



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 106<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 145

WASHINGTON, THURSDAY, JANUARY 28, 1999

No. 16

## House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 2, 1999, at 12:30 p.m.

## Senate

THURSDAY, JANUARY 28, 1999

The Senate met at 1:04 p.m. and was called to order by the Chief Justice of the United States.

### TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

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

#### PRAYER

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

Almighty God, thank You for the gift of vibrant confidence based on vital convictions. We are confident in Your unlimited power. Therefore, at no time are we helpless or hapless. Our confidence is rooted in Your Commandments. Therefore, we are strengthened by Your absolutes that give us enduring values. Our courage is based on the assurance of Your ever-present, guiding Spirit. Therefore, we will not fear. Our hope is rooted in trust in Your reliability. Therefore, we will not be anxious. Your interventions in trying times in the past have made us hopeful thinkers for the future. Therefore, we trust You.

You have called us to glorify You in the work here in this Senate. Therefore, we give You our best for this day's responsibilities. You have guided our beloved Nation through difficult periods of discord and division in the past. Therefore, we ask for Your help in the present deliberations of the impeachment trial. Thank You for the courage that flows from our unshakable confidence in You. Through our Lord and Savior. Amen.

The CHIEF JUSTICE. Senators will be seated. The Sergeant at Arms will make the proclamation.

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

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

#### THE JOURNAL

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

The Chair recognizes the majority leader.

#### ORDER OF PROCEDURE

Mr. LOTT. For the information of all of our colleagues—obviously, they have already received the word by the fact that they are not all present—but we are still attempting to reach an agreement with respect to the remaining procedures for the trial, particularly with regard to how and when the depositions will be taken.

We have been making progress, but it is something we need to be careful about. Hopefully, we will be able to reach an agreement yet today. If agreement is reached, I expect it very likely that a rollcall vote would be requested on that agreement and, therefore, all Members should be aware of that. We will notify them via the hotline system as the voting schedule becomes clear. Certainly we will keep the Chief Justice informed of our deliberations and when we anticipate the need to reconvene.

#### RECESS

Mr. LOTT. But in view of the continuing negotiations and conferences that are meeting at this time, I ask unanimous consent the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, at 1:07 p.m., the Senate recessed until 2:02 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Thank you, again, Mr. Chief Justice.

#### ORDER OF PROCEDURE

Mr. LOTT. Mr. Chief Justice, in an effort to get an agreement on how to proceed, it is very important that all parties are aware of the procedures that we are outlining and that those include Senators on both sides of the aisle, the House managers, the White House, the attorneys for the witnesses. So it does take time.

Just as we were prepared to come in at 2 and move to a resolution, questions were raised about a couple specific points. We feel like those questions need to be clarified for certainty. Rather than continue to recess hour to hour, which I know is not fair to the Chief Justice, I think it would be better at this point to make sure Senators are aware that we are working to get an agreement on this procedure, and we need to get that done today so the depositions can get underway with the attorneys consulting with their clients Friday and Saturday, and hopefully, the depositions will begin on Sunday and Monday, and hopefully, completed

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



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by Tuesday. But we are working on the details of that.

This still could very well require a vote or two today or even tomorrow. But we will make that announcement once it is clear that it is going to take a recorded vote of one or more and exactly how that would work.

So, we will keep the Chief Justice notified of the expected timeframe, and as information becomes available as to exactly when we will come back into session, and whether or not or how many votes will be required. We will get that information to Senators.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. LOTT. In view of all that, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 2:03 p.m., the Senate recessed subject to the call of the Chair.

The Senate reassembled at 5:31 p.m., when called to order by the Chief Justice.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. LOTT. Thank you, Mr. Chief Justice.

I thought we were ready to proceed. I see Senator DASCHLE is not on the floor. He should be back momentarily. Maybe I can explain a few details. He is returning now. We may still need a little more time.

We thank you for your patience, and our colleagues on both sides for their patience, as we have tried to work through the details of these resolutions and how to proceed with the depositions. There are a lot of details to it and everybody needs to be relatively comfortable they understand how that will work. That is why it has taken this additional time.

I think we are to the point where we are ready to proceed. I believe the way it will proceed is that we will have a resolution that I will send to the desk, followed by a substitute from Senator DASCHLE. Then Senator DASCHLE has indicated that they may want to have a motion to go straight to the articles of impeachment. That would require three votes. Then we also, at that point, would make it clear the depositions would begin on Monday, the 1st. It is our intent to then go to those three votes. I also understand that both sides are willing to waive—the parties—willing to waive the debate time on these issues.

With that explanation, I begin that process.

RELATING TO THE PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

Mr. LOTT. I send a resolution to the desk and ask that it be read in its entirety by the clerk, and time for the two parties be waived.

The CHIEF JUSTICE. The clerk will read the resolution in its entirety.

Mr. LOTT. I believe there was a request for unanimous consent.

The CHIEF JUSTICE. Without objection, the request is agreed to.

The legislative clerk read as follows:

A resolution (S. Res. 30) relative to the procedures concerning the Articles of Impeachment against William Jefferson Clinton.

*Resolved,*

TITLE I—PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

SEC. 101. That the deposition time for all witnesses be determined by the Senate Majority Leader and Minority Leader, as outlined in Senate Resolution 16, One Hundred Sixth Congress, First Session, and title II of this resolution and that all Senators have an opportunity to review all deposition material, which shall be made available at the earliest possible time.

SEC. 102. When the Senate reconvenes on the day after completion of the depositions, and the review period, it shall be in order for both the House Managers and the President's counsel to move to resolve any objections made during any deposition. After resolution of any such motions, it shall be in order for the House Managers and/or White House counsel to make a motion or motions to admit the depositions or portions thereof into evidence, whether transcribed or on video tape provided further for a presentation employing all or portions of such tape, and it shall then be in order for the two Leaders jointly, only to make motions for additional discovery because of new relevant evidence discovered during the depositions. Motions may also then be made for orders governing the presentation of evidence and/or the testifying of witnesses before the Senate.

SEC. 103. If no such motions are made, or following the completion of any procedures authorized as a result of the votes on any motions, the White House shall have up to 24 hours to make any motions dealing with testimony or evidence that the White House counsel deems appropriate, as described previously.

SEC. 104. If no such motions are made, or no witnesses are called to testify in the Senate, the Senate shall proceed to final arguments as provided in the impeachment rules waiving the two person rule contained in Rule XXII of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials for not to exceed six hours, to be equally divided. If motions are agreed to regarding new evidence or calling of new witnesses, this resolution is suspended.

SEC. 105. At the conclusion of the final arguments the parties shall proceed in accordance with the rules of impeachment: *Provided however,* That no motion with respect to reopening the record in the case shall be in order, and: *Provided further,* That it shall be in order for a Senator to offer a motion to suspend the rules to allow for open final deliberations with no amendments or motions to that motion in order; and the Senate shall proceed to vote on the motion to suspend the rules to provide for open Senate deliberations.

SEC. 106. Following that vote, and if no motions have been agreed to as provided in sections 102 and 103, and no motions are agreed to following the arguments, then the vote will occur on any pending motions and amendments thereto and then on the articles of impeachment no later than 12:00 noon on Friday, February 12, 1999.

TITLE II—TO AUTHORIZE ISSUANCE OF SUBPOENAS TO TAKE DEPOSITIONS IN THE TRIAL OF THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

SEC. 201. That, pursuant to Rules V and VI of the Rules of Procedure and Practice in the

Senate When Sitting on Impeachment Trials, and S. Res. 16, 106th Congress, 1st Session, the Chief Justice of the United States, through the Secretary of the Senate, shall issue subpoenas for the taking of testimony on oral deposition to the following witnesses: Sidney Blumenthal, Monica S. Lewinsky, and Vernon E. Jordan, Jr.

SEC. 202. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or any other employee of the United States Senate in serving the subpoenas authorized to be issued by this resolution.

SEC. 203. Depositions authorized by this resolution shall be taken before, and presided over by, on behalf of the Senate, two Senators appointed by the Majority Leader and the Democratic Leader, acting jointly, one of whom shall administer to witnesses the oath prescribed by Rule XXV of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. Acting jointly, the presiding officers shall have authority to rule, as an initial matter, upon any question arising out of the deposition. All objections to a question shall be noted by the presiding officers upon the record of the deposition, but the examination shall proceed, and the witness shall answer such question. A witness may refuse to answer a question only when necessary to preserve a legally-recognized privilege, and must identify such privilege cited if refusing to answer a question.

SEC. 204. Examination of witnesses at depositions shall be conducted by the Managers on the part of the House or their counsel, and by counsel for the President. Witnesses shall be examined by no more than two persons each on behalf of the Managers and counsel for the President. Witnesses may be accompanied by counsel. The scope of the examination by the Managers and counsel for both parties shall be limited to the subject matters reflected in the Senate record. The party taking a deposition shall present to the other party, at least 18 hours in advance of the deposition, copies of all exhibits which the deposing party intends to enter into the record during the deposition. No exhibits outside of the Senate record shall be employed, except for articles and materials in the press, including electronic media. Any party may interrogate any witness as if that witness were declared adverse.

