

106TH CONGRESS }
1st Session

SENATE

{ DOCUMENT
106-2IMPEACHMENT OF PRESIDENT
WILLIAM JEFFERSON CLINTON

CONSTITUTIONAL PROVISIONS; RULES OF
PROCEDURE AND PRACTICE IN THE SEN-
ATE WHEN SITTING ON IMPEACHMENT
TRIALS; ARTICLES OF IMPEACHMENT
AGAINST PRESIDENT WILLIAM JEFFERSON
CLINTON; PRESIDENT CLINTON'S ANSWER;
AND REPLICATION OF THE HOUSE OF
REPRESENTATIVES



Printed at the direction of GARY SISCO, Secretary of the Senate

JANUARY 13, 1999.—Ordered to be printed

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WILLIAM JEFFERSON CLINTON**

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I. CONSTITUTIONAL PROVISIONS ON IMPEACHMENT

The provisions of the United States Constitution which apply specifically to impeachment are as follows:

Article I, Section 2, Clause 5

The House of Representatives . . . shall have the sole Power of Impeachment.

Article I, Section 3, Clauses 6 and 7

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Article II, Section 2, Clause 1

The President . . . shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

Article II, Section 4

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article III, Section 2, Clause 3

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; . . .

II. RULES OF PROCEDURE AND PRACTICE IN THE SENATE WHEN SITTING ON IMPEACHMENT TRIALS

I. Whensoever the Senate shall receive notice from the House of Representatives that managers are appointed on their part to conduct an impeachment against any person and are directed to carry articles of impeachment to the Senate, the Secretary of the Senate shall immediately inform the House of Representatives that the Senate is ready to receive the managers for the purpose of exhibiting such articles of impeachment, agreeably to such notice.

II. When the managers of an impeachment shall be introduced at the bar of the Senate and shall signify that they are ready to exhibit articles of impeachment against any person, the Presiding Officer of the Senate shall direct the Sergeant at Arms to make proclamation, who shall, after making proclamation, repeat the following words, viz: "All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against _____"; after which the articles shall be exhibited, and then the Presiding Officer of the Senate shall inform the managers that the Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives.

III. Upon such articles being presented to the Senate, the Senate shall, at 1 o'clock after noon of the day (Sunday excepted) following such presentation, or sooner if ordered by the Senate, proceed to the consideration of such articles and shall continue in session from day to day (Sundays excepted) after the trial shall commence (unless otherwise ordered by the Senate) until final judgment shall be rendered, and so much longer as may, in its judgment, be needful. Before proceeding to

the consideration of the articles of impeachment, the Presiding Officer shall administer the oath hereinafter provided to the Members of the Senate then present and to the other Members of the Senate as they shall appear, whose duty it shall be to take the same.

IV. When the President of the United States or the Vice President of the United States, upon whom the powers and duties of the Office of President shall have devolved, shall be impeached, the Chief Justice of the United States shall preside; and in a case requiring the said Chief Justice to preside notice shall be given to him by the Presiding Officer of the Senate of the time and place fixed for the consideration of the articles of impeachment, as aforesaid, with a request to attend; and the said Chief Justice shall be administered the oath by the Presiding Officer of the Senate and shall preside over the Senate during the consideration of said articles and upon the trial of the person impeached therein.

V. The Presiding Officer shall have power to make and issue, by himself or by the Secretary of the Senate, all orders, mandates, writs, and precepts authorized by these rules or by the Senate, and to make and enforce such other regulations and orders in the premises as the Senate may authorize or provide.

VI. The Senate shall have power to compel the attendance of witnesses, to enforce obedience to its orders, mandates, writs, precepts, and judgments, to preserve order, and to punish in a summary way contempts of, and disobedience to, its authority, orders, mandates, writs, precepts, or judgments, and to make all lawful orders, rules, and regulations which it may deem essential or conducive to the ends of justice. And the Sergeant at Arms, under the direction of the Senate, may employ such aid and assistance as may be necessary to enforce, execute, and carry into effect the lawful orders, mandates, writs, and precepts of the Senate.

VII. The Presiding Officer of the Senate shall direct all necessary preparations in the Senate Chamber, and the Presiding Officer on the trial shall direct all the forms of proceedings while the Senate is sitting for the purpose of trying an impeachment, and all forms during the trial not otherwise specially provided for. And the Presiding Officer on the trial may rule on all questions of evidence including, but not limited to, questions of relevancy, materiality, and redundancy of evidence and incidental questions, which ruling shall stand as the judgment of the Senate, unless some Member of the Senate shall ask that a formal vote be taken thereon, in which case it shall be submitted to the Senate for decision without debate; or he may at his option, in the first instance, submit any such question to a vote of the Members of the Senate. Upon all such questions the vote shall be taken in accordance with the Standing Rules of the Senate.

VIII. Upon the presentation of articles of impeachment and the organization of the Senate as hereinbefore provided, a writ of summons shall issue to the person impeached, reciting said articles, and notifying him to appear before the Senate upon a day and at a place to be fixed by the Senate and named in such writ, and file his answer to said articles of impeachment, and to stand to and abide the orders and judgments of the Senate thereon; which writ shall be served by such officer or person as shall be named in the precept thereof, such number of days prior to the day fixed for such appearances as shall be named in such precept, either by the delivery of an attested copy thereof to the person impeached, or if that cannot conveniently be done, by leaving such copy at the last known place of abode of such person, or at his usual place of business in some conspicuous place therein; or if such service shall be, in the judgment of the Senate, impracticable, notice to the per-

son impeached to appear shall be given in such other manner, by publication or otherwise, as shall be deemed just; and if the writ aforesaid shall fail of service in the manner aforesaid, the proceedings shall not thereby abate, but further service may be made in such manner as the Senate shall direct. If the person impeached, after service, shall fail to appear, either in person or by attorney, on the day so fixed thereof as aforesaid, or, appearing, shall fail to file his answer to such articles of impeachment, the trial shall proceed, nevertheless, as upon a plea of not guilty. If a plea of guilty shall be entered, judgment may be entered thereon without further proceedings.

IX. At 12:30 o'clock afternoon of the day appointed for the return of the summons against the person impeached, the legislative and executive business of the Senate shall be suspended, and the Secretary of the Senate shall administer an oath to the returning officer in the form following, viz: "I, _____, do solemnly swear that the return made by me upon the process issued on the _____ day of _____, by the Senate of the United States, against _____ is truly made, and that I have performed such service as therein described: So help me God." Which oath shall be entered at large on the records.

X. The person impeached shall then be called to appear and answer the articles of impeachment against him. If he appears, or any person for him, the appearance shall be recorded, stating particularly if by himself, or by agent or attorney, naming the person appearing and the capacity in which he appears. If he does not appear, either personally or by agent or attorney, the same shall be recorded.

XI. That in the trial of any impeachment the Presiding Officer of the Senate, if the Senate so orders, shall appoint a committee of Senators to receive evidence and

take testimony at such times and places as the committee may determine, and for such purpose the committee so appointed and the chairman thereof, to be elected by the committee, shall (unless otherwise ordered by the Senate) exercise all the powers and functions conferred upon the Senate and the Presiding Officer of the Senate, respectively, under the rules of procedure and practice in the Senate when sitting on impeachment trials.

Unless otherwise ordered by the Senate, the rules of procedure and practice in the Senate when sitting on impeachment trials shall govern the procedure and practice of the committee so appointed. The committee so appointed shall report to the Senate in writing a certified copy of the transcript of the proceedings and testimony had and given before such committee, and such report shall be received by the Senate and the evidence so received and the testimony so taken shall be considered to all intents and purposes, subject to the right of the Senate to determine competency, relevancy, and materiality, as having been received and taken before the Senate, but nothing herein shall prevent the Senate from sending for any witness and hearing his testimony in open Senate, or by order of the Senate having the entire trial in open Senate.

XII. At 12:30 o'clock afternoon, or at such other hour as the Senate may order, of the day appointed for the trial of an impeachment, the legislative and executive business of the Senate shall be suspended, and the Secretary shall give notice to the House of Representatives that the Senate is ready to proceed upon the impeachment of _____, in the Senate Chamber.

XIII. The hour of the day at which the Senate shall sit upon the trial of an impeachment shall be (unless otherwise ordered) 12 o'clock m.; and when the hour shall arrive, the Presiding Officer upon such trial shall cause proclamation to be made, and the business of the

trial shall proceed. The adjournment of the Senate sitting in said trial shall not operate as an adjournment of the Senate; but on such adjournment the Senate shall resume the consideration of its legislative and executive business.

XIV. The Secretary of the Senate shall record the proceedings in cases of impeachment as in the case of legislative proceedings, and the same shall be reported in the same manner as the legislative proceedings of the Senate.

XV. Counsel for the parties shall be admitted to appear and be heard upon an impeachment.

XVI. All motions, objections, requests, or applications whether relating to the procedure of the Senate or relating immediately to the trial (including questions with respect to admission of evidence or other questions arising during the trial) made by the parties or their counsel shall be addressed to the Presiding Officer only, and if he, or any Senator, shall require it, they shall be committed to writing, and read at the Secretary's table.

XVII. Witnesses shall be examined by one person on behalf of the party producing them, and then cross-examined by one person on the other side.

XVIII. If a Senator is called as a witness, he shall be sworn, and give his testimony standing in his place.

XIX. If a Senator wishes a question to be put to a witness, or to a manager, or to counsel of the person impeached, or to offer a motion or order (except a motion to adjourn), it shall be reduced to writing, and put by the Presiding Officer. The parties or their counsel may interpose objections to witnesses answering questions propounded at the request of any Senator and the merits of any such objection may be argued by the parties or their counsel. Ruling on any such objection shall be made as provided in Rule VII. It shall not be in order for any Senator to engage in colloquy.

XX. At all times while the Senate is sitting upon the trial of an impeachment the doors of the Senate shall be kept open, unless the Senate shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or, if objection is heard, the motion shall be voted on without debate by the yeas and nays, which shall be entered on the record.

XXI. All preliminary or interlocutory questions, and all motions, shall be argued for not exceeding one hour (unless the Senate otherwise orders) on each side.

XXII. The case, on each side, shall be opened by one person. The final argument on the merits may be made by two persons on each side (unless otherwise ordered by the Senate upon application for that purpose), and the argument shall be opened and closed on the part of the House of Representatives.

XXIII. An article of impeachment shall not be divisible for the purpose of voting thereon at any time during the trial. Once voting has commenced on an article of impeachment, voting shall be continued until voting has been completed on all articles of impeachment unless the Senate adjourns for a period not to exceed one day or adjourns sine die. On the final question whether the impeachment is sustained, the yeas and nays shall be taken on each article of impeachment separately; and if the impeachment shall not, upon any of the articles presented, be sustained by the votes of two-thirds of the Members present, a judgment of acquittal shall be entered; but if the person impeached shall be convicted upon any such article by the votes of two-thirds of the Members present, the Senate may proceed to the consideration of such other matters as may be determined to be appropriate prior to pronouncing judgment. Upon pronouncing judgment, a certified copy of such judgment shall be deposited in the office of the Secretary of

State. A motion to reconsider the vote by which any article of impeachment is sustained or rejected shall not be in order.

Form of putting the question on each article of impeachment

The Presiding Officer shall first state the question; thereafter each Senator, as his name is called, shall rise in his place and answer: guilty or not guilty.

XXIV. All the orders and decisions may be acted upon without objection, or, if objection is heard, the orders and decisions shall be voted on without debate by yeas and nays, which shall be entered on the record, subject, however, to the operation of Rule VII, except when the doors shall be closed for deliberation, and in that case no Member shall speak more than once on one question, and for not more than ten minutes on an interlocutory question, and for not more than fifteen minutes on the final question, unless by consent of the Senate, to be had without debate; but a motion to adjourn may be decided without the yeas and nays, unless they be demanded by one-fifth of the Members present. The fifteen minutes herein allowed shall be for the whole deliberation on the final question, and not on the final question on each article of impeachment.

XXV. Witnesses shall be sworn in the following form, viz: "You, _____, do swear (or affirm, as the case may be) that the evidence you shall give in the case now pending between the United States and _____, shall be the truth, the whole truth, and nothing but the truth: So help you God." Which oath shall be administered by the Secretary, or any other duly authorized person.

Form of a subpoena to be issued on the application of the managers of the impeachment, or of the party impeached, or of his counsel

To _____, greeting:

You and each of you are hereby commanded to appear before the Senate of the United States, on the _____ day of _____, at the Senate Chamber in the city of Washington, then and there to testify your knowledge in the cause which is before the Senate in which the House of Representatives have impeached _____.

Fail not.

Witness _____, and Presiding Officer of the Senate, at the city of Washington, this ____ day of ____, in the year of our Lord ____, and of the Independence of the United States the ____.

_____,
Presiding Officer of the Senate.

Form of direction for the service of said subpoena

The Senate of the United States to _____, greeting:

You are hereby commanded to serve and return the within subpoena according to law.

Dated at Washington, this _____ day of ____, in the year of our Lord ____, and of the Independence of the United States the ____.

_____,
Secretary of the Senate.

Form of oath to be administered to the Members of the Senate and the Presiding Officer sitting in the trial of impeachments

"I solemnly swear (or affirm, as the case may be) that in all things appertaining to the trial of the impeachment of _____, now pending, I will do impartial

justice according to the Constitution and laws: So help me God.”

Form of summons to be issued and served upon the person impeached

THE UNITED STATES OF AMERICA, ss:

The Senate of the United States to _____, greeting:

Whereas the House of Representatives of the United States of America did, on the ____ day of ____, exhibit to the Senate articles of impeachment against you, the said _____, in the words following:

[Here insert the articles]

And demand that you, the said _____, should be put to answer the accusations as set forth in said articles, and that such proceedings, examinations, trials, and judgments might be thereupon had as are agreeable to law and justice.

You, the said _____, are therefore hereby summoned to be and appear before the Senate of the United States of America at their Chamber in the City of Washington, on the ____ day of ____, at ____ o'clock ____, then and there to answer to the said articles of impeachment, and then and there to abide by, obey, and perform such orders, directions, and judgments as the Senate of the United States shall make in the premises according to the Constitution and laws of the United States.

Hereof you are not to fail.

Witness _____, and Presiding Officer of the said Senate, at the city of Washington, this ____ day of ____, in the year of our Lord ____, and of the Independence of the United States the _____.

Presiding Officer of the Senate.

Form of precept to be indorsed on said writ of summons

THE UNITED STATES OF AMERICA, ss:

The Senate of the United States to _____ ,
greeting:

You are hereby commanded to deliver to and leave with _____ , if conveniently to be found, or if not, to leave at his usual place of abode, or at his usual place of business in some conspicuous place, a true and attested copy of the within writ of summons, together with a like copy of this precept; and in whichsoever way you perform the service, let it be done at least _____ days before the appearance day mentioned in the said writ of summons.

Fail not, and make return of this writ of summons and precept, with your proceedings thereon indorsed, on or before the appearance day mentioned in the said writ of summons.

Witness _____ , and Presiding Officer of the Senate, at the city of Washington, this ____ day of ____ in the year of our Lord _____ , and of the Independence of the United States the _____ .

_____ ,

Presiding Officer of the Senate.

All process shall be served by the Sergeant at Arms of the Senate, unless otherwise ordered by the Senate.

XXVI. If the Senate shall at any time fail to sit for the consideration of articles of impeachment on the day or hour fixed therefor, the Senate may, by an order to be adopted without debate, fix a day and hour for resuming such consideration.

III. ARTICLES OF IMPEACHMENT AGAINST PRESIDENT WILLIAM JEFFERSON CLINTON

[H. RES. 611, 105TH CONG., 2D SESS.]

[Exhibited to Senate on January 7, 1999]

RESOLUTION

Impeaching William Jefferson Clinton, President of the United States, for high crimes and misdemeanors.

Resolved, That William Jefferson Clinton, President of the United States, is impeached for high crimes and misdemeanors, and that the following articles of impeachment be exhibited to the United States Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and of the people of the United States of America, against William Jefferson Clinton, President of the United States of America, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has willfully corrupted and manipulated the judicial process of the United States for his personal gain and exoneration, impeding the administration of justice, in that:

On August 17, 1998, William Jefferson Clinton swore to tell the truth, the whole truth, and nothing but the truth before a Federal grand jury of the United States. Contrary to that oath, William Jefferson Clinton willfully provided perjurious, false and misleading testi-

mony to the grand jury concerning one or more of the following: (1) the nature and details of his relationship with a subordinate Government employee; (2) prior perjurious, false and misleading testimony he gave in a Federal civil rights action brought against him; (3) prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action; and (4) his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

In doing this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

ARTICLE II

In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has prevented, obstructed, and impeded the administration of justice, and has to that end engaged personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action brought against him in a duly instituted judicial proceeding.

The means used to implement this course of conduct or scheme included one or more of the following acts:

(1) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.

(2) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony if and when called to testify personally in that proceeding.

(3) On or about December 28, 1997, William Jefferson Clinton corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him.

(4) Beginning on or about December 7, 1997, and continuing through and including January 14, 1998, William Jefferson Clinton intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

(5) On January 17, 1998, at his deposition in a Federal civil rights action brought against him, William Jefferson Clinton corruptly allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit, in order to prevent questioning deemed relevant by the judge. Such false and misleading statements were subsequently acknowledged by his attorney in a communication to that judge.

(6) On or about January 18 and January 20–21, 1998, William Jefferson Clinton related a false and misleading account of events relevant to a Federal civil rights action brought against him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness.

(7) On or about January 21, 23, and 26, 1998, William Jefferson Clinton made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses. The false and misleading statements made by William Jefferson Clinton were repeated by the witnesses to the grand jury, causing the grand jury to receive false and misleading information.

In all of this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

Passed the House of Representatives December 19, 1998.

NEWT GINGRICH,
Speaker of the House of Representatives.

Attest: ROBIN H. CARLE,
Clerk.

**IV. ANSWER OF PRESIDENT WILLIAM JEFFERSON CLINTON TO THE
ARTICLES OF IMPEACHMENT**

**In the Senate of the United States
Sitting as a Court of Impeachment**

**In re Impeachment of William Jefferson Clinton
President of the United States**

**ANSWER OF PRESIDENT WILLIAM JEFFERSON CLINTON TO
THE ARTICLES OF IMPEACHMENT**

The Honorable William Jefferson Clinton, President of the United States, in response to the summons of the Senate of the United States, answers the accusations made by the House of Representatives of the United States in the two Articles of Impeachment it has exhibited to the Senate as follows:

PREAMBLE

**THE CHARGES IN THE ARTICLES DO NOT CONSTITUTE
HIGH CRIMES OR MISDEMEANORS**

The charges in the two Articles of Impeachment do not permit the conviction and removal from office of a duly elected President. The President has acknowledged conduct with Ms. Lewinsky that was improper. But Article II, Section 4 of the Constitution provides that the President shall be removed from office only upon "Impeachment for, and Conviction of, Treason, Bribery or other high Crimes and Misdemeanors." The charges in the articles do not rise to the level of "high Crimes and Misdemeanors" as contemplated by the Founding Fathers, and they do not satisfy the rigorous constitutional standard applied throughout our Nation's history. Accordingly, the Articles of Impeachment should be dismissed.

**THE PRESIDENT DID NOT COMMIT PERJURY OR OBSTRUCT
JUSTICE**

The President denies each and every material allegation of the two Articles of Impeachment not specifically admitted in this ANSWER.

ARTICLE I

President Clinton denies that he made perjurious, false and misleading statements before the federal grand jury on August 17, 1998.

FACTUAL RESPONSES TO ARTICLE I

Without waiving his affirmative defenses, President Clinton offers the following factual responses to the allegations in Article I:

- (1) *The President denies that he made perjurious, false and misleading statements to the grand jury about "the nature and details of his relationship" with Monica Lewinsky.*

There is a myth about President Clinton's testimony before the grand jury. The myth is that the President failed to admit his improper intimate relationship with Ms. Monica Lewinsky. The myth is perpetuated by Article I, which accuses the President of lying about "the nature and details of his relationship" with Ms. Lewinsky.

The fact is that the President specifically acknowledged to the grand jury that he had an improper intimate relationship with Ms. Lewinsky. He said so, plainly and clearly: "When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters . . . did involve inappropriate intimate contact." The President described to the grand jury how the relationship began and how it ended at his insistence early in 1997—long before any public attention or scrutiny. He also described to the grand jury how he had attempted

to testify in the deposition in the *Jones* case months earlier without having to acknowledge to the *Jones* lawyers what he ultimately admitted to the grand jury—that he had an improper intimate relationship with Ms. Lewinsky.

The President read a prepared statement to the grand jury acknowledging his relationship with Ms. Lewinsky. The statement was offered at the beginning of his testimony to focus the questioning in a manner that would allow the Office of Independent Counsel to obtain necessary information without unduly dwelling on the salacious details of the relationship. The President's statement was followed by almost four hours of questioning. If it is charged that his statement was in any respect perjurious, false and misleading, the President denies it. The President also denies that the statement was in any way an attempt to thwart the investigation.

The President states, as he did during his grand jury testimony, that he engaged in improper physical contact with Ms. Lewinsky. The President was truthful when he testified before the grand jury that he did not engage in sexual relations with Ms. Lewinsky *as he understood that term to be defined by the Jones lawyers during their questioning of him in that deposition*. The President further denies that his other statements to the grand jury about the nature and details of his relationship with Ms. Lewinsky were perjurious, false, and misleading.

(2) *The President denies that he made perjurious, false and misleading statements to the grand jury when he testified about statements he had made in the Jones deposition.*

There is a second myth about the President's testimony before the grand jury. The myth is that the President adopted his entire *Jones* deposition testimony in the grand jury. The President was not asked to and did not broadly restate or reaffirm his *Jones* deposition tes-

timony. Instead, in the grand jury he discussed the bases for certain answers he gave. The President testified truthfully in the grand jury about statements he made in the *Jones* deposition. The President stated to the grand jury that he did not attempt to be helpful to or assist the lawyers in the *Jones* deposition in their quest for information about his relationship with Ms. Lewinsky. He truthfully explained to the grand jury his efforts to answer the questions in the *Jones* deposition without disclosing his relationship with Ms. Lewinsky. Accordingly, the full, underlying *Jones* deposition is not before the Senate.

Indeed, the House specifically considered and rejected an article of impeachment based on the President's deposition in the *Jones* case. The House managers should not be allowed to prosecute before the Senate an article of impeachment which the full House has rejected.

(3) The President denies that he made perjurious, false and misleading statements to the grand jury about "statements he allowed his attorney to make" during the Jones deposition.

The President denies that he made perjurious, false and misleading statements to the grand jury about the statements his attorney made during the *Jones* deposition. The President was truthful when he explained to the grand jury his understanding of certain statements made by his lawyer, Robert Bennett, during the *Jones* deposition. The President also was truthful when he testified that he was not focusing on the prolonged and complicated exchange between the attorneys and Judge Wright.

- (4) *The President denies that he made perjurious, false and misleading statements to the grand jury concerning alleged efforts "to influence the testimony of witnesses and to impede the discovery of evidence" in the Jones case.*

For the reasons discussed more fully in response to ARTICLE II, the President denies that he attempted to influence the testimony of any witness or to impede the discovery of evidence in the *Jones* case. Thus, the President denies that he made perjurious, false and misleading statements before the grand jury when he testified about these matters.

FIRST AFFIRMATIVE DEFENSE: ARTICLE I DOES NOT MEET THE CONSTITUTIONAL STANDARD FOR CONVICTION AND REMOVAL

For the same reasons set forth in the PREAMBLE of this ANSWER, Article I does not meet the rigorous constitutional standard for conviction and removal from office of a duly elected President and should be dismissed.

SECOND AFFIRMATIVE DEFENSE: ARTICLE I IS TOO VAGUE TO PERMIT CONVICTION AND REMOVAL

Article I is unconstitutionally vague. No reasonable person could know what specific charges are being leveled against the President. It alleges that the President provided the grand jury with "perjurious, false, and misleading testimony" concerning "one or more" of four subject areas. But it fails to identify *any* specific statement by the President that is alleged to be perjurious, false and misleading. The House has left the Senate and the President to guess at what it had in mind.

One of the fundamental principles of our law and the Constitution is that a person has a right to know what specific charges he or she is facing. Without such fair warning, no one can prepare the defense to which every person is entitled. The law and the Constitution also

mandate adequate notice to jurors so they may know the basis for the vote they must make. Without a definite and specific identification of false statements, a trial becomes a moving target for the accused. In addition, the American people deserve to know upon what specific statements the President is being judged, given the gravity and effect of these proceedings, namely nullifying the results of a national election.

Article I sweeps broadly and fails to provide the required definite and specific identification. Were it an indictment, it would be dismissed. As an article of impeachment, it is constitutionally defective and should fail.

THIRD AFFIRMATIVE DEFENSE: ARTICLE I CHARGES MULTIPLE OFFENSES IN ONE ARTICLE

Article I is fatally flawed because it charges multiple instances of alleged perjurious, false and misleading statements in one article. The Constitution provides that "no person shall be convicted without the Concurrence of two thirds of the Members present," and Senate Rule XXIII provides that "an article of impeachment shall not be divisible for the purpose of voting thereon at any time during the trial." By the express terms of Article I, a Senator may vote for impeachment if he or she finds that there was perjurious, false and misleading testimony in "one or more" of four topic areas. This creates the very real possibility that conviction could occur even though Senators were in wide disagreement as to the alleged wrong committed. Put simply, the structure of Article I presents the possibility that the President could be convicted even though he would have been acquitted if separate votes were taken on each allegedly perjurious statement. For example, it would be possible for the President to be convicted and removed from office with as few as 17 Senators agreeing that any single statement was perjurious, because 17 votes for

each of the four categories in Article I would yield 68 votes, one more than necessary to convict and remove.

By charging multiple wrongs in one article, the House of Representatives has made it impossible for the Senate to comply with the Constitutional mandate that any conviction be by the concurrence of two-thirds of the members. Accordingly, Article I should fail.

ARTICLE II

President Clinton denies that he obstructed justice in either the *Jones* case or the Lewinsky grand jury investigation.

FACTUAL RESPONSES TO ARTICLE II

Without waiving his affirmative defenses, President Clinton offers the following factual responses to the allegations in Article II:

- (1) *The President denies that on or about December 17, 1997, he "corruptly encouraged" Monica Lewinsky "to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading."*

The President denies that he encouraged Monica Lewinsky to execute a false affidavit in the *Jones* case. Ms. Lewinsky, the only witness cited in support of this allegation, denies this allegation as well. Her testimony and proffered statements are clear and unmistakable:

- "[N]o one ever asked me to lie and I was never promised a job for my silence."
- "Neither the President nor anyone ever directed Lewinsky to say anything or to lie . . ."
- "Neither the Pres[ident] nor Mr. Jordan (or anyone on their behalf) asked or encouraged Ms. L[ewinsky] to lie."

The President states that, sometime in December 1997, Ms. Lewinsky asked him whether she might be able to avoid testifying in the *Jones* case because she

knew nothing about Ms. Jones or the case. The President further states that he told her he believed other witnesses had executed affidavits, and there was a chance they would not have to testify. The President denies that he ever asked, encouraged or suggested that Ms. Lewinsky file a false affidavit or lie. The President states that he believed that Ms. Lewinsky could have filed a limited but truthful affidavit that might have enabled her to avoid having to testify in the *Jones* case.

(2) *The President denies that on or about December 17, 1997, he "corruptly encouraged" Monica Lewinsky "to give perjurious, false and misleading testimony if and when called to testify personally" in the Jones litigation.*

Again, the President denies that he encouraged Ms. Lewinsky to lie if and when called to testify personally in the *Jones* case. The testimony and proffered statements of Monica Lewinsky, the only witness cited in support of this allegation, are clear and unmistakable:

- "[N]o one ever asked me to lie and I was never promised a job for my silence."
- "Neither the President nor anyone ever directed Lewinsky to say anything or to lie . . ."
- "Neither the Pres[ident] nor Mr. Jordan (or anyone on their behalf) asked or encouraged Ms. L[ewinsky] to lie."

The President states that, *prior* to Ms. Lewinsky's involvement in the *Jones* case, he and Ms. Lewinsky might have talked about what to do to conceal their relationship from others. Ms. Lewinsky was not a witness in any legal proceeding at that time. Ms. Lewinsky's own testimony and statements support the President's recollection. Ms. Lewinsky testified that she "pretty much can" exclude the possibility that she and the President ever had discussions about denying the relationship *after* she learned she was a witness in the

Jones case. Ms. Lewinsky also stated that “they did not discuss the issue [of what to say about their relationship] in specific relation to the *Jones* matter,” and that “she does not believe they discussed the content of any deposition that [she] might be involved in at a later date.”

(3) *The President denies that on or about December 28, 1997, he “corruptly engaged in, encouraged, or supported a scheme to conceal evidence” in the Jones case.*

The President denies that he engaged in, encouraged, or supported any scheme to conceal evidence from discovery in the *Jones* case, including any gifts he had given to Ms. Lewinsky. The President states that he gave numerous gifts to Ms. Lewinsky prior to December 28, 1997. The President states that, sometime in December, Ms. Lewinsky inquired as to what to do if she were asked in the *Jones* case about the gifts he had given her, to which the President responded that she would have to turn over whatever she had. The President states that he was unconcerned about having given her gifts and, in fact, that he gave Ms. Lewinsky additional gifts on December 28, 1997. The President denies that he ever asked his secretary, Ms. Betty Currie, to retrieve gifts he had given Ms. Lewinsky, or that he ever asked, encouraged, or suggested that Ms. Lewinsky conceal the gifts. Ms. Currie told prosecutors as early as January 1998 and repeatedly thereafter that it was Ms. Lewinsky who had contacted her about retrieving gifts.

(4) *The President denies that he obstructed justice in connection with Monica Lewinsky’s efforts to obtain a job in New York to “corruptly prevent” her “truthful testimony” in the Jones case.*

The President denies that he obstructed justice in connection with Ms. Lewinsky’s job search in New York

or sought to prevent her truthful testimony in the *Jones* case. The President states that he discussed with Ms. Lewinsky her desire to obtain a job in New York months before she was listed as a potential witness in the *Jones* case. Indeed, Ms. Lewinsky was offered a job in New York at the United Nations more than a month before she was identified as a possible witness. The President also states that he believes that Ms. Lewinsky raised with him, again before she was ever listed as a possible witness in the *Jones* case, the prospect of having Mr. Vernon Jordan assist in her job search. Ms. Lewinsky corroborates his recollection that it was her idea to ask for Mr. Jordan's help. The President also states that he was aware that Mr. Jordan was assisting Ms. Lewinsky to obtain employment in New York. The President denies that any of these efforts had any connection whatsoever to Ms. Lewinsky's status as a possible or actual witness in the *Jones* case. Ms. Lewinsky forcefully confirmed the President's denial when she testified, "I was never promised a job for my silence."

(5) *The President denies that he "corruptly allowed his attorney to make false and misleading statements to a Federal judge" concerning Monica Lewinsky's affidavit.*

The President denies that he corruptly allowed his attorney to make false and misleading statements concerning Ms. Lewinsky's affidavit to a Federal judge during the *Jones* deposition. The President denies that he was focusing his attention on the prolonged and complicated exchange between his attorney and Judge Wright.

(6) The President denies that he obstructed justice by relating "false and misleading statements" to "a potential witness," Betty Currie, "in order to corruptly influence [her] testimony."

The President denies that he obstructed justice or endeavored in any way to influence any potential testimony of Ms. Betty Currie. The President states that he spoke with Ms. Currie on January 18, 1998. The President testified that, in that conversation, he was trying to find out what the facts were, what Ms. Currie's perception was, and whether his own recollection was correct about certain aspects of his relationship with Ms. Lewinsky. Ms. Currie testified that she felt no pressure "whatsoever" from the President's statements and no pressure "to agree with [her] boss." The President denies knowing or believing that Ms. Currie would be a witness in any proceeding at the time of this conversation. Ms. Currie had not been on any of the witness lists proffered by the *Jones* lawyers. President Clinton states that, after the Independent Counsel investigation became public, when Ms. Currie was scheduled to testify, he told Ms. Currie to "tell the truth."

(7) The President denies that he obstructed justice when he relayed allegedly "false and misleading statements" to his aides.

The President denies that he obstructed justice when he misled his aides about the nature of his relationship with Ms. Lewinsky in the days immediately following the public revelation of the Lewinsky investigation. The President acknowledges that, in the days following the January 21, 1998 *Washington Post* article, he misled his family, his friends and staff, and the Nation to conceal the nature of his relationship with Ms. Lewinsky. He sought to avoid disclosing his personal wrongdoing to protect his family and himself from hurt and public embarrassment. The President profoundly regrets his ac-

tions, and he has apologized to his family, his friends and staff, and the Nation. The President denies that he had any corrupt purpose or any intent to influence the ongoing grand jury proceedings.

FIRST AFFIRMATIVE DEFENSE: ARTICLE II DOES NOT MEET THE CONSTITUTIONAL STANDARD FOR CONVICTION AND REMOVAL

For the reasons set forth in the PREAMBLE of this ANSWER, Article II does not meet the constitutional standard for convicting and removing a duly elected President from office and should be dismissed.

SECOND AFFIRMATIVE DEFENSE: ARTICLE II IS TOO VAGUE TO PERMIT CONVICTION AND REMOVAL

Article II is unconstitutionally vague. No reasonable person could know what specific charges are being leveled against the President. Article II alleges that the President "obstructed and impeded the administration of justice" in both the *Jones* case and the grand jury investigation. But it provides little or no concrete information about the *specific acts* in which the President is alleged to have engaged, or with whom, or when, that allegedly obstructed or otherwise impeded the administration of justice.

As we set forth in the SECOND AFFIRMATIVE DEFENSE TO ARTICLE I, one of the fundamental principles of our law and the Constitution is that a person has the right to know what specific charges he or she is facing. Without such fair warning, no one can mount the defense to which every person is entitled. Fundamental to due process is the right of the President to be adequately informed of the charges so that he is able to confront those charges and defend himself.

Article II sweeps too broadly and provides too little definite and specific identification. Were it an indict-

ment, it would be dismissed. As an article of impeachment, it is constitutionally defective and should fail.

**THIRD AFFIRMATIVE DEFENSE: ARTICLE II CHARGES
MULTIPLE OFFENSES IN ONE ARTICLE**

For the reasons set forth in the **THIRD AFFIRMATIVE DEFENSE TO ARTICLE I**, Article II is constitutionally defective because it charges multiple instances of alleged acts of obstruction in one article, which makes it impossible for the Senate to comply with the Constitutional mandate that any conviction be by the concurrence of the two-thirds of the members. Accordingly, Article II should fail.

Respectfully submitted on January 11, 1999,

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**V. REPLICATION OF HOUSE OF REPRESENTATIVES TO ANSWER OF
PRESIDENT WILLIAM JEFFERSON CLINTON**

**In the Senate of the United States
Sitting as a Court of Impeachment**

**In re Impeachment of President William Jefferson
Clinton**

**REPLICATION OF THE HOUSE OF REPRESENTATIVES TO
THE ANSWER OF PRESIDENT WILLIAM JEFFERSON
CLINTON TO THE ARTICLES OF IMPEACHMENT**

The House of Representatives, through its Managers and counsel, replies to the Answer of President William Jefferson Clinton to the Articles of Impeachment ("Answer"), as follows:

PREAMBLE

The House of Representatives denies each and every material allegation in the Preamble to the Answer, including the sections entitled "The Charges in the Articles Do Not Constitute High Crimes or Misdemeanors" and "The President Did Not Commit Perjury or Obstruct Justice." With respect to the allegations in the Preamble, the House of Representatives further states that each and every allegation in Articles I and II is true and that Articles I and II properly state impeachable offenses, are not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment.

ARTICLE I

The House of Representatives denies each and every allegation in the Answer to Article I that denies the acts, knowledge, intent, or wrongful conduct charged against President William Jefferson Clinton. With re-

spect to the allegations in the Answer to Article I, the House of Representatives further states that each and every allegation in Article I is true and that Article I properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE I

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article I properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that the offense stated in Article I warrants the conviction, removal from office, and disqualification from holding further office of President William Jefferson Clinton.

SECOND AFFIRMATIVE DEFENSE TO ARTICLE I

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article I properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that Article I is not unconstitutionally vague, and it provides President William Jefferson Clinton adequate notice of the offense charged against him.

THIRD AFFIRMATIVE DEFENSE TO ARTICLE I

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article I properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adju-

icated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that Article I does not charge multiple offenses in one article.

ARTICLE II

The House of Representatives denies each and every allegation in the Answer to Article II that denies the acts, knowledge, intent, or wrongful conduct charged against President William Jefferson Clinton. With respect to the allegations in the Answer to Article II, the House of Representatives further states that each and every allegation in Article II is true and that Article II properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE II

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article II properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that the offense stated in Article II warrants the conviction, removal from office, and disqualification from holding further office of President William Jefferson Clinton.

SECOND AFFIRMATIVE DEFENSE TO ARTICLE II

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article II properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that

Article II is not unconstitutionally vague, and it provides President William Jefferson Clinton adequate notice of the offense charged against him.

THIRD AFFIRMATIVE DEFENSE TO ARTICLE II

The House of Representatives denies each and every material allegation in this purported defense. The House of Representatives further states that Article II properly states an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives further states that Article II does not charge multiple offenses in one article.

CONCLUSION OF THE HOUSE OF REPRESENTATIVES

The House of Representatives further states that it denies each and every material allegation of the Answer not specifically admitted in this Replication. By providing this Replication to the Answer, the House of Representatives waives none of it[s] rights in this proceeding. Wherefore, the House of Representatives states that both of the Articles of Impeachment warrant the conviction, removal from office, and disqualification from holding further office of President William Jefferson Clinton. Both of the Articles should be considered and adjudicated by the Senate.

Respectfully submitted,

The United States
House of Representatives,

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