

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

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

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

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

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

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

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

Mr. HARKIN addressed the Chair.

The CHIEF JUSTICE. The Senator from Iowa.

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

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

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

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

Next, Mr. Chief Justice, I base my objection on the writings in "The Fed-

eralist Papers," especially No. 65 by Alexander Hamilton, in which he is outlining the reasons why the framers of the Constitution gave the Senate the sole power to try impeachments. I won't read it all, but I will read this pertinent sentence:

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

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

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

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

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

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

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

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

Mr. HARKIN. I thank the Chair.

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

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

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

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

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

The CHIEF JUSTICE. The Chair recognizes the majority leader.

ADJOURNMENT UNTIL 10 A.M.
TOMORROW

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

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