

The Impeachment of Bill Clinton, 1998-1999

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ABSTRAKT

Táto bakalárska práca analyzuje ