

**SENATE—Wednesday, January 27, 1999**

The Senate met at 1:07 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 Ogilvie, offered the following prayer:

Dear God, leadership has its defining days in which crucial decisions must be made. You know that this is an important one of those days. In a few moments, votes must be cast. Now in the quiet, the Senators wait to be counted. It is a lonely time. Beyond party loyalties, those on both sides of the aisle long to do what ultimately is best for our Nation. Debate has led to firm convictions. Give the Senators the courage of these convictions and the assurance that, if they are true to whatever they now believe is best, You will bless them with peace. We intercede for them and the heavy responsibility they must carry. Imbue them with Your calming Spirit and strengthen them with Your gift of faith to trust You to maintain unity once the votes are tallied. We commit the results to You. Our times are in Your hands. Through our Lord and Saviour. Amen.

The CHIEF JUSTICE. 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 majority leader is recognized.

**ORDER OF PROCEDURE**

Mr. LOTT. Mr. Chief Justice, in a moment we will begin two consecutive votes. The first will be on the motion to dismiss. That will be followed by an immediate vote on the motion to subpoena. Following those votes, there will be an opportunity to describe how we would go forward from there with the depositions. I have discussed this with Senator DASCHLE. It is likely that we would take a break at that point so that we could have further discussions with our conferences to make sure we

understand how that subpoena and deposition process would go forward. I have a resolution prepared. We have some simpler ones that we can consider. But we would want to discuss those with each other during the vote, and perhaps even after the two votes occur, depending on what the results are.

The idea is that we have now before us Senate Resolution 16, which has brought us to the point to these two votes. We need to give some consideration to making sure we understand how the process will go forward to a conclusion after that.

I thank my colleagues for their attention. I believe we are ready for the votes, Mr. Chief Justice.

**VOTE ON MOTION TO DISMISS**

The CHIEF JUSTICE. The question occurs on the motion to dismiss the impeachment proceedings offered by the Senator from West Virginia, Mr. BYRD. The yeas and nays are required.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 44, nays 56, as follows:

[Rollcall Vote No. 4]

[Subject: Byrd motion to dismiss the impeachment proceedings]

**YEAS—44**

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

**NAYS—56**

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

The motion was rejected.

**VOTE ON MOTION FOR APPEARANCE OF WITNESSES AND ADMISSION OF EVIDENCE**

The CHIEF JUSTICE. Now the question occurs on the motion requesting

the appearance of witnesses at depositions to admit evidence offered by the managers on the part of the House of Representatives. On this question, the yeas and nays are required, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 56, nays 44, as follows:

[Rollcall Vote No. 5]

[Subject: House managers motion to subpoena witnesses and admit evidence not in record]

**YEAS—56**

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

**NAYS—44**

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

The motion was agreed to.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, as I indicated earlier, we are attempting now to clarify exactly how this will proceed and to reach agreement with regard to the remaining procedure and the beginning of the deposition process.

We are acting in good faith, but we want to make sure we are at least going to try to think about all contingencies, and we are exchanging resolutions and suggestions between Senator DASCHLE and myself at this time. We may be asked to vote later on today on a procedure. We will let you know if that is necessary today. It could happen tomorrow. But we don't want it to go much longer than that because we need to make sure this procedure is going forward.

Of course, if we don't have a resolution, I presume we will begin to go forward anyway, but we would like to

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

have some orderly procedure as we have had in the past. My thinking at this time is that we would just stand in recess subject to the call of the Chair while we talk this through. It may not be necessary to do anything further as far as a recorded vote but it may be. So we just wanted Senators to be on notice of that.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Therefore, I ask unanimous consent, Mr. Chief Justice, that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 1:33 p.m., the Senate recessed subject to the call of the Chair.

The Senate reassembled at 4:47 p.m. when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

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

First, I thank all the Members, all concerned, for their patience throughout this process. We have had a productive day, and I believe this recess that we have been experiencing has been helpful in allowing further discussions to occur and to clarify what the procedures will be from here through the subpoena and deposition process and, hopefully, even to a conclusion.

Senator DASCHLE and I have traded proposals which outline those procedures for the remainder of the trial, and although I won't go into detail at this time, I will say that both proposals bring us to a final vote on the pending articles of impeachment in an expeditious manner. We have been narrowing the questions that are involved, and we are now working on what I hope will be the final draft. But it is not going to be possible to complete that this afternoon. We hope to be able to do it when we reconvene at 1 p.m. on Thursday.

There will be conferences of the two parties in the morning so that we can go over this with all the Senators. It is not enough just that the leaders understand or agree; we have to make sure every Senator understands it and agrees with the procedure that we would go forward with.

ADJOURNMENT UNTIL 1 P.M.  
TOMORROW

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

There being no objection, at 4:47 p.m., the Senate, sitting as a Court of Impeachment, adjourned until Thursday, January 28, 1999, at 1 p.m.

(Under a previous order, the following material was submitted at the desk during today's session.)

#### 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-995. A communication from the Comptroller General of the United States, transmitting, an updated report on statistics regarding rescissions proposed by the executive branch and rescissions enacted by the Congress through October 1, 1998; transmitted jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations and to the Committee on the Budget.

EC-996. A communication from the Administrator of the U.S. Agency for International Development, transmitting, pursuant to law, the Agency's report on activities under Title XII-Famine Prevention and Freedom From Hunger; to the Committee on Foreign Relations.

EC-997. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "North Dakota Regulatory Program" (ND-037-FOR) received on January 5, 1999; to the Committee on Energy and Natural Resources.

EC-998. A communication from the Chairman of the National Safety Council, transmitting, pursuant to law, the Council's combined financial statements for the years ended June 30, 1998 and 1997; to the Committee on the Judiciary.

EC-999. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report of fund transfers for fiscal years 1997 and 1998; to the Committee on Armed Services.

EC-1000. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate Systems; Lead Agency Responsibility" (RIN3206-AI48) received on January 4, 1999; to the Committee on Governmental Affairs.

EC-1001. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Pay Administration (General); Collection by Offset from Indebted Government Employees" (RIN3206-AH63) received on January 4, 1999; to the Committee on Governmental Affairs.

EC-1002. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the Endowment's annual report under the Integrity Act for calendar year 1998; to the Committee on Governmental Affairs.

EC-1003. A communication from the Administrator of the Rural Utilities Service, transmitting, pursuant to law, the report of a rule entitled "Electric Overhead Distribution Lines; Specifications and Drawings for 24.9/14.4 kV Line Construction" received on January 4, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1004. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pine Shoot Beetle; Addition to Quarantined Areas" (Docket 98-113-1) received on January 5, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1005. A communication from the Secretary of Labor, transmitting, pursuant to

law, the report of a rule entitled "Protection of Individual Privacy in Records" (RIN1290-AA16) received on November 6, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC-1006. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of a rule entitled "Process for Electing State Agency Representatives for Consultations with Department of Labor Relating to Nationwide Employment Statistics System" (RIN1290-AA19) received on December 30, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC-1007. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (63 FR28268) received on January 4, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-1008. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "India and Pakistan Sanctions and Other Measures" (RIN0694-AB73) received on November 16, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-1009. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Encryption Items" (0694-AB80) received on January 4, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-1010. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Welfare-to-Work Data Collection" (RIN0970-AB92) received on November 6, 1998; to the Committee on Finance.

EC-1011. A communication from the Chief Counsel of the Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Fee Structure for the Transfer of U.S. Treasury Book-Entry Securities Held on the National Book-Entry System" received on November 17, 1998; to the Committee on Finance.

EC-1012. A communication from the Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Offset of Tax Refund Payments to Collect Past-Due Support" (RIN1510-AA63) received on December 30, 1998; to the Committee on Finance.

EC-1013. A communication from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Johannisberg Riesling; Deferral of Compliance Date" (RIN1512-AB81) received on January 5, 1999; to the Committee on Finance.

EC-1014. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "1999 Limitations Adjusted As Provided in Section 415(d), Etc." (Notice 98-53) received on November 17, 1998; to the Committee on Finance.

EC-1015. A communication from the Assistant Secretary for Communications and Information, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the availability of funds under the Telecommunications and Information Infrastructure Assistance Program (RIN0660-ZA06) received on January 4, 1999; to the