

Sec. 4—Impeachment

issue also remained unsettled, the Supreme Court declining to provide guidance in the course of deciding a case on executive privilege.⁸⁷⁹

The Clinton Impeachment

President Clinton was impeached by the House, but acquitted by vote of the Senate. The House approved two articles of impeachment against the President stemming from the President's response to a sexual harassment civil lawsuit and to a subsequent grand jury investigation instigated by an Independent Counsel. The first article charged the President with committing perjury in testifying before the grand jury about his sexual relationship with a White House intern and his efforts to cover it up;⁸⁸⁰ the second article charged the President with obstruction of justice relating both to the civil lawsuit and to the grand jury proceedings.⁸⁸¹ Two additional articles of impeachment had been approved by the House Judiciary Committee but were rejected by the full House.⁸⁸² The Senate trial resulted in acquittal on both articles.⁸⁸³

A number of legal issues surfaced during congressional consideration of the Clinton impeachment.⁸⁸⁴ Although the congressional

⁸⁷⁹ The grand jury had named the President as an unindicted coconspirator in the case of *United States v. Mitchell, et al.*, No. 74-110 (D.D.C. 1974), apparently in the belief that he was not actually indictable while in office. The Supreme Court agreed to hear the President's claim that the grand jury acted outside its authority, but finding that resolution of the issue was unnecessary to decision of the executive privilege claim it dismissed as improvidently granted the President's petition for *certiorari*. *United States v. Nixon*, 418 U.S. 683, 687 n.2 (1974).

⁸⁸⁰ Approved by a vote of 228-206. 144 CONG. REC. H12,040 (daily ed. Dec. 19, 1998).

⁸⁸¹ Approved by a vote of 221-212. 144 CONG. REC. H12,041 (daily ed. Dec. 19, 1998).

⁸⁸² An article charging the President with perjury in the civil sexual harassment suit brought against him was defeated by a vote of 229-205; another article charging him with abuse of office by false responses to the House Judiciary Committee's written request for factual admissions was defeated by vote of 285 to 148. 144 CONG. REC. H12,042 (daily ed. Dec. 19, 1998).

⁸⁸³ The vote for acquittal was 55 to 45 on the grand jury perjury charge, and 50 to 50 on the obstruction of justice charge. 145 CONG. REC. S1458-59 (daily ed. Feb. 12, 1999).

⁸⁸⁴ For analysis and different perspectives on the Clinton impeachment, see *Background and History of Impeachment: Hearing Before the Subcomm. on the Constitution of the House Comm. on the Judiciary*, 105th Cong., 2d Sess. (1998); and Staff of the House Comm. on the Judiciary, 105th Cong., *Impeachment: Selected Materials* (Comm. Print 1998). See also MICHAEL J. GERHARDT, *THE FEDERAL IMPEACHMENT PROCESS: A CONSTITUTIONAL AND HISTORICAL ANALYSIS* (2d ed. 2000); RICHARD A. POSNER, *AN AFFAIR OF STATE: THE INVESTIGATION, IMPEACHMENT, AND TRIAL OF PRESIDENT CLINTON* (1999); LAURENCE H. TRIBE, 1 *AMERICAN CONSTITUTIONAL LAW* 181-202 (3d ed. 2000); and Michael Stokes Paulsen, *Impeachment (Update)*, 3 *ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION* 1340-43 (2d ed. 2000). Much of the documentation can be found in *Impeachment of William Jefferson Clinton, President of the United States*, H.R. REP. NO. 105-380 (1998); Staff of the House Comm. on the Judiciary, 105th Cong., 2d Sess., *Impeachment Inquiry*: