President, but the White House chose a different course. They chose to belittle the charges against the President by suggesting that everyone lies about sex. They chose to accuse their accusers by attacking the motives and integrity of the Judiciary Committee Republicans and by insinuating that Judge Starr is a sex-obsessed prosecutor run amok. They did not question the evidence on which the impeachment vote was based.

With that evidence, the House Managers presented a powerful case against the President. As a result of their presentations, I am convinced that the President acted to circumvent the law. The notion that the President of the United States, the number one citizen of our nation, the man in whom the trust and respect of the country is meant to rest would deliberately maneuver around the laws of the land is reprehensible and should be condemned.

Alexander Hamilton, in *Federalist Papers* No. 65, said:

> The delicacy and magnitude of a trust, which so deeply concerns the political reputation and resistance of every man engaged in the administration of public affairs, speak for themselves.

President Clinton betrayed that delicate trust. The House Managers tried to restore it. In the end, the witnesses, all of whom were sympathetic to or allies of the President, provided direct evidence that failed to corroborate the House Managers' case. Removing the President from office in the face of a conflict between direct and circumstantial evidence, in my view, would be mistaken. On that basis, I voted to acquit the President. Nevertheless, the House Managers and all of the evidence left me convinced that the President acted in a way that is abominable. By voting for the censure resolution proposed by Senator FEINSTEIN, the Senate makes clear that it does not exonerate the President.

DEPOSITION PROCEDURES IN THE SENATE IMPEACHMENT TRIAL

Mr. LEAHY. Mr. President, no matter how each of us viewed the evidence in this case and no matter how each of us voted, we all share common relief that the impeachment trial of William Jefferson Clinton is concluding. In many respects, this was uncharted territory for us. We all felt the weight of history and precedent as we made our decisions on how to proceed.

With this in mind, the procedures developed and followed for the three depositions taken during the course of this trial should be made a part of the record of this impeachment trial. Unfortunately, the complete depositions were not introduced into evidence and made a part of the Senate trial record until after the vote on the Articles themselves. Instead, at the request of the House Managers, the only parts introduced into evidence before then were those ''from the point that each witness is sworn to testify under oath to the end of any direct response to the last question posed by a party.'' (Cong. Rec., Jan. 4, 1999, p. S1209).

I served as one of the six Presiding Officers at the depositions and attended all of them. In particular, I wish to thank Senators DODD and EDWARDS for serving with me, and Senator DEWINE with whom I jointly presided.

The decisions made during those depositions may provide guidance in the future should any other Senate be confronted with challenges similar to those that we have confronted. For that reason, I have described below the manner in which we reached our decisions and summarize the issues we resolved both before and during the depositions of Monica S. Lewinsky, Vernon Jordan, and Sidney Blumenthal.

I thank Thomas Griffith, Morgan Frankel and Chris Bryant in the Senate Legal Counsel's office for their assistance during the depositions and in preparing this summary of the rules and procedures.

I ask unanimous consent that this summary be printed in the RECORD.

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

SUMMARY OF RULINGS AND PROCEDURES OF THE PRESIDING OFFICERS DURING DEPOSITIONS IN SENATE IMPEACHMENT TRIAL

A. THE PROCEDURES

Selection. An equal number of Presiding Officers from each party were selected by the Minority and Majority Leaders.

Presiding. One Presiding Officer from each party presided jointly over each deposition at all times. The Presiding Officers rotated from deposition to deposition and the Democratic Presiding Officers chose to rotate during the deposition of Ms. Lewinsky, with Senator Leahy presiding over the first part and Senator Edwards presiding over the latter part of that deposition.

Attendance. All Presiding Officers were permitted to attend each deposition in order to provide continuity in the proceedings and ensure familiarity with both substantive and procedural decisions made in each deposition.

Consultation. All Presiding Officers present, whether or not actually presiding over a specific deposition, were invited to and did participate in discussions among Presiding Officers about certain rulings.

Opening Script. The first Presiding Officer to speak was from the majority party. He used an opening script that summarized Senate Resolution 30 authorizing the depositions and set forth the ground rules for the timing of lunch and other breaks, the overall time allotted for the deposition, the scope of the examination, basic guidelines for objections, an explanation of the confidentiality requirements, and the oath required to be administered to the witness. (Lewinsky Depo. Tr., pp. 5–8). Senator DeWine reiterated the confidentiality requirement at the close of the Lewinsky deposition. (Id., p. 174, ln. 10—p. 175, ln. 7).

Senator Leahy made an opening statement at the Lewinsky deposition to advise the witness of her rights, including that she could correct the transcript, was free to consult with her attorneys, and notified her of the criminal liability she risked if she failed to tell the truth. (Lewinsky Depo. Tr., pp. 9–11).

Senator Dodd stressed the confidentiality requirement before the Jordan deposition (Jordan Depo. Tr., p. 9, lns. 6–13).

Senator Edwards stressed the confidentiality requirement again before the Blumenthal deposition (Blumenthal Depo. Tr., p. 8, lns. 8–10).

Oath. The Presiding Officer from the majority party administered the oath to the witness.

Advise of Rights. Senator Leahy in his opening remarks at the Lewinsky deposition informed the witness that should she fail to tell the truth, she would risk violating a federal law (18 U.S.C. Section 1001), prohibiting a person from making any materially false statement in any investigation or review by Congress (Lewinsky Depo. Tr., p. 9, lns. 4–13).

Breaks. Senator DeWine called for 5-minute breaks on the hour, and Senator Leahy made clear that the witness should just ask should she want a break. At the conclusion of each break, Senator DeWine informed counsel of the time remaining for questioning. (See, e.g., 145 Cong. Rec. S1218, S1222 (Lewinsky)). Senator Thompson did likewise. (Id. at S1233, S1238 (Jordan)). Senator Specter also called for 5-minute breaks on the hour. (Id. at S1249, S1253; Blumenthal Depo. Tr., p. 86, lns. 6–7, 15). Senators Thompson and Dodd called for a lunch break, even though Mr. Jordan asked to proceed through lunch. (145 Cong. Rec. S1243). Brief breaks were also taken when required to change the tapes, see, e.g., id. at S1227, and during a power outage in the Jordan deposition. (Id. at S1234).

Reserving Time for Re-direct and Re-Cross Examinations. The parties were allowed to reserve time out of their four hours for re-direct and re-cross examination, with the understanding, however, that should the President's counsel fail to cross-examine, the Managers would have no opportunity to re-direct. Likewise, should the Managers fail to re-direct following cross-examination, the President's counsel would have no opportunity to re-cross.

During the Lewinsky deposition, the President's counsel chose to ask no questions, which meant that the Managers could ask no further questions. (Lewinsky Depo. Tr., p. 173, lns. 16–17). The President's counsel made a short apology to the witness on behalf of the President, to which no objection was made. (Id., p. 173, Ins. 18–20).

During the Jordan deposition, the President's counsel asked very few questions on cross-examination, and the Managers asked no questions on re-direct examination. (145 Cong. Rec. S1245).

During the Blumethal deposition, the President's counsel asked no questions on cross-examination, but the House Managers were allowed to ask questions on a limited scope of inquiry that had been the subject of an earlier objection raised by the President's counsel. (Id. at S1253). Senators Specter and Edwards had ruled that the Managers could develop this line of inquiry at the conclusion of the deposition so that should the objection be sustained, that portion of the deposition could be easily excised (145 Cong. Rec. S1253). Following the Managers' last line of inquiry, the President's counsel was given the opportunity to ask, but had no questions for Mr. Blumenthal. (Blumenthal Depo. Tr., p. 86, lns. 15–18).

Recalling the Witness. At the completion of the Managers' direct examination of Ms. Lewinsky, Senator Edwards asked Manager Bryant whether he had concluded his direct examination. Manager Bryant said he had. When the President's counsel determined not to ask any questions, Senators DeWine and Edwards ruled that the deposition was completed, meaning that the deponent could not be compelled to testify again unless the Senate voted to issue another subpoena. (Lewinsky Depo. Tr., p. 173, ln. 24). In so doing, they expressly rejected a request from Managers Bryant and Rogan to retain jurisdiction over the witness should she be called as a witness before the Senate. (*Id.*, p. 176, lns. 4–8).

Off the Record. The Presiding Officers determined when to go off the record. For example, Senator DeWine asked to go off the record when conferring on a ruling with Senator Leahy. (145 Cong. Rec. S1219 (Lewinsky)). Senator Edwards also asked to go off the record to confer with Senator Specter on a ruling. (*Id.* at S1250 (Blumenthal)). The parties were also permitted to request that discussion take place off the record. For example, upon Manager Bryant's request, Senators DeWine and Leahy allowed discussion to take place off the record. (*Id.* at S1229 (Lewinsky)). Similarly, upon President's Counsel's request, Senators Specter and Edwards allowed discussion to take place off the record. (*Id.* at S1253 (Blumenthal)).

Videotape. Senator Leahy advised Ms. Lewinsky at the outset for her deposition of how the videotape of the deposition might be used, including admitted into evidence in the impeachment trial and used in a way that it becomes public. (Lewinsky Depo. Tr., p. 10, lns. 10–12). Her attorney noted for the record that the witness objected to the videotaping of the deposition, and to any subsequent public release of the videotape of Ms. Lewinsky's testimony (*Id.* p. 12; lns. 19–22).

B. THE WITNESS

Counsel May Not Coach the Witness. Senator DeWine instructed Ms. Lewinsky's counsel not to coach or prompt the witness in her answers. He stated that she was free to ask for a break to confer with her counsel, but they should not whisper responses to her while a question was pending. (145 Cong. Rec. S1215).

Relying on Prior Grand Jury Testimony. Ms. Lewinsky objected to certain questions, answers to which were already in the record. After conferring, Senators DeWine and Leahy instructed Ms. Lewinsky to answer a Manager's question even though the question might have been covered in her grand jury testimony, though she ''certainly can reference previous testimony if she wishes to do that.'' Senator Leahy particularly noted that there may be ''some nuances different,'' and that she could ''correct her testimony.'' (145 Cong. Rec. S1213).

Transcript Corrections. Senator Leahy made clear when he presided at the Lewinsky deposition that the witness would be given an opportunity to examine the transcript to make any necessary corrections. By letter dated February 2, 1999, her attorney provided a list of corrections to the deposition (145 Cong. Res. S1229).

C. OBJECTIONS TO QUESTIONS AND STATEMENTS

Procedures for Resolving Scope Objections. Section 204 of S. Res. 30 limited the examination of the witness to ''the subject matters reflected in the Senate record.'' Prior to the Lewinsky deposition, Senators DeWine and Leahy determined that if objection was made to a question on the ground that it exceeded the scope of the Senate record, the proponent of the question would be allowed to identify where in the Senate record the subject matter of the question was reflected. If the proponent could satisfy the Presiding Officers that the subject matter of the question was reflected in the Senate record, the witness would be instructed to answer the question.

In the Blumenthal deposition, a scope objection arose about questions regarding White House strategy discussions of Kathleen Willey. (145 Cong. Rec. S1249). Senators Specter and Edwards decided to reserve that line of questioning until the end of the deposition. When the issue arose again, after consultation off the record, Senators Specter and Edwards decided that questions regarding Kathleen Willey were within the scope, but not questions regarding strategy sessions on any other women. (*Id.* at S1253). Senators Specter and Edwards also overruled Mr. Blumenthal's attorney's scope objection to another area of questions after Manager Graham had offered proof to support the scope of the question, and the attorney had withdrawn his objection. (*Id.* at S1251).

Limitation on Scope. While S. Res. 30 broadly defined the permissible scope of the deposition to cover subject matter reflected in the Senate record, the Managers were reminded of their representations to the Senate limiting the areas about which they would examine the witnesses. For example, Senator Leahy reminded Manager Bryant of his promise to the Senate that he would not ask Ms. Lewinsky about her explicit sexual relationship with the President. (145 Cong. Rec. S1213).

Objections by Counsel for the Witness. Senators DeWine and Leahy ruled that counsel for the witness were allowed to interpose objections to a question. (*Id.* at S1219 (Lewinsky)).

Answering the Question Subject to an Objection. Section 203 of S. Res. 30 required that ''the witness shall answer'' all questions unless asserting a ''legally-recognized privilege, or constitutional right.'' Senators DeWine and Leahy noted all non-privilege objections and instructed the witness to answer questions subject to the objection. (*See, e.g.*, 145 Cong. Rec. S1221 (Lewinsky)). The attorney-client privilege was asserted by Ms. Lewinsky's counsel in response to one line of questioning. Senators DeWine and Leahy instructed Manager Bryant to postpone that line of questioning until after Ms. Lewinsky's counsel could determine whether prior grand jury testimony had waived the privilege for that subject matter. (*Id.* at S1223). Her counsel later withdrew the objection, and Manager Bryant resumed his line of questioning. (*Id.* at S1224).

When Manager Graham asked about Mr. Blumenthal's prior use of executive privilege, his attorney, Mr. McDaniel, objected that the question was misleading because Mr. Blumenthal had not raised the privilege, but the White House had. Senators Specter and Edwards overruled the objection, and asked Mr. Blumenthal to answer the question, which was rephrased. (*Id.* at S1249).

Compound or Ambiguous Questions. During the depositions, there were numerous objections that the questions were compound and/or ambiguous. In each instance, the Presiding Officers invited the manager to rephrase the question and allowed the questioning to proceed. (*See, e.g.*, *id.* at S1214–15 (Lewinsky), S1228 (Lewinsky), S1252 (Blumenthal)). At one point in the Blumenthal deposition, Senators Specter and Edwards ruled that Mr. Blumenthal could answer a question to which Mr. McDaniel objected as confusing, if the witness understood it. (*Id.* at S1250).

Open-ended Question. On cross-examination, Mr. Kendall asked Mr. Jordan if he had anything to add to the testimony he had given during his direct examination. That question drew an objection from Manager Hutchinson that it was too broad. Senator Thompson asked Mr. Kendall to rephrase the question, which he did. (*Id.* at S1245).

Witness Statement. At the conclusion of his examination, Mr. Jordan asked the Presiding Officers if he could make a statement. (Jordan Depo. Tr., p. 157, lns. 6–7). Manager Hutchinson reserved the right to object if the statement exceeded the scope of the inquiry. (*Id.* at ln. 18). Mr. Jordan then offered a statement defending his integrity, which the Presiding Officers allowed. (*Id.* at ln. 24—p. 158, ln. 23). Manager Hutchinson did not assert an objection following the statement.

Leading Questions. Senator Thompson allowed Manager Hutchinson to ask a leading question of Mr. Jordan, since according to S. Res. 30 these witnesses were to be treated as adverse to the Managers. (145 Cong. Rec. S1238).

Questions Assuming Facts Not in Evidence. Senator Edwards, with Senator Specter's concurrence, sustained an objection to a Manager's question that contained premises and characterized events not in the record, and Manager Graham rephrased the question. (*Id.* S1252).

Speculation. Senators DeWine and Leahy asked Manager Bryant to rephrase questions after objection was made that the questions called for speculation about another person's state of mind. (*Id.* at S1219, S1221 (Lewinsky)). Senators Specter and Edwards asked Manager Graham to rephrase questions calling for Mr. Blumenthal's speculation about other's thoughts. (*Id.* at S1250, S1254).

D. USE OF EXHIBITS

Prior Production of Exhibits. Section 204 of S. Res. 30 requires ''[t]he party taking a deposition . . . [to] 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.'' Following objection from the President's counsel that the Managers had failed to comply with this requirement and had largely supplied only general descriptions of exhibits without copies of specific documents, Senators DeWine and Leahy ruled that this provision required production to the witness, the other party, and the Presiding Officers of a copy of any document that would be used during the deposition. A general description of the exhibit document did not comply with the resolution. (Lewinsky Depo. Tr., p. 14, ln. 16—p. 19, ln. 5). The President's counsel lodged an objection to the tardy production of deposition exhibits by the Managers prior to the Lewinsky deposition and again prior to the Jordan deposition, but agreed to proceed after the Presiding Officers assured them they would have an adequate opportunity to review any documents used in the deposition. (Jordan Depo. Tr., p. 13, lns. 22–25). Senators Thompson and Dodd put the Managers on notice that failure to comply with the Presiding Officers' ruling would preclude the use of documents not provided in a timely fashion at the Blumenthal deposition scheduled for the next day. (*Id.* at p. 13, ln. 22–p. 14, lns. 6, 16–23).

Referring to Exhibits. Senators DeWine and Leahy ruled that exhibits should be referred to according to their location in the

Senate record. (145 Cong. Rec. S1214, S1226 (Lewinsky)). Senator Thompson reiterated that ruling in the Jordan deposition. (*Id.* at S1236). Senator Thompson also ruled that grand jury exhibits in the Senate record used as deposition exhibits should not be referred to by their grand jury exhibit number, but rather by an exhibit number for this impeachment trial deposition. (*Id.*) Senators Thompson and Dodd numbered the exhibits as they were presented, rather than as they were admitted into evidence. (*Id.* at S1245).

Admitting Exhibits into Evidence. S. Res. 16, the agreement which emerged from the Senate's January 8, 1999 bipartisan caucus in the Old Senate Chamber, provides that the material the House filed with the Senate on January 13, 1999 ''will be admitted into evidence.'' Those materials were printed, bound, and distributed to Senators. (*See* S. Doc. No. 106–3, vols. I–XXIV (1999)). Thus, any documents in that Senate record were already admitted into evidence by the time the depositions were taken. S. Res. 30, which governs the conduct of these depositions, provides that ''[n]o exhibits outside of the Senate record shall be employed, except for articles and materials in the press, including electronic media.'' When a party used a document during a deposition that was in the Senate record, there was no need to seek admission of that document into evidence. The only non-record documents that could be used in these depositions were ''articles and materials in the press, including electronic media.'' A party needed to seek the admission of those documents into evidence before they could become part of the record.

During the Jordan deposition, Manager Hutchinson attempted to use as an exhibit a summary of telephone records, a redacted form of which was in the Senate record. Mr. Kendall objected to the use of the exhibit because it had not been properly authenticated. Senators Thompson and Dodd sustained the objection. (145 Cong. Rec. S1241).

After the Manager's examination of Mr. Blumenthal, the President's counsel, Lanny Breuer, presented various news articles that were admitted into evidence. (Blumenthal Depo. Tr., p. 81, ln. 8–p. 82, ln. 2). Manager Graham also submitted articles into evidence, including those not referred to by Mr. Blumenthal, and they were admitted after Mr. Breuer withdrew his objection that no reference had been made to the articles during the examination. (*Id.* at p. 82, lns. 16–25, p. 83, ln. 15–p. 85, ln. 25).

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 6, 1999, the Secretary of the Senate, on February 12, 1999, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 27. Concurrent resolution providing for an adjournment or recess of the two Houses.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 391. An act to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small business with certain Federal paperwork requirements, to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses, and for other purposes.

H.R. 437. An act to provide for a Chief Financial Officer in the Executive Office of the President.

H.R. 705. An act to make technical corrections with respect to the monthly reports submitted by the Postmaster General on official mail of the House of Representatives.

The message further announced that pursuant to section 852(b) of Public Law 105–244, the Minority Leader appoints the following Member and individual to the Web-Based Education Commission: Mr. FATTAH of Pennsylvania and Mr. Doug King of St. Louis, Missouri.

The message also announced that pursuant to section 3(b) of Public Law 105–341, the Minority Leader appoints the following Member and individuals to the Woman's Progress Commemoration Commission: Ms. SLAUGHTER of New York, Ms. Clayola Brown of New York, New York, and Ms. Barbara Haney of Irvine, New Jersey.

The message further announced that pursuant to section 955(b)(1)(B) of Public Law 105–93, the Minority Leader reappoints the following Member to the National Council on the Arts: Mrs. LOWEY of New York.

The message also announced that pursuant to the provisions of 22 U.S.C. 1928a, the Speaker appoints the following Members of the House to the United States Group of the North Atlantic Assembly: Mr. BEREUTER of Nebraska, Chairman, Mr. BATEMAN of Virginia, Mr. BLILEY of Virginia, Mr. BOEHLERT of New York, Mr. REGULA of Ohio, Mr. GOSS of Florida, Mr. DEUTCH of Florida, Mr. BORSKI of Pennsylvania, Mr. LANTOS of California, and Mr. RUSH of Illinois.

The message further announced that pursuant to the provisions of 22 U.S.C. 276d, the Speaker appoints the following Member of the House to the Canada-United States Interparliamentary Group: Mr. HOUGHTON of New York, Chairman.

The message also announced that pursuant to the provisions of 22 U.S.C. 276h, the Speaker appoints the following Member of the House to the Mexico-United States Interparliamentary Group: Mr. KOLBE of Arizona, Chairman.

The message further announced that pursuant to subsection (c)(3) of division A of Public Law 105–277, the Minority Leader appoints the following individuals to the Trade Deficit Review Commission: Mr. George Becker of Pittsburgh, Pennsylvania, Mr. Kenneth Lewis of Portland, Oregon, and Mr. Michael Wessel of Falls Church, Virginia.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WARNER, from the Committee on Armed Services, without amendment:

S. 257. A bill to state the policy of the United States regarding the deployment of a missile defense capable of defending the territory of the United States against limited ballistic missile attack (Rept. No. 106–4).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MURKOWSKI:

S. 426. A bill to amend the Alaska Native Claims Settlement Act, to provide for a land exchange between the Secretary of Agriculture and the Huna Totem Corporation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM (for himself, Mr. DOMENICI, Mr. THOMPSON, Mr. LOTT, Mr. ALLARD, Mr. HAGEL, Mr. SESSIONS, Mr. HUTCHINSON, Mr. COCHRAN, Mr. BURNS, Mr. MCCAIN, Mr. INHOFE, Mr. DEWINE, Mr. BOND, Mr. SMITH of Oregon, Mr. ENZI, Mr. HELMS, and Mr. NICKLES):

S. 427. A bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. GORTON:

S. 428. A bill to amend the Agricultural Market Transition Act to ensure that producers of all classes of soft white wheat (including club wheat) are permitted to repay marketing assistance loans, or receive loan deficiency payments, for the wheat at the same rate; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURBIN (for himself, Mr. KENNEDY, Mr. CLELAND, Mr. GRAMS, Mr. DASCHLE, Mr. DEWINE, Mr. LAUTENBERG, and Mr. LEVIN):

S. 429. A bill to designate the legal public holiday of ''Washington's Birthday'' as ''Presidents' Day'' in honor of George Washington, Abraham Lincoln, and Franklin Roosevelt and in recognition of the importance of the institution of the Presidency and the contributions that Presidents have made to the development of our Nation and the principles of freedom and democracy; to the Committee on the Judiciary.