SEC. 205. The depositions shall be videotaped and a transcript of the proceedings shall be made. The depositions shall be conducted in private. No person shall be admitted to any deposition except for the following: the witness, counsel for the witness, the Managers on the part of the House, counsel for the Managers, counsel for the President, and the presiding officers; further, such persons whose presence is required to make and preserve a record of the proceedings in videotaped and transcript forms, and employees of the Senate whose presence is required to assist the presiding officers in presiding over the depositions, or for other purposes, as determined after consultation by the Majority Leader with the Democratic Leader. All present must maintain the confidentiality of the proceedings.

SEC. 206. The presiding officers at the depositions shall file the videotaped and transcribed records of the depositions with the Secretary of the Senate, who shall maintain them as confidential proceedings of the Senate. The Sergeant at Arms is authorized to make available for review any of the videotaped or transcribed deposition records to Members of the Senate, one designated staff member per Senator, and the Chief Justice. The Senate may direct the Secretary of the Senate to distribute such materials, and

to use whichever means of dissemination, including printing as Senate documents, printing in the *Congressional Record*, photo- and video-duplication, and electronic dissemination, he determines to be appropriate to accomplish any distribution of the videotaped or transcribed deposition records that he is directed to make pursuant to this section.

SEC. 207. The depositions authorized by this resolution shall be deemed to be proceedings before the Senate for purposes of Rule XXIX of the Standing Rules of the Senate, Senate Resolution 259, 100th Congress, 1st Session, 2 U.S.C. §§ 191, 192, 194, 288b, 288d, 288f, 18 U.S.C. §§ 6002, 6005, and 28 U.S.C. § 1365. The Secretary shall arrange for stenographic assistance, including videotaping, to record the depositions as provided in section 5. Such expenses as may be necessary shall be paid from the Appropriation Account—Miscellaneous Items in the contingent fund of the Senate upon vouchers approved by the Secretary.

SEC. 208. The Secretary shall notify the Managers on the part of the House, and counsel for the President, of this resolution.

The CHIEF JUSTICE. The Chair recognizes the minority leader.

AMENDMENT NO. 1

Mr. DASCHLE. Mr. Chief Justice, I have an amendment that I send to the desk.

The CHIEF JUSTICE. The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 1.

In the resolution strike all after the word "that" in the first line and insert the following:

"the deposition time for all witnesses to be deposited be limited to no later than close of business Wednesday, February 3 and that all Senators have an opportunity to review all deposition material, which shall be made available at the earliest possible time.

"When the Senate reconvenes the trial at 10 a.m. on Saturday, February 6 it shall be in order to resolve any objections that may not be resolved regarding the depositions; after these deposition objections have been disposed of, it shall be in order for the House managers and/or the White House counsel to make a motion, or motions to admit the depositions or portions thereof into evidence, such motions shall be limited to transcribed deposition material only;

"On Monday, February 8 there shall be 4 hours equally divided for closing arguments; with the White House using the first 2 hours and the House Republican managers using the final 2 hours; that

"Upon the completion of the closing arguments the Senate shall begin final deliberation on the articles; a timely filed motion to suspend the rules and open these deliberation shall be in order; upon the completion of these deliberations the Senate shall, without any intervening action, amendment, motion or debate, vote on the articles of impeachment.

"Provided further, That the votes on the articles shall occur no later than 12 noon Friday, February 12."

The CHIEF JUSTICE. The Chair recognizes the Senator from Utah, Mr. HATCH.

Mr. HATCH. Parliamentary inquiry, Mr. Chief Justice: Does the majority leader's resolution, does that also keep open the right of Senators to file—

The CHIEF JUSTICE. The Parliamentarian says it takes a unanimous consent for a parliamentary inquiry.

Mr. HATCH. I ask unanimous consent I be permitted to ask one question.

The CHIEF JUSTICE. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Does the majority leader's resolution allow for the filing and consideration of motions that may not be mentioned in the resolution itself?

The CHIEF JUSTICE. The Parliamentarian tells me it is never the function of the Chair to interpret a resolution.

Mr. LOTT addressed the Chair.

The CHIEF JUSTICE. The majority leader.

Mr. LOTT. I believe the regular order is, now we would go to a vote on the two resolutions. Just for the information of the Senators, after that, Senator DASCHLE may have a motion, again, as I indicated earlier, just to go to a vote on the articles of impeachment.

So there could be three votes now, in order, without intervening debate. After that, Senator DASCHLE and I will formally lock in the beginning time for the depositions.

I yield the floor.

The CHIEF JUSTICE. The first vote will be on the amendment from the minority leader, the Senator from South Dakota.

The yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. ALLARD] is necessarily absent.

Mr. REID. I announce that the Senator from Maryland [Ms. MIKULSKI] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote "aye."

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 6]

[Subject: Daschle amendment No. 1 to

S. Res. 30]

YEAS—44

Akaka Baucus Bayh Biden Bingaman Boxer Breaux Bryan Byrd Cleland Conrad Daschle Dodd Dorgan Durbin	Edwards Feingold Feinstein Graham Harkin Hollings Inouye Johnson Kennedy Kerrey Kerry Kohl Landrieu Lautenberg Leahy	Levin Lieberman Lincoln Moynihan Murray Reed Reid Robb Rockefeller Sarbanes Schumer Torricelli Wellstone Wyden
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NAYS—54

Abraham Ashcroft Bennett Bond Brownback Bunning Burns Campbell Chafee Cochran Collins Coverdell Craig Crapo DeWine	Domenici Enzi Fitzgerald Frist Gorton Gramm Grams Grassley Gregg Hagel Hatch Helms Hutchinson Hutchinson Inhofe	Jeffords Kyl Lott Lugar Mack McCain McConnell Murkowski Nickles Roberts Roth Santorum Sessions Shelby Smith (NH)
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Smith (OR) Snowe Specter	Stevens Thomas Thompson	Thurmond Voinovich Warner
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NOT VOTING—2

Allard Mikulski

The amendment (No. 1) was rejected. The CHIEF JUSTICE. The question is on agreeing to S. Res. 30, the resolution offered by Senator LOTT. On this question, the yeas and nays are called for.

Mr. DASCHLE addressed the Chair. The CHIEF JUSTICE. The Chair recognizes the minority leader.

Mr. DODD. Mr. Chief Justice, the Senate is not in order.

The CHIEF JUSTICE. The Senate will be in order.

AMENDMENT NO. 2

Mr. DASCHLE. Mr. Chief Justice, I send an amendment to the desk.

The CHIEF JUSTICE. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. DASCHLE) proposes an amendment numbered 2.

In the resolution strike all after the word "that" in the first line and insert the following:

"the Senate now proceed to closing arguments; that there be 2 hours for the White House counsel followed by 2 hours for the House managers; and that at the conclusion of this time the Senate proceed to vote, on each of the articles, without intervening action, motion or debate, except for deliberations, if so decided by the Senate."

The CHIEF JUSTICE. The question is on the amendment just read. The yeas and nays are automatic. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. ALLARD] is necessarily absent.

Mr. REID. I announce that the Senator from Maryland [Ms. MIKULSKI] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote "aye."

The result was announced—yeas 43, nays 55, as follows:

[Rollcall Vote No. 7]

[Subject: Daschle amendment No. 2]

YEAS—43

Akaka Baucus Bayh Biden Bingaman Boxer Breaux Bryan Byrd Cleland Conrad Daschle Dodd Dorgan Durbin	Edwards Feinstein Graham Harkin Hollings Inouye Johnson Kennedy Kerrey Kerry Kohl Landrieu Lautenberg Leahy Levin	Lieberman Lincoln Moynihan Murray Reed Reid Robb Rockefeller Sarbanes Schumer Torricelli Wellstone Wyden
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NAYS—55

Abraham Ashcroft Bennett Bond Brownback Bunning Burns Campbell Chafee	Cochran Collins Coverdell Craig Crapo DeWine Domenici Enzi Feingold	Fitzgerald Frist Gorton Gramm Grams Grassley Gregg Hagel Hatch
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Helms	McConnell	Snowe
Hutchinson	Murkowski	Specter
Hutchinson	Nickles	Stevens
Inhofe	Roberts	Thomas
Jeffords	Roth	Thompson
Kyl	Santorum	Thurmond
Lott	Sessions	Voynovich
Lugar	Shelby	Warner
Mack	Smith (NH)	
McCain	Smith (OR)	

## NOT VOTING—2

Allard Mikulski

The amendment (No. 2) was rejected. The CHIEF JUSTICE. The majority leader.

Mr. LOTT. Mr. Chief Justice, I suggest the absence of a quorum.

The CHIEF JUSTICE. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LEAHY. Mr. Chief Justice, may we have order, please?

The CHIEF JUSTICE. The Senate will be in order.

## AMENDMENT NO. 3

Mr. LOTT. Mr. Chief Justice, I send an amendment to the desk modifying the last paragraph of page 3.

The CHIEF JUSTICE. The clerk will report the amendment.

The legislative clerk read as follows: The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 3.

On page 3, strike the words "any pending motions and amendments thereto and then on" and insert the following at the end of page 3 "strike the period and insert, if all motions are disposed of and final deliberations are completed."

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that the amendment be agreed to and that the motion to reconsider be laid upon the table.

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

The amendment (No. 3) was agreed to.

