulness and legality of the President's testimony in the Paula Jones deposition, his discussions with Betty Currie and Monica Lewinsky about their potential testimony in legal proceedings, the handling of the gifts the President and Ms. Lewinsky exchanged, and the President's responses to the questions from the Judiciary Committee. However, I believe that the case for these Articles is not strong enough to merit sending them to the Senate for trial. The President may be guilty of wrongdoing in these matters, but he can remain liable for civil and criminal penalties for those actions after he leaves office.

This whole episode has been terribly sad for the entire nation. But the unfortunate fact is that the President's own reckless behavior has led us to this point. There were numerous times during the past year when the President could have ended this matter by telling the unvarnished truth, especially before the grand jury. At that time, even some of the President's strongest supporters warned that lying before the grand jury could very well be grounds for impeachment. It was his decision to continue to shade or avoid the truth and rely on questionable definitions to defend his actions. In the end, his answers were not, as he insisted, ''legally accurate.''

I do believe that the Independent Counsel law is flawed and should be reviewed carefully and possibly terminated. This investigation has gone on too long and cost too much. Yet, the President's own denials and refusal to provide answers by invoking executive privilege prolonged the process. Most important, the essential findings of the investigation have not been disputed.

I am particularly saddened by these events because I have had a positive working relationship with the President and am proud to have worked with him to enact the 1994 crime bill, the 1996 Welfare Reform Act, the 1997 balanced budget agreement and other positive legislation for the nation. President Clinton is a talented politician and public official. But, I cannot escape the conclusion that the charges against the President in Article One do meet the standard for impeachment in the House of Representatives. Our system of justice was established to insure that every American, including the President, is accountable for their actions.

A vote by the House on Articles of Impeachment is only part of the process envisioned by the Constitution. The House determines only whether the President should be, in effect, indicted and then the Senate has the responsibility to try the case. The Senate has the responsibility to consider the charges against the President, and it also has the authority to consider censure as a possible alternative to removing the President from office. It is my hope that in the end, the Senate will make its decision expeditiously and in the best interest of all Americans.

This has been the most difficult decision I have ever had to make in my public life. I am tremendously disappointed that while the President has apologized for his actions, he has been unable or unwilling to admit that he lied both in legal proceedings and to the American people. His testimony before the grant jury was false and he repeatedly made statements in public and private that prevented the discovery of the truth. His false grand jury testimony strikes at the heart of what our legal system and form of government are about. I still hope that this matter can be resolved quickly to avoid unnecessary turmoil for the country. While it may not ultimately require that he be removed from office, it does require that the Senate consider a trial on this matter and reach a conclusion. I hope it can be done fairly and quickly and in the best interest of the nation.

I hold no malice toward the President and I would far refer to vindicate him of these charges. While the President's actions could result in criminal and civil prosecution, what has truly haunted the President throughout this matter is his repeated failure to tell the truth and that his lies led others to do the same. It is these facts that affect Americans so deeply and that I can not ignore. My unavoidable obligation is to hold the President accountable for this actions as required by the Constitution.

Mr. LUTHER. Mr. Speaker, the United States Constitution states that ''The President . . . shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.'' Clearly, consideration of the impeachment of a democratically elected President is one of the most serious duties of a Member of the United States House of Representatives.

Because impeachment overturns a national election, the framers of the Constitution set a very high threshold so that our head of state would not be removed for political expediency. They intended impeachment to be the ultimate check in our system of checks and balances so we would never have a President destroy our democracy, reign as a despot, or emerge as a king.

In the case against President Clinton, I have reviewed the Independent Counsel's allegations as well as voluminous other information on the subject. I have also heard from many constituents and listened to the debate. It is undisputed that the President's conduct was wrong. It is also quite clear that some people in and out of Congress see this as an opportunity to rid themselves of a President they have never liked.

Impeachment, however, is reserved for Presidential action that threatens the very nature of our democracy. The framers of the Constitution considered other possibilities, but they settled on the well known phrase, ''Treason, Bribery or other high Crimes and Misdemeanors'' and chose not to allow impeachment for lesser offenses that do not threaten our system of government. After reviewing all of the information available, I have concluded that President Clinton's actions, however reprehensible, do not come close to that level.

I nevertheless believe the President should be held accountable for his actions. In my judgment, former Senate Majority Leader Bob Dole's suggestion to convert the Articles of impeachment into censure resolution is a sound alternative. Allowing a vote on this approach would enable each member of Congress to truly vote his or her conscience on this issue. Because a vote for censure will not be allowed

in the House and since the only votes will be on impeachment, I will vote against the Articles of Impeachment.

If the House impeaches the President, it will be up to the Senate to determine how best to proceed with this matter. In that event, I believe the Senate should end this melodrama just as quickly as possible in order to get back to work on the other important issues facing our country.

Mr. WALSH. Mr. Speaker, I submit to the House a December 16, 1998 editorial from the Syracuse Post-Standard entitled ''Duty Calls'' relating to the impeachment process presently before us.

I ask my colleagues to carefully review this thoughtful and insightful piece.

DUTY CALLS

IF LAWS ARE TO HAVE WORTH, THE HOUSE MUST VOTE TO IMPEACH THE PRESIDENT

It is regrettable that the impeachment process never quite reached a high-minded tone of solemn purpose and bipartisanship, as those responsible for conducting it had vowed it would.

It is vexing that a majority of American people apparently say, in response to opinion polls, that President Clinton should not be impeached. It is almost certain that impeachment by the full House of Representatives would make a political martyr of the president.

But these are insufficient reasons for the House to avoid its duty. If the laws of this land have worth, if the office of presidency has sanctity left to protect, then the House must vote to impeach the president. His fate then goes in the full Senate which can, after trial and by a two-thirds majority, vote to remove him from office.

Absent bold action by the congressmen and women, President Clinton will have shown brazenly that power begets exceptions to the law whenever those in power decide the lawless act is too trivial for pursuit.

The House Judiciary Committee in votes almost strictly along party lines, has sent four articles of impeachment to the full House. The members will begin to debate them Thursday. Assent by a simple majority of the representatives on any one of the articles will result in Clinton's impeachment.

The House should toss out the fourth article immediately. It relates to the president's answers to 81 questions submitted to him by the Judiciary Committee. It is more an expression of the committee's pique at the tone and evasiveness of the president's answers than a real finding of wrongdoing. It comes closest to appearing petty political.

The first two articles, in contrast, have abundant supporting evidence. They accuse the president of perjury. These relate to the answers he gave in grand jury testimony last January about his relationship with Monica Lewinsky. The third article, obstruction of justice, has to do with accusations that he tried to influence testimony of others by, among other things, directing efforts to get Lewinsky a job. The intentions behind many of the facts here are at least debatable.

What is beyond debate is Clinton's unyielding faith in his own ability to grease his exit from a knotty situation by the application of slick words. He remains a believer in a small truth—the precision of his own language—rather than the larger truths that his words defy.

This is not Watergate, his defenders cry. But nothing in the Constitution says that Watergate is the standard for impeachment inquiries. It is merely one other case from history, with its own set of facts and its own kind of assault on this nation's core values.

Impeachment is not the will of the people, other defenders say. But the people did not have this set of facts before them when they re-elected Clinton. They had only his word about Gennifer Flowers—which we now know to be a lie—when they first elected him president in 1992. Opinion polls are snapshots in time, framed by the way questions are asked and by the choices given to respondents, and are unreliable guides.

Remember that Dick Morris had told Clinton many months ago that his own polls showed that the people would forgive adultery, but not perjury.

Impeachment on charges of lying about sex trivializes the process, others say. Remember that this sex occurred between the most powerful man in America and an intern on his staff. That inherently abuses the power of office, a point on which many male and female feminists have been strangely silent.

On the contrary. Failure to hold a president accountable for his misdeeds and his lies about them trivializes the law, the presidency and the meaning of truth. If it's possible to debase them more than Clinton has already. It's time for the House to take the next step to clean house.

Mr. TANNER. Mr. Speaker, short of a declaration of war, a U.S. Representative can never be called upon to make a decision requiring more solemn thought than to vote on articles of impeachment against the President of the United States. Only five times in our nation's history has the Congress voted to declare war, and this is only the second time the full House of Representatives has considered articles of impeachment against a President of the United States. Other than voting to send our troops into harm's way during Desert Storm, this is the most somber responsibility I have been asked to address. Therefore, I would ask for the opportunity to share with you the careful deliberations I made before casting our district's vote on impeachment.

Like some, I am repulsed by the President's actions which were immoral and sinful. It is impossible to think of what the President has done without stirring up emotions in all of us. However, I also have a responsibility to the oath I have taken to defend and protect the Constitution. As such, I cannot allow myself to simply follow the immediate impulses of my emotions and moral convictions, but must also be cognizant of the Constitutional and historical consequences of this decision on our form of government.

The Constitution is simple and straightforward, yet it still lends itself to interpretation. Accordingly, from time to time it becomes necessary to turn to the writings and records of the Constitutional Convention of 1789. It was at this convention that our basis of government was formulated. George Mason, who proposed Article II, Section 4 (the impeachment clause) of the Constitution, defined ''treason, bribery and other high crimes and misdemeanors'' as ''great and dangerous offenses'' of ''attempts to subvert the Constitution.'' After extensive reading and review on the creation of our Constitution and our country's history, particularly the discussions and writings dealing with the impeachment process. I concluded that the President's actions did not reach the high threshold our forefathers envisioned to remove a President from office, and, in effect, thwart the elective will of our citizens.

It is clear from those writings, that impeachment is not about punishing the President, but about protecting the country from the unlawful and the illegal exercise of executive power against its citizens. The Starr referral contained no allegations of this type.

In fact, Judge Starr exonerated the President of all charges relating to using the FBI to investigative private citizens, or the firing of federal civil service employees in the White House travel office, charges that would fit the mold set forth as impeachable offenses by the framers of our Constitution. In the final analysis, the Starr report did not present conclusive evidence that this President used the power of his office against our nation or its citizens.

I also believe that our founding fathers did not intend for impeachment to be used as a judicial tool. It was not intended to be utilized as a mechanism to prosecute the President for crimes committed. This view was clearly articulated by Alexander Hamilton, when in the Federalist No. 65 he writes, ''The punishment which may be the consequences of conviction upon impeachment, is not to terminate the chastisement of the offender. After having been sentenced to a perpetual ostracism from the esteem and confidence, and honors and emoluments of his country, he will still be liable to prosecution and punishment in the ordinary course of law.''

In other words, the founding fathers did not intend for impeachment, itself, to be the punishment. The debate clearly indicates the framers belief that the prosecution of crimes remain within the Judicial branch, not the Legislative branch. Nowhere did the founding fathers suggest that impeachment, or any other Constitutional process for that matter, be used to prosecute a President. Rather, they held the President should be subject to the scrutiny and prosecution of the criminal justice system, just like any other citizen. That is not to say that they intended for the Constitution to shield the Chief Executive from being punished for any and all crimes which fall short of the ''great and dangerous offenses'' or ''attempts to subvert the Constitution'' standard for impeachment. To the contrary, the historical debate suggests the framers intent was that the Chief Executive be accountable to the criminal justice system for all crimes that do not meet the high threshold for impeachment.

As the statute of limitations will not expire before the President leaves office, it will be possible to prosecute him for perjury or any other alleged offense. It convicted, he would still be subject to imprisonment and/or fines, just like you or me, as he should be.

During the Watergate hearings, the standard for impeachment was defined as ''a Constitutional remedy addressed to serious offenses against the system of government.'' Several Republican Members of the committee in the minority report, argued for an even higher standard of judgment, saying in their report ''the President should be removable by the legislative branch only for serious misconduct dangerous to the system of government established by the Constitution.''

For example, President Nixon was found to have cheated on his federal income taxes. On July 30, 1974, the Committee considered an article of impeachment stating that President Nixon knowingly and fraudulently failed to report certain income and claimed unauthorized deductions in the years 1969, 1970, 1971, and 1972. They concluded that President Nixon lied by signing a false income tax return. After debate by the Judiciary Committee, the Committee decided not to report this Article of Impeachment to the House of Representatives. While this action by President Nixon was a crime, the Judiciary Committee found that it

did not rise to the level of an impeachable offense. It was a matter of personal wrongdoing, and not considered to be a crime committed according to their standard for impeachment, ''against the system of government.''

It is also critically important to realize that moving forward with such a low threshold for impeachment will almost certainly jeopardize the viability of the presidency. We must take great care to ensure that the long-term consequence of this House's action is not one that establishes a precedent that dramatically weakens any President and the Office of the President compared with the other two ''separate but equal'' branches of government. For our system of government to work, raw political power cannot be invested in one branch of our government to the exclusion of the other two. Checks and balances are imperative and the Constitution's framers recognized that clearly. One can forget about President Clinton because he will be leaving office in 24 months regardless of this process. Nevertheless think about the ramifications of this kind of precedent relative to future Presidents. The Supreme Court recently said, wrongfully I believe, that anyone can file a civil lawsuit against any President at any time over a matter which did not occur while he/she was in office and has nothing to do with the presidency. Are we setting a precedent whereupon a future President can be made to give a deposition where his whole life can be combed through, and if there is any misrepresentation in that deposition, then the political opposition can bring that to Congress and ask that he be impeached for perjury? Any political enemy could bring a lawsuit against a future President and require him to go through this process. In my judgment, this could threaten the presidency with judicial tyranny.

The President's independence from Congress and the Judiciary is fundamental to America's unique structure of government. The lower the threshold for impeachment, the weaker and less equal is the President compared with the Judicial and Legislative branches of government.

On the final analysis, I concluded that impeachment was established to guard against a President's use of the authority conferred on him/her to carry out activities against the country or its citizens. After weeks of deliberations, I came to the conclusion that alleged perjury and efforts to conceal a consensual sexual relationship did not reach the threshold needed to impeach a President of the United States. I do not think the President's actions reach the high Constitutional bar set by our forefathers.

Mr. Speaker, I do not condone what Bill Clinton did. I think his actions were despicable. He says he is paying a dear price with his wife and daughter. He deserves to. This President's actions have been committed to history's record and his legacy will forever be cloaked in shame. History and God will be his ultimate judge.

Mr. MALONEY of Connecticut. Mr. Speaker, as one of only 31 Democrats to cross party lines and support the comprehensive impeachment inquiry, I did so because I believed a full and fair review of the serious charges of misconduct against the President was the only way to seek the truth. During this process, I have carefully monitored the Judiciary Committee hearings, thoroughly analyzed the Republican and Democratic Committee recommendations, and personally read the Special Prosecutor's report and the President's rebuttals before reaching my decision. As I did with the inquiry vote, I have approached this matter in a non-partisan, open and fair-minded manner.

It is clear from the inquiry that President Clinton's actions were immortal, harmful to our nation, and deserving of serious moral and legal rebuke. Not only did the President engage in morally inappropriate conduct, he also lied to the American people and perjured himself before a grand jury. He must be held morally accountable by Congress on behalf of the American people, and legally accountable in full for his perjury by the courts after he leaves office, just like any other American would be held accountable for perjury.

Our Constitution, however, authorizes impeachment only for ''treason, bribery, or other high crimes and misdemeanors'' (Article II, Section 4) which is why I urge my colleagues to oppose impeachment and allow us an opportunity to vote on a Resolution of Censure. The great weight of informed legal and scholarly judgment is that the impeachment clause is intended to cover offenses that involve the misuse of Presidential powers. As Supreme Court Justice Joseph Story made clear in the earliest days of American jurisprudence, ''[impeachable offenses] are committed by public men in violation of their *public* trust and duties . . . '' 2 Joseph Story, ''Commentaries on the Constitution,'' Sec. 744 (1st ed. 1833), emphasis supplied. While President Clinton clearly engaged in morally and legally inexcusable behavior, his misconduct was personal in nature and did not constitute a misuse of his Executive authority. His perjury before the grand jury pertained to his personal life, and could well have been committed by any individual; it did not entail the power or privileges of the Presidency. Accordingly, President Clinton's misconduct does not meet the threshold of ''high crimes and misdemeanors'' necessary to impeach him. That doesn't excuse his conduct or imply that he should go unsanctioned; it simply means that the punishment for his offense should meet and be appropriate to his wrongdoings.

The distinction between misconduct related to government duty, which is necessary for impeachment, and non-impeachable misconduct related to personal activity, was once previously before the Congress, when President Nixon knowingly filed a false tax return. The filing of a false tax return is an incident of perjury and, therefore, a very close precedent for the current situation. In 1974, the House Judiciary Committee recognized the difference between ''government'' and ''personal'' wrongdoing and voted not to bring an article of impeachment for President Nixon's perjury precisely because it was a form of personal misconduct. The articles of impeachment that were filed against President Nixon were for actions that went to the misuse of presidential power (i.e. subverting the FBI for political purposes).

Those supporting impeachment make the argument that because the President has a duty to ''take care that the laws are faithfully executed'' (U.S. Constitution, Article II, Section 3) his perjury was, specifically because of that delineated duty, not merely personal but also technically public. That interpretation, however, disregards the inherent connection between the nature of the offense and the terms of the impeachment clause. The impeachment clause explicitly pertains only to ''High'' offenses (i.e. offenses involving the misuse of Presidential power or heinous acts), not those other offenses that are committed—as in this case—in an individual, not governmental, capacity.

During this extremely difficult time, it is our responsibility to remain especially vigilant in upholding our Constitution, and only use impeachment for its intended constitutional purpose—''treason, bribery, and other high crimes and misdemeanors''—not as a substitute for other measures. While President Clinton's actions are clearly deserving of censure, and at the conclusion of his term make him liable for criminal prosecution for perjury, it would be wrong for this House to abuse its power of impeachment and attempt, without proper cause, to overturn the electoral choice of the people.

Mr. SNOWBARGER. Mr. Speaker, you have called the 105th Congress back into session to address the most distressing circumstances this country has faced in decades. We have been called back to vote on the issue of impeachment of the President of the United States. It will be the final legacy of our second session. It has been a session where legislative achievements have been eclipsed by media coverage of the President's personal activities and his cover-up. While we may disapprove of his personal behavior, and I certainly do, I would find it difficult to use this as a basis for impeachment.

However, we are not here today to judge the President on the basis of his personal behavior. We are focused on his cover-up of his shameful behavior by lying, by abusing the judicial system, and by using his office and its resources to prevent our court system and the duly appointed federal prosecutors from discovering the truth.

Let's remember that this series of events began with a federal civil rights action involving allegations of sexual harassment against the President. By its very nature, such an action involves very personal behavior. However, our society has determined that behavior of this nature is so inappropriate that we have provided legal remedies for victims. It was in pursuit of such a remedy that the President was brought before our system of justice to answer to charges. In that process, the President gave an oath. Because our judicial system is a search for the truth, that oath is a vow, a promise that is essential. It is an oath '' . . . to tell the truth, the whole truth and nothing but the truth . . . '' so our courts can do justice, protect the innocent and right wrongs. Our expectations of justice cannot be realized unless we demand truth of those before our courts. We have enforced that requirement of truth throughout this country by prosecuting witnesses who have felt that it was in their best interests to tell courts a ''less than accurate'' version of events. We can get caught up in a debate over whether such behavior is misleading, lying or perjuring, but if we fail to hold the truth sacred, justice cannot follow.

In today's debate and through the weeks and months of investigation by the independent counsel and the able review of his report and the inquiry by our Judiciary Committee, we have been presented credible evidence that the President has violated this oath to tell the truth on numerous occasions. He lied in the civil action I referenced. He lied before a

federal grand jury. He lied to our own Judiciary Committee. The lies which form the basis for these impeachment articles were all preceded by these very sacred words, ''I swear to tell the truth, the whole truth and nothing but the truth so help me God.'' Justice has been impeded.

Every citizen of this country who comes before our court system takes similar oath and suffers consequences if he is found to have violated that oath. However, there is another oath involved in this case that not every citizen takes. Although it is not an oath unique to the President, he is and should be bound by it maybe more than anyone else. It is his oath to uphold and defend the Constitution of the United States. Most school children know that the President is the chief law enforcement officer of the country. (Of course, this President seems willing to debate and parse even this well-accepted concept.) Our Constitution provides the framework for our society to pursue our valued goals of personal liberty and justice. As shown through the process of this impeachment inquiry, in his personal involvement with the legal system of this country, the President has shown a preference for abusing that system rather than protecting or defending it. In so doing, he has violated this second oath.

Interestingly, I have been admonished by two constituents to follow the lead of one of my fellow Kansans from history. Senator Edmund G. Ross from Kansas was one of the few Republicans who voted against convicting President Andrew Johnson of the charges made against him in his impeachment. Ross was immortalized by his inclusion in John F. Kennedy's book, ''Profiles in Courage.''

To one constituent the lesson from this incident is that a vote for impeachment was the wrong choice, an inappropriate course to pursue in light of the current circumstances. He felt I should reject partisan pressures and vote against impeachment. To the other constituent the lesson was equally clear but the result was the opposite. He felt I should reject the pressures of public opinion and vote for impeachment.

The contrast led me to again read the story of Senator Ross. It helped to remind me of the significance of this process and the decision that will result. It was ironic that I was reading the story of the thinking and actions of a fellow Kansan who was involved in the process of impeachment of the President of the United States. Now I am dealing with similar issues for only the second time in our nation's history where the process has gone this far. The lessons of this story were embodied in the words of a telegram sent by Ross to a group of constituents and supporters that demanded he vote for impeachment.

That telegram read in part,

> I have taken an oath to do impartial justice according to the Constitution and laws, and trust that I shall have the courage to vote according to the dictates of my judgment and for the highest good of the country.

Mr. Speaker, I have attempted to put aside the pressures that have been placed on us by outside influences, whether by popular opinion or by supporters of one outcome or the other. I have tried to weigh my decision ''according to the dictates of my judgment and for the highest good of the country.''

After consideration of the evidence presented and of the applicable laws, and after measuring the resulting decision against and standard set by my Kansas predecessor, and in full adherence and submission to my own oath of office, I vote in favor of impeachment and ask that our colleagues in the Senate bring this matter to trial pursuant to the Constitution. This mandate should be executed in a timely manner so that faith and trust in the integrity of the office of the Presidency can be restored to prevent further damage to the political institutions of our great nation.

Mr. SPRATT. Mr. Speaker, last night, after making a statement on the floor, I filed for extension of my remarks a longer statement, which I prepared as I reviewed the committee report on H. Res. 611. I have rewritten the last page of my longer statement, and file it as an amendment to my extended remarks:

The majority argues that articles of impeachment are required by the rule of law. The rule of law starts at the source, with the Constitution and specifically Article II, Section IV. How the Congress removes a President elected by the people is vitally important to the rule of law in a democracy. The Frames of our Constitution did not choose a prime minister beholder to a parliament, but a president independent of Congress, so that each could counter the other and maintain a balance of power. Having made that fundamental decision, they did not intend for the impeachment power to be used as a vote of no confidence, so that the president serves, in effect, at the will of Congress. They knew that in extreme cases the power to impeach might be needed, so that Congress could rid the country of a president who took bribes or became a traitor or tyrant. For 210 years, Congress has regarded the impeachment power in that light, as extraordinary, and abused it only once, in the case of Andrew Johnson.

In this case, the decision is not easy. President Clinton has disgraced himself; his conduct has been sordid; but his conduct does not amount, in my opinion, to a ''high crime'' like bribery or treason. Not for his sake, but for the sake of the presidency, we should not ''define down'' the grounds of impeachment. We have an alternative. We can rebuke this president and leave a stain on his legacy forever, without leaving a precedent for impeachment we may live to regret. I think censure is the choice we should make.

Mr. MORAN of Kansas. Mr. Speaker, yesterday, Congress was called into session to consider whether President Clinton should be impeached as provided by the United States Constitution. Never would I have thought I would be called upon to determine whether another elected official should be allowed to remain in office, especially the President of the United States. I have tried to use my position to make policy decisions beneficial to the people of Kansas and to make certain that each individual Kansan receives a fair shake in his or her dealings with the federal government. Judging others' conduct is not a task I seek, but one required of me by the U.S. Constitution. I am humbled by the responsibility and hope I am equal to the task.

I refrained, despite the constant demand from some, from reaching a conclusion on the merits of the case against President Clinton until I had as much factual information as possible and until I had an understanding of the meaning of the words of the U.S. Constitution, ''. . . or other high Crimes and Misdemeanors.'' I especially wanted to examine the Judiciary Committee Report concerning the impeachment of the President. I have now had the opportunity to personally review the work product of the Committee and to question the Committee members.

No task in my life has created a greater burden. I have no compulsion to turn this president out of office. Whether President Bill Clinton has the requisite qualities or abilities to be president or whether his administration's policies are right for the country was decided by the American people in November, 1996 and is not now the issue before Congress. At issue are the facts and whether such facts demonstrate that the President of the United States committed impeachable offenses. I want this president to succeed for the benefit of all Americans. I do not represent Republican Kansans or Democrat Kansans; I have been granted a privilege to represent all Kansans.

I regret the highly partisan manner in which the impeachment of the President has been presented to the American people. I have said, from the beginning of these proceedings, that the process matters; at the end of the day, whatever the outcome, the American people must know that the end result was reached for the right reasons. In my opinion, the Independent Counsel, Congressional leadership and the White House have all contributed to the failure to meet this standard. Many citizens unfortunately will wonder and even be convinced that this is a Republican effort to oust a Democrat president. This belief increases the cynicism already prevalent in our political process.

Having now read the Judiciary Committee report, discussed its provisions with Committee members, consulted the Constitution, inquired of many Kansans, both Republican and Democrat, whose judgment I value, and reviewed my basic beliefs of right and wrong, I am compelled to vote for articles of impeachment.

Having to make a choice, I choose to be on the side that says no person is above the law, that this is a nation of laws not men, that telling the truth matters, and that we should expect our public officials to conduct themselves in compliance with the highest ethical standards.

It is clear that President Clinton on numerous occasions lied to a federal grand jury, lied in a civil proceeding affecting the civil rights of an American citizen, and orchestrated an attempt to obstruct justice. The requirement that a party to a civil or criminal proceeding tell the truth, no matter how humiliating or harmful such statements might be, is a cornerstone of our system of justice. No one wants to tell the truth when the truth hurts. But we all know we have no choice, and if we lie, we know we suffer the consequence. We learn this as children, and President Clinton, a lawyer, knows this as an officer of the Court.

The untruthful actions of the President are not mere technical violations of federal law; rather, the President's lies, obfuscation and overt acts to obstruct justice are serious and felonious, and they tear at the essential foundation of our judicial system. His actions were part of a pattern of conduct over many months and not a mere moment of poor judgment. There are those who argue that the subject matter of the President's lies is such that one could not reasonably be expected to tell the truth. But if you cannot believe someone who

has raised his hand and has sworn to tell the truth, the whole truth and nothing but the truth, when could you ever rely on that person to be truthful? If we each are allowed to determine on which topics we must tell the truth there will be no due process, no equal protection and no justice.

Many Americans do not want the President to be impeached because they do not want any disruption in their lives. Most of us did not want to know the details of the President's personal activities. Other worry that this process of impeachment will interfere with the economic prosperity which some in this country are enjoying. We just want it to go away. I regret that the Independent Counsel chose this path of inquiry. But now that the facts are known, none of us have the luxury of closing our eyes. President Clinton describes this as a private matter. It is not. What the President does affects each of us, especially parents. As much as we would otherwise prefer, we have an obligation to deal with this issue, and our obligation requires some sacrifice. There are some ideals more important than our comfort or our economic well being. We have responsibilities to the next generation. The Preamble to the Constitution reminds us of our responsibility to ''. . . secure the Blessings of Liberty to ourselves and our Posterity.'' We owe the next generation our unwavering support for certain essential ideals on which our nation was founded.

Impeaching the President is not popular across the country nor is it supported by all the people I represent. I have received thousands of letters, faxes, e-mails and telephone calls from my constituents, expressing strong and unequivocal positions on both sides of the issue. But this cannot be about polls, partisan politics, which party controls Congress, or even who is the next president, and unfortunately there is no middle ground.

Years from now, when my school age children look back on their father's time in Congress, I want them to see their dad as a guy who struggled to make certain he was doing the right thing for the right reason, not one who was persuaded by the political passions of the moment, influenced by party politics, or unable to make a tough decision because of contrary polling data. I want my children to know that their dad chose the side of holding elected officials to high ethical standards, as an advocate for truth and a supporter of the rule of law.

Contrary to the impression which one would receive from the television cable shows, the impeachment of the President is not all-consuming. My work in Congress on behalf of the people of the First District has and will go on unabated. We face significant problems on our farms and ranches, the Kansas oil and gas industry is on the verge of extinction, and, if we are not careful, adequate health care, particularly in rural communities, will be a thing of the past. These issues continue to receive my complete attention. It is time for Congress to address our military needs, strengthen social security and insist on a truly balanced budget. The impeachment process must be completed as quickly as possible. Although we cannot close our eyes, we can insist that these proceedings be conducted in a respectable manner and without undue delay.

Thank you for the opportunity to provide my thoughts. It is a privilege to represent the people of the First District in the United States Congress.

Mr. HOSTETTLER. Mr. Speaker, throughout the debate on the resolution before this House, there has been much discussion of the opinions of ''experts'' on Constitutional law. This discussion reminds me of the testimony of Lino A. Graglia, the A. Dalton Cross Professor of Law at University of Texas School of Law in testimony before the Subcommittee on Courts and Intellectual Property of the Committee on the Judiciary, United States House of Representatives on May 15, 1997 when he states, ''The first and most important thing to know about constitutional law is that it has virtually nothing to do with the Constitution.'' I have not had the title bestowed upon me as an ''expert'' on Constitutional law so therefore I had to read the Constitution and determine its meaning. And how would I do that? I believe Thomas Jefferson gave the most persuasive advice on the topic of Constitutional meaning when he wrote in a letter to Justice William Johnson on June 12, 1823, ''On every question of construction let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed our of the text, or invented against it, conform to the probable one in which it was passed.'' In order to determine its meaning and be faithful to the wisdom of the Chief Architect of the Declaration of Independence, the third President of the United States of America and the founder of the Democratic Party, Mr. Jefferson, it was necessary to understand the meaning of the words as they were written by the Framers because, as was stated by Charles Louis Joseph de Secondat, Baron de Montesquieu, France: Author of ''Spirit of the Laws,'' ''Society, notwithstanding all its revolutions, must repose on principles that do not change.''

That being said, there has likewise been much discussion about whether the information that has been acquired by the House of Representatives is sufficient to accuse the President of an offense or offenses which proceed from what Alexander Hamilton referred to in Federalist #65 as ''the misconduct of public men.'' The virtually infinite spectrum of potential wrongdoings that may—to use the modern day vernacular—''rise to the level of an impeachable offense,'' is defined in Article II, Section 4 of the Constitution to be those offenses situated inclusively between the levels of ''. . . high Crimes and Misdemeanors.'' While I have heard several opinions that what the President did does not rise to the level of a crime, does what William Jefferson Clinton did while in office constitute misconduct of a ''public'' man? It would obviously be necessary to know what the term ''Misdemeanor'' means as was intended by the Framers. Noah Webster, one of the first Founding Fathers to call for a Constitutional Convention, wrote and published the first American dictionary in 1828 where he defined ''misdemeanor'' as, ''ill behavior, evil conduct, fault, mismanagement.'' He also included the definition given by the individual most influential on the process of jurisprudence in the colonies at the time of ratification of the Constitution, William Blackstone: ''In law, . . . the word crime is made to denote offenses of a deeper and more atrocious dye, while small faults and omissions of less consequence are comprised under the gentler name of misdemeanors.''

And so today we, as members of the United States House of Representatives, are asked to determine whether there is sufficient information to accuse the President of some wrongdoing less than or equal to a ''high crime'' and greater than or equal to a ''small fault [or] omission.'' I believe there are two reasons why there is much more consensus on this issue than has been perceived by either ourselves in the House of Representatives or the people of the United States. Initially, any individual who would support a resolution of censure accusing President William Jefferson Clinton of:

1. egregiously fail[ing] in [his] obligation [to] set an example of high moral standards and conduct[ing] himself in a manner that fosters respect for the truth,

2. through his actions violat[ing] the trust of the American people.

3. lessen[ing] [the American people's] esteem for the office of President,

4. dishonor[ing] the office which [the American people] have entrusted to him,

5. [making] false statements concerning his reprehensible conduct with a subordinate and,

6. wrongly [taking] steps to delay discovery of the truth would have to admit that the President may be at least accused of a ''small fault'' and therefore impeached. Secondly, I have heard the consternation of the Minority that they will not be able to ''vote [their] conscience'' because they will not be able to censure the President. Also, I have heard my colleagues in the Majority state that it is not Constitutional to censure the President. This is where the consensus of the members of this House is, if not known, nonetheless present. The consensus being that both the Minority and the Majority are wrong. Once again we need only to look to the enlightment of the original definition of the term ''impeach'' as it was most probably known at the time of the ratification of the United States Constitution and observed in Webster's first dictionary of 1828. That definition of ''impeach'' was given to us to be ''Censure, accusation, a calling in question the purity of motives or the rectitude of conduct. . .'' Therefore, by definition quit literally, to impeach is to censure. It follows that those compelled by their conscience to vote for censure may salve that conscience with a vote for impeachment of President William Jefferson Clinton.

In conclusion, I will vote for all four articles of impeachment outlined in H. Res. 611 of the 105th Congress because my conscience compells me to consider the facts as they have been presented and render the judgement obligated to me by my oath to ''. . . support and defend the Constitution of the United States. . .''

Mr. SMITH of Texas. Mr. Speaker, our Constitution tells us: ''The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.''

To impeach, which lies within the power of the House, means to accuse or charge with a crime. Only the Senate can actually convict and remove from office.

As a distinguished Democratic member of the Judiciary Committee said during the Nixon impeachment proceeding, ''It is wrong, I suggest, it is a misreading of the Constitution for any member here to assert that for a member to vote for an article of impeachment means that that member must be convinced that the President should be removed from office. The

Constitution doesn't say that. The powers relating to impeachment are an essential check in the hands of this body, the legislature, against and upon the encroachment of the executive. In establishing the division between the two branches of the legislature, the House and the Senate, assigning to the one the right to accuse and to the other the right to judge, the Framers of this Constitution were very astute. They did not make the accusers and the judges the same person.'' (Opening statement of the House Judiciary Committee, proceedings On the Impeachment of Richard Nixon, by Barbara Jordan)

After consideration of all the evidence presented, I am convinced it is sufficient for the House to charge the President with several wrongful actions. I feel the evidence shows that the President committed perjury by lying under oath, obstructed justice, and abused the power of his office.

Both historical precedent and current practice support the conclusion that perjury is a ''high crimes and misdemeanor.'' The Constitution applies that same phrase both to the President and to ''all civil officers of the United States.'' Several Federal judges have been impeached and removed from office for perjury. That is why the President can be, too.

Also, bribery and perjury are equivalent means of interfering with the justice system. The Federal Sentencing Guidelines include bribery and perjury in the same Guideline.

Some of the President's defenders would like to change the subject and talk about anybody else but the President and about anything else except the allegations of lying under oath, obstruction of justice, and abuse of office. Such efforts are an affront to all who value truth over tactics, substance over spin, principles over politics.

House Members will be consistent if they follow the precedent established in 1974 by the Judiciary Committee. Individuals from both parties agreed with a Democratic Congresswoman from Texas when she said, ''The President engaged in a series of public statements and actions designed to thwart the lawful investigation by government prosecutors. Moreover, the President has made public announcements and assertions * * * which the evidence will show he knew to be false. These assertions, false assertions,'' she said, are ''impeachable.'' (Ibid.)

By any commonsense measure, the President did not ''tell the truth, the whole truth, and nothing but the truth,'' as his oath required, when he testified before a judge and then before a grand jury, as many Democrats now admit.

We should not underestimate the gravity of the case against the President. When he put his hand on the Bible and recited his oath of office, he swore to faithfully uphold the laws of the United States. Not some laws; all laws.

Many people have gone to jail for doing what the President did—lying or knowingly making false statements after swearing in court not to do so. However, others have not been punished for failing to tell the truth.

So, if the President were just an ordinary person living in the United States, it is not certain that he would be found to have committed a crime.

What, then, makes this a case that rises to the impeachment level?

I think there are two factors: the repeated and deliberate nature of the lies, and the uniqueness of the Office of the Presidency.

It was determined by the independent counsel that, ''On at least six different occasions—from December 17, 1997, through August 17, 1998—the President had to make a decision. He could choose truth, or he could choose deception. On all six occasions, the President chose deception—a pattern of calculated behavior over a span of months.'' (Statement of Independent Counsel Kenneth W. Starr before the Committee on the Judiciary, U.S. House of Representatives, November 19, 1998)

During this time, not only did the President tell a judge and then a grand jury less than the truth, he also told lies to the American people, the news media, Members of Congress, his Cabinet, and senior White House advisors.

One of his own former advisors commented, ''President Clinton turned his personal flaws into a public matter when he made the whole country complicit in his cover story. This was no impulsive act of passion; it was a coldly calculated political decision. He spoke publicly from the Roosevelt Room. He assembled his Cabinet and staff, and assured them that he was telling the truth. Then he sat back, silently, and watched his official spokespeople, employees of the U.S. government, mislead the country again and again and again.'' (Column by George Stephanopoulos, Newsweek, August 31, 1998)

The President himself, when he was a law professor in Arkansas, defined an impeachable offense this way: ''I think that the definition should include any criminal acts plus a willful failure of the president to fulfill his duty to uphold and execute the laws of the United States. Another factor that I think constitutes an impeachable offense would be willful, reckless behavior in office * * *''

The President consciously and persistently made an effort to deceive, give misleading answers, and tell lies. He made statements and engaged in actions designed to impede the investigation of the Independent Counsel. We all know the President still might be deceiving us today were it not for physical evidence that forced him to change his story.

As to the uniqueness of the office the president holds, he is a person in a position of immense authority and influence. He influences the lives of millions of Americans. He sets an example for us all.

A sixth grader from Chisolm Middle School in Round Rock, Texas, recently wrote me. She said bluntly, ''He has lied to the American people! And although I realize what he lied about has nothing to do with him running the country, then what else would he lie about? He let us down! Kids that think he is a role model now are heart broken! (Letter from Kara Kothmann, November 17, 1998)

The President sets an example for adults, too. When he took the oath of office he swore to ''preserve, protect and defend the Constitution of the United States'' and to ''take care that the laws be faithfully executed.'' The president has rightly been called ''the number-one law enforcement officer of the country.'' (Leon Jaworski in ''The Right and the Power.'') As such, he has a special responsibility to ''take care'' that he not commit any crime, particularly such a serious one as perjury, a felony for which a person can go to jail for up to five years.

When someone is elected president, they receive the greatest gift possible from the American people—their trust. To violate that trust is to raise questions about fitness for office. My constituents often remind me that if anyone else in a position of authoirty—for example a business executive a military officer, or a professional educator—had acted as the evidence indicates the President did, their career would be over.

The rules under which President Nixon would have been tried for impeachment, had he not resigned, contained this statement: ''The office of the President is such that it calls for a higher level of conduct than the average citizen in the United States.'' (Drafted in 1974 with the help of Hillary Rodham, a staff attorney of the Judiciary Committee)

The President has a higher responsibility for another reason. The Arkansas Rules of Conduct for attorneys states that ''lawyers holding public office assume legal responsibilities going beyond those of other citizens,'' because they know how important the rule of law is to a stable and civilized society. And the President doesn't hold just any public office, he holds the most powerful one in the world.

It is for these two reasons—the President's premeditated and repeated efforts while under oath to tell less than the truth, and the special responsibility that comes with holding the highest office in our country—that I feel the President's actions have reached the level of impeachable offenses.

I have been surprised by the assertion of the President's defenders that we should not impeach him for his actions because it would set a precedent.

If our actions send a message that future Presidents should not lie under oath, should tell the truth, the whole truth and nothing but the truth—as President Clinton swore to do when giving testimony before both a judge and then a grand jury; that future Presidents should uphold the law—as President Clinton swore to do when he took the oath of office as President; that future Presidents should not obstruct justice—as President Clinton did for seven months as he admittedly deceived the American people and those associated with the investigation* * * if these are the precedents Congress sets, if these are the standards future Presidents then live by, we need not fear our actions.

This will not be an easy task; in fact, it is a difficult ordeal for all Americans. But we will get through it: we are a great nation and a strong people. our country will endure because our Constitution works and has worked for over 200 years.

As much as one might wish to avoid this process, we must resist the temptation to close our eyes and pass by. The President's actions must be evaluated for one simple reason—the truth counts.

As this process goes forward, some good lessons can be reaffirmed. No one is above the law. Actions have consequences. Always tell the truth.

We the people should insist on these high ideals. That the President has fallen short of the standard doesn't mean we should lower it. If we keep excusing away the President's actions, we as a nation will never climb upwards because there will be no firm rungs.

Let me quote another insightful letter from a student in that same sixth grade class:

''As everyone knows,'' it begins, ''President Clinton is going through hearings about lying under oath and tampering with the evidence. Perjury especially in front of the Grand Jury is

unacceptable. These many months of investigation could have been avoided if President Clinton would have told the truth in the beginning.''

She concludes her letter with words I will use to conclude my remarks, ''I know you are being bombarded with letters each with different opinions, but this is a big issue. Now it is up to you and your fellow congressmen to decide to the best of your ability what should happen next. Please take into consideration what I have stated and make a decision that would be the best for America's future.'' (Letter from Brandi Bockhorn, November 19, 1998)

That, my colleagues, to me, says it all.

Mr. RIGGS. Mr. Speaker, this is a profoundly sad and disturbing time for me. I had hoped to conclude my Congressional service on a high note after the Congress passed, and the President signed, my bills improving literacy, expanding vocatinoal and technical education, and increasing the number of federally-funded charter schools in the final days of the 105th Congress, before the November elections. Unfortunately, it is not to be.

Before I focus on the question of impeachment and the fate or Bill Clinton, led me address the situation in Iran. As an Army veteran, I strongly support our troops in the field. That probably goes without saying. But while i—like my colleagues—support our men and women in uniform in the Persian Gulf, I must question the timing of the mission (''Operation Desert Fox'') and our foreign policy towards Iraq in generel.

It has been eight years since the United States went to war against Saddam Hussein and the Iraq military. It is about time we finish the job.

In my first official vote as a newly-elected Member of Congress in 1991, I voted against the use of military force against Iraq. I was convinced we were not committed to removing Saddam Hussein from power. We left in power a man who, for corrupt, venal reasons, would rather hold on to his personal power and military might than help his own people.

As columnist Richard Cohen recently pointed out in the Washington Post: ''As long as Saddam rules, the U.S.-Iran conflict will continue. Either his military has to be hurt so badly it will turn on him, or dissent elements—and they exist—will sense weakness and rise in revolt. Force has to be applied in such a way—sustained and punishing—that this eight-year conflict is brought to a conclusion.''

I recognize that many of my fellow Americans also support our troops but question the timing of this mission. One could argue that a President facing the imminent prospect of impeachment should not use military force unless the national security interests of the United States are directly and immediately threatened.

That so many Americans question the timing and necessity of this mission indicates the widespread, and in my opinion, corrosive cynicism in America that is yet another sign of the weakened state of this presidency. President Clinton has lost credibility and standing with the American people. We are witnessing the steady erosion of the moral authority of the presidency under his tenure.

A majority of Americans now believe that President Clinton lied to us and damaged the basic trust between the American people and their president. Just as seriously, if the American people do not believe the president, why should our allies or our enemies? I believe that the president can no longer effectively perform the duties and responsibilities for which he was elected. For the good of the country he should resign, as I have said for months.

Furthermore, true contrition and the shame that accompanies it should compel President Clinton to resign. He has disgraced his family and his office. He alone can forestall the national ordeal and the ugly spectacle of an impeachment trial in the United States Senate, and salvage some dignity for himself and the presidency, by resigning now. Yet Clinton refuses to resign, even though his conduct is contemptible and renders him unfit to be president of our nation.

In a 1910 address in New York, Theodore Roosevelt said of the presidency: ''Any man who has ever been honored by being made President of the United States is thereby forever after rendered the debtor of the American people, and is honor-bound throughout his life to remember this as a prime obligation; and in private life, as much as in public life, so to carry himself that the American people may never have course to feel regret that once they placed him at the head.''

Some partisans and pundits are suggesting that we should short-circuit the impeachment process or simply shunt the whole matter aside based on poll ratings. But we in Congress have an obligation to do exactly the opposite. That was our duty before the election and it continues to be so now. Our oath of office requires no less. Our sworn constitutional obligations may be onerous, but we cannot abdicate our responsibilities because what is popular is not always right, and what is right is not always popular.

My responsibility is to inform and mold public opinion but even if unsuccessful, to vote my conscience and convictions. In my service in the U.S. House, I have tried to follow the dictum of Sir Edmund Burke, who told his constituents: ''Your representative owes you his judgment as well as his industry. He betrays your best interests if he sacrifices his judgment to your opinion.''

A few thoughts on the impeachment process itself: The House is charged by the constitution with determining whether the president should be impeached. Judge Starr's referral under the Independent Counsel statutes is his conclusion that evidence exists that President Clinton has committed ''high crimes and misdemeanors.'' But it is only his opinion; the House is certainly not bound by it, nor is Congress required to accept his evidence.

In fact, it is the House's constitutional obligation to investigate de novo, that is, make an independent assessment: What are the facts and what are the legal implications of those facts? That is what an impeachment inquiry does.

If the Judiciary Committee, then the full House, find the facts show high crimes and misdemeanors by the president, Articles of Impeachment are adopted. That is still not a finding of guilt, but more akin to an indictment. The House proceeding is thus like a special Grand Jury devoted to the president's conduct. The actual finding of guilt would have to be made by a two-thirds vote by the Senate, after a trial presided over by the Chief Justice of the Supreme Court.

(Maintaining the analogy to a grand jury, it also follows that the president does not have the same automatic rights of cross-examination or presentation of his case at this stage as he would at a trial. The fact that, nonetheless, he was given those rights is further evidence that Congress has undertaken a fair inquiry.)

I have tried to approach this historic vote of great import in a serious, solemn and objective way. I have endeavored to be as honest, fair, thorough, and deliberate as humanly possible. I have consulted with the Republican members of the House Judiciary Committee and sought the advice of national leaders like former Presidents Gerald Ford and Jimmy Carter, former Vice President Dan Quayle, and Bob Dole, who, because of their unique experiences, had valuable insights and perspective to offer. In preparation for this vote, I also asked myself a series of questions.

(1) Would one of my constituents be held accountable for lying before a federal grand jury or a federal judicial officer?

(2) Does lying before a federal grand jury or a federal judicial officer undermine the rule of law?

(3) Is it possible that the president of the United States lied before a federal grand jury or a federal judge, thereby violating his oath of office which requires him to uphold and abide by the rule of law?

In reaching my decision, I have read the referral report to Congress from the Office of Independent Counsel, closely followed the Judiciary Committee's deliberations, and, most recently, studied the Judiciary Committee's Report on the Articles of Impeachment in detail. I have given great weight to the Committee's report, which contains a full discussion of the facts and the Committee's rationale and justification for approving the articles. I have satisfied myself that I would be voting the same way if the alleged misconduct involved a Republican president and/or if I had stood for re-election to Congress.

After a thorough review of the record, careful deliberation, much soul-searching, and due consideration of the consequences for our nation, I have reached the conclusion that President Clinton lied under oath and encouraged others to lie under oath in a federal court proceeding. He has thereby violated his fundamental constitutional obligation to take care that the laws be faithfully executed. He has flouted the rule of law by lying before a federal grand jury and a federal judge. His false and misleading testimony before the grand jury is especially egregious since he knew going in that he had to ''come clean''—but instead he continued to obfuscate the truth. That is grounds for the President's resignation. It is also grounds for impeachment under the first three articles reported out by the Judiciary Committee.

I believe that the laws should be applied equally to all, regardless of their financial or political stature. The foundation of our criminal justice system is that no man is above the law. Impeachment is essential to preserving the rule of law, because under our constitution a sitting president cannot be indicted for crimes. The only way to make him subject to the law and preserve the rule of law, is through the process of impeachment.

If the President, arguably the most powerful man on earth, can distort the truth, break the law, and avoid accountability, what are the consequences for ordinary Americans?

Do we want to establish the precedent that presidents may with impunity hold the law in

contempt? How can we expect anyone who is subpoenaed to court to have to tell the truth when the head of our government (and it's legal system) has not? In my opinion, to overlook such conduct would invite further social abdication of morality and accountability and breed contempt for the law.

As former U.S. Senator John Danforth said recently: ''What's important here is what Congress says in the end about what has generally been an accepted and basic standard in this country: that lying under oath is not permitted. If that standard is in any way watered down, then the country and all it stands for will be sorely harmed and the future will be in grave doubt.''

I believe that the President has lied under oath and that he continues to flout the rule of law by refusing to admit publicly that he lied under oath, and therefore should be impeached and removed from office. Truth is on trial.

Eight years ago, I stood in the well of the House and voted my conscience on the Persian Gulf resolutions. One year later seven of us—all Republican freshmen—forced the House to confront corruption in the House Bank and Post Office scandals.

Today, too, is a vote of conscience. It is a vote about our country—its proud heritage and promising future—not about the politics or polls of the moment. As the father of our country George Washington said: ''Let prejudices and local interests yield to reason. Let us look to our national character and to things beyond the present period.''

We are duty bound today by our solemn oath of office to defend our country and the common commitment to its political principles—the constitution, the rule of law, the right to life, liberty and the pursuit of happiness—that unites all Americans. We must not, we cannot fail, for the sake of the future generations of Americans. For the sacred purpose of preserving the honor of the Office of President of the United States and the integrity of our Constitution, I will vote to impeach William Jefferson Clinton.

Mr. BLUNT. Mr. Speaker, today the House of Representatives meets to vote on the impeachment of the president. In the 210-year life of our Constitution and of the House, the Congress has met to vote on this critical question only one other time. This is our most serious constitutional duty.

This duty is required by the unique system of checks and balances that has made our system so strong. This concept, born in Philadelphia in 1787, has served us well. It has served us well because the representatives of one branch of government cannot subvert the others. No president can be allowed to subvert the judiciary or thwart the investigative responsibility of the legislature.

There is clear evidence that President Clinton committed perjury on two or more occasions, and urged others to obstruct justice. These are serious felonious acts that strike at the heart of our judicial system. Oaths taken in the American system of government are serious commitments to truth and the rule of law. Violating these oaths or causing others to impede the investigation into such acts are serious matters that meet the standard for impeachment.

The House Judiciary Committee, after a month of hearings, returned four Articles of Impeachment all dealing with President Clinton's statements made in a civil trial deposition, to a federal grand jury his actions with others who were likely to testify and in his response to the committee's inquiries. This is not about the President's personal conduct, it is about the President's conduct under oath. It is about his subversion of the judicial system and his unwillingness to cooperate with the legislative investigation of that failure; it is about the rule of law.

The President's actions and statements have brought the country to this difficult decision. The vote today holds great consequence for the President and the constitutional process. This is about determining the facts, seeking the truth, and giving the President the forum to rebut the charges against him. The duty of the House of Representatives is to determine if sufficient evidence exists to proceed with a trial in the Senate. The House Judiciary Committee has met that burden. After reviewing the material gathered by the Judiciary Committee and the corroborated nature of hard evidence, it is my conclusion that the allegations against the President warrant a formal trial in the Senate.

Many of my colleagues advocate some other punishment for the President. They say for the first time in the history of the United States the Congress should censure the President. Censure would set a dangerous precedent for this President and successors. The Constitution prescribes one option for the Congress which is to determine whether the President's action are impeachable or not. Today, you could censure the President for bad conduct, five years from now another Congress could decide to censure a president for a bad policy and a few years later the Congress could censure a president for good policies that did not work out and suddenly, we don't have a presidential system, but a parliamentary system. One of the great strengths of our system of government is the lack of a requirement that a president be popular between elections. The Congress has only one standard, the actions of the President are either impeachable or they are not impeachable. The decision to censure would head our government in the wrong direction.

It is my desire that this embarrassment on the presidency and our country end quickly, but the Constitution cannot be rewritten by public opinion polls or by political expediency. When I took the oath of office to serve in Congress, I did not swear to uphold the Constitution only if it was popular. Today the Constitution gives the House of Representatives the responsibility to determine if the President's conduct is impeachable or not. There are no other options. Tomorrow this House should get on with the business of the new Congress. Our next job is to work to defend the country, balance the budget, find tax relief for working families, keep our commitments to Social Security, Medicare, Veterans and Military retirees and the next generation.

Mr. PAUL. Mr. Speaker, I rise in support of all four articles of impeachment against the President. There is neither pleasure nor vindictiveness in this vote and I have found no one else taking this vote lightly. It seems though many of our colleagues are not pleased with the investigative process; some believing it to have been overly aggressive and petty, while others are convinced it has been unnecessarily limited and misdirected. It certainly raises the question of whether or not the special prosecutor rather than the Congress itself should be doing this delicate work of oversight. Strict adherence to the Constitution would reject the notion that Congress undermine the separations of power by delivering this oversight responsibility to the administration. The long delays and sharp criticisms of the special prosecutor could have been prevented if the Congress had not been dependent on the actions of an Attorney General's appointee.

The charges against the President are serious and straight forward: lying, perjury, obstruction of justice, and abuse of power. The main argument made in his defense is that these charges surround the sexual escapades of the President and therefore should not be considered as serious as they otherwise would be.

But there are many people in this country and some members of Congress who sincerely believe we have over concentrated on the Lewinsky event while ignoring many other charges that have been pushed aside and not fully scrutinized by the House. It must not be forgotten that a resolution to inquire into the possible impeachment of the President was introduced two months before the nation became aware of Monica Lewinsky.

For nearly six years there has been a steady and growing concern about the legal actions of the President. These charges seem almost endless: possible bribery related to Webb Hubble, foreign government influence in the 1996 presidential election, military technology given to China, FBI files, travel office irregularities, and many others. Many Americans are not satisfied that Congress has fully investigated the events surrounding the deaths of Ron Brown and Vince Foster.

The media and the administration has concentrated on the sexual nature of the investigation and this has done a lot to distract from everything else. The process has helped to make the President appear to be a victim of government prosecutorial overkill while ignoring the odious significance of the 1,000 FBI files placed for political reasons in the White House. If corruption becomes pervasive in any administration, yet no actual fingerprints of the president are found on indicting documents, there must come a time when the ''CEO'' becomes responsible for the actions of his subordinates. That is certainly true in business, the military, and in each congressional office.

There is a major irony in this impeachment proceeding. A lot has been said the last two months by members of the Judiciary Committee on both side of the aisle regarding the Constitution and how it must be upheld. But if we are witnessing all of a sudden the serious move toward obeying constitutional restraints, I will anxiously look forward to the next session when 80 percent of our routine legislation will be voted down.

But the real irony is that the charges coming out of the Paula Jones sexual harassment suit stem from an unconstitutional federal law that purports to promote good behavior in the work place. It's based entirely on ignoring the obligations of the states to deal with physical abuse and intimidation. This whole mess resulted from a legal system institutionalized by the very same people who are not the President's staunchest defenders. Without the federal sexual harassment code of conduct—which the President repeatedly flaunted—there would have been no case against the President since the many other serious charges

have been brushed aside. I do not believe this hypocrisy will go unnoticed in the years to come. Hopefully it will lead to the day when the Congress reconsiders such legislation in light of the strict limitations placed on it by the Constitution and to which many members of Congress are now publicly declaring their loyalty.

Much has been said about the support the President continues to receive from the American people in spite of his acknowledged misconduct. It does seem that the polls and the recent election indicate the public is not inclined to remove the President from office nor reward the Republicans for their efforts to investigate the Lewinsky affair. It is quite possible as many have suggested that the current status of the economy has a lot to do with this tolerance.

The public's acceptance of the President's behavior may reflect the moral standards of our age, but I'm betting there's a lot more to it. It is true that some conservative voters, demanding the Republicans in Congress hold the President to a greater accountability, ''voted'' by staying home. They did not want to encourage the Republicans who were seen as being soft on Clinton for his personal behavior and for capitulating on the big government agenda of more spending, and more taxes. But hopefully there is a much more profound reason for the seemingly inconsistent position of a public who condemns the President while not having the stomach for punishing him through impeachment.

If my suspicion is correct we can claim a major victory. Polling across Texas, as well as nationally, confirms that more than 80 percent of the people are fearful of the Federal Government's intrusion into our personal privacy. That's a healthy sign and indicates that the privacy issue could be the issue that will eventually draw attention to the evils of big government.

The political contest, as it has always been throughout history, remains between the desire for security and the love for liberty. When economic security is provided by the government, privacy and liberty must be sacrificed. The longer a welfare state lasts the greater the conflict between government intrusiveness and our privacy. Government efficiency and need for its financing through a ruthless tax system prompts the perpetual barrage of government agents checking on everything we do.

Fortunately, the resentment toward government for its meddling in all aspects of our lives is strong and becoming more galvanized, and that should give us hope that all is not lost.

But this resentment must be channeled in the right direction. Belief that privacy and liberty can be protected while the welfare state is perpetuated through ever higher taxes is an unrealizable dream.

The ''sympathy'', if that's what we want to call it, for the President reflects the instinctive nature of most Americans who resent the prying eyes of big government. It's easy to reason: ''If the President of the United States can be the subject of a 'sting operation' and FBI ordered tape recordings, how can any of us be secure in our homes and papers?''

The ambivalence comes from fear that demanding privacy, even for the President, means that his actions are then condoned. And turning this into a perjury issue has been difficult.

The President, his advisors, and the friendly media were all aware that the sexual privacy issue would distract from the serious charges and knew it was their best chance to avoid impeachment.

But the President, this Administration and the Congress have all been hypocritical for demanding privacy for themselves yet are the arch enemies of our privacy. Although other Administrations have abused the FBI and the IRS, this Administration has systematically abused these powers like none other.

Let's declare a victory in despite of the mess we're in. The President is not likely to be removed from office. We'll call it a form of ''jury nullification'' and hope someday this process will be used in our courts to nullify the unconstitutional tax, monetary, gun, anti-privacy, and seizure laws that are heaped upon us by Congress, the President, and perpetuated by a judicial system devoid of respect for individual liberty and the Constitution.

Hopefully, the concept of the overly aggressive prosecutor will be condemned when it comes to overly aggressive activities of all the federal police agencies whether it's the IRS, the BATF or any other authoritarian agency of the federal government.

A former U.S. Attorney, Robert Merkle, recently told the Pittsburgh Post Gazette that ''the philosophy of (the Attorney General's office) the last 10 to 15 years is whatever works is right,'' when it comes to enforcing federal laws which essentially all are unconstitutional. It's this attitude by the federal police agents that the American people must reject and not only when it applies to a particular President some want to shield.

Even though we might claim a victory of sorts, the current impeachment process reveals a defeat for our political system and our society. Since lack of respect for the Constitution is pervasive throughout the Administration, the Congress and the Courts and reflects the political philosophy of the past 60 years, dealing with the President alone, won't reverse the course on which we find ourselves. There are days when I think we should consider ''impeaching'' not only the President, but the Congress and the Judiciary. But the desired changes will come only after the people's attitudes change as to what form of government they desire. When the people demand privacy, freedom and individual responsibility for everyone alike, our government will reflect these views. Hopefully we can see signs in these current events that more Americans are becoming serious about demanding their liberty and rejecting the illusions of government largesse as a panacea.

It's sad but there is another example of a most egregious abuse of presidential power, committed by the President, that has gotten no attention by the special prosecutors or the Congress. That is the attempt by the President to distract from the Monica Lewinsky testimony to the Grand Jury by bombing with cruise missiles both Sudan and Afghanistan, and the now current war against Iraq.

Two hundred million dollars were spent on an illegal act of war against innocent people. The pharmaceutical plant in Sudan was just that, a pharmaceutical plant, owned by a Muslim businessman who was standing up to the Islamic fundamentalists, the same people we pretend to oppose and use as scapegoats for all our Middle-Eastern policies. And now we have the controversial and unconstitutional waging of war in Iraq.

And to add insult to injury both military operations ordered by Clinton were quickly praised by the Republican leaders as good and necessary policy. These acts alone should be enough for a serious consideration of impeachment, but it's never mentioned—mainly because leadership of both parties for decades have fully endorsed our jingoism and bellicosity directed toward other nations when they do not do our bidding.

Yes, the President's tawdry affair and the acceptance of it to a large degree by the American people is not a good sign for us as a nation. But, let's hope that out of this we have a positive result by recognizing the public's rejection of the snooping actions of Big Brother. Let's hope there's a renewed interest in the Constitution and that Congress pays a lot more attention to it on a daily basis especially when it comes to waging war.

The fact that President Clinton will most likely escape removal from office I find less offensive than the Congress's and the media's lack of interest in dealing with the serious charges of flagrant abuse of power, threatening political revenge, issuing unconstitutional Executive Orders, sacrificing U.S. sovereignty to world government, bribery, and illegal acts of war, along with the routine flaunting of the constitutional restraints that were placed there to keep our government small and limited in scope.

Mr. DEFAZIO. Mr. Speaker, the Republican-led House of Representatives is about to do something that is nearly unique in our nation's history. It is about to cast a party line vote to impeach a President of the opposite party against the will of the majority of the American people. The Chairman of the House Judiciary Committee, HENRY HYDE, said at the beginning of this process that impeachment must be bipartisan in order to be legitimate. Well, Mr. Speaker, this process is the furthest thing from bipartisan. Every vote in the Judiciary Committee was along party lines, and the final votes on articles of impeachment will almost certainly be party line votes, as well. This sorry chapter in the nation's history creates a new gold standard for partisanship—a standard that will be hard to beat in the decades to come.

But this impeachment drive is illegitimate for other, more fundamental reasons: the charges brought against the President by House Republican leaders are not only lacking in merit, they are not the kind of high crimes and misdemeanors that warrant impeachment. Chairman HYDE has painted his crusade in moral terms—he claims to be upholding the rule of law. The rule of law is not at risk here, but the Constitution is. The Constitution reserves impeachment for treason, bribery and other high crimes and misdemeanors. It does not say fornication, adultery and other high crimes and misdemeanors. Nor does it say perjury, evasiveness and other high crimes and misdemeanors. These are misdeeds that have other remedies under the law. Calling them impeachable offenses demeans the Constitution and undermines our system of government.

And finally, Mr. Speaker, this impeachment is illegitimate because it is taking place in a Congress that the voters have rejected. In the election just six weeks ago, the American people made clear their distaste for impeachment. Many of the members of this House who will vote today lost their elections last month—in many cases their support for impeachment was one of the issues that led their constituents to reject their candidacy. Yet those very

members are here today supporting impeachment and violating the will of the voters who turned them out of office.

Mr. Speaker, I expect to hear a rising clamor of calls for the President to resign. That would be an even greater disaster for our democracy than this partisan proceeding has been. Having voted—however illegitimately—for impeachment, the nation, the Constitution and the President deserve a trial in the Senate. We must determine once and for all whether these charges are grave enough to warrant impeachment. And these unproven charges must be judged. The President is innocent until proven guilty, and Chairman HYDE and his colleagues have not made their case.

Mr. MANZULLO. Mr. Speaker, I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

The Pledge of Allegiance is recited frequently by all Americans, including school children and government leaders. It starts each day of Congress. It is a statement that in this country, our system of justice is for all people—elected and non elected. Unequal justice is no justice under the law.

Before I entered Congress in 1993, I practiced law for 22 years. I have been a student of the Constitution and the powers of Congress since college in the mid 60's and wrote a book on constitutional law, which was published in 1973. I am also a father of three young children. I, therefore, approach the subject of impeachment of the President with this perspective.

I believe the President should be impeached, which means a finding by the House of Representatives that there is evidence the President committed acts sufficient for the Senate to consider the charges and vote on whether or not he should be removed from office.

THE CONSTITUTIONAL BACKGROUND OF HIGH CRIMES AND MISDEMEANORS

Wehn the founders of our Constitution met in Philadelphia, they used English law as the basis for our founding document. The English view of impeachment meant two things: removal from office and the imposition of a criminal penalty (sentence and/or fine). Our founders, however, when they wrote the impeachment section in the U.S. Constitution, chose to make removal from office the only penalty, but specifically allowed any criminal actions against the officeholders to be taken by others (state or federal prosecutors).

This distinction means the American Constitution contemplates two very different proceedings: the removal from office was to be separate from criminal proceedings, because removal protects the people and criminal proceedings punish the officeholder.

Futhermore, the impeachable offense could, but does not have to be, a violation of a criminal statute. George Mason, who wrote the Bill of Rights, said impeachment was to be used for ''attempts to subvert the Constitution.'' Hamilton said impeachment should be used for ''those offenses which proceed from the misconduct of public men . . . from the abuse or violation of some public trust . . . as they related chiefly to injuries done immediately to the society itself'' (Federalist Papers, No. 65). Other works by James Wilson, a signatory of the Constitution, and the pre-eminent jurist, Justice Joseph Story, conclusively verify this. When the House of Representatives in 1974 considered Articles of Impeachment for President Nixon, the Democratic-led House Judiciary Committee, for which attorney Hillary Rodham worked, stated the Articles were premised upon ''injury to the confidence of the nation and great prejudice to the cause of law and justice.''

WHY CENSURE IS NOT AN OPTION IN THE HOUSE OF REPRESENTATIVES

The House of Representatives must consider the charges to remove the President only in terms of how the Constitution governs the procedure. The Constitution speaks of this duty only in terms of ''impeachment,'' that is, the House finding enough evidence to send to the Senate for a final resolution as to whether there should be a conviction (removal) on the impeachment charges. The Constitution provides no option for the House of Representatives to consider anything less than impeachment, such as censure. Censure is a formal scolding or reprimand. It has no legal consequences.

THE CHARGES AGAINST PRESIDENT CLINTON

The Articles of Impeachment charge President Clinton with perjury, which is lying under oath, before a federal grand jury and during a deposition (a sworn statement under oath with attorneys for all parties present). He is also charged with encouraging a witness to lie under oath. These charges cannot be dismissed and are not ''simply about sex.'' Watergate was not about breaking and entering, but about cover up and perjury after the fact. It is the same here.

Why is perjury and encouraging a witness to lie under oath so serious?

The U.S. Supreme Court (US v. Mandurano, 1974) said that ''perjured testimony is an obvious and flagrant affront to the basic concepts of judicial proceedings.'' When somebody perjures himself under oath, this does two things: first, it deprives a party to the lawsuit of the constitutional right to a fair trial (because truth is frustrated) and, second, it is a frontal assault upon the intergrity of the system of justice in this Nation.

The fact that President Clinton lied under oath at the federal grand jury and the deposition is not refuted. Period. Does his perjury have to be of such a nature that criminal charges could be brought against him? The answer is no, (even though I believe criminal charges could be brought). Under the English system, the question is probably yes. But because impeachment under the American Constitution is aimed at removal and not criminal punishment of the officeholder, the criminal rules of evidence and other rules in a regular criminal proceeding sumply do not apply. That's why it is incorrect to compare impeachment proceeding in the House of Represenatives with a criminal trial.

Encouraging a witness to lie under oath is akin to the following: you own a business (Party A) and get involved in a lawsuit with another businessperson (Party B). Your livelihood is threatened. An independent distribution who has a business relationship with you and Party B can verify your claim. Party B has a conversation with the independment distrubutor and says, ''I understand you have been named as a witness in this case. I know you'll do the right thing, possibly by simply signing and filing an affidavit in court. That way you might not be called as a witness. By the way, I understand you are looking for more business, and perhaps we could do something on that.'' Party B's attorney then picks up the distributor, takes him to another lawyer's office. That lawyer prepares an affidavit that is false, and that lawyer goes over the affidavit with Part B's attorney. The affidavit is filed in court. You lose your lawsuit, or it is greatly hindered, and the trial suffers a serious blow because the notion of justice based upon truth is destroyed. This is what the President is charged with. The President discovers Monica Lewinsky is on the witness list in the case where Paula Jones has charged the President with a federal Constitutional civil rights case of sexual harassment. The President suggests to Ms. Lewinsky that if an affidavit is signed, she won't have to testify and that he is sure she'll do the right thing. The President talks to his close friend, attorney Vernon Jordan, who then takes Ms. Lewinsky to another lawyer, who prepares a false affidavit about Ms. Lewinsky's relationship with the President. Her attorney goes over the affidavit with Mr. Jordan. After she signs the affidavit, Mr. Jordan again enters the picture and Ms. Lewinsky gets another job.

The U.S. Supreme Court rule unamimously that Paula Jones has a right to file and pursue her federal constitutional remedy against the President while he is in office.

Paula Jones has a constitutional right to a trial based upon factual—not perjured—testimoney, and thus the false affidavit deprives her of that constutional right. Second, the entire judicial system, based upon people seeking redress for legal wrongs, suffers a serious blow. This is why perjury is so serious. This is why 115 people are sitting in federal prison because they committed perjury. This is why four Northwestern students have been indicated for perjury because they lied about betting on sports. This is why a 17-year-old student in McHenry County, Illinois, received six months in jail for lying in open court under oath. The Northerwestern students cannot defend their actions because they were simply lying about ''just a little sports betting'' any more that the President can defend his lie because the Jones lawsuit was ''just about sex.''

And this is why impeachment, in the words of the founders, is to remove those officeholders who violate the ''public trust and subvert the Constitution.''

THE OATH OF OFFICE

As a member of Congress, I swore an oath ''to defend the Constitution of the United States. . . .'' This means I have an obligation to defend the Constitution and to do everything I can to make sure the powers and protections of the Constitution are enjoyed by the rest of America. This is a solemn obliation. That is why elected officials have oaths.

The President's Constitutional oath says he is to ''preserve, protect and defend the Constitution of the United States.'' The Constitution further provides that the President ''shall take Care that the Law be faithfully executied.'' The worlds ''care'' and ''laws'' in the Constitution are purposely, capitalized for emphasis. Other words for ''take Care'' are to ''nurture,'' ''conserve,'' ''supervise,'' and ''be vigilant over'' the law of this land. The President is, therefore, constitutionally charged with being a caretaker of the Constitution and the laws of this nation, holding these in trust for the protection of the American people. This is such an awesome responsibility that the Constitution makes the President the Commander

in Chief of the Armed Forces with the power to use force, if necessary to protect the people's Constitutional right to equal application of the Constitution and the laws.

Teddy Roosevelt said it best, as recorded in The Strenuous Life (1900): ''We . . . differ on the currency . . . tariff and foreign policy; but we cannot . . . differ on the question of honesty if we expect our republic permanently to endure. Honesty is . . . an absolute prerequisite to efficient service to the public. Unless a man is honest, we have no right to keep him in public life, it matters not how brilliant his capacity . . . No man who is corrupt . . . who condones corruption in others can possibly do his duty by the community. If a man lies under an oath or procures the lie of another under an oath, if he perjures himself or suborns, perjury, he is guilty under the statute law.''

This paper opened with the Pledge of Allegiance, which is a pledge taken by Americans, including those who serve in public office, to do whatever is necessary to assure equal justice under law. Unequal justice is no justice under the law.

Even if the President were my best friend, I would still vote to impeach him because the Rule of Law is more important to me than friendship, popularity or politics.

Mr. PORTMAN. Mr. Speaker, Article IV alleges that President Clinton ''refused and failed to respond to certain written requests for admission and willfully made perjurious, false and misleading sworn statements in response to certain written requests propounded to him as part of the impeachment inquiry authorized by the House of Representatives.'' The ''written requests'' consisted of 81 written questions posed to the President by the House Judiciary Committee.

I find President Clinton's responses to the Judiciary Committee's questions misleading, evasive and incomplete. They show disrespect for an authorized impeachment inquiry—the most serious proceeding the House can undertake.

While President Clinton's responses show disrespect, even contempt, for the Congress of the United States, their most disturbing elements are really just repetitions of the perjurious statements alleged in Articles I and II.

I am also concerned that the wording of Article IV could set a negative precedent for the balance of power between future White House and future Congresses. We do not want the President of the United States to be concerned about impeachment allegations every time a provocative communication is sent to the Congress or every time he responds in an aggressive manner to a Congressional inquiry. I am concerned that Article IV may have the effect of unduly weakening the Presidency.

For this reason and because I believe its core is redundant to the other Articles, I cannot support Article IV.

Mr. CRAMER. Mr. Speaker, as members prepare for this historic vote, I would like to say that I take this matter as seriously as any issue I have ever voted on during my tenure here in Congress.

I know that I will have to look back on this as one of the most critical votes I will ever cast. Out of thousands of votes over the past eight years, the two most important have been this vote and my very first vote in 1991 to commit our country to war in the Persian Gulf.

I have carefully and thoroughly examined each of the articles of impeachment. I have reflected on this matter at great length and listened to every possible opinion through each step of this process. Having done that, I will not vote to impeach the president.

Mr. Speaker, as deplorable and disgusting as the president's personal conduct has been, and as much as I condemn what he, through his own actions, has put this country through, I do not believe that it reaches the level that the framers of our Constitution set for impeachment. There are many pressing issues for this country to address, and we need to focus our energies on these issues as quickly and strongly as possible.

I still believe the president should be punished. I had hoped that censure would be an option. I have done everything I could to create the momentum to put forth a strong censure motion that would condemn the president and penalize him with a considerable fine. I feel that this is a way to hold him accountable without damaging the Constitution or further punishing the nation.

I believe that the president can be held accountable for his actions after he leaves office through the criminal justice system. After considering all of these factors. I will vote against impeachment.

Mr. WAXMAN. Mr. Speaker, my Republican colleagues have made history in the four years since they took control of the House. But it's not a history future will view with pride.

Over and over again, our Republican colleagues have called for the ''rule of law.'' Let me suggest that if the President has committed a crime, that he be tried in a court of law after he leaves office. There, even he will have the protections of the law. Here in the House of Representatives he is not getting the rule of law—but the rule of politics.

President Clinton has been subjected to an unprecedented and deliberate strategy to use taxpayer funded investigations to ''get him.'' Millions have been spent, and a series of reckless charges have been investigated to death and turned out to have no basis in fact.

The reality is that many of my Republican colleagues intensely dislike the President. Some have never been able to accept the fact that the American people have twice elected him. Some have never been able to accept him as their President. Indeed, one of my distinguished Republican colleagues, Majority Leader Dick Armey, once derisively referred to the President as ''your President'' during a debate with a Democratic House member. Another Republican member called Mr. Clinton an ''illegitimate President'' as early as January 1995.

That intensity of feeling has transformed itself into a deliberate strategy to use taxpayer-funded investigations to cripple the President. Over three years ago, just after the Republicans took control of Congress, the Speaker's top political strategist wrote a memo urging Republicans to ''get the Clinton Administration under special prosecutor problems.'' Two years ago, the House of Republican leadership directed Committee chairmen to compile ''examples of dishonesty or ethical lapses in the Clinton Administration.''

The result has been an extraordinary series of personal attacks on the President. I won't recount every accusation, but I do want to mention some of the most notable.

President Clinton and his Administration has been accused of misusing the IRS and the FBI to punish political enemies. The President and his Administration have been accused of compiling an enemies list and of intentionally obtaining secret FBI files for those on the list.

The President and his Administration have been accused of doctoring White House video tapes that Congress subpoenaed.

The President and his Administration have been accused of selling cemetery plots at Arlington Cemetery in exchange for campaign contributions.

The President and the First Lady have been accused of stealing government property.

The president has even been accused of killing one of his closest friends, Vince Foster.

Most serious of all, the President has been accused of committing treason. That word, treason, was tossed around on this floor earlier this year. It is without question the most serious charge one American can make against another American.

All of these charges have been investigated, and all turned out to have no basis in fact. And while the accusations were trumpeted in press headlines around the country, their debunking at best made the back pages.

One of our colleagues even introduced an impeachment resolution last year, months before anyone had heard of the President's affair with Ms. Lewinsky, and it was based on all these ridiculous, unsubstantiated, and false accusations

This has been an impeachment in search of an impeachable offense.

Durign these past four years, my Republican colleagues have taken all the tools of traditional congressional investigations and twisted them into something no American can be proud of. They have misused and abused the subpoena process. They have misused and abused the deposition process. They have misused and abused the power to grant immunity. They have misused and abused the power to hold others in contempt of Congress.

We have trivialized these important powers and set horrifying precedents for future congressional investigations. In years to come, almost anything imaginable will be justified—by whichever party is in control—by pointing to the actions of the past four years. It's remarkable and remarkably sad that so much harm could be done in so little time.

I suppose today's impeachment is the natural evolution of all those prior excesses. Every abuse of the past four years has built to this day. As one of my Republican colleagues said in the Washington Post on December 15, ''impeachment is icing on the cake.''

The impeachment resolution is the ultimate indulgence of the House Republican leadership. It puts their anger, their hatred of the President, their political interests, ahead of the national interest.

Despite the Republicans' premeditated and constant attack on him, today's vote would have been impossible had the President not acted irresponsibly, if not recklessly, in his personal and sexual misconduct. Feeling trapped, he lied. He acted dishonorably and dishonestly. The Republicans were desperate to find a crime, and the President, unfortunately, provided them with irresistible ammunition.

For that President Clinton deserves censure and he deserves to be prosecuted if he violated the law. His crimes, if any, do not amount to impeachable offenses envisioned by the Constitution. He does not deserve—and our country does not deserve—this impeachment resolution.

What has been presented to us by the Judiciary Committee do not amount to impeachable offenses. I call for the rule of law and the supremacy of the Constitution. I urge all my colleagues to oppose these articles of impeachment.

Mr. TIAHRT. Mr. Speaker, with solemn thought and a certain sadness we are brought together to speak of removing the President of our United States. This is a task I did not choose, but as with all of us in this chamber, this task was thrust upon us by the actions of our President.

Before us are four articles of impeachment. Two for perjury, one for obstruction of justice and the last for abuse of power. In these articles, we are required to judge our President and determine if his actions rise to the level of impeachable offenses. But we judge not only the character of the President, we judge ourselves and our nation. What standard must we raise for our President and ourselves? What standards will come from this for each of us to live up to and what expectations will we set for our nation? Will we accept the degradation of untruth or attempt to bring ourselves and our nation to its highest and best?

With sadness we view the crisis of character in the words and deeds of the last year and we must hold the President accountable for those actions. Over 2,500 years ago, the philosopher Heraclitus said, ''A man's character is his fate.'' Anne Frank, quoting her father said, ''Parents can only give good advice or put them (children) on the right paths, but the final forming of a person's character lies in their own hands.'' I believe this to be right. I believe in personal responsibility. I believe the president is responsible for his own character and his own actions.

The standard of conduct and personal character we expect from our President should be no less than what we expect of ourselves. So we must ask, do we expect to carry out our duties and our responsibilities with integrity or do we stoop to the lowest levels of personal character? Stephen L. Carter, in his book ''Integrity'' defines integrity in three steps. First, to conduct ourselves with integrity we must discern right from wrong. This is a judgment based on all we are and all we know. What we learned from our parents, our teachers, people of faith, the wisdom of our years and that small, still voice inside which guides us to the judgment of what is right. Second, we must do the right thing. And third, we must tell others why we are doing what we are doing.

Our decision must also determine what we hope for our nation. Tolerating actions that abuse the law, without repercussions, moves the entire nation to a place beneath its rightful one. We must work to raise our nations goals, ideals and future. We must protect the rule of law for it brings justice to us all. If we refuse to hold the President accountable for his actions, then we accept the degradation of our society and his actions. This cannot be.

It is clear to me the President committed perjury and broke the law. It is against the law to deny another American their civil rights by withholding information and coordinating an effort to mislead a court as the President has done. It is obstruction of justice when the President used taxpayer funded resources to cover up, delay, and propagate misdeeds and lies. Finally, it is an abuse of power for the President to deliberately mislead Congress. All of these rise to the level of impeachable offenses.

It is my hope that we expect the highest and best from ourselves, our nation and our President. Honesty is a simple concept but it is at the foundation of our system of justice which protects our free society and our free enterprise system. For these reasons, I have chosen to vote for articles of impeachment.

Mr. BARCIA. Mr. Speaker, one of the greatest moments of my life was when I walked into this chamber, the House of Representatives, to take my oath of office as a Member of this elected body. I had spent my entire life being enthralled by the dignity and the humility of this special Chamber within our Capitol.

One of the reasons I wanted to serve as a Congressman was to actively work to express my appreciation for what this nation means to me, and to be an advocate for my constituents, people who often thought that their government overwhelms them with demands, but fails to understand their needs.

I then had another thrill in my life. I met our President. I met a man who cares about ordinary people. He wants children to have the best possible opportunities for education. He wants working men and women to earn a decent wage and be better prepared for an increasingly competitive world. He wants our senior citizens to have access to the health care they need, and to make sure that their Social Security is, indeed, secure.

When I heard about President Clinton's involvement in an extramarital affair last January, I was just as shocked as any of my constituents. Certainly I joined the chorus of people who said ''say it isn't true.'' And when President Clinton said it wasn't true, I was pleased.

But as events have unfolded over this past year, I, like so many of you, have been bitterly disappointed in the President's personal failings. He has done wrong, and he should face an appropriate penalty. I personally believe that the President should be censured, and I would support a fine.

Mr. Speaker, since my arrival in Washington in 1993, indeed for more than a decade, the growing acrimony between parties and people has made our government increasingly powerless to attack the critical problems of our nation. Impeachment of this President and his ultimate removal from office would make that climate of anger and distrust all the more palpable. I weigh this decision, against the probability of this outcome. Those who care more about getting a person whom they personally dislike than they do about the ability of this government to solve this nation's problems have an easy decision. Those who want to provide a safe and prosperous future for our citizens recognize the excruciating nature of this decision, regardless of the outcome of their personal deliberation.

There has been a wealth of learned experts who testified before the Judiciary Committee that the failings of the President are not crimes against the state. They are not a misuse of Presidential authority. Yes, he did mislead the American people. He offered answers that may have met technical legal requirements, but did not provide full satisfaction. But so did our leaders during wars and foreign negotiations. They didn't answer questions to the fullest degree. Are we now going to make that impeachable, or are we creating a standard that you can be impeached, for personal lies, not professional ones? If Bill Clinton truly did commit perjury, then legal authorities should be ready to bring charges against him when they can—the same way any other American can be charged with perjury. If he lied, he is not getting away with it.

Did he encourage others to lie for him? The very people he was supposed to have suborned said that he did not. If we are to depend upon the factual record that the Judiciary Committee provided for us in which it depended upon prior statements under oath of Betty Currie and Monica Lewinsky, then we have to accept those statements as true. After all, that is what the Judiciary Committee did.

What Bill Clinton did was wrong and I don't condone it. Since he did it while President, he demeaned the office of the President. Had he done it as a private citizen, certainly he would be subject to perjury charges, the same as he is now. But the story might not have been made the page before the classifieds in your local paper, let alone the front page. He may have lost some credibility with the American people, but he hasn't with world leaders. Ask British Prime Minister Tony Blair who joined the President in attacking Saddam's Iraq by committing young British men and women to Operation Desert Fox.

To all of my constituents who have called and written to me with their strong views, I thank you from the bottom of my heart. Your comments have given me reassurance on many issues, and have raised challenges on others that made me think even harder. The people I represent are truly split on this issue, and I know that regardless of which way I vote, some will be disappointed and perhaps angered. I wish this were not the case, but it is the likely outcome of any divisive issue.

So many have said to me to vote my conscience, and that is exactly what I am doing. I am disappointed in Bill Clinton and believe he should pay a penalty. But I do not believe that the personal failings of the individual meet the constitutional tests of high crimes and misdemeanors of the President acting in a Presidential capacity. I will not be surprised if my position is not the prevailing one at the end of this debate, but it is the right one for me.

This is a very solemn moment in our nation's history. May God guide us swiftly through the difficult days ahead.

Mr. TAYLOR of North Carolina. Mr. Speaker, this is a sad day for our Nation, but, unfortunately, a necessary one. The President took an oath to uphold all the laws of the Nation. I recognize in that many respects the Nation has become a morass of regulations that have the effect of law, which sometimes contradict each other and can confuse the average citizen. The Congress, to its shame has allowed such regulations to become so multiplied and so confusing.

This President was not caught up in bureaucratic regulations, but has been charged, and an overwhelming amount of evidence has been produced, which proves he has violated some of the most fundamental laws recognized by almost every government. The President had violated common law and some of the first laws adopted by this country, perjury, suborning perjury, and obstruction of justice. He has added insult to our constitution by abusing his power in covering up his crimes.

These are serious felonies for which convicted citizens are placed in prison and Federal public official have been and are impeached and expelled from office.

I and other Member of Congress did not wish to be here today, however, we must fulfill

our constitutional oath. Serious charges, which go to the heart of our constitution and rule of law, were placed before the Congress. As required by law, we have to fulfill our oath and vote for impeachment to send the matter to the Senate for trial if there is sufficient evidence.

It is clear that after serious and due consideration of the evidence presented and available that the President committed felonies of which he is charged. I believe that his actions of perjury, obstruction of justice, suborning perjury and abuse of power are of a serious nature and that they merit impeachment by this body and trial by the Senate. If they were committed by any citizen, they would be serious. When they have been committed by the Chief Executive Officer who functions as the chief law enforcement officer of the Nation, they merit impeachment by this body and trial by the Senate.

Accordingly, it is my duty to the Constitution, the people of the United States, and to the rule of law to vote for impeachment of the President.

Mr. MCHUGH. Mr. Speaker, as all of America knows, on December 11 and 23, the House Judiciary Committee approved four separate articles of impeachment against the President of the United States, William Jefferson Clinton. Today, with profound sorrow, but firm conviction, I cast my vote in support of Articles 1 and 2 of those charges. Articles 3 and 4, while constituting disturbing accusations alleging obstruction of justice and the failure of the President to deal honestly with the House of Representatives in the discharge of its constitutional duties, do not, in my judgment, contain sufficient specificity of clear and unquestioned misconduct to rise to a level of an impeachable offense. Clearly, however, the accusations described in Article 3 strongly suggest activity that warrants further examination and possible legal action against the President following the conclusion of his current term of office.

This has been the most difficult and heartwrenching decision I have ever faced in my 14 years of elective office. It is a circumstance I never envisioned and it's certainly a choice I never sought to make. And yet, the honor the good people of the 24th Congressional District have bestowed upon me requires that I now make a judgment.

For the past 12 months, I have watched and listened as the President's predicament has evolved. With each new revelation, with each additional shred of evidence, it has become increasingly clear that the President has committed grievous wrongs. Still, like most Americans, I wanted desperately to forgive, to heal, and to direct our Nation's gaze toward other challenges. Sadly, the continued failure of the President to face his guilt fully and honestly, in addition to the overwhelming body of highly credible evidence, no longer permits me such a course.

To those who would say this action of impeachment is the result of nothing more than an admittedly unseemly, but nevertheless consensual, relationship between two adults, I would respond that I deeply wish it were so. I would much prefer to leave judgment of highly private transgressions to those who have been most directly harmed by them. While the President's indiscretions did, in fact, add to and even help light the path to his current legal troubles, they are not the cause of my decision today. In this instance, my vote is based on the fact that the America of today has grown from certain convictions of the past. Our democracy has outlived all others because, through all our marvelous diversity, we have always shared certain common bonds: belief in life, liberty, and the pursuit of happiness and the recognition that all are created and must live equally. The binding force of our national ideals has always been the rule of law—the recognition that the passage of the tyranny of kings brought an era wherein no citizen, man or woman, for lack of power or position, would ever be judged differently from all others. For some 222 years, that irreplaceable belief has nurtured our freedom and our liberties. It's that belief that the President's actions have so directly assailed and, as such, requires my affirmative vote on Articles 1 and 2.

When the President submitted a false affidavit to the courts during the Paula Jones case, he was going far beyond an illegal, yet somewhat understandable, effort to conceal an illicit affair. He was, instead, attempting to avoid legal responsibility for his alleged actions of sexual harassment of an employee during his tenure as Governor of the State of Arkansas. To excuse the deliberate act of falsifying testimony in a Federal civil rights case because the truth may have proven somehow embarrassing would be to lay waste to the essential tenet that an oath of honesty before a court requires the whole truth, no matter how disruptive or unfortunate its consequences. The President knowingly and willfully ignored this solemn duty, a failure that in America today has caused dozens of citizens to be incarcerated in prisons, denied of their liberty and rights, simply for not telling the truth.

As tragic as this original failure was unto itself, the President went beyond, seeking to further obscure, conspiring to conceal. When the President again swore an oath of honesty before a federal grand jury and repeated his deceptions, he again crossed a line that cannot be ignored. To do so would be to say to the thousands of Americans that each day pledge their truthfulness in the courtrooms of this land that their oath is meaningless as well, and that like their President, their personal convenience is the superior concern. I firmly believe such a message would result in a dangerous and irreversible decline in the respect for our Nation's laws, our judicial system, and the liberties we rely upon them to protect.

I realize there are those who will claim that this impeachment is but an attempt to secure some political advantage or revenge. Such assertions are wholly without foundation and in themselves seek political gain. In truth, the easy political path would be to turn from this crisis, pretending that somehow it all never occurred. But thoughtful people understand that, in our democracy, where the heart may be fooled, the head will not be deceived. The false, short-term sense of security that such a self-deception might produce would be buried under the longer term costs of a nation blind to the wrongdoings of its highest official.

Through its actions today, the House seeks not to imprison or punish this President as we normally use these terms. Rather, we seek to express our outrage and dismay at his lawlessness through the sole means provided to us under the Constitution. Whether the President is held to account through a trial and possible removal from office is a question solely to be decided by the Senate. I, for one, would accept, even welcome, their mercy. But through the adoption of these articles of impeachment, the House of Representatives seeks to reaffirm our most solemn national principle that in the United States, equal treatment under the law requires its universal and uniform respect.

I join those who long for a conclusion to this seemingly endless and trying ordeal. But, for the sake of those who will follow us, and in solemn respect for those who have sacrificed and gone before, that end must be reached in a fashion that, above all else, preserves the high principles and standards upon which this great Nation was built. To do otherwise would be to dishonor the blood that has been spilled by so many in pursuit and preservation of the American dream. To do otherwise would be to hasten the goal of so many others whose perverse objective is a world of tomorrow that is devoid of American honor and ideals. I cannot, I will not, be an accomplice to such a foul scheme.

To the President and his family, I would say I am deeply saddened by your pain. I pray that you find peace and redemption from your anguish. In his remarks to the American people on December 11, the President recalled the words of Omar Khayyam, wherein he noted the futility of struggling to erase the failures of the past. Truly, those words hold much wisdom. It is important to remember, however, that especially in this most holy time of year, the greatest promise our faith can provide is that of redemption from our transgressions. The first step in that salvation is the acceptance of our failings. May our actions this day, as wrenching as they may be, hasten us up the long, difficult path to a higher and better place. May God bless America.

Mrs. KELLY. Mr. Speaker, this is a sad day for me. It is a sad day for the country. Each of us in this body, on both sides of the aisle, today faces what is surely the most solemn duty of our lives; to decide whether it has become necessary to impeach a President of the United States. It is a duty, I dare say, that none of us cherish. Having spent considerable time listening to my district, I've heard many voices. All Americans struggle with the dilemma we face. The great debate is what to do with a popular President who has violated the very constructs of our safe, legal society. Ours is not a monarchy. Unfortunately, there is no easy way out. This is not about sex, it is about the law.

This vote is about what kind of country we will live in from this day forward. It is about whether we really believe in the ''rule of law'' or just pretend to abide it. It is about whether we really have faith in the principles and mechanisms set forth by our founding fathers in the Constitution, or will instead choose to be guided by TV pundits and polls. Perhaps we would all best be guided by the words of Edmund Burke who, in a speech to the Electors of Bristol on November 3, 1774 said, ''Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion.''

In the words of the New York Times (12/14/98), ''Mr. Clinton did lie repeatedly, in plain sight, while under oath.''

Mr. Clinton is not the first President who has lied to the American people. He is the first in

modern times to perjure himself in front of a grand jury. He lied not to protect the safety of American soldiers, to save the Republic, nor to trick a foreign despot in a game of political poker. He lied to thwart a court proceeding, in a sad attempt to conceal.

He broke his oath of office.

A CEO in my district would be fired for this. An attorney in my district would face disbarment; a member of my staff dismissed. All would face prosecution.

Should I overlook the President's crime because, as some suggest, he remains popular? Are we to disregard the President's perjury to spare the Country the agony of a Senate trial? Am I to vote against impeachment, thereby forgiving the President's conduct for which my constituents would face prosecution?

Certainly, the President has the same right as everyone else to the equal and unfettered protection of our judicial system. This process we undergo today is about whether we will ever again be able to honestly say to ourselves and to our children that we live in a country where no one is above the law. I still believe in that country. It's not a perfect country. Unfortunately, there is hypocrisy, there is dishonesty, there is evasion of laws. These things surely exist in that country I believe in.

But if by our actions today we sanction hypocrisy, if by our vote we ratify dishonesty, if by our vote we permit evasion of laws at the very highest level of our Government, then we will have forevermore surrendered the thing that makes us uniquely American—a free, yet legal, society.

Mr. HEFLEY. Mr. Speaker, as I walked from my office yesterday morning to this chamber, I was almost overcome by the weight of the responsibility thrust upon us. The idea of having to make a decision on the impeachment of a President is sobering and no one should approach it casually.

Mr. HYDE and Mr. GEPHARDT both did an excellent job of framing the issues, but from that point it was mostly downhill. The debate degenerated into small sound bytes of partisan demigogery interspersed with infrequent moments of lucidity.

Many talked of the inappropriateness of proceeding while our troops are in combat, as if we were somehow doing something to impede their efforts. Nonsense!

Others, argued that the President's behavior was ''reprehensible'', but that censure was the appropriate punishment. No, we are not here to contrive novel types of punishment for the President, or even to decide whether he should be removed from office.

We, in this House, are to determine whether enough evidence has been presented to convince us there is substantial cause to believe that the President has committed offenses for which he should stand trial in the Senate.

This is our responsibility! No more! No less!

One of the themes put forth by a number of speakers yesterday was, ''He who is without sin, cast the first stone'' or ''vote'' as it were. If this is the criteria, there will be no impeachments, or grand jurys, or trial jurys, for that matter. The scripture tells us, ''All have sinned and come short of the glory of God.'' As I look out over this House I know this must be true.

We are a group with great strengths, but also great weaknesses. We have virtues and flaws. We are the representatives of over 250,000,000 Americans who themselves lack perfection.

No, no one here claims perfection and shame on any of us who wrap our robes of self-righteousness around ourself and finds joy in the task before us.

But perfection is not the question. The President is being judged not by saints but by a jury of his peers as the Constitution provides.

The questions we must answer center narrowly around a limited number of legal concepts. Perjury! Obstruction of justice! Misuse of office! The decisions we must make should not be based upon polls, or number of phone calls, or political party, or even how we feel about the President personally.

Our decisions should be based on the evidence alone. It is on this evidence I have seen presented that I will cast my vote for impeachment.

Mr. STUMP. Mr. Speaker, I must rise today in support of the impeachment of President William Jefferson Clinton.

Having reviewed the compelling evidence that shows our President intentionally lied under oath and used his position to hinder the due process of law, I can reach no other conclusion.

Mr. Speaker, while my decision may be painful for the country, my conscience and high regard for the rule of law dictates that I support impeachment. I did not reach this conclusion in haste. I have carefully reviewed the facts of the case and consulted with my distinguished colleagues on the Judiciary Committee, including the esteemed Chairman, HENRY HYDE.

Contributing to my decision, but not dictating it, is that I received an overwhelming number of calls and letters from Arizonans expressing their profound interest in ensuring that the President is not allowed to enjoy a special status before the law. I talked personally with many of these people, They are law-abiding people who have the utmost respect for our laws. They know that great damage will be done to our justice system if we dismiss the President's actions, and they have urged that we not turn our backs on this matter.

Our duty today is not pleasant and, contrary to the misguided charges of some of the President's supporters, no Member takes joy in what we must do. Mr. Speaker, I regrettably submit that we have no choice. We must move ahead with impeachment and hold President Clinton responsible for his crimes.

Mr. JONES. Mr. Speaker, on October 1, I received a message from Mike Hagerty, a Retired Marine Corps Officer from my Eastern North Carolina District. He now works with the young people in Jacksonville, where he serves as a Boy Scout leader.

Mr. Hagerty wrote:

> The Boy Scouts in my town are smart young men and they ask many questions about the President. Most of the discussion among our Scouts is to the effect that the President's conduct is simply unacceptable.

He then went on to write, and I quote:

> I explain to our Scouts that our current President did not take the same oath that they take and retake each week. I stress that, unfortunately, we hold our Scouts to a higher standard than our current President. That is a bitter pill.

Mr. Hagerty concluded his message by writing:

> Sir, I would like to ask you a favor. When the time comes for the United States House of Representatives to deal with the issues involving our President, please cast your vote in a manner consistent with our Constitution.
>
> . . .There is not an elite class that is above the law; there is not a clause in the Constitution that gives an elected official license to conduct himself in a reckless, wanton, and unlawful manner because of his popularity.

Mr. Speaker, when I think about the letter from Mr. Hagerty, I realize that the decision we are making about the violation of the law by the President of the United States is critical to the youth of America. They must understand that the strength of our nation is that every American—no matter their status—must absolutely abide by the laws of this land.

I hope, if nothing else, that we have learned from this experience that character and integrity are vital to maintaining a strong America.

Mr. Speaker, today millions of teachers, parents—and even Scout Leaders—are watching to see whether we in Congress will ensure that the President of the United States is held to the same laws as everyone else.

I want Mike Hagerty to be able to look those young men in the eye and tell them that lying under oath is not acceptable behavior, and that no man is above the law.

I want him to be able to tell those Scouts that despite the fact that it wasn't fun, or popular, their Congressman voted to put the Constitution above any single politician—even the President of the United States.

The young people of America must see by our vote—no matter how distasteful and regretful—that we are ensuring that the America of tomorrow will be a nation of strength, because the Congress of today has upheld the dictates of the Constitution.

Mr. Speaker, as a man of faith, I will vote for the articles because I believe it is the right vote to ensure the strength of America for the next generations.

Mr. WEYGAND. Mr. Speaker, twenty-three short months ago, I stood in the well of this House to take the oath of office. At that time, I could not imagine that during my first term I would be asked to consider the impeachment of the President of the United States. In fact, I could not imagine that I would do so at anytime during my career in the House. I believe that as a member of the House of Representatives, short of sending young men and women to risk their lives in battle, impeachment is the gravest vote I can make.

More than two centuries ago, when our forefathers met to draft our Constitution, they were aware that from time to time extreme circumstances would arise in the life of the nation that would require the right of the people who freely elect their representatives to be superseded in order to protect the Union and preserve our political system, through the process of impeachment by the Hose of Representatives and removal by the United States Senate.

Throughout the process leading us to our historic vote, members of Congress have heard quite often the phrase in the Constitution outlining which offenses are considered grave and serious enough to merit impeachment. As it states in the Constitution in Article II, Section 4, ''The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.''

At this juncture, it is critical to examine the framers' expectations and understandings of this important phrase. The authors of the Constitution carefully chose every word, phrase and punctuation and, by doing so, created a timeless document. The Constitution has persevered throughout our nation's history and has guided our republic through both its darkest and proudest time because of its deliberately chosen words.

The phrase describing what were considered impeachable offenses took many shapes before final adoption. At the beginning, the phrase 'malpractice or neglect of duty' was suggested, but shelved by the Committee of Detail which suggested the phrase 'treason, bribery or corruption'. This phrase was also altered because it was too limited in scope and specifically mentioned certain crimes, all of which were official in nature. Immediately prior to the adoption of the final phrase. 'high crimes and misdemeanors', the Constitutional Convention also considered the term 'maladministration'. Concerns were raised that 'maladministration' would be far too broad. By adopting the phrase 'high crimes and misdemeanors' in lieu of 'maladministration' I believe the framers of the Constitution were more interested in limiting the number and kind of offenses which are considered impeachable than expanding the type of transgressions deemed serious enough to warrant the removal of a President duly elected by the people. Each of the terms considered prior to the adoption of the final wording, 'neglect of duty', 'maladministration' and 'corruption', referenced acts related to the official duties of the President not personal matters conducted by the President during his tenure in office.

In addition, I believe the word 'other' in the phase 'treason, bribery and other high crimes and misdemeanors' was precisely selected by the authors of the Constitution (emphasis added). In my view, the inclusion of 'other' reflects the desire of our forefathers to include crimes and misdemeanors akin to treason and bribery in the list of impeachment offenses. Without the adjective 'other', the phrase would have another meaning entirely and would be interpreted very differently.

Before us today are four articles of impeachment, two of which bring forth accusations of perjury, one which alleges presidential abuse of power and one which indicts the President for obstruction of justice.

The first two articles, Article I and Article II, accuse the President of perjury in testimony given before a federal grand jury and during a deposition in a private civil case. Although I believe perjury is evident and there is a strong possibility that perjurious statements may have been made in both the civil deposition and before the grand jury, it does not reach the threshold for impeachment envisioned by our forefathers and authors of the Constitution. As reprehensible as this behavior is,I do not believe that the alleged transgressions are linked to his official capacity as President of the United States, and thus will not support these two articles of impeachment.

Article III and Article IV allege obstruction of justice and abuse of presidential power. These two articles, due to their connection to the official duties of the President, were extremely serious charges and deserved intense examination. If proven, these offenses could have been impeachable. As one of the 31 members of my party who joined with my Republican colleagues on the vote to authorize the impeachment inquiry, I had hoped for fair and open hearings in the Judiciary Committee. To my dismay, that did not occur. In fact, I believe the Judiciary Committee failed to live up to its solemn duty and responsibility, under the authority of H. Res. 581 which stated that ''the Committee on the Judiciary . . . is authorized and directed to investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach William Jefferson Clinton, President of the United States of America.''

The Committee, in my opinion, did not fully examine the fundamental questions behind the charges of abuse of power and obstruction of justice. The Committee did not hold the allegations up to the bright light needed for an ardent cross-examination. Based on evidence and testimony presented to the Judiciary Committee, we do not know if the assertions made in the report by the Office of Independent Counsel can be corroborated or even contradicted. No material witnesses were called before the committee to answer specific questions about necessary details to uncover the truth. As our investigatory panel, the Judiciary Committee did not question witnesses who held the keys to discovering the facts behind these serious allegations. These two articles are built upon an unstable foundation. None of the alleged charges, particularly those in Articles III and IV, are substantiated by any standard of proof, much less proven beyond a reasonable doubt.

Prior to the debate today, I joined with many of my colleagues in urging the leadership of the House of Representatives to permit a fair and reasonable vote on censure. Unfortunately, they have consistently refused to allow such a vote. Like the vast majority of American people and my constituents in Rhode Island, I believe that a severe censure and substantial fine is the most appropriate method to punish the President's extremely reprehensible behavior. Censure is neither expressly permitted nor prohibited by the United States Constitution but has been used by Congress to express its opinion on public officials throughout the history of our nation, most notably by the censure of President Andrew Jackson. While later expunged by a subsequent Congress, his censure has stood the test of time and has not been erased from the history books. In fact, history will forever proclaim President Jackson as being censured by the Senate, which remains an unenviable mark on his tenure as President. There should be no doubt that censure is an exceptionally serious rebuke and should be treated as such. If censure was approved, history would indelibly stain this President as committing acts serious enough to earn an official condemnation from Congress.

A strongly written resolution of censure and substantial monetary fine requiring the acceptance of the President through his signature, is the most appropriate form of condemnation for the President's reprehensible behavior.

In Federalist 65, Alexander Hamilton writes:

> The prosecution of them (impeachable charges), for this reason, will seldom fail to agitate the passions of the whole community, and to divide it into parties more or less friendly or inimical to the accused. In many cases it will connect itself with the pre-existing factions, and will enlist all their animosities, partialities, influence, and interest on one side or the other; and in such cases there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties than by the real demonstrations of innocence or guilt.

And so, two hundred and eleven years later, we find ourselves exactly where Mr. Hamilton said we would be. The President engaged in extremely reprehensible and inappropriate behavior with a subordinate. He lied to his wife and his daughter, his friends, staff, the court, and most of all to the American people. The President's actions were wrong, immoral and reckless. But, Mr. Hamilton was right. The charges have divided the nation. Congress is divided amongst ''parties and pre-existing factions''. The President's fate is not being decided on the facts but rather based on partisonship.

We are a nation led by our President carrying the flag of our country, the banner of principles of our people. He has been wounded by his own wrongdoing. But to abandon him or another for political reasons would be abandoning the very principles upon which the country was founded, a doctrine of fairness and justice for all. We cannot and must not tolerate or accept a system that dismantles the very foundation of our republic and this action today unfortunately sends such a signal.

The role of the House of Representatives in the impeachment process is not to be abused nor is it to be taken lightly. A vote for impeachment is by far one of the gravest and most challenging votes for any Congress and for any member. I urge my colleagues, on both sides of the aisle, to listen to your conscience, to realize the gravity of your vote and to realize that at the end of the day, you can act in a fair and reasonable manner and disprove Mr. Hamilton's theory that the House of Representatives is incapable of acting justly. For to impeach the president for the charges as outlined in these Articles would be to affirm the partisanship feared by Mr. Hamilton, and how sad a commentary that is for our Congress and our country.

Mr. PASCRELL. Mr. Speaker, I have not to this point formally announced how I would vote on these four articles of impeachment. In reaching my decision, I have weighed not only my constitutional duty and this President's fate, but I have weighed what vote is the right one for the country at this time.

I have concluded that this President can and should continue in office for the remainder of his elected term.

In making my decision, I have looked carefully at the words of our Framers, particularly the founder of my hometown of Paterson, New Jersey, Alexander Hamilton.

In Federalist No. 65, Hamilton not only outlined what offenses rise to the level of impeachment. He also left us a clear, unambiguous warning against the dangers of unruly partisanship in this process.

Hamilton spoke of offenses that are an ''abuse or violation of some PUBLIC trust,'' and ones that ''relate chiefly to injuries done immediately to the society itself.''

The President's misdeeds, as wrong as they are, were NOT acts against the society as a whole. In fact, he was exonerated of any wrongdoing that fit that definition.

In that same passage, Hamilton stated that a partisan impeachment ''threatened to agitate the passions of the whole community . . . to

divide it into parties . . . to connect itself with pre-existing factions . . . and to enlist their animosities, partialities, influence and interest.''

Ironically, our colleague on the other side, Mr. Linder, echoed Hamilton's warning just a few months ago, saying, ''One party cannot impeach the other party's President.''

Well, this is exactly what has happened in this body. This process has been driven solely by those in one party—the majority party—the very path Hamilton told us to avoid.

No one has denied that the President acted in a manner unbecoming of the high office he is privileged to hold.

His actions are NOT, however, offenses that rise to the level of treason, bribery or other ''high crimes and misdemeanors.''

In short, these are reprehensible acts for which the President should surely be punished. That punishment should fit his misdeeds. Censure is the appropriate penalty, but we have been denied this option by those driving this process for fear they will not extract the ''pound of flesh'' they seek.

My colleagues, I urge you as you cast your vote to look to history and the real facts in this case, and to look beyond partisan interests as the Constitution requires, and vote ''no'' on these articles of impeachment.

Mr. LAFALCE. Mr. Speaker, I rise in strong opposition to all four of the pending articles of impeachment for the following reasons.

First, I believe the investigation by the Independent Counsel which has led us to this point has been a tainted and politicized process designed to produce a political, not a legal or Constitutional result.

Second, if this House is to impeach the President, the burden of proof to establish clear and convincing evidence of wrongdoing rests with us. It is a burden the Republican majority has not sustained.

Third, the articles of impeachment before us do not specifically and meaningfully cite any conduct that remotely rises to the level of an impeachable offense: ''Treason, Bribery, or other high Crimes and Misdemeanors.''

Fourth, passage of this resolution will subject this country to a Senate trial that the vast majority of Members in this House, and a vast majority of our citizens, do not believe will result in conviction or removal of this President. Indeed, there are Members voting for this resolution precisely because they expect the Senate will not convict the President. That constitutes a cynical manipulation of an important constitutional process to a petty political end.

Finally, it is fundamentally unfair that the Republican Leadership will not permit a vote on censure as an alternative to impeachment. At the very least, the Republican leadership, and especially so-called moderate Republicans who, for whatever reasons, have decided to vote for impeachment themselves, should give Members the option of presenting an alternative censure resolution on the floor of the House. Let us vote our conscience. If they do not, they can never again be called fair and just individuals.

The President has admitted wrongful and reprehensible conduct. I was the first in this institution to call for a censure of him for his misleading of the American public. I believe that remains the appropriate response—a response that the vast majority of the American people can and do endorse. Further, the President has not only acknowledged the wrongfulness of what he has done, he has apologized repeatedly, indicated a willingness to take the appropriate consequences of his conduct, and sought forgiveness. he is also subject to legal prosecution for any alleged offenses, as he should be. But what he has done does not come close to ''Treason, Bribery, or other high Crimes and Misdemeanors'' which the Framers intended to be the tough and exacting standards those seeking impeachment must meet.

THE STARR INVESTIGATION

There is clearly an abuse of power in this case, and behavior by someone in authority that strikes at the heart of our legal and political system. But it is the behavior of the Independent Counsel that is the abuse of power, and it is his conduct that is the most threatening to our republic. To quote a respected journalist writing in one of my local papers, what we have in Ken Starr is a ''self-righteous, underhanded prosecutor dedicated to destroying someone,'' and ''a man willing to deploy the full resources of federal government's investigative and police powers'' to do so. It is this man, and the biased case he has put forward, on which the Republican majority is willing to rely.

I strongly believe that the Independent Counsel has not conducted an impartial investigation of a possible crime, as is his duty under the law. Instead, we have been subjected to a partisan investigation by a man in search of a crime. Ken Starr has conducted a biased inquiry designed to produce a pre-ordained result.

After four years and the expenditure of tens of millions of dollars, Ken Starr was able to find nothing whatsoever that would subject the President to criminal liability regarding those issues that were within his purview—i.e., Whitewater, ''travelgate'', or misuse of FBI files. Yet Starr decided not to issue any report on those issues, and deliberately said nothing exculpatory until after the November election. Failing to come up with any criminal conduct on these potentially substantive issues, he has been forced to try to make an impeachment case out of very misleading statements about conduct which, however reprehensible and inexcusable, should have remained what it was—a private matter between consenting adults.

In passing the Independent Counsel statute, the intent of the Congress was to create a mechanism to ensure that anyone who investigated the President or a Cabinet official be of the highest ethical standards, completely impartial, free of conflicts of interest, and respectful of his own legal obligations and the rights of others. What we have instead in Ken Starr is a man of unseemly zeal in search of any excuse that might suffice to bring down a President. Let me review some of the conduct that brings me to that unfortunate conclusion.

Ken Starr used information from Linda Tripp that he knew she had obtained in violation of the law, and in fact encouraged her to further violate the law to obtain more information. He set up a sting operation with Monica Lewinsky, threatened her with twenty-seven years in prison and the indictment of her mother if she failed to cooperate, trivialized her Constitutional rights, and suggested he would deny her a grant of immunity if she exercised her right to call a lawyer. He grilled Ms. Lewinsky for ten hours without her being represented by counsel, and attempted to wire her in an effort to entrap the President or his aides.

When Starr asked the Attorney General for jurisdiction to extend his inquiry to encompass the President's relationship with Monica Lewinsky, he withheld critical information relevant to the Attorney General's assessment of his request. He had long been working in concert with Paula Jones' attorneys, conduct which necessarily suggested a clear bias, but he failed to disclose that fact. Starr was contacted several times by Mrs. Jones' lawyer to discuss constitutional issues related to her suit against President Clinton and provided such assistance. In fact, Starr considered helping Mrs. Jones by joining in a friend-of-the-court brief.

Ken Starr's report repeats and exaggerates any conceivable evidence of wrongdoing, but egregiously omits any exculpatory evidence. It is not, as Congress intended, an even-handed report. In fact, no one can even claim it is even-handed. Ken Starr has crossed the line and moved from being an objective and impartial investigator to being a clear advocate for impeachment. His conduct in this regard has been so excessive and inappropriate that his own ethics adviser, Sam Dash, has charged Starr with abuse of his office and resigned.

Ken Starr's actions are not now, and have never been, the actions of a man engaged in an impartial investigation. His conduct is the conduct of a zealot with a diabolical obsession—bringing down the President of the United States. It is Ken Starr's conduct that is frightening and threatening to the rule of law. And this is the man on which the Republican majority has chosen to rely to make their case for impeachment.

THE BURDEN OF PROOF

If the Legislative Branch is to impeach the President, I believe it must meet a high standard and establish clear and convincing evidence of an impeachable offense.

Impeachment is not a slap on the wrist. It is not just a different way to censure the President for wrongful conduct of which we disapprove. It is one of the most significant and momentous steps that the House can take. It is the first step in the removal of a sitting President from office and the reversal of the results of an election. And it is being taken in defiance of the will of the majority of the public which has been, and remains, clearly in opposition to the impeachment and removal of this President on the basis of the facts thus far presented.

The members of both parties have a responsibility to be judicious in what we do here today. This should not be a partisan proceeding. There should be no impeachment unless there is clear and convincing evidence of conduct that clearly constitutes the equivalent of a high crime and misdemeanor. This is too important to be a close call.

Impeachment is neither a purely legal nor a purely political act. It requires a judicious balancing of both legal and political judgment. But if the action we take is to be judicious and defensible not only today, but in the eyes of history, certain parameters are clear. We should only impeach for a grave offense of a public nature. We should only impeach when the evidence is so strong and the conduct so clearly within the parameters of what the Constitution intends that the resolution to impeach can pass by a sizable and bipartisan majority. We should only impeach if the American public supports impeachment, or at the very least is ambivalent—certainly not when the vast majority of the American public is opposed.

And we should not impeach in a lame duck session of the Congress when votes are being cast by many Members who have been defeated and/or will not return. In fact, some argue such action is unconstitutional. Whatever the merits of that argument, such action is clearly unnecessary. There is no need or justification for us to take this important action in such haste.

Finally, we should only proceed if there are reasonable grounds for believing the evidence is such that the Senate might reasonably move to convict. Few believe the Senate will muster the 2/3 vote necessary to convict. It is the worst kind of cynicism to put the country through the trauma of a trial in the Senate in the face of a high probability that the impeachment process will end without conviction.

If there is a real desire for bipartisanship in this context, it would be reasonable to look to what the elder statesmen of the Republican party are suggesting. Both Republican former President Gerald Ford, who knows something about impeachment, and Republican presidential candidate Senator Robert Dole, who lost to President Clinton in the most recent election believes censure, not impeachment, is the appropriate option.

FAILURE TO IDENTIFY AND PROVE AN IMPEACHABLE OFFENSE

What, indeed, are we supposed to be impeaching the President for? I have read the reports and followed the hearings. But I believe I am not alone in being unable to answer that question. Certainly my Republican colleagues have not answered it.

The Constitution very clearly prescribes the grounds for impeachment—treason, bribery or other high crimes and misdemeanors. If Congress wants to violate the spirit of the Constitution, we can impeach for almost anything. But if we want our action to be in keeping with both Constitutional spirit and history, our authority is limited to conduct that rises to the high level indicated. The Framers clearly believed that impeachment was intended to redress seriously wrongful public conduct, and requires a very high and very clear standard because impeachment nullifies the popular will.

Some would impeach because the President allegedly violated his oath of office. That is far too vague and ambiguous a charge for anyone to seriously argue it rises to the level of an impeachable offense. What is required is a high crime that is comparable to treason or bribery. Assuming that the worst charges against the President are true and convincing, his alleged misconduct does not rise to that level.

Indeed, there is not clear and persuasive proof that the President committed any crimes. Those who would impeach the President have tended to use important words cavalierly and interchangeably as if they have fungible content. Words have meaning, they are the skins of living thoughts. To mislead, to lie, to perjure oneself are all, in varying but important degrees, wrong. But to mislead is not necessarily to lie, to lie is not necessarily to perjure. Unfortunately, words can be and have been used interchangeably and carelessly, leading to obfuscation or confusion. Some who favor impeachment have too frequently used them to manipulate rather than to clarify.

Some believe that the President committed perjury. I believe responsible people can disagree about where to draw the line on what does or does not constitute perjury. But there is widespread agreement that few prosecutors would bring a case on the factual basis we have before us today, let alone be able to convict anyone on these grounds.

There are two articles of impeachment that allege perjury, one incident in the context of the Paula Jones deposition, the other in the context of the grand jury deposition. Yet the Republican majority has repeatedly refused to pinpoint exactly what statements constitute perjury or elements of perjury. In the Paula Jones case, there is clear evidence of obvious confusion on the part of the attorneys and the judge about the definition of sex, and concern that its use would make it harder to get at the truth. If the attorneys and the judge were confused, is it inconceivable that the President was confused as well? Are we going to impeach a President over a definition he used that accorded with the definition of every dictionary I am aware of—i.e., ''intercourse?''

The other purported perjury, that in the grand jury testimony, is that the President said he abided by his testimony in the Paula Jones case. Does anyone seriously believe that response rises to the level of a crime against the state?

Some suggest that there are precedents where individuals have been impeached for perjury, and cite the impeachment of judges. However, in those cases perjury was the gravamen of, not peripheral to, the charges brought against the individuals. More importantly, I believe different constitutional standards apply in regard to the impeachment of judges than pertain for the impeachment of the President. First, judges are appointed for life, by one individual. They are not elected for a finite term by the people of the United States. Secondly, the Constitution says, with regard to judges, that they ''shall hold their offices during good behavior.'' That is a much lower constitutional standard, and far easier to meet.

The specifics of our legal system and its procedures are not always easy to understand or appreciate. But I believe all Americans understand that, in this country, we operate under a rule of law, and every citizen—even the President—is innocent until proven guilty. No one is obligated to admit guilt, or to assist the prosecutor to convict him. It is expected and proper for a witness to be cautious under oath, to keep his counsel, to give away as little as possible. Any citizen would and should do the same. Yet some would impeach the President for exercising his most basic legal rights.

As for abuse of power and obstruction of justice charges, I believe they are specious on their face. There are charges of witness tampering, of hiding evidence. But those are disputed charges, and there is evidence on the record that calls their legitimacy into question. There is no proof whatsoever that the President tampered with witnesses or attempted to hide evidence. We cannot impeach on the basis of unproven charges. To suggest that written responses prepared by the President's attorneys to a congressional committee that the committee deems inadequate constitute an abuse of power is so frivolous as not to merit further comment. Indeed, such charges are themselves an abuse of congressional power, or at the very least, a cavalier, indiscriminate use of such powers.

CONCLUSION

Assuming, for the sake of argument, the sincerity of those who want to impeach the President—and that is in some cases a hard assumption to make—shouldn't they permit those who sincerely disagree but believe some punishment is appropriate, the right to pursue the alternative they believe is legitimate—i.e., a resolution of censure? That would allow all Members to vote their consciences on this important issue. The rights of those who would impeach would not be infringed—they could simply vote ''no'' on a censure resolution.

But the Republican majority will not allow that option, because they are afraid it would pass. Instead, they are forcing Members who have serious doubts about impeachment but believe some serious punishment is appropriate to choose between impeachment and nothing.

The Republican majority has taken what should be an historic vote on an issue of conscience and trivialized it into political gamesmanship. On a vote of this import, that conduct is unconscionable. I will vote against the resolution.

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise in opposition to H.R. 611, the four articles of impeachment against President William Jefferson Clinton. I do strongly support the motion to recommit so that censure of the President, a fair and bipartisan compromise, can be debated. To deny us the right to vote on censure is to deny us the right to express the truth of our conscience, and to deny the will of the majority of Americans who want Congress to censure the President, not impeach him.

I have carefully studied the evidence and arguments presented to the Judiciary Committee and have concluded that the articles of impeachment drafted by the Committee do not meet the impeachment threshold established by the framers as specifically outlined in our Constitution. Article II, Section 4 of the Constitution of the United States provides that the House of Representatives ''shall remove from office [the President] on impeachment for treason, bribery or other high crimes and misdemeanors.'' My interpretation of the intent of the framers is that the phrase ''other high crimes and misdemeanors'' is limited to acts with the magnitude and gravity of the crimes of treason and bribery, crimes that do direct harm to the institutions of our government. Perhaps to avert use of impeachment in a partisan effort to derail a political agenda, Alexander Hamilton wrote that an impeachable offense is of the nature ''which may with peculiar propriety be denominated political, as they relate chiefly to injuries done immediately to the society itself.'' The Judiciary Committee has not demonstrated that the President has so subverted our Constitution and threatened our system of government as to corrupt our Republic.

I do support a strong and punitive censure resolution of the President for his reprehensible actions. It is unfair to deny America's Representatives in Congress the opportunity to take positive action on a bipartisan compromise of censure. Censure is warranted, appropriate, and would not undo two national elections nor preclude future legal action that a federal prosecutor could undertake or judgment a court could find when the President returns to the private sector. In addition, the President will face the judgment of history just

as we in the Congress will be judged by this defining moment.

I urge all of my colleagues to vote to recommit H.R. 611, the articles of impeachment, and support a motion to censure. By not achieving the threshold established in the Constitution's Article II, Section 4, we will have failed in our duty to preserve and protect the law of our land.

Mr. LATOURETTE. Mr. Speaker, it is not our job to determine if the president is guilty of being a philanderer, a coward, a sinner, or even a liar.

This issue is not whether he was unfaithful but whether he was unfaithful to our laws, and our Constitution. No president, even a popular one, has the right to cheat on the most sacred document in the world.

For those who favor a censure that amounts to nothing more than a verbal spanking, how do we adequately rebuke a man who insists he's done nothing wrong, who flaunts the law and wants to manipulate the Constitution?

The law does recognize that a lesser penalty should apply to those with remorse and a contrite spirit, but there is none.

There cannot be two standards under the law, just as there cannot be a geographically desirable place to lie under oath. The law does not pause, even if you are the President of the United States.

If we can court-martial members of our military and subject them to 50 years of jail time for lying under oath to cover up sexual indiscretions, should the punishment be nothing for a president or any other citizen of this land? We cannot reconcile that which makes no sense.

Sometimes in this life somebody has to not just be the adult, but the bigger adult. Our president refuses to go down that path.

He allowed a casual workplace flirtation to go to a place it never should have gone, and then acted as if he was somehow victimized.

He put our country through months of denials and defiance and outright lies. He knew the stakes and the consequences of lying under oath, and then did so anyway.

I gave this president every benefit of the doubt. I remain stunned by his inability and refusal to place the country first.

Lying under oath is not nothing. Perjury is not nothing. As a prosecutor, I sent people to jail for this crime.

I would give anything to be elsewhere today, to not have to cast this vote. Our President left us, left me, with no other option.

Mr. President, you gave into your shame. I refuse to do the same.

While partisan politics makes an easy foil for the predicament President Clinton finds himself, it cannot be blamed.

When the spin and partisan hostility fade, I am confident that history will reveal that President Clinton was the master of his own demise in both words and deeds.

Ms. RIVERS. Mr. Speaker, I do not approve of nor defend, the behavior of the president that has brought us here. I have no interest in helping him avoid the legal consequences of those acts. However, I have every interest in making sure those consequences are constitutional.

The constitution tells us a President can only be impeached and removed by Congress for treason, bribery and other high crimes and misdemeanors. The founding fathers were clear that the careful balance of powers between the branches could be altered in only the most extraordinary circumstances.

Alexander Hamilton in The Federalist #65 argued that impeachment is meant to address ''the misconduct of public men,'' ''the violation of some public trust,'' or ''to address injuries done immediately to the society itself.''

Wooddeson, a legal scholar whose writings in 1777 were nearly contemporaneous with the drafting of the constitution, and whose views on English impeachment provided the foundation for much of the impeachment discussion in Jefferson's Manual spoke to the use of impeachment to prosecute ''magistrates and officers instrusted with the administration of public affairs [who] abuse their delegated powers to the extension detriment of the community, and. . . in a manner not properly cognizable before ordinary tribunals.''

The standards set forth by the founding fathers remain vital and immutable—we are not free to add to the list of impeachable offenses, no matter how worthy our additions.

Just last year in Clinton v. Jones—in a 9–0 decision, the Supreme Court referred to the historical standard for impeachment when it quoted James Wilson—delegate to both the Philadelphia and Pennsylvania conventions—who said ''that although the President is placed on high, not a single privilege is annexed to his character; far from being above the laws, he is amenable to them in his private character as a citizen and in his public character by impeachment.'' The justices go on to say that ''with respect to acts taken in his ''public character''. . . that is official acts. . . the President may be disciplined, principally by impeachment. . . But he is otherwise subject to the laws for his purely private acts.''

As you probably recall, the Supreme Court allowed Ms. Jones lawsuit was allowed to go forward expressly because it was the personal, private conduct of the President that was at issue. The conduct before us is the same.

The history is clear and so is our duty. The behavior at issue here—if proven—are punishable in the Courts. They are not, however, of the ''public'' character necessary to rise to the level of impeachable offenses.

I will vote no—not because I believe the President should be able to avoid the legal consequences ordinary Americans would face in similar circumstances, but because I believe he should face exactly the same consequences: trial in a court of law. This outcome does not subvert the law, as the majority argues, but in fact, observes the law as the Constitution demands. The founding fathers, more than 200 years ago, and the Supreme Court, just last year, laid out the course we must follow.

The Constitution must be our guide. The wrath that the citizens of this country delivered upon us when we shut down the government will be nothing compared to what will happen if we rape the Constitution.

Mr. LOBIONDO. Mr. Speaker, voting for the articles of impeachment will be one of the most difficult votes I will cast in my career. I cannot think of anything more serious for myself and the nation. I have put more effort into this decision than any other I have made in elected office. I have spoken personally with hundreds of constituents, read mountains of correspondence, and carefully listened to legal arguments on both sides of the issue.

The President has an obligation set out in Article II, Section 3 of the Constitution to ''take Care that the Laws be faithfully executed.'' The President is the Nation's chief law enforcement officer who appoints the Attorney General and nominates all federal judges including the Supreme Court. I cannot in good conscience allow the President to violate the law and his Constitutional duty without consequence.

I have come to my decision after a long and careful consideration of the facts. These facts have not been disputed. There is clear and convincing evidence that the President broke the law. The laws he broke are serious enough to warrant impeachment. Specifically, the evidence demonstrates that the President committed perjury and perjury is a felony punishable by up to five years in prison. If Congress chose to ignore the President's actions, we would set the dangerous precedent that some are above the law. But the truth is no one is above the law, and everyone has an obligation to uphold the law no matter how personally uncomfortable compliance might be.

If the House ultimately decides to approve one or more impeachment articles, the Constitution charges the Senate with the responsibility to decide what proper action should be taken. I hope they act expeditiously and I will abide by their decision. This has been an extremely wearisome experience for the country and it is in everybody's best interest to bring closure soon.

Mr. FOSSELLA. Mr. Speaker, over the past few months I have reviewed, in some instances more than once, the evidence in this case in an objective and dispassionate manner.

Perjury, or lying under oath, is a felony. As evidence, there are American citizens in jail today because they did not tell the truth, the whole truth and nothing but the truth in a court of law. The foundation of our legal system is premised upon the rule that when any citizen raises his or her hand and swears to tell the truth, he or she will tell the truth.

In my community, as in every community throughout our nation, juries have reaffirmed that fundamental principle. Today in New York due to a felony conviction: A Police Officer would lose his job, lose his pension and go to jail; an attorney would face automatic disbarment and go to jail; and a captain in the United States Army could be subject to court martial and go to jail.

In reviewing the evidence, it became clear and convincing to me that the President lied under oath in a civil proceeding and in testifying before a Federal Grand Jury. In this case I believe there is sufficient evidence that William Jefferson Clinton committed perjury and abused the office of the Presidency. Accordingly, I will take the only course of action that the United States Constitution has mandated me to do—I will vote for impeachment and let the United State Senate conduct a trial to determine the ultimate outcome.

I understand that this decision may not sit well with some people. And I appreciate that many Americans have take the time to voice their opinions. But, it is my firm belief that I must do what I believe is right. Indeed, there are those who acknowledged that the President has committed a felony, yet will not summon the courage to vote to move this matter to the Senate for trial. I cannot defend the indefensible and maintain a clear conscience. I

cannot in good conscience justify a vote against impeachment.

The integrity of the judicial system and the rule of law must be maintained regardless of who comes before it. We cannot ignore the rule of law for the President, but apply it to the ordinary citizen.

Our founding fathers and many of our ancestors escaped the tyranny where the King was law. Millions have fought, hundreds of thousands have died and many are fighting today, far from our shores, to preserve the freedom and rule of law that we enjoy. This vote is cast to preserve the notion for our children and future generations of Americans yet unborn that in the United States of America the law is King.

Mr. LAZIO of New York. Mr. Speaker, after accompanying the President as he returned home from the Middle East, I return to the House of Representatives to vote on authorizing his trial of impeachment in the Senate. Aloft in Air Force One I was deeply impressed once again by the Presidency itself, a great and stable institution that transcends even the finest men who have occupied the office. Through some may add to it and others may subtract from it, the office remains imperturbable because it represents not only the Nation but the constitutional order.

I bear no animus for Bill Clinton. I have no grudge against him. Nor would I consider removing a President from office because of partisan differences. For one thing, the President has on many occasions adopted Republican positions, and on various subjects his political outlook is congenial to mine. For another, his replacement should he be removed from office or resign would be the Vice President, a man who has been less aligned with my party's views.

This is neither a personal nor a partisan decision. Its difficulty lies in the rare but important conflict between what is expedient in the short term and what resonates as a guiding principle for time with no limit. It is not about the fate of one man, but the value of truth itself, the principle that no man, no matter how rich or powerful, is above the law. It is about the notion of accountability, and about dealing straight and keeping one's word.

Public ethics and the truth must be partners. A leader who tells the truth no matter what the cost to him is a leader who puts the interests of the country before his own, and thus with these priorities, has the power of moral suasion. He is able to call upon a vast reservoir of public esteem to marshal the people for great things and in defense of essential principles. And great leaders do not arise without this understanding clearly in mind. They are recruited by expectations, and their repayment for the trust the people vest in them is their integrity.

Duty. Honor. Trust. Sacrifice. These are the qualities that, for the sake of people they had never known and the principles formulated centuries before their births, enabled millions of American soldiers to put their lives on the line in far-off lands and in horrific moments. If they could do so then, at the price of their lives, then it should not be difficult now to tell the truth or vote according to the dictates of conscience even if it means the end of one's career. And that is what I will do. With the greatest respect and humility for those who made far more difficult decisions and at a far greater price, I will simply abide by what I think is right, without political calculation.

And what do I think is right in this case? When I was a Suffolk County prosecutor my entire duty was based on the integrity and conduct of the men and women who took an oath to tell the truth. In many cases it was difficult for these people to testify honestly, sometimes it was even disastrous. But when they were sworn-in they understood that this was different, that here the truth was required, that it was almost holy, that upon their respect for their oath would ride many things, including the functioning of the system of justice, the existence of a government of laws, the equality of one citizen with another, and, not least, their own honor. These were ordinary people. They understood. In many cases, they sacrificed. In many cases, they suffered. But they told the truth.

If an anonymous citizen, with no reward for his actions other than the knowledge that he has done right, can abide by his oath, what about a President, upon whom someday the light of history will shine? We have strengthened the office and given the President immense power and privilege not only with the expectation that he will be scrupulously honest but also with the thought of helping him to be so. Unlike the ordinary citizen, his decisions are insulated and he is protected. And history is poised to look kindly on him for every instance in which he sacrifices for the sake of the nation he leads, for every instance in which he chooses forthrightness rather than obfuscation: in short, for his character.

Therefore, when a President fails in his duty as an ordinary citizen does not, the failure is catastrophic. Shall less be expected of the President than of you or me? It has always been that we expect and deserve of the President a great deal more. Nor is the case in question a private matter. For a high school principal, a corporate executive, a military officer, or anyone else, it would not be a private matter. Here, the trustee of the greatest of world powers knows that he will be in a sworn legal proceeding, consults with advisers (including taxpayer-paid White House lawyers) for many months, has full notice, appears voluntarily before a criminal grand jury (though only due to the existence of incontrovertible evidence), and still cannot bring himself to do what the Government he heads insists every day that we all do—tell the truth.

For me, the turning point was the President's written response to the 81 questions posed by the Judiciary Committee. The only thing required of him was the truth. The questions were submitted with the hope and expectation that he would put the interests of the country and the constitution before his own, that he would cease the very elaborate game that he had long been playing, that he would tell the truth and reclaim the honor and dignity of the Presidency. But he did not.

What choice is there, then? What choice is there when the President's own witnesses before the Judiciary Committee claim that he has ''disgraced the Presidency'' and acted without morals? His own lawyer testified that the President, having taken the oath that promises ''the truth, the whole truth and nothing but the truth,'' gave an answer that amounted to a ''false denial.'' And the President continues to profess that ''false denials'' are not lies. This is a catastrophic abdication of ethical leadership and a grave departure from our most fundamental practices.

I have chosen my course, and will vote for impeachment, to hammer home as best I can that we must continue to insist that no one is above the law and that the truth must be told. We simply cannot tolerate dishonesty in the heart of our Government. This is what I was brought up to believe, and I believe it still.

Ms. ESHOO. Mr. Speaker, today, December 19, 1998, is a day of infamy in the House of Representatives. I believe history will record that on this day, the House of the People, through searing partisanship, disallowed the right of each Member to express his or her own conscience. Today, only votes on impeachment are allowed.

A flawed case was brought forward by the House Judiciary Committee. I say ''flawed'' because the Framers' intent for removal of the Chief Executive was set at the highest level—treason, bribery, and high crimes against the people. The President's actions, morally wrong as I judge them, do not meet this constitutional standard.

The lessons of history—1868 and 1974 are instructive. Today, our Chamber, in 1998, mirrors the 1868 experience wherein the highly partisan action of the Congress ripped at the fabric of our nation and weakened the Constitution and the Presidency for decades.

The 1974 experience differed in that the evidence brought forward and the deliberations were highly bipartisan—some even say nonpartisan. And importantly, the people of our Nation agreed with the actions Congress took.

I believe that censure is not barred by the Constitution. The Constitution and the Federalist Papers are silent on censure. Hundreds of scholars have spoken on this. Why would the Republican majority so fear a vote being allowed and taken in the House today?

Impeachment of the President is the constitutional equivalent of the death penalty. But the rule of law—a principle so often invoked in the debate—also relies on proportionality. And impeachment of the President for moral laxity is beyond the proportionality of what the President has done and the punishment deserved.

The citizens of our nation do not support impeachment. Almost half the Congress does not support impeachment. Without clear consensus in our Nation, without critical bipartisanship in this House, without proportionality relative to the rule of law, and without a clear case that can withstand the scrutiny of history, we stand on a slippery slope, and I believe our Nation is placed in jeopardy.

Mr. Speaker, our flag is the symbol of our Nation but the Constitution is the soul of our Nation.

Today we tear at the soul of our Nation.

There is no doubt that by his actions Bill Clinton has brought shame as President. But today this body has set itself on a treacherous course of both weakening the Presidency and diminishing the Constitution. This action in 1998 I believe will haunt us in history just as 1868 did.

Mrs. CUBIN. Mr. Speaker, after weeks of soul-searching, hearing from the people of Wyoming, and a thorough review of the evidence, I have reached a painful decision which I realize will severely impact our country and bring humiliation to another human being. At this crucial time, however, we have to put the good of the Republic, the integrity of the Constitution, and the rule of law above all else to protect the future of the United States America. For this reason, I will vote to impeach the President.

This is an awesome responsibility that none of us take lightly, certainly not me.

Perjury, obstruction of justice, and abuse of power undermine the basis of our judicial system, our system of laws, thereby undermining the very foundation of this great country.

I recognize the profound effect my vote will have on the future of our democracy and most importantly, the effect and impact it will have on the future of our children. It may well be the most important vote I ever cast during my years of public service.

I want you to know I have prayed for guidance every day. After examining all the material, watching the hearings, listening to the testimony and to the President, and making myself familiar with all the information I can, I have come to the sad conclusion that I must vote for all four proposed articles of impeachment against the President of the United States. In my view, there is no doubt the President's actions warrant impeachment and a subsequent trial in the Senate.

None of us are perfect, and we can all be forgiven for what we do in life. However, forgiveness does not negate the fact that every action we take in life has consequences. President Clinton is not just our head of state. He is the most powerful public servant in the country, probably the world. He took an oath to uphold the Constitution and the laws of our land. The American people are right to hold him to this high standard, and the Congress is right to uphold the Constitution when the President fails to do so.

I implore the President to resign in order to spare the country and the people of America the painful and embarrassing experience of going through further impeachment proceedings. If he does not resign, I have the solemn duty to vote to impeach William Jefferson Clinton.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to the order of the House of Friday, December 18, 1998, the previous question is ordered on the resolution.

MOTION TO RECOMMIT OFFERED BY MR. BOUCHER

Mr. BOUCHER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the resolution?

Mr. BOUCHER. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BOUCHER moves to recommit the resolution H. Res. 611 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the resolving clause and insert the following:

That it is the sense of the House that—

(1) on January 20, 1993, William Jefferson Clinton took the oath prescribed by the Constitution of the United States faithfully to execute the office of President; implicit in that oath is the obligation that the President set an example of high moral standards and conduct himself in a manner that fosters respect for the truth; and William Jefferson Clinton, has egregiously failed in this obligation, and through his actions violated the trust of the American people, lessened their esteem for the office of President, and dishonored the office which they have entrusted to him;

(2)(A) William Jefferson Clinton made false statements concerning his reprehensible conduct with a subordinate;

(B) William Jefferson Clinton wrongly took steps to delay discovery of the truth; and

(C) inasmuch as no person is above the law, William Jefferson Clinton remains subject to criminal and civil penalties; and

(3) William Jefferson Clinton, President of the United States, by his conduct has brought upon himself, and fully deserves, the censure and condemnation of the American people and this House.

Mr. SOLOMON. Mr. Speaker, I reserve a point of order against the motion to recommit.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) reserves a point of order.

Pursuant to the order of the House of Friday, December 18, 1998, the gentleman from Virginia (Mr. BOUCHER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. Boucher) for 5 minutes.

Mr. BOUCHER. Mr. Speaker, this debate comes very late, and it comes in a procedurally awkward manner. The resolution of censure that I am pleased to offer today was made in order for consideration in the Committee on the Judiciary by the gentleman from Illinois (Mr. HYDE), the chairman.

He understood the importance of an evenhanded process. He understood the need for balance. He perceived that fairness required the availability to the Members of the outcome for this investigation, which is the clear preference of the American people, the passage of a resolution of censure that admonishes the President for his conduct.

I commend the gentleman from Illinois (Mr. HYDE) for that evenhandedness. I can only wish that his example had been followed by the majority leadership in the House. With the leadership's concurrence, the Committee on Rules could have been convened, and a procedural resolution allowing floor consideration of both the articles of impeachment and a resolution of censure could have been reported and adopted by the House. This censure resolution could have and should have been made in order from the start.

But that did not occur. The Members of the House did not have a censure alternative available to them from the beginning, and a point of order has been reserved to this resolution offered at the present time. I very much regret this procedure. I think it is a monument to unfairness.

Not only is a censure and rebuke of the President the public's clear choice, but it is the right thing to do. The constitutional history clearly instructs us that the presidential impeachment power is to be used only as a last resort at times of true national emergency. Its purpose is to remove from office a president whose conduct threatens the very foundations of our system of government. It is a drastic remedy for the removal of a tyrant. It should not be used to remove a president whose offense is a shameful affair and its efforts to conceal it. For that offense he can be tried in a court of law. For that offense he can and should be censured by this House. That would be a perfect expression of the public's entirely justified outrage.

But to use the impeachment power for that conduct defines it down, cheapens its use, lowers the standard of impeachment for all time, and will inherently weaken the presidential office. Censure is the right approach. I urge approval of this resolution.

Mr. Speaker, I am pleased to yield the balance of my time to the gentleman from Missouri (Mr. GEPHARDT), the Democratic leader.

(Mr. GEPHARDT asked and was given permission to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, I stood on this floor yesterday and implored all of us to say that the politics of slash and burn must end. I implored all of us that we must turn away from the politics of personal destruction and return to the politics of values.

It is with that same passion that I say to all of you today that the gentleman from Louisiana (Mr. BOB LIVINGSTON) is a worthy and good and honorable man.

□ 1130

I believe his decision to retire is a terrible capitulation to the negative forces that are consuming our political system and our country, and I pray with all my heart that he will reconsider this decision.

Our Founding Fathers created a system of government of men, not of angels. No one standing in this House today can pass the puritanical test of purity that some are demanding that our elected leaders take. If we demand that mere mortals live up to this standard, we will see our seats of government lay empty and we will see the best, most able people unfairly cast out of public service.

We need to stop destroying imperfect people at the altar of an unobtainable morality. We need to start living up to the standards which the public in its infinite wisdom understands, that imperfect people must strive towards, but too often fall short.

We are now rapidly descending into a politics where life imitates farce, fratricide dominates our public debate, and America is held hostage to tactics of smear and fear.

Let all of us here today say no to resignation, no to impeachment, no to hatred, no to intolerance of each other, and no to vicious self-righteousness.

We need to start healing. We need to start binding up our wounds. We need to end this downward spiral which will culminate in the death of representative democracy.

I believe this healing can start today by changing the course we have begun. This is exactly why we need this today to be bipartisan. This is why we ask the opportunity to vote on a bipartisan censure resolution, to begin the process

of healing our Nation and healing our people.

We are on the brink of the abyss. The only way we stop this insanity is through the force of our own will. The only way we stop this spiral is for all of us to finally say ''enough.''

Let us step back from the abyss and let us begin a new politics of respect and fairness and decency, which realizes what has come before.

May God have mercy on this Congress, and may Congress have the wisdom and the courage and the goodness to save itself today.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Wisconsin (Mr. Sensenbrenner) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, I yield to the gentleman from Florida (Mr. CANADY).

Mr. CANADY of Florida. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding to me, and I rise in opposition to the motion to recommit.

The gentleman from Missouri (Mr. GEPHARDT) has, with his customary dignity and good grace, made a passionate appeal for the motion to recommit. I submit to the House, however, that the motion to recommit must be rejected by this House.

The motion to recommit must be rejected first and foremost because we today in this House do not sit in judgment on the President for his sins. We do not sit in judgment on the President for his frailties, for his human failings. That is not our responsibility.

But today in this House we do sit in judgment on the President of the United States for his crimes. And it is because of his crimes that this motion must be rejected.

It must be rejected first because the proposal for censure is outside the framework established by our Constitution. As the gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary, so eloquently explained, the Constitution establishes a single method for this Congress to sit in judgment on the misconduct of a President. The constitutional method is impeachment by the House and trial in the Senate.

Other methods may seem to us more convenient or more comfortable, but our standard cannot be comfort or convenience. Our standard must be and always remain our Constitution.

Are we in this House so fearful of following the constitutional standard? Do we have so little faith in the institutions of our government and the path marked out for us in our Constitution that we would turn aside and substitute our opinions for the wisdom of the Framers and go down another path? Our answer must be no. We must stay on the path laid out for us in the Constitution.

To those who say that a vote of censure is a matter of conscience, I must say that their consciences do not bind the Committee on the Judiciary to bring before this House a measure which we judge to be harmful and dangerous because it is outside the constitutional framework, a measure which violates the separation of powers. Their consciences do not trump our Constitution.

And I must also ask this: If expressing a censure of the President is such a matter of conscience, why have they not done what is clearly within their power and which raises no constitutional problems to censure President Clinton? Why has the Democratic Caucus, by its own solemn act and resolution, not censured President Clinton? With all due respect to my Democratic friends, I must suggest, if their consciences were so stricken, they would have censured him by their own collective judgment through the action of their own Caucus long before we came to this sad day.

There are, of course, other reasons that this House must reject censure. We must reject censure because the facts of the case against the President, facts establishing a calculated and sustained pattern of perjury and obstruction of justice, are overwhelming. All the attacks on the Independent Counsel, all the attacks on the Committee on the Judiciary do not alter the stubborn facts of the case against President William Jefferson Clinton.

We must reject censure because the President's defense rests squarely, we must sadly conclude, on the denial of the obvious and the assertion of pure nonsense. To this day, the President's defense rests on the claim that he told the truth in his deposition when he denied that he had any specific recollection of ever being alone with Ms. Lewinsky. Who in this House believes that? Who in this country believes that? To this day, the President's defense rests on the argument that Ms. Lewinsky had sex with him, but he did not have sex with her.

How sad it is that the President of the United States is reduced to making such nonsensical arguments. What rational person can accept such a defense? Such a defense is an insult to our intelligence, an insult to judgment and to common sense.

Finally, we must reject censure because under our Constitution, the President's crimes, not his sins, not his human failings, but his crimes demand impeachment. William Jefferson Clinton has willfully, he has willfully turned aside from the unique role assigned to him under our Constitution. He has willfully turned aside from the oath of office that he swore. He has willfully turned aside from his preeminent duty to take care that the laws be faithfully executed. Such a President should not remain in office. Such a President must be impeached by this House and brought to account before the Senate.

POINT OF ORDER

The SPEAKER pro tempore. Does the gentleman from New York (Mr. SOLOMON) insist on his point of order?

Mr. SOLOMON. Mr. Speaker, I do insist on my point of order and I wish to be recognized on the point of order.

Mr. Speaker, I make the point of order against this motion to recommit on the grounds that it does violate clause 7 of House Rule XVI, that is the germaneness rule.

Mr. Speaker, this rule is a rule of the House and it requires amendments to be germane to the text that one is attempting to amend. And, Mr. Speaker, House Resolution 611, a resolution impeaching President Clinton for high crimes and misdemeanors, was reported as a question of privileges of the House under Rule IX. This privileged status is established by the Constitution in Article I, Section 2, which grants the House the sole power of impeachment.

☐ 1145

It is also established by numerous precedents in the history of this House in which resolutions of impeachment have been called up as privileged matter on the floor.

Mr. Speaker, the motion to recommit contains matter which is not privileged for consideration by this House. An attempt to insert nonprivileged matter into privileged matter by amendment clearly violates the germaneness rules of this House.

Mr. Speaker, in order to be held germane, an amendment must share a fundamental purpose with the text one attempts to amend. Impeachment is the prescribed mechanism to address this conduct by the chief executive, and any other procedure has no foundation in the Constitution and is not contemplated by the separation of powers. To attempt to substitute a censure for impeachment is to violate the overall purpose of the Constitution's impeachment clause.

Mr. Speaker, the fundamental purpose of the motion to recommit presently before the House obviously does not conform to the fundamental purpose of the impeachment resolution. It proposes a different end, a different result and a different method of achieving that end.

Mr. Speaker, I urge the Chair to sustain this point of order.

I ask unanimous consent to insert extraneous matter at this point in the RECORD. It is a ''Dear Colleague'' letter to Members from myself and the incoming chairman of the Committee on Rules, the gentleman from California (Mr. DREIER).

Finally, Mr. Speaker, let me just say that this House has a tradition, it has a tradition of nonpartisan rulings by the Chair on questions of germaneness. Indeed, the parliamentarian of the House is a nonpartisan officer of the majority and minority party Members. These recommendations are based on an orderly set of factual rulings from

the past which establish precedents of the future.

Mr. Speaker, I urge you to continue your reputation of fairness and sustain this point of order.

The SPEAKER pro tempore (Mr. LAHOOD). Extraneous material will be inserted after the point of order is disposed of.

Does the gentleman from Massachusetts wish to be heard on the point of order?

Mr. MOAKLEY. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. MOAKLEY. Mr. Speaker, there is nothing unusual or unprecedented in offering this motion. On many occasions the House has debated resolutions to censure presidents, other executive officials, even private citizens. In fact, Mr. Speaker, the House has even debated an amendment to convert articles of impeachment into a censure resolution. In 1830, Mr. Speaker, no one even questioned the legitimacy of that amendment.

The Boucher amendment to censure the President is germane to the articles of impeachment that we find before us.

Mr. Speaker, in proposing this amendment, we are simply following the precedents of the House. The 3rd volume of Hinds' Precedents, section 2367, clearly records that during the impeachment of Judge James Peck, Representative Edward Everett of Massachusetts offered an amendment to an impeachment resolution. That amendment stated that the ''House does not approve of the conduct of James Peck'' and goes on to recommend that he not be impeached. This is, in essence, Mr. Speaker, what the motion of the gentleman from Virginia (Mr. BOUCHER) does.

The Boucher amendment strikes out the articles of impeachment and, in a more expansive formulation, states that the ''House does not approve of the conduct of'' President Clinton. The House went on to defeat Representative EVERETT's amendment, but it was offered, it was debated, and it was voted upon.

Mr. Speaker, we are asking for the same consideration that the precedents of the House prove was given before. And furthermore, Mr. Speaker, the Peck case is not the only time that the House has considered censure of an individual subject to impeachment.

In a recent study, the Congressional Research Service reported that the House has considered censuring executive officials a total of 9 times. And the House also has censured its own Members.

The Republican-led House has considered numerous resolutions expressing its disapproval of individuals and their conduct. Just recently the House condemned travel by Louis Farrakhan and the House castigated the remarks of Sara Lister, Assistant Secretary of the Army for Manpower. The House even expressed itself on the President's assertions of executive privilege. And the House expressed its views on many other matters.

Surely, Mr. Speaker, if the House can approve the display of the Ten Commandments, it can censure the deplorable behavior of President Clinton, and we are simply asking for that opportunity.

The gentleman from New York (Mr. SOLOMON) makes the point of order that the amendment is nongermane. The amendment could be challenged on three grounds: First, that it is not germane to amend privileged material with nonprivileged material; second, that even if censure is considered as privileged, the fundamental purpose of impeachment is different from censure; and third, that censure is not a constitutionally sound remedy.

On the first argument, Mr. Speaker, the Chair may be tempted to follow footnote 8 in Deschler's volume 3, chapter 14, section 1.3 which states that it is not germane to amend impeachment which is privileged material with censure which is nonprivileged material. But I ask the Chair to withhold judgment on that. The footnote itself acknowledges that this is not a matter of precedent because the issue has never arisen. Again, Mr. Speaker, this is not a matter of precedent because the issue has never arisen.

Moreover, it is clearly established that resolutions of censure have been considered as privileged in the past.

In the second volume of Hinds, section 1625, a Mr. A.P. Field was reprimanded in the well of the House by the Speaker pursuant to a privileged resolution. And this is not the only case, Mr. Speaker. The 6th volume of Cannons precedents, section 333, records that in 1913, a Mr. Charles Glover was also brought to the well of the House. He was reprimanded by the Speaker pursuant to a privileged resolution.

Mr. Speaker, it is clearly established that resolutions that provide for censure or reprimand have been considered as privileged in the past. In sum, it is supported by the precedents that resolutions of censure have been treated as privileged by this House and, therefore, the argument that it is not germane to amend privileged matters with nonprivileged material is not at issue in this case.

The second line of argument my Republican colleagues use is that censure has a fundamentally different purpose than impeachment. The argument is that impeachment is intended to remedy a constitutional crisis whereas censure is designed to punish.

Mr. Speaker, let me ask, where is the remedial meaning in phrases such as ''acted in a manner subversive of the rule of law and justice'' ''has brought disrepute on the presidency'' and ''exhibited contempt for the inquiry''?

These words of censure are found in the very articles before us. Clearly, Mr. Speaker, this language is meant to inflict punishment on the President, punishment that is at odds with the remedial nature of impeachment.

The articles of impeachment also touch on this issue of punishment by recommending to the Senate that the President be tried, convicted, removed from office and forbidden to hold any office in the future. In fact, Mr. Speaker, the House has never, ever recommended to the Senate that the person being impeached also be prohibited from holding other office. Even in the highly-charged, politically-motivated impeachment of President Andrew Johnson, the House did not dare recommend to the Senate an appropriate punishment.

The committee clearly intends not only to remedy the situation by impeaching the President but also intends to punish him by its disqualification to hold and enjoy office of honor, trust or profit under the United States.

The words of Alexander Hamilton in Federalist 65 are instructive. When discussing impeachment, Hamilton uses the word ''punishment'' to describe being denied future public office. It certainly sounds like punishment to me, Mr. Speaker.

Mr. Hamilton also describes that punishment as being ''sentenced to a perpetual ostracism from the esteem and confidence and honors and emoluments of this country.'' Clearly, Alexander Hamilton believed that denial of future public office was intended to be punitive as well as remedial.

Mr. Speaker, since this resolution contains both remedial impeachment and punitive censure, it should be germane to propose censure alone. The Committee on the Judiciary itself has opened the door by censuring the President.

The last argument that is being propounded is that censure is not a constitutionally sound remedy. I would urge the Speaker not to entertain this argument. It is well established that the presiding officer does not pass judgment on the constitutionality of any proposed legislation, 8 Cannon section 3031.

If the Speaker still feels constrained to address the constitutional question, I remind the Chair that the House has attempted to censure Federal officials numerous times in the past and has in fact voted to censure such individuals.

Not once, Mr. Speaker, not once has there been a successful constitutional challenge. Clearly, censure is not prohibited by the Constitution.

Mr. Speaker, I respectfully remind the Chair that you are ruling on a profoundly important matter, a matter of whether to allow us a vote of conscience in the matter of impeachment. In the 210 years of Congress, 210 years that Congress has been in existence, no Chair has ever been called on to rule whether censure is germane to impeachment. I repeat that. In 210 years, the Chair has never been called on to rule on that. Your decision would be

the first and the only such decision and will be recorded in the rule books as such.

Volume 3 of Deschler's notes, and I quote, ''the issue of whether a proposition to censure a Federal officer would be germane to a proposition for his impeachment has not arisen.'' While the Chair was not asked to rule on the question then, the House has considered an amendment to the impeachment resolution to censure Judge Peck and in has in other instances considered censure resolutions as privileged.

Mr. Speaker, it has happened in the past. I urge the Chair to follow the weight of House practice and to overrule the point of order.

The SPEAKER pro tempore. Does any other Member wish to be heard on the point of order?

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the point of order on the motion to recommit because it is not germane to House Resolution 611.

Clause 7 of rule XVI of the rules of the House of Representatives provides that ''no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.'' Prior rulings of the House have held this provision applicable to motions to recommit with or without instructions. A motion to recommit is not in order if it would not be in order as an amendment to the underlying proposition.

The constitutional prerogatives of the House, such as impeachment and matters incidental thereto, are questions of high privilege under rule IX of the House rules.

A joint or simple resolution evincing the disapproval of the House is not a question of privilege under the rules of the House.

Furthermore, the fundamental principle of such a censure resolution is inconsistent with the fundamental purpose of an impeachment resolution.

I would point out to the Chair that the motion to recommit with instructions that is under consideration here is not even a censure motion. It is a sense of the Congress resolution, and I would refer the Chair to the last four lines of their resolution, that William Jefferson Clinton, President of the United States, by his conduct has brought upon himself and fully deserves the censure and condemnation of the American people and this House.

It says he deserves the censure but it does not censure him.

We have heard an awful lot about the rule of law during this debate, which I think has been one of the finest debates that the House of Representatives has had.

□ 1200

This is our opportunity to uphold our rules, our laws, and I would strongly urge the Chair to sustain the point of order.

The SPEAKER pro tempore (Mr. LAHOOD). Are there other Members who wish to be heard?

The Chair recognizes the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I wish to be heard on the point of order and I urge you to overrule the point of order.

Mr. Speaker, the argument has been made that censure is unprecedented, uncommon or unconstitutional. That simply is not the case.

In the impeachment of Judge Peck, an amendment was offered that contained a censure. The gentleman from Massachusetts (Mr. MOAKLEY) spoke to this in his remarks. I want to point out that on many other occasions the House has chosen censure over impeachment. I would like to cite a few examples.

In the case of Judge Speers, the committee report stated, and I am quoting, ''The record presents a series of legal oppressions that demand condemnation and criticism.'' Even in the light of this finding, the committee did not recommend proceeding with impeachment and the report containing censure was adopted.

In the cases of Judge Harry Anderson, Judge Frank Cooper, Judge Grover Moscowitz, Judge Blodgett, Judge Boarman, Judge Jenkins and Judge Ricks, the committee recommended censure instead of proceeding with impeachment.

The fact of the matter, Mr. Speaker, is that there is a long-standing history in the House of substituting censure for impeachment. Sometimes, as in the Louderback case, the Committee on the Judiciary recommends censure and the House rejects that recommendation and votes impeachment. Other times the committee has recommended censure over impeachment and the House has agreed with that recommendation. Mr. Speaker, what is important is that the House has had a choice between censure and impeachment.

There is also a long tradition in the House of censuring executive officers. As we have heard, a recent Congressional Research Service study found nine instances where the House has attempted to censure Federal officials. Presidents John Adams, John Tyler, James Polk and James Buchanan were all subject of censure resolutions. In addition, Treasury Secretary Alexander Hamilton, Navy Secretary Isaac Toucey, former War Secretary Simon Cameron, Navy Secretary Gideon Welles, and Ambassador Thomas Bayard as well, were all subject to censure resolutions.

Indeed, private citizens have also been censured by the House. The gentleman from Massachusetts (Mr. MOAKLEY) cited two examples in his opening argument. The House has also censured a Mr. John Anderson, a Mr. Samuel Houston, and moved to censure Mr. Russel Jarvis.

I believe these examples will dispel the myth that censure by the House is uncommon, unprecedented or unconstitutional.

The most salient fact is that when the House wants to censure an individual, both private citizens and executive officers, it can and it has. There is no constitutional prohibition against such an action, and the Congress has freely engaged in passing such censures.

The question before the Speaker is, with this long line of precedent, can censure be offered as an alternative to impeachment? The answer is clearly yes. As I cited above, the House has on many occasions adopted reports from the Committee on the Judiciary that has given the House the opportunity to express its views, its lack of regard, its censure, its condemnation, as an alternative to impeaching a judge. The same model should hold here.

Mr. Speaker, I would argue that the reason this is such a long-standing practice and precedent of the House is because it just makes good common sense. When the House does not feel impeachment is warranted, but does want to go on the record censuring certain behavior, it has. One only need look at the precedents.

Mr. Speaker, I urge that you overrule the point of order.

The SPEAKER pro tempore. Are there any other Members who wish to speak on the point of order?

The Chair recognizes the gentleman from California (Mr. ROGAN).

Mr. ROGAN. Mr. Speaker, I join with the gentleman from Wisconsin in rising to a point of order and also noting the dichotomy in this particular proposal of censure; that if this were to pass, we would go on record as stating that the President deserves censure, but the document itself does not grant censure.

There are two other interesting areas relating to the proposal before us. In the House Committee on the Judiciary, when this matter came before us, the maker of the proposed resolution of censure was the same maker as the proposal today, the distinguished gentleman from Virginia. The resolution of censure that was presented to the Committee on the Judiciary had two distinguishing characteristics that are absent today.

In the Committee on the Judiciary, the resolution that was put before us would have required not only a vote of the House but a vote of the Senate to bring the condemnation of Congress upon the President. That is absent here. It also had an additional element. It had an element of requiring the President to come to Congress and to affix his signature to the document in recognition of the censure. That too is absent.

Impeachment, and not censure, is properly before the House at this time. The paradox between the two was demonstrated during our debate in the Committee on the Judiciary on the proposed resolution of censure.

In committee I asked the author if there was any language in the proposal that would preclude any future Congress, by a simple majority vote, from erasing or expunging the censure from

history. I knew in advance the answer to that question. No. There can be no such language in a resolution of censure because, under the rules of Congress, this Congress cannot bind a future Congress.

What does this mean? It means that any censure adopted by this House today can be expunged from the record by a simple majority vote of this House. Now, in a courtroom, convicted felons seek to have their criminal convictions expunged. When that request is granted, that felon may truthfully state that he was never convicted of a crime. In the eyes of the law, the criminal conduct simply never happened when expungement is granted. It is forgotten.

A censure resolution of this President today can be erased from our journals and from our history books forever tomorrow, and it may be done by a simple majority vote. Censure is a remedy designed for the polls, it is not a remedy designed for the Constitution. It is a phantom remedy and the amendment should be turned back.

The SPEAKER pro tempore. Does the gentleman from Wisconsin (Mr. BARRETT) wish to speak to the point of order?

Mr. BARRETT of Wisconsin. Yes, Mr. Speaker, I wish to speak. But before I do that, I want to compliment you on the evenhandedness you have displayed in presiding over this matter.

Mr. Speaker, the argument that censure is of a fundamentally different purpose than impeachment has been made; that impeachment is remedial in nature while censure is punitive in nature. Ordinarily, I would agree. The words in the censure resolution are meant to be punishment. But unlike previous articles of impeachment, the impeachment articles before us also raise the issue of punishment, and it does so in three ways:

The articles incorporate language which clearly condemns and, in effect, censures the President. I quote from the articles: ''In all of this William Jefferson Clinton has undermined the integrity of his office and has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice to the manifest injury of the people of the United States.'' This language appears in all four articles of impeachment.

The article also states that he has, ''violated his constitutional duty'', and ''willfully corrupted and manipulated the judicial process.'' If this language were considered on its own, it clearly would be considered a condemnation and censure of the President.

Second, and more importantly, last night I looked through the 16 previous articles of impeachment that this House has considered. And for the first time in the history of the Congress, for the first time in 210 years, this House is taking the additional step and telling the Senate that not only should the President be tried and removed from office but also disbarred from ever holding public office again. That language did not even appear in the articles of impeachment for Andrew Johnson or Richard Nixon.

Let me repeat that, Mr. Speaker. For the first time in the history of the United States, the House is taking it upon itself to say that the power of disqualification from office should be invoked. Until today, no Member of this House has voted to do this. Until today.

This is important. Alexander Hamilton, in Federalist 65, talks about this very issue. Hamilton says, ''Punishment is not to terminate the chastisement of the offender.'' Hamilton goes on to talk about the offender having been sentenced to a perpetual ostracism from the esteem and confidence, and honors and emoluments of this country when the person is disqualified from holding public office. While this penalty is partly remedial, one can only conclude that there is something inherently punitive in forever disqualifying an individual from holding public office, and this punishment quality is intentional.

Third, article 4 states that the President exhibited contempt for the inquiry. By charging the President with contempt, the articles open up the possibility for the House to address that contempt.

Mr. Speaker, the precedents clearly show that contempt can be remedied by a censure of this House. It is equally clear that contempt of the House can be addressed by a privileged resolution of censure. The articles before us contain language that clearly raises the issue of punishment and censure.

To a proposition that contains both impeachment and censure, clearly it is germane to offer a proposition for censure. For rather than expanding the purpose of the articles of impeachment, our censure resolution, in a real sense, narrows the focus of the resolution. We do not expand, we narrow the focus.

One final point, Mr. Speaker. You have discretion. You can put the question of germaneness to this body. This is an issue that this body has never considered before. And in doing so, you could truly let the people decide.

The SPEAKER pro tempore. Does anyone on the majority side wish to be heard?

The gentleman from Indiana (MR. PEASE) is recognized.

Mr. PEASE. Mr. Speaker, what is clear from the debate in the Committee on the Judiciary and on the floor of this House is that the meaning, even the intent of a resolution of censure is not clear.

Some contend that its purpose, no matter what it is called, is to punish the President. Others argue that it is not intended to punish but merely to state the opinion of the House on the matter. Without determining which it is, this much is now clear. If its purpose is to punish the President, no matter how it is captioned, it is a bill of attainder, that is, special legislation intended to punish and identify an individual or group without benefit of judicial proceedings, and constitutionally prohibited.

I understand that the proposal originally before the committee has been amended so as not to require Senate action, thus diminishing it substantially in order to meet the constitutional infirmity. If it is not intended to punish the President, but merely state our opinions, it is clearly meaningless, for we have already done that extensively, some would say exhaustively.

If anything, the debate of the last few months has brought consensus on one thing, the centrality of the rule of law to our system of government. Some contend that the rule of law is best acquitted through impeachment of the President; others that it will be upheld because of the President's exposure to proceedings in civil and criminal courts of this Nation after he leaves office.

□ 1215

But all of us agree that following the rules is essential. The rules of this House, as we were reminded yesterday by both our outgoing rules chairman the gentleman from New York and the incoming rules chairman the gentleman from California, do not allow the interjection of nonprivileged matter into privileged matter by amendment. The articles of impeachment are privileged. The sense of the House resolution is not. The motion, though perhaps so across the rotunda, is not germane here and the point of order should therefore be sustained.

The SPEAKER pro tempore (Mr. LAHOOD). The Chair recognizes the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I rise in opposition to the point of order that has been made by the gentleman from New York and in support of the motion to recommit so that this body could have before it the question as to whether or not we can vote for censure.

As you look over the rules and precedents of this House, you will have the broad discretion to include in your ruling the question of fairness and the question of equity. Mr. Speaker, the whole world is watching.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Indiana (Mr. BUYER).

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, the debate is getting to be repetitive on the point of order.

The SPEAKER pro tempore. The Chair has discretion to hear Members who wish to speak to the point of order. As long as Members speak to the point of order, the Chair hopes to allow Members to do that. The Chair will make a ruling after a sufficient number

of Members have had a chance to speak.

The Chair recognizes the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, if many of my colleagues are sitting here somewhat confused and scratching their heads and trying to follow this debate and they think this is a bunch of lawyers speaking lawyerly language, I kind of agree with them. They are right. I am confused.

Now, I sat on the Judiciary Committee and I watched this debate. Let me share with my colleagues why. Here is why I am confused. When the censure resolution was offered in the Judiciary Committee, I asked questions of the author about what is its clear intent. The gentleman from Virginia (Mr. BOUCHER) was very clear to me. He said the intent of the censure resolution is not to have findings of guilt and it is not to punish. Then I questioned that, looking at the four corners of the document and got into the exact words, because it did have findings of guilt, that the President had egregiously failed, that he had violated his trust, that he lessened the esteem of his office, that he brought dishonor to his office and then as a form of punishment it sought that the President's actions were entitled to condemnation.

The reason that the gentleman from Virginia (Mr. BOUCHER) would assert that his intent was not to have findings of guilt and not to punish is because it would have brought it within the clear prohibition of the Constitution of bills of attainder. Now, even up to yesterday on this House floor we were still discussing bills of attainder. But now there is a problem. The problem is that how do they make a censure resolution germane as an alternative to impeachment? So they have gotten clever. The cleverness is to change the title but leave the words the same. It is no longer called a censure resolution, it is now called a sense of the House. So being clever, they have now tried to distance themselves from the clear, express constitutional prohibition on bills of attainder and now say that because this is a sense of the Congress resolution, it comes under the speech and debate clause.

That is what is happening here, Mr. Speaker. So now that the same Members who yesterday in debate said that our intent by this was not to have findings of guilt and not to punish, if you are confused that now the same Members are saying that we are having findings of guilt and our intent is to punish, the same Members are saying that now because they have changed the title and it is merely now under the speech and debate clause.

As one of the legal scholars testified before the Judiciary Committee, they said that if it is a sense of the Congress, it is the equivalency of Congress shouting down Pennsylvania Avenue at the President and saying, ''We think what you have done was a bad thing,'' and it has no other clear legal effect.

Now, Mr. Speaker, I rise in support of the point of order on the motion to recommit because censure is not germane as an alternative to the impeachment resolution. I have great respect for every Member of this body. I have had opportunities to speak with many of them. I had a good conversation with the gentleman from Indiana (Mr. ROEMER) yesterday and he and I disagree on this issue.

I understand the motives and the intentions of the Members of this House who would like to censure the President for his lack of integrity, responsibility and violations of the rule of law. I understand their convictions and that is why they offer this sense of the House resolution.

Americans all across the country every day, we all try very hard to live by the rules, principles and proverbs and we teach them to our children. What are they? It is called honesty: You tell the truth, be sincere, do not deceive, mislead or be devious or use trickery. Do not withhold information in relationships of trust. Do not cheat or lie to the detriment of others nor tolerate such practice. You honor your oath. Be loyal. Support and protect your family, your friends, your community and your country. Do not violate the law and ethical principles to win personal gain. Do not ask a friend to do something wrong. Judge all people on their merits. Do not abuse or demean people. Do not use, manipulate, exploit or take advantage of others for personal gain. Be responsible and accountable, think before you act, consider the consequences on all people by your actions.

The SPEAKER pro tempore. Members will confine their remarks to the point of order.

Mr. BUYER. You do not blame others for your mistakes.

Unfortunately, the President did not follow these principles. His criminal misconduct and dereliction of his executive duties do meet the constitutional threshold of high crimes and misdemeanors.

The founders in their infinite wisdom made three coordinate branches of government in a system of checks and balances. When the President and the Vice President, Federal judges and other executive officials are accused of high crimes and misdemeanors, the Constitution gave this body the express authority as the accusatory body to bring the charges. That is why many of my colleagues have referred to the House as the grand jury function. That is accurate. That is why the House is the accusatory body. There is not a grand jury in this country that can investigate, prosecute and have findings, guilt and sentence. That is why in the Constitution they said we accuse and the Senate tries. It is not expressly authorized for anyone to use censure as an alternative to impeachment. Impeachment is our only course of action.

Mr. HEFNER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The Chair has the discretion to recognize Members on a point of order. The Chair is going to exercise that discretion to recognize two more Members on the minority side and two more Members on the majority side before ruling.

The Chair recognizes the gentleman from North Carolina (Mr. HEFNER) on the point of order.

Mr. HEFNER. Mr. Speaker, I do not understand why anybody would be confused, this being an exercise in lawyers here and all the technical things we have talked about.

Let me just mention something here. I have been here longer than most of the people that have talked on this point of order. The most powerful committee in this House is the Rules Committee. It is the Speaker's committee. The leadership in this House and the Speaker in this House dictates the rules that will be considered on this House floor. Make no mistake about it.

Now, it has been said that we cannot have a vote on censure because it is not constitutional. But no one, no one, has shown us why it is unconstitutional. It is an opinion. Nobody has given us concrete evidence that it is not constitutional for us to consider censure.

Now, if that be the case and you want to make the argument that we want to be fair in these proceedings, well, then you would give us a vote on censure. The Rules Committee could have met, the gentleman from New York (Mr. SOLOMON) I think will agree, and you could have crafted any rule that you wanted. You could have waived any points of order to have a rule that comes to this floor, and you would have the votes to enforce the rule that you brought.

But to say that it is unconstitutional and hide behind the fact that it is unconstitutional to me says we are going to have a vote for impeachment to get rid of this President and that is going to be it, period. We are not going to allow anybody to vote his conscience if it conflicts with our conscience.

Now, I do not know about you, but this will be the last time that I will probably ever speak on the floor of this House of Representatives, and it has been the greatest privilege of my life. It has been the greatest privilege of my life to serve on this House of Representatives, and for every Member of Congress, whether I have agreed with you or not, if there is anything that I have said over these years that would have offended anybody, I would ask your forgiveness.

The President of the United States stood before the whole world and said, I have sinned and I ask forgiveness, and that is what it is all about.

I do not know how you are going to rule on this but just as soon as I can get finished, I want to go home and go to the Christmas programs and watch these children stand out front and spell out the name of Christmas and Jesus Christ. I want to go home and celebrate the birth of the savior Jesus Christ, the

prince of peace, and if people want to stay here forever and ever and berate the President, then you just have to let that be your Christmas legacy.

But if you do not allow us a vote on censure, you are saying to me our mind is made up and we are going to get this President and we are not going to give you a vote on it and the deal is cut. If that be the case, we may as well all go home and have the vote now. But I hope that the Chair will not rule that this is not germane.

I thank you very much, God bless you, and have a merry Christmas.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Mr. Speaker, precedents are important and for precedent in this dispute, in discussing the germaneness of the motion to recommit, I believe one of the most important precedents one can turn to is the founder of the Democrat Party, President Andrew Jackson. His words, indeed, Mr. Speaker, for purposes of this particular debate are particularly relevant, because it was President Jackson who was the subject of a censure motion, and his words printed at great length in the registry of the proceedings of this Chamber in 1834 very clearly discuss, illustrate and stand for the proposition that the very carefully balanced system of checks and balances and separation of powers in our government was violated, would be violated then as it is today by any motion to censure the President as a substitute for impeachment.

The words of Andrew Jackson should be in our minds today, should be in these halls today, because they say that a motion for censure as a substitute for impeachment is offensive to the fundamental work of this Congress, the fundamental powers of this Congress and the powers of the presidency.

This is the precedent, Mr. Speaker, that we should follow today and rule this motion for recommittal out of order as repugnant and offensive to the constitutional separation of powers on which our system of government is based.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. TRAFICANT. Mr. Speaker, there has not been one Member that has addressed the legal precedents of the challenge to this motion.

□ 1230

By removing further debate, there is no one else standing. I believe there is only one governing principle here today because of a lack of legislative precedents and action, and that is the Constitution. The Constitution, as has been stated, does not permit censure, but the Constitution does not prohibit censure.

Insofar, under my parliamentary inquiry, as there is no legislative precedence that has been set, and the Founders did not place this with the elected judges of the Supreme Court, they left it to the elected Congress, therefore, they choose not to send it to judicial process but to the political process, and Congress should have the right to work its political will.

Therefore, this motion should be defeated on the grounds that there is no precedence, it is lacking, and it cries out for further interpretation of the Founders' actions. And the Founders' actions were clear. They did not want to place it with the Supreme Court judges that were not responsible to voters; they placed it to the Members of Congress.

Mr. Speaker, I ask that this motion be defeated.

Mr. BOUCHER. Mr. Speaker, I wish to be heard on the point of order.

The SPEAKER pro tempore. It is the Chair's prerogative to indicate that this will be the last speaker on the point of order.

The Chair recognizes the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Speaker, the gentleman from Massachusetts (Mr. MOAKLEY) has answered well the arguments that have been made in support of the point of order. There is actual precedent for the acceptance by the House of a resolution of censure as an amendment to the impeachment resolution. That occurred in the matter of the impeachment of Judge Peck in 1830.

In response to the argument that censure is nonprivileged material and that it may not be used to amend privileged material, the gentleman has pointed to instances in which the House has treated censure as privileged. And the gentleman persuasively argues that by their own language the articles of impeachment have a fundamental purpose that is both remedial and punitive. The punitive language of the censure resolution is, therefore, not inconsistent with the fundamental purpose of the articles of impeachment.

Mr. Speaker, this is a question of first impression. The Chair has never ruled before on this precise matter. We have had in our Republic 200 years of silence on the question of whether the substitution of a resolution of censure for the President's conduct to articles of impeachment shall be considered as germane.

Given the unprecedented nature of the question, given the extraordinary gravity of the matter that is now before the House, given the inherent unfairness of not making a censure alternative available to the Members and the inherent unfairness of disallowing the consideration of the House by the American public's clearly preferred outcome for this inquiry, which is the passage of a resolution of censure, I urge the Chair to resolve all ambiguities in the rules and all doubts about their proper application in favor of finding that the resolution of censure is germane and permitting its consideration by the House.

A finding of germaneness would do no violence to the precedents of the House. It would not overturn previous rulings of the Chair. It would allow us today to give voice to the public's overwhelming desire to put this unfortunate matter behind us with the stern censure and rebuke which the President, for his conduct, deserves.

I thank the Chair for his patience in listening to these arguments, and I urge his finding that the resolution of censure is germane.

The SPEAKER pro tempore (Mr. LAHOOD). The Chair understands that the ranking member of the Committee on Rules wishes to make a brief statement to the Chair.

Mr. MOAKLEY. Mr. Speaker, I ask to be heard to make a different appeal.

The SPEAKER pro tempore. Briefly.

Mr. MOAKLEY. Arguing in the alternative, Mr. Speaker, and I thank the Chair for its patience, arguing the alternative, if the Chair finds some merit in our argument but is not convinced in the sufficient merit to overrule the point of order, I respectfully urge the Chair to consider to put the motion, the question, directly to the House, and there is precedent for this action.

One of the issues in deciding the germaneness of censure to impeachment is the notion that the censure is not privileged, but impeachment is. On a question of privilege, however, the early practice of the House was for the House to determine whether it should be entertained. In fact, the practice was so well established that in 1842 the Speaker, Representative John White of Kentucky, remarked he could find no instance on record where the Chair had determined what constituted a question of privilege. On the contrary, he found numerous instances where the House had settled it. This occasion is described in the third volume of Hinds' Precedents, section 2654.

When the Speaker was asked to rule on whether a resolution regarding charges made by a Cabinet officer about Members of Congress committed a question of privilege, he said, the Speaker speaking:

> For the Chair to decide in such a case would be an usurpation on its part, and what the Chair might deem a breach of privilege, the House may not deem so, and vice versa.'

Again, Mr. Speaker, I remind the Chair that this is a question of first impression. The Speaker has never in the 210 years of history of the Congress been asked to rule on whether censure is germane on impeachment. There is no precedence directly on point. The question has not arisen in the past, although the House has taken up an amendment that would have converted impeachment to censure in the matter of Judge Peck.

Mr. Speaker, in a matter so grave as this, to deny the House a vote of conscience, I beg the Chair not to base its decision on a narrow and technical interpretation, and if the Chair cannot see its way to accept entirely our argument on the merits, I ask the Chair to put the question directly to the House.

The SPEAKER pro tempore. The Chair is prepared to rule.

Knowing that the House may wish to express its will on this question, the Chair nevertheless will follow the course set by presiding officers for at least the past 150 years by rendering a decision from the Chair.

The gentleman from New York has made the point of order that the amendment in the motion to recommit offered by the gentleman from Virginia is not germane to House Resolution 611.

The rule of germaneness derives directly from the authority of the House under section 5 in article I of the Constitution to determine its own rules. It has governed the proceedings of the House for all of its 210-year history. Its applicability to a motion to recommit is well established. As reflected in the Deschler-Brown Precedents in volume 10, chapter 28, both at section 1 and at section 17.2, then-Majority Leader Carl Albert made these general observations about the rule in 1965, and I quote:

> It is a rule which has been insisted upon by Democrats and Republicans alike ever since the Democratic and Republican parties have been in existence.
>
> It is a rule without which this House could never complete its legislative program if there happened to be a substantial minority in opposition.
>
> One of the great things about the House of Representatives and one of the things that distinguish[es] it from other legislative bodies is that we do operate on the rule of germaneness.
>
> No legislative body of this size could ever operate unless it did comply with the rule of germaneness.

At the outset the Chair will state two guiding principles.

First, an otherwise privileged resolution is rendered nonprivileged by the inclusion of nonprivileged matter. This principle is exemplified in the ruling of Speaker Clark on January 11, 1916, which is recorded in Cannon's Precedents at volume 6, section 468. Accordingly, to a resolution pending as privileged, an amendment proposing to broach nonprivileged matter is not germane.

Second, to be germane, an amendment must share a common fundamental purpose with the pending proposition. This principle is annotated in section 798b of the House Rules and Manual. Accordingly, to a pending resolution addressing one matter, an amendment proposing to broach an intrinsically different matter is not germane.

As the excellent arguments in debate on this point of order have made clear, these two principles are closely intertwined in any analysis of the relationship between the amendment proposed in the motion to recommit and the pending resolution. The Chair thanks those who have brought their arguments to the attention of the Chair.

The pending resolution proposes to impeach the President of the United States. As such, it invokes an exclusive constitutional prerogative of the House. The final clause of section 2 in Article I of the Constitution mandates that the House, ''shall have the sole power of impeachment.'' For this reason, the pending proposal constitutes a question of the privileges of the House within the meaning of rule IX. Ample precedent is annotated in the House Rules and Manual at section 604.

The amendment in the motion to recommit offered by the gentleman from Virginia proposes instead to censure the President. It has no comparable nexus to an exclusive constitutional prerogative of the House. Indeed, clause 7 of section 3 in article I of the Constitution prescribes that ''judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit under the United States.''

An instructive contrast appears in clause 2 of section 5 in article I of the Constitution, which establishes a range of alternative disciplinary sanctions for Members of Congress by stating that each House may, ''punish its Members for disorderly behavior, and with the concurrence of two-thirds, expel a Member.'' This contrast demonstrates that, while the constitutional power of either body in Congress to punish one of its Members extends through a range of alternatives, the constitutional power of the Congress to remove the President, consistent with the separation of powers, is confined to the impeachment process.

Thus, a proposal to discipline a Member may admit as germane an amendment to increase or decrease the punishment (except expulsion, which the Chair will address presently), in significant part because the Constitution contemplates that the House may impose alternative punishments. But a resolution of impeachment, being a question of privileges of the House because it invokes an exclusive constitutional prerogative of the House, cannot admit as germane an amendment to convert the remedial sanction of potential removal to a punitive sanction of censure, as that would broach nonprivileged matter. For this conclusion the Chair finds support in Hinds' Precedents at volume 5, section 5810, as cited in Deschler's Precedents at volume 3, chapter 14, section 1.3, footnote 8.

The qualitative difference between these two contrasting sources of disciplinary authority in the Constitution signifies an intrinsic parliamentary difference between impeachment and an alternative sanction against the President. The Chair believes that this distinction is supported in the cited precedents and is specifically discussed in the parliamentary notes on pages 400 and 401 of the cited volume. An analogous case emphasizing an intrinsic difference is recorded in Cannon's Precedents at volume 6, section 236, reflecting that on October 27, 1921, Speaker Gillett held that an amendment proposing to censure a Members of the House was not germane to a resolution proposing that the Member be expelled from the House.

□ 1245

The cited precedent reveals several occasions when the Committee on the Judiciary, having been referred a question of impeachment against a civil officer of the United States, reported a recommendation that impeachment was not warranted and, thereafter, called upon the report as a question of privilege.

The occasional inclusion in an accompanying report of the Committee on the Judiciary of language recommending that an official be censured has not been held to destroy the privilege of an accompanying resolution that does not, itself, convey the language of censure.

The Chair is aware that, in the consideration of a resolution proposing to impeach Judge James Peck in 1830, the House considered an amendment proposing instead to express disapproval while refraining from impeachment. In that instance no Member rose to a point of order, and no parliamentary decision was entered from the Chair or by the House. The amendment was considered by common sufferance. That no Member sought to enforce the rule of germaneness on that occasion does not establish a precedent of the House that such an amendment would be germane.

Where the pending resolution addresses impeachment as a question of the privileges of the House, the rule of germaneness requires that any amendment confine itself to impeachment, whether addressing it in a positive or a negative way. Although it may be possible by germane amendment to convert a reported resolution of impeachment to resolve that impeachment is not warranted, an alternative sanction having no equivalent constitutional footing may not be broached as a question of privilege and, correspondingly, is not germane.

The Chair acknowledges that the language of House Resolution 611 articulates its proposition for impeachment in language that, itself, tends to convey opprobrium. The Chair must remain cognizant, however, that the resolution does so entirely in the framework of the articles of impeachment. Rather than inveighing any separate censure, the resolution only effects the constitutional prayer for judgment by the Senate.

The Chair is not passing on the ultimate constitutionality of a separate resolution of censure. Indeed, the Chair does not judge the constitutionality of measures before the House. Rather, the Chair holds today only that the instant proposal to censure or otherwise admonish the President of the United States—as it does not constitute a question of the privileges of the House—is not germane to the pending resolution of impeachment—an intrinsically separate question of the privileges of the House.

The gentleman from Missouri (Mr. GEPHARDT), the minority leader, is recognized.

Mr. GEPHARDT. Mr. Speaker, with all due respect, I must appeal the ruling of the Chair.

The SPEAKER pro tempore (Mr. LAHOOD). The question is, shall the decision of the Chair stand as the judgment of the House?

MOTION OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ARMEY) to lay the appeal of the ruling of the Chair on the table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEPHARDT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Let the Chair announce that this will be a 15-minute vote, followed by 15-minute votes thereafter.

The vote was taken by electronic device, and there were—ayes 230, noes 204, not voting 1, as follows:

[Roll No. 542]

YEAS—230

Aderholt	Ehlers	Kingston
Archer	Ehrlich	Klug
Armey	Emerson	Knollenberg
Bachus	English	Kolbe
Baker	Ensign	LaHood
Ballenger	Everett	Largent
Barr	Ewing	Latham
Barrett (NE)	Fawell	LaTourette
Bartlett	Foley	Lazio
Barton	Forbes	Leach
Bass	Fossella	Lewis (CA)
Bateman	Fowler	Lewis (KY)
Bereuter	Fox	Linder
Bilbray	Franks (NJ)	Livingston
Bilirakis	Frelinghuysen	LoBiondo
Bliley	Gallegly	Lucas
Blunt	Ganske	Manzullo
Boehlert	Gekas	McCollum
Boehner	Gibbons	McCrery
Bonilla	Gilchrest	McDade
Bono	Gillmor	McHugh
Brady (TX)	Gilman	McInnis
Bryant	Gingrich	McIntosh
Bunning	Goode	McKeon
Burr	Goodlatte	Metcalf
Burton	Goodling	Mica
Buyer	Goss	Miller (FL)
Callahan	Graham	Moran (KS)
Calvert	Granger	Myrick
Camp	Greenwood	Nethercutt
Campbell	Gutknecht	Neumann
Canady	Hall (TX)	Ney
Cannon	Hansen	Northup
Castle	Hastert	Norwood
Chabot	Hastings (WA)	Nussle
Chambliss	Hayworth	Oxley
Chenoweth	Hefley	Packard
Christensen	Herger	Pappas
Coble	Hill	Parker
Coburn	Hilleary	Paul
Collins	Hobson	Paxon
Combest	Hoekstra	Pease
Cook	Horn	Peterson (PA)
Cooksey	Hostettler	Petri
Cox	Houghton	Pickering
Crane	Hulshof	Pitts
Crapo	Hunter	Pombo
Cubin	Hutchinson	Porter
Cunningham	Hyde	Portman
Davis (VA)	Inglis	Pryce (OH)
Deal	Istook	Quinn
DeLay	Jenkins	Radanovich
Diaz-Balart	Johnson (CT)	Ramstad
Dickey	Johnson, Sam	Redmond
Doolittle	Jones	Regula
Dreier	Kasich	Riggs
Duncan	Kelly	Riley
Dunn	Kim	Rogan
Rogers	Skeen	Thornberry
Rohrabacher	Smith (MI)	Thune
Ros-Lehtinen	Smith (NJ)	Tiahrt
Roukema	Smith (OR)	Upton
Royce	Smith (TX)	Walsh
Ryun	Smith, Linda	Wamp
Salmon	Snowbarger	Watkins
Sanford	Solomon	Watts (OK)
Saxton	Souder	Weldon (FL)
Scarborough	Spence	Weldon (PA)
Schaefer, Dan	Stearns	Weller
Schaffer, Bob	Stenholm	White
Sensenbrenner	Stump	Whitfield
Sessions	Sununu	Wicker
Shadegg	Talent	Wilson
Shaw	Tauzin	Wolf
Shays	Taylor (MS)	Young (AK)
Shimkus	Taylor (NC)	Young (FL)
Shuster	Thomas	

NAYS—204

Abercrombie	Gutierrez	Nadler
Ackerman	Hall (OH)	Neal
Allen	Hamilton	Oberstar
Andrews	Harman	Obey
Baesler	Hastings (FL)	Olver
Baldacci	Hefner	Ortiz
Barcia	Hilliard	Owens
Barrett (WI)	Hinchey	Pallone
Becerra	Hinojosa	Pascrell
Bentsen	Holden	Pastor
Berman	Hooley	Payne
Berry	Hoyer	Pelosi
Bishop	Jackson (IL)	Peterson (MN)
Blagojevich	Jackson-Lee (TX)	Pickett
Blumenauer	Jefferson	Pomeroy
Bonior	John	Poshard
Borski	Johnson (WI)	Price (NC)
Boswell	Johnson, E. B.	Rahall
Boucher	Kanjorski	Rangel
Boyd	Kaptur	Reyes
Brady (PA)	Kennedy (MA)	Rivers
Brown (CA)	Kennedy (RI)	Rodriguez
Brown (FL)	Kennelly	Roemer
Brown (OH)	Kildee	Rothman
Capps	Kilpatrick	Roybal-Allard
Cardin	Kind (WI)	Rush
Carson	King (NY)	Sabo
Clay	Kleczka	Sanchez
Clayton	Klink	Sanders
Clement	Kucinich	Sandlin
Clyburn	LaFalce	Sawyer
Condit	Lampson	Schumer
Conyers	Lantos	Scott
Costello	Lee	Serrano
Coyne	Levin	Sherman
Cramer	Lewis (GA)	Sisisky
Cummings	Lipinski	Skaggs
Danner	Lofgren	Skelton
Davis (FL)	Lowey	Slaughter
Davis (IL)	Luther	Smith, Adam
DeFazio	Maloney (CT)	Snyder
DeGette	Maloney (NY)	Spratt
Delahunt	Manton	Stabenow
DeLauro	Markey	Stark
Deutsch	Martinez	Stokes
Dicks	Mascara	Strickland
Dingell	Matsui	Stupak
Dixon	McCarthy (MO)	Tanner
Doggett	McCarthy (NY)	Tauscher
Dooley	McDermott	Thompson
Doyle	McGovern	Thurman
Edwards	McHale	Tierney
Engel	McIntyre	Torres
Eshoo	McKinney	Towns
Etheridge	McNulty	Traficant
Evans	Meehan	Turner
Farr	Meek (FL)	Velazquez
Fattah	Meeks (NY)	Vento
Fazio	Menendez	Visclosky
Filner	Millender-McDonald	Waters
Ford	Minge	Watt (NC)
Frank (MA)	Mink	Waxman
Frost	Moakley	Wexler
Furse	Mollohan	Weygand
Gejdenson	Moran (VA)	Wise
Gephardt	Morella	Woolsey
Gonzalez	Murtha	Wynn
Gordon	Oberstar	Yates
Green	Obey	

NOT VOTING—1

Miller (CA)

□ 1304

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Ms. PELOSI. Mr. Speaker, I rise to speak on the point of order. Mr. Speaker our Republican colleagues have agreed that censure is not constitutional. Censure is indeed a Constitutional option. In 1800, Rep. Ed Livingston (NY) introduced a censure motion against President John Adams. The President was successfully represented by Congressman John Marshall of Virginia. Representative Marshall argued the case on the merits and never once argued that censure was unconstitutional.

John Marshall went on to become the Chief Justice of the United States and was the father of much of our constitutional law. Indeed in the landmark 1819 decision McColluch vs Maryland, the court ruled that ''there is no phrase in the Constitution which excludes incidental or implied powers.'' The power of Congress to censure is an obvious corollary of the legislatures inherent power as a deliberative body to speak its mind.

It is therefore clear that censure is not prohibited by the Constitution and is indeed a germane penalty. I urge the Chair to rule the censure motion in order.

Mr. DELAHUNT. Mr. Speaker, I wish to be heard on the point of order and I urge you to overrule the point of order.

Mr. Speaker, the argument has been made that censure is unprecedented, uncommon or unconstitutional. That simply is not the case.

In the impeachment of Judge Peck, an amendment was offered that contained a censure. Mr. MOAKLEY spoke to this in his remarks. I want to point out that on many other occasions, the House has chosen censure over impeachment. I would like to cite a few examples. In the case of Judge Speers, the committee report stated ''the record presents a series of legal oppressions (that) demand condemnation and criticism.'' Even in light of this finding, the committee did not recommend proceeding with impeachment and the report containing the censure was adopted. (6 Cannon 527) In the cases of Judge Harry Anderson (6 Cannon 542), Judge Frank Cooper (6 Cannon 549), Judge Grover Moscowitz (6 Cannon 552), Judge Blodgett (3 Hinds 2516), Judge Boarman (3 Hinds 2518), Judge Jenkins (3 Hinds 2519) and Judge Ricks (3 Hinds 2520) the committee recommended censure instead of proceeding with impeachment.

The fact of the matter, Mr. Speaker, is that there is a long-standing history in this House of substituting censure for impeachment. Sometimes, as in the Louderback case, the Judiciary committee recommends censure and the House rejects that recommendation and votes impeachment.

Other times, the committee has recommended censure over impeachment, and the House has agreed with that recommendation.

Mr. Speaker, what is important is that the House has had a choice between censure and impeachment.

There is also a long tradition in the House of censuring executive officers. A recent Congressional Research Service study finds nine instances where the House has attempted to censure federal officials.

Presidents John Adams, John Tyler, James Polk and James Bucanan were all subjects of censure resolutions. In addition, Treasury Secretary Alexander Hamilton, Navy Secretary

Isaac Toucey, Former War Secretary Simon Cameron, Navy Secretary Gideon Welles and Ambassador Thomas Bayard, as well, were all subject to censure resolutions.

Indeed private citizens have also been censured by the House. Mr. MOAKLEY cited two examples in his opening argument. The House has also censured a Mr. John Anderson (2 Hinds 1606), a Mr. Samuel Houston (2 Hinds 1619) and moved to censure a Mr. Russel Jarvis (2 Hinds 1615).

I believe these examples will dispel the myth that censure by the House is uncommon, unprecedented or unconstitutional.

The most salient fact is that when the House wants to censure an individual—both private citizens and executive officers—it can and it has. There is no constitutional prohibition against such an action and the Congress has freely engaged in passing such censures.

The question before the Speaker is, with this long line of precedent, can censure be offered as an alternative to impeachment. The answer is clearly yes. As I cited above, the House has on many occasions adopted reports from the Judiciary Committee that have given the House the opportunity to express its views, its lack of regard, its censure, its condemnation as an alternative to impeaching a judge. The same model should hold here.

Mr. Speaker, I would argue that the reason this is such a long-standing practice and precedent of the House is because it just makes good common sense. When the House does not feel impeachment is warranted, but does want to go on record censuring certain behavior, it has. One only need look at the precedents.

Mr. Speaker, I urge that you overrule the point of order.

Ms. JACKSON-LEE of Texas. Mr. Speaker, throughout this long process as I have listened to this divisive debate, I have had to wonder about the legacy of the 18th Congressional district. The first person to hold this seat was the late Congresswoman Barbara Jordan. She was a member of the Congress in 1974 during Watergate, and she was a Member of the House Judiciary Committee.

I have been careful not to mischaracterize her thoughts or words during these serious and troubling times. However, throughout the debate it seems at every moment the Republican majority continues to misuse Ms. Jordan's comments.

I think it is important to acknowledge the remarks she made today, and the impact that those words will have on the actions we take today. In her July 24, 1974 speech, in citing the Framers of the Constitution, she noted that "the Framers confined in the Congress the power if need be, to remove the President in order to strike a balance between a President swollen with power and grown tyrannical . . ."

She also said impeachment was limited to high crimes and misdemeanors, as she cited the federal convention of 1787. Finally, Ms. Jordan sheds light on what she might have thought of today's proceedings as she states "A President is impeachable if he attempts to subvert the Constitution." I think it is important for Congress to hear these words that the late Barbara Jordan gave on July 24, 1974.

A sense of the Congress resolution on censure is not unconstitutional, it is not prohibited by the words of the Constitution. It is not specifically noted in the Constitution, but however neither are postal stamps, education, or social security. This resolution is germane and constitutionally sound. Mr. Speaker please rule and allow a free standing Resolution on Censure to be voted on by this House—do not deny the will of the people.

The Bible, Mark 3:25, teaches that "[i]f a house be divided against itself, that house cannot stand." It's time to stop the malicious attacks because surely, we will all perish. It is time to close ranks and get back to the business of America. It is time to heal this nation. Today let's restore the American public's faith in the Constitution; do not deny their will.

We need to begin that healing process now to return America to greatness.

The SPEAKER pro tempore (Mr. LAHOOD). The question has been divided for a vote.

The question is on the adoption of article I.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 228, nays 206, not voting 1, as follows:

[Roll No. 543]

YEAS—228

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—206

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Souder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—1

Miller (CA)

☐ 1323

So Article I was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the adoption of Article II.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 205, nays 229, not voting 1, as follows:

[Roll No. 544]

YEAS—205

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Everett
Ewing
Fawell
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Goss
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Saxton
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—229

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
English
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Foley
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Kucinich
LaFalce
Lampson
Lantos
Lazio
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Scarborough
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Shuster
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Souder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—1

Miller (CA)

☐ 1340

So Article II was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the adoption of Article III.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 221, nays 212, not voting 2, as follows:

[Roll No. 545]

YEAS—221

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHale
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—212

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah

Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Regula
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—2

Allen
Miller (CA)

☐ 1356

So Article III was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the adoption of Article IV.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. LOFGREN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 148, nays 285, not voting 2, as follows:

[Roll No. 546]

YEAS—148

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bilirakis
Bliley
Blunt
Boehner
Bono
Brady (TX)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Everett
Ewing
Forbes
Fowler
Fox
Gallegly
Gekas
Gibbons
Gingrich
Goodlatte
Goodling
Graham
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hilleary
Hoekstra
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kingston
Knollenberg
LaHood
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McDade
McKeon
Metcalf
Mica
Miller (FL)
Myrick
Neumann
Norwood
Nussle
Oxley
Packard
Pappas
Paul
Paxon
Pease
Peterson (PA)
Pickering
Pitts
Pombo
Radanovich
Redmond
Riley
Rogan
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Taylor (MS)
Taylor (NC)
Thomas
Tiahrt
Wamp
Watkins
Watts (OK)
Weldon (FL)
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—285

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Foley
Ford
Fossella
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Gordon
Goss
Granger
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefley
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Houghton
Hoyer
Hulshof
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Ney
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rogers
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schumer
Scott
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Tauzin
Thompson
Thornberry
Thune
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Woolsey
Wynn
Yates

NOT VOTING—2

Allen
Miller (CA)

☐ 1413

Mr. HEFLEY changed his vote from ''yea'' to ''nay.''

So Article IV was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CERTAIN APPOINTMENTS AND PROCEDURES RELATING TO IMPEACHMENT PROCEEDINGS

Mr. HYDE. Mr. Speaker, pursuant to clause 2(a)(1) of rule IX, I hereby give notice of my intention to offer a resolution which raises a question of the privileges of the House.

The form of the resolution is as follows:

Resolved, That Mr. Hyde, Mr. Sensenbrenner, Mr. McCollum, Mr. Gekas, Mr. Canady, Mr. Buyer, Mr. Bryant, Mr. Chabot, Mr. Barr, Mr. Hutchinson, Mr. Cannon, Mr. Rogan, and Mr. Graham are appointed managers to conduct the impeachment trial against William Jefferson Clinton, President of the United States, that a message be sent to the Senate to inform the Senate of these appointments, and that the managers so appointed may, in connection with the preparation and the conduct of the trial, exhibit the articles of impeachment to the Senate and take all other actions necessary, which may include the following:

(1) Employing legal, clerical, and other necessary assistants and incurring such other expenses as may be necessary, to be paid from amounts available to the Committee on the Judiciary under applicable expense resolutions or from the applicable accounts of the House of Representatives.

(2) Sending for persons and papers, and filing with the Secretary of the Senate, on the part of the House of Representatives, any pleadings, in conjunction with or subsequent to, the exhibition of the articles of impeachment that the managers consider necessary.

The Clerk will report the resolution at this time under rule IX.

The Clerk read as follows: