

I further ask that if the Senate votes to proceed to closed session, those deliberations be limited to 3 hours equally divided between the two leaders, notwithstanding the 5-minute allocation of time under the impeachment rule.

I further ask unanimous consent that when the Senate concludes its business today, it stand in adjournment until 1 p.m. on Wednesday, January 27.

Finally, I ask unanimous consent that pursuant to S. Res. 16, the votes occur immediately upon convening on Wednesday, first on the motion to dismiss, and if defeated, the motion to subpoena witnesses without intervening action or debate.

The CHIEF JUSTICE. In the absence of objection, it is so ordered.

Mr. LOTT. I believe, Mr. Chief Justice, we are ready to proceed with White House counsel.

The CHIEF JUSTICE. The Chair recognizes Mr. Counsel Kendall.

Mr. Manager ROGAN. Mr. Chief Justice, we reserve our time.

The CHIEF JUSTICE. Very well.

Mr. Kendall.

You are going to use it now? You have 52 minutes remaining. The Chair recognizes Mr. Manager ROGAN.

Mr. Manager ROGAN. Thank you, Mr. Chief Justice, Members of the Senate. When I was a trial judge back in California, there was something I had to do in every single case, whether it was a criminal or civil case, and that was to advise the triers of fact—in that particular case, the jury—that what the lawyers say is not evidence. This is a universal warning that is given in courtrooms throughout the country to the triers of fact, because the law prefers that those people who have to make the determination as to what the facts are make that determination based not only on interpretation of the evidence, but based upon what the evidence actually is. And that has been the underpinning of our argument before this body from the very first day as to why witnesses are needed—not to accommodate us, but for the Senate to be able to make the ultimate conclusion as to what is the truth.

A perfect example of why the evidence should come from witnesses rather than lawyers can be seen from the fact that throughout these proceedings lawyers on both sides have tried to characterize what is the evidence and tried to characterize the interpretation that this body should adopt.

I am reminded when we were before the Judiciary Committee, just before we voted articles of impeachment, White House counsel suggested to our committee, as they do before this body, that the President's state of mind during his various statements under oath were intended to mislead people but to be truthful. They say the President didn't lie. Instead, they say he carefully crafted these hypertechnical definitions to protect himself from any perjury charge.

We believe the evidence will show that by so doing, Paula Jones was de-

nied the information a Federal judge said she was entitled to have and, thereby, perjury and obstruction of justice lie.

Before the Judiciary Committee, Mr. Ruff reaffirmed this was the President's strategy. This is what Mr. Ruff told our committee:

Question to Mr. Ruff:

I do want to make sure I understand your position. From the beginning, the President has taken the position that he never lied to the American people or lied while giving testimony under oath. Essentially claims he simply misled [them] with a different definition, and he was sending the same message both to the American people and the court.

Answer by Mr. Ruff:

I think that is fair, Congressman. Yes.

Question:

And he did that intentionally, because in his own mind he drew a distinction between the technical definition of "sexual relations" and the definition of "improper relationship," or something along those lines, which is how he now characterizes his relationship with Monica Lewinsky?

Answer by Mr. Ruff:

Yes, I think that's correct.

Question:

You suggested earlier in your testimony this distinction is one he has drawn since the Jones deposition. My notes indicate you said the definitions are one that he held in his mind in January and in August and he has so testified.

Answer by Mr. Ruff:

Yes.

Question:

In determining whether the President either perjured himself or lied under oath in this matter, you are asking the committee to look to his state of mind from the beginning of this whole episode and make that determination?

Answer:

Yes.

Members of this body, we suggest that the evidence has shown, and the evidence will further show by the calling of the witnesses that we propose, that the President denied under oath specific facts that were relevant to the case, relevant to the Jones case, relevant to the perjury and obstruction investigation by the grand jury, and, in so doing, among the other lies that my colleagues have pointed out, we will show that he lied to his aides.

This is important, because he, the President, admitted he knew that his aides were potential witnesses in a criminal investigation before the grand jury. This is the portion of the grand jury transcript where the President testified about his conversations with key aides once the Monica Lewinsky story became public.

Question to the President:

Did you deny it to them or not, Mr. President?

Answer: . . . I did not want to mislead my friends, but I wanted to find language where I could say that. I also, frankly, did not want to turn any of them into witnesses, because I—and, sure enough, they all became witnesses.

Question: Well, you knew they might be witnesses, didn't you?

Answer: And so I said to them things that were true about this relationship. That I used—in the language I used, I said, there's nothing going on between us. That was true. I said, I have not had sex with her as I defined it. That was true. And did I hope that I would never have to be here on this day giving this testimony? Of course. But I also didn't want to do anything to complicate this matter further. So, I said things that were true. . . .

The President's position is they were misleading, but they were true. No lies, and that is precisely what Mr. Ruff told the Judiciary Committee, and that is the position that White House counsel takes before this body.

Remember, the grand jury was conducting a criminal investigation. They were seeking evidence of possible perjury and obstruction of justice, and the White House contends before this body that the President did nothing to obstruct their investigation. The evidence shows that he did. One of those witnesses who will demonstrate that to this body is the President's own aide, Sidney Blumenthal. That is why we request this body to allow Mr. Blumenthal to be deposed, and, further, we hope that you will allow him the opportunity to testify before you so that you can gauge his credibility and his demeanor as he presents the answers that we expect he will give.

Mr. Blumenthal's testimony puts him in direct conflict with the claims of the President and shatters the myth of the President's truthful but misleading answers given under oath.

Just for a quick way of background, Mr. Blumenthal, on January 21, 1998, was an assistant to the President. That was the day the Monica Lewinsky story broke in the national press through the Washington Post. That story broke in the morning.

Later the same day, Mr. Blumenthal met both with the First Lady and then with the President to discuss these news revelations. One month later, Mr. Blumenthal was called to testify before the grand jury. His testimony was not particularly helpful during that time because, through most of the questioning that involved conversations that he had at the White House, Mr. Blumenthal claimed executive privilege.

That issue was apparently litigated, and then he returned in June to testify before the grand jury twice, on June 4 and on June 25, 1998.

When Mr. Blumenthal was free to share his recollections of the events, this is how Mr. Blumenthal characterized his meetings with President and Mrs. Clinton before the grand jury. It is interesting to note, by the way, that there was a dual lie going on here from the President. The President was lying to his wife, who could never be called as a witness against him, but he was also lying to his aides whom he admitted could be called.

This is from Mr. Blumenthal's testimony on June 4.

The First Lady said that she was distressed that the President was being attacked, in