The CHIEF JUSTICE. The question is on the resolution, as amended. The yeas and nays are automatic. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. ALLARD] is necessarily absent.

Mr. REID. I announce that the Senator from Maryland [Ms. MIKULSKI] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote "aye."

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 8]

[Subject: S. Res. 30 as amended]

## YEAS—54

Abraham	Chafee	Enzi
Ashcroft	Cochran	Fitzgerald
Bennett	Collins	Frist
Bond	Coverdell	Gorton
Brownback	Craig	Gramm
Bunning	Crapo	Grams
Burns	DeWine	Grassley
Campbell	Domenici	Gregg

Hagel	Mack	Smith (NH)
Hatch	McCain	Smith (OR)
Helms	McConnell	Snowe
Hutchinson	Murkowski	Specter
Hutchinson	Nickles	Stevens
Inhofe	Roberts	Thomas
Jeffords	Roth	Thompson
Kyl	Santorum	Thurmond
Lott	Sessions	Voynovich
Lugar	Shelby	Warner

## NAYS—44

Akaka	Edwards	Levin
Baucus	Feingold	Lieberman
Bayh	Feinstein	Lincoln
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Schumer
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	

## NOT VOTING—2

Allard Mikulski

The resolution (S. Res. 30), as amended, was agreed to.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

## MODIFICATION TO TITLE II

Mr. LOTT. Mr. Chief Justice, with regard to the beginning of the depositions, I ask unanimous consent that title II of S. Res. 30 be modified with the language I send to the desk.

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

The modification follows:

## TITLE II—TO AUTHORIZE ISSUANCE OF SUBPOENAS TO TAKE DEPOSITIONS IN THE TRIAL OF THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

SEC. 201. That, pursuant to Rules V and VI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, and Senate Resolution 16, One Hundred Sixth Congress, First Session, the Chief Justice of the United States, through the Secretary of the Senate, shall issue subpoenas for the taking of testimony on oral deposition to the following witnesses: Sidney Blumenthal, Monica S. Lewinsky, and Vernon E. Jordan, Jr.

SEC. 202. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or any other employee of the United States Senate in serving the subpoenas authorized to be issued by this resolution.

SEC. 203. Depositions authorized by this resolution shall be taken before, and presided over by, on behalf of the Senate, two Senators appointed by the Majority Leader and the Democratic Leader, acting jointly, one of whom shall administer to witnesses the oath prescribed by Rule XXV of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. Acting jointly, the presiding officers shall have authority to rule, as an initial matter, upon any question arising out of the deposition. All objections to a question shall be noted by the presiding officers upon the record of the deposition but the examination shall proceed, and the witness shall answer such question. A witness may refuse to answer a question only when necessary to preserve a legally-recognized privilege, or constitutional right, and must identify such privilege cited if refusing to answer a question.

SEC. 204. Examination of witnesses at depositions shall be conducted by the Managers on the part of the House or their counsel, and by counsel for the President. Witnesses shall be examined by no more than two persons each on behalf of the Managers and counsel for the President. Witnesses may be accompanied by counsel. The scope of the examination by the Managers and counsel for both parties shall be limited to the subject matters reflected in the Senate record. The party taking a deposition shall present to the other party, at least 18 hours in advance of the deposition, copies of all exhibits which the deposing party intends to enter into the deposition. No exhibits outside of the Senate record shall be employed, except for articles and materials in the press, including electronic media. Any party may interrogate any witness as if that witness were declared adverse.

SEC. 205. The depositions shall be videotaped and a transcript of the proceedings shall be made. The depositions shall be conducted in private. No person shall be admitted to any deposition except for the following: The witness, counsel for the witness, the Managers on the part of the House, counsel for the Managers, counsel for the President, and the presiding officers; further, such persons whose presence is required to make and preserve a record of the proceedings in videotaped and transcript forms, and Senate staff members whose presence is required to assist the presiding officers in presiding over the depositions, or for other purposes, as determined by the Majority Leader and the Democratic Leader. All present must maintain the confidentiality of the proceedings.

SEC. 206. The presiding officers at the depositions shall file the videotaped and transcribed records of the depositions with the Secretary of the Senate, who shall maintain them as confidential proceedings of the Senate. The Sergeant at Arms is authorized to make available for review at secure locations, any of the videotaped or transcribed deposition records to Members of the Senate, one designated staff member per Senator, and the Chief Justice. The Senate may direct the Secretary of the Senate to distribute such materials, and to use whichever means of dissemination, including printing as Senate documents, printing in the Congressional Record, photo- and video-duplication, and electronic dissemination, he determines to be appropriate to accomplish any distribution of the videotaped or transcribed deposition records that he is directed to make pursuant to this section.

SEC. 207. The depositions authorized by this resolution shall be deemed to be proceedings before the Senate for purposes of Rule XXIX of the Standing Rules of the Senate, Senate Resolution 259, One Hundredth Congress, First Session, sections 191, 192, 194, 288b, 288d, 288f of title 2, United States Code, sections 6002, 6005 of title 18, United States Code, and section 1365 of title 28, United States Code. The Secretary shall arrange for stenographic assistance, including videotaping, to record the depositions as provided in section 205. Such expenses as may be necessary shall be paid from the Appropriation Account—Miscellaneous Items in the contingent fund of the Senate upon vouchers approved by the Secretary.

SEC. 208. The Majority and Minority Leaders, acting jointly, may make other provisions for the orderly and fair conduct of these depositions as they seem appropriate.

SEC. 209. The Secretary shall notify the Managers on the part of the House, and counsel for the President, of this resolution.

The resolution (S. Res. 30), as amended, as modified, reads as follows:

S. RES. 30

*Resolved,*

TITLE I—PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

SEC. 101. That the deposition time for all witnesses be determined by the Senate Majority Leader and Minority Leader, as outlined in Senate Resolution 16, One Hundred Sixth Congress, First Session, and title II of this resolution and that all Senators have an opportunity to review all deposition material, which shall be made available at the earliest possible time.

SEC. 102. When the Senate reconvenes on the day after completion of the depositions, and the review period, it shall be in order for both the House Managers and the President's counsel to move to resolve any objections made during any deposition. After resolution of any such motions, it shall be in order for the House Managers and/or White House counsel to make a motion or motions to admit the depositions or portions thereof into evidence, whether transcribed or on videotape provided further for a presentation employing all or portions of such tape, and it shall then be in order for the two Leaders jointly, only to make motions for additional discovery because of new relevant evidence discovered during the depositions. Motions may also then be made for orders governing the presentation of evidence and/or the testifying of witnesses before the Senate.

SEC. 103. If no such motions are made, or following the completion of any procedures authorized as a result of the votes on any motions, the White House shall have up to 24 hours to make any motions dealing with testimony or evidence that the White House counsel deems appropriate, as described previously.

SEC. 104. If no such motions are made, or no witnesses are called to testify in the Senate, the Senate shall proceed to final arguments as provided in the impeachment rules waiving the two person rule contained in Rule XXII of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials for not to exceed six hours, to be equally divided. If motions are agreed to regarding new evidence or calling of new witnesses, this resolution is suspended.

SEC. 105. At the conclusion of the final arguments the parties shall proceed in accordance with the rules of impeachment: *Provided however*, That no motion with respect to reopening the record in the case shall be in order, and: *Provided further*, That it shall be in order for a Senator to offer a motion to suspend the rules to allow for open final deliberations with no amendments or motions to that motion in order; and the Senate shall proceed to vote on the motion to suspend the rules to provide for open Senate deliberations.

SEC. 106. Following that vote, and if no motions have been agreed to as provided in sections 102 and 103, and no motions are agreed to following the arguments, then the vote will occur on the articles of impeachment no later than 12:00 noon on Friday, February 12, 1999, if all motions are disposed of and final deliberations are completed.

TITLE II—TO AUTHORIZE ISSUANCE OF SUBPOENAS TO TAKE DEPOSITIONS IN THE TRIAL OF THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

SEC. 201. That, pursuant to Rules V and VI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, and Senate Resolution 16, One Hundred Sixth Congress, First Session, the Chief Justice of the United States, through the Secretary of the Senate, shall issue subpoenas for the taking of testimony on oral deposition to the following witnesses: Sidney

Blumenthal, Monica S. Lewinsky, and Vernon E. Jordan, Jr.

SEC. 202. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or any other employee of the United States Senate in serving the subpoenas authorized to be issued by this resolution.

SEC. 203. Depositions authorized by this resolution shall be taken before, and presided over by, on behalf of the Senate, two Senators appointed by the Majority Leader and the Democratic Leader, acting jointly, one of whom shall administer to witnesses the oath prescribed by Rule XXV of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. Acting jointly, the presiding officers shall have authority to rule, as an initial matter, upon any question arising out of the deposition. All objections to a question shall be noted by the presiding officers upon the record of the deposition but the examination shall proceed, and the witness shall answer such question. A witness may refuse to answer a question only when necessary to preserve a legally-recognized privilege, or constitutional right, and must identify such privilege cited if refusing to answer a question.

SEC. 204. Examination of witnesses at depositions shall be conducted by the Managers on the part of the House or their counsel, and by counsel for the President. Witnesses shall be examined by no more than two persons each on behalf of the Managers and counsel for the President. Witnesses may be accompanied by counsel. The scope of the examination by the Managers and counsel for both parties shall be limited to the subject matters reflected in the Senate record. The party taking a deposition shall present to the other party, at least 18 hours in advance of the deposition, copies of all exhibits which the deposing party intends to enter into the deposition. No exhibits outside of the Senate record shall be employed, except for articles and materials in the press, including electronic media. Any party may interrogate any witness as if that witness were declared adverse.

SEC. 205. The depositions shall be videotaped and a transcript of the proceedings shall be made. The depositions shall be conducted in private. No person shall be admitted to any deposition except for the following: The witness, counsel for the witness, the Managers on the part of the House, counsel for the Managers, counsel for the President, and the presiding officers; further, such persons whose presence is required to make and preserve a record of the proceedings in videotaped and transcript forms, and Senate staff members whose presence is required to assist the presiding officers in presiding over the depositions, or for other purposes, as determined by the Majority Leader and the Democratic Leader. All present must maintain the confidentiality of the proceedings.

SEC. 206. The presiding officers at the depositions shall file the videotaped and transcribed records of the depositions with the Secretary of the Senate, who shall maintain them as confidential proceedings of the Senate. The Sergeant at Arms is authorized to make available for review at secure locations, any of the videotaped or transcribed deposition records to Members of the Senate, one designated staff member per Senator, and the Chief Justice. The Senate may direct the Secretary of the Senate to distribute such materials, and to use whichever means of dissemination, including printing as Senate documents, printing in the Congressional Record, photo- and video-duplication, and electronic dissemination, he determines to be appropriate to accomplish any distribution of the videotaped or transcribed deposi-

tion records that he is directed to make pursuant to this section.

SEC. 207. The depositions authorized by this resolution shall be deemed to be proceedings before the Senate for purposes of Rule XXIX of the Standing Rules of the Senate, Senate Resolution 259, One Hundredth Congress, First Session, sections 191, 192, 194, 288b, 288d, 288f of title 2, United States Code, sections 6002, 6005 of title 18, United States Code, and section 1365 of title 28, United States Code. The Secretary shall arrange for stenographic assistance, including videotaping, to record the depositions as provided in section 205. Such expenses as may be necessary shall be paid from the Appropriation Account—Miscellaneous Items in the contingent fund of the Senate upon vouchers approved by the Secretary.

SEC. 208. The Majority and Minority Leaders, acting jointly, may make other provisions for the orderly and fair conduct of these depositions as they seem appropriate.

SEC. 209. The Secretary shall notify the Managers on the part of the House, and counsel for the President, of this resolution.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. chief Justice, I ask unanimous consent that the unanimous consent agreement I send to the desk be agreed to. This all deals with the taking of depositions.

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

The text of the unanimous consent agreement reads as follows:

I ask unanimous consent that the time and place to take depositions in the trial of the articles of impeachment against William Jefferson Clinton be decided jointly by the majority leader, and the Democratic leader, and shall be set forth in each subpoena.

I further ask unanimous consent that the opportunity for taking depositions of Monica Lewinsky, Vernon Jordan and Sidney Blumenthal expires when the Senate convenes on Thursday, Feb. 4, 1999.

Finally I ask unanimous consent that each deposition may last no more than 8 hours, unless the majority leader, and the Democratic leader determine on a deposition-by-deposition basis, to extend the time of the deposition, and all the time allotted for examination shall be divided equally between the parties, and time consumed by objections shall not be charged to either objecting party.

Mr. LOTT. Now, I understand, Mr. Chief Justice, that the Democratic leader is prepared to agree that the depositions will begin on Monday, February 1, and with this having been decided, and the vote we just took, we have discussed the schedule for the remainder of the week. In view of the fact that at this point the parties will begin to prepare for depositions and the depositions will begin on Monday, Members will not be expected to be here for any business before Wednesday, but we could be required to have a session Wednesday afternoon.

I want to emphasize that as the deposition material becomes available, we will have the Sergeant at Arms have it in a room for Members to begin to review. So beginning Tuesday, Senators who would like to begin reviewing the depositions, the material in the depositions, it will be available in installments as it becomes available on Tuesday. So you would have that opportunity Tuesday and Wednesday. Not

later than Thursday, then, we would go to the next phase of our agreement that we have voted on.

At this time, we are notifying the Members that there will be no further recorded votes and no further business while we await returning of the depositions through Friday, Saturday, Sunday, Monday, and Tuesday, but Members should expect to be here on Wednesday and they would need to be here on Wednesday, in order to begin to make sure they have had time to review the documents, the deposition material, so that we can proceed, then, on Thursday.

Mr. HARKIN. Will the Senator yield?  
Mr. LOTT. I yield.

Mr. HARKIN. Are Senators allowed to attend these depositions or not?

Mr. LOTT. Under the agreement we just passed, Mr. Chief Justice, if I may proceed and respond to that question.

The CHIEF JUSTICE. Without objection.

Mr. LOTT. There will be a Senator from each side at the depositions who will preside over the depositions. Senator DASCHLE and I also will have certain staff there, but a Senator other than the two presiding Senators would not be in order to what we agreed to. There will be one from each side who will be presiding and will actually make determinations when objections are made.

#### ADJOURNMENT

Mr. LOTT. I now ask unanimous consent that the Court of Impeachment stand in adjournment until the hour of 1 p.m. on Thursday, February 4.

The motion was agreed to; and at 6:34 p.m. the Senate, sitting as a Court of Impeachment, adjourned until Thursday, February 4, 1999, at 1 p.m.

#### LEGISLATIVE SESSION

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d-276g, as amended, appoints the Senator from Alaska (Mr. MURKOWSKI) as Chairman of the Senate Delegation to the Canada-U.S. Interparliamentary Group during the First Session of the 106th Congress.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h-276k, as amended, appoints the Senator from Georgia (Mr. COVERDELL) as the Chairman of the Senate Delegation to

the Mexico-U.S. Interparliamentary Union during the 106th Congress.

#### APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, in consultation with the ranking member of the Senate Committee on Finance, pursuant to Public Law 105-277, appoints the following individuals to the Trade Deficit Review Commission: Dimitri B. Papadimitriou of New York, C. Richard D'Amato of Maryland, and Lester C. Thurow of Massachusetts.

The Chair, on behalf of the President pro tempore, upon the recommendation of the Democratic leader, pursuant to Public Law 105-292, appoints the Most Reverend Theodore E. McCarrick, Archbishop of Newark, New Jersey, to the Commission on International Religious Freedom.

The Chair, on behalf of the President pro tempore, and upon the recommendations of the majority leader, pursuant to 22 U.S.C. 2761, as amended, appoints the Senator from Alaska (Mr. STEVENS) as Chairman of the Senate Delegation to the British-American Interparliamentary Group during the 106th Congress.

#### APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 105-244, announces the appointment of the following individuals to serve as members of the Web-Based Education Commission: Patti S. Abraham, of Mississippi and George Bailey, of Montana.

The Chair, on behalf of the majority leader, pursuant to Public Law 105-277, announces the appointment of the following individuals to serve as members of the Commission on Online Child Protection:

Arthur Derosier, Jr., of Montana—Representative of academia with expertise in the field of technology;

Albert F. Ganier III, of Tennessee—Representative of a business providing Internet filtering or blocking services or software;

Donna Rice Hughes, of Virginia—Representative of a business making content available over the Internet;

C. Bradley Keirnes, of Colorado—Representative of a business providing Internet access services; and

Karen L. Talbert, of Texas—Representative of a business providing labeling or ratings services.

The Chair, on behalf of the majority leader, pursuant to Public Law 105-277, announces the appointment of Manuel H. Johnson, of Virginia, to serve as a member of the International Financial Institution Advisory Commission.

#### APPOINTMENTS BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Democratic

leader, pursuant to Public Law 105-277, announces the appointment of the following individuals to serve as members of the National Commission on Terrorism: Richard Kevin Betts of New Jersey and Maurice Sonnenberg of New York.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1087. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "RUS Fidelity and Insurance Requirements for Electric and Telecommunications Borrowers" (RIN0572-AA86) received on January 14, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1088. A communication from the Deputy Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Commission Records and Information; Open Commission Meetings" received on January 14, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1089. A communication from the Deputy Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Temporary Licenses for Associated Persons, Floor Brokers, Floor Traders and Guaranteed Introducing Brokers" received on January 14, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1090. A communication from the Deputy Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Voting by Interested Members of Self-Regulatory Organization Governing Boards and Committees" received on January 14, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1091. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, the Office's report entitled "Unauthorized Appropriations and Expiring Authorizations" dated January 8, 1999; to the Committee on Appropriations.

EC-1092. A communication from the Secretary of Defense, transmitting, notice of a routine military retirement in the Air Force; to the Committee on Armed Services.

EC-1093. A communication from the Secretary of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the Educational and Training functions at Robins Air Force Base, Georgia; to the Committee on Armed Services.

EC-1094. A communication from the Secretary of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the Base Training and Education functions at 18 Air Combat Command Bases; to the Committee on Armed Services.

EC-1095. A communication from the Principal Deputy Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the Department's annual report on the National Defense Stockpile for fiscal year 1998; to the Committee on Armed Services.

EC-1096. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled