

Sec. 4—Impeachment

votes on the different impeachment articles were not neatly divided between legal and factual matters and therefore cannot be said to have resolved the legal issues,⁸⁸⁵ several aspects of the proceedings merit consideration for possible precedential significance. The House's acceptance of the grand jury perjury charge and its rejection of the civil deposition perjury charge may reflect a belief among some members that perjury in the criminal context is more serious than perjury in the civil context. Acceptance of the obstruction of justice charge may also have been based in part on an assessment of the seriousness of the charge. On the other hand, the House's rejection of the article relating to President Clinton's alleged non-cooperation with the Judiciary Committee's interrogatories can be contrasted with the House's 1974 "acceptance" of the Judiciary Committee's report recommending⁸⁸⁶ a similar type of charge against President Nixon, and raises the issue of whether the different circumstances (*e.g.*, the relative importance of the information sought, and the nature and extent of the responses) may account for the different approaches. So too, the acquittal of President Clinton on the perjury charge can be contrasted with convictions of Judges Hastings and Nixon on perjury charges, and presents the issue of whether different standards should govern Presidents and judges. The role of the Independent Counsel in complying with a statutory mandate to refer to the House "any substantial and credible information . . . that may constitute grounds for an impeachment" occasioned commentary.⁸⁸⁷ The relationship of censure to impeachment was another issue that arose. Some members advocated censure of President Clinton as an alternative to impeachment, as an alternative to trial, or as a post-trial means for those Senators who voted to acquit to register their disapproval of the President's conduct, but there was no vote on censure.⁸⁸⁸

William Jefferson Clinton, President of the United States; Consideration of Articles of Impeachment (Comm. Print 1998); and Impeachment of President William Jefferson Clinton: The Evidentiary Record Pursuant to S. Res. 16, S. Doc. No. 106-3 (1999) (21-volume set).

⁸⁸⁵ Following the trial, a number of Senators placed statements in the record explaining their votes. See 145 CONG. REC. S1462-1637 (daily ed. Feb. 12, 1999).

⁸⁸⁶ Note that the Judiciary Committee deleted from the article a charge based on President Clinton's allegedly frivolous assertions of executive privilege in response to subpoenas from the Office of Independent Counsel. Similarly, the Committee in 1974 distinguished between President Nixon's refusal to respond to congressional subpoenas and his refusal to respond to those of the special prosecutor; only the refusal to provide information to the impeachment inquiry was cited as an impeachable abuse of power.

⁸⁸⁷ The requirement was contained in the Ethics in Government Act, since lapsed, and codified at 28 U.S.C. § 595(c). For commentary, see Ken Gormley, *Impeachment and the Independent Counsel: A Dysfunctional Union*, 51 STAN. L. REV. 309 (1999).

⁸⁸⁸ For analysis of the issue, see Jack Maskell, *Censure of the President by Congress*, CRS Report for Congress 98-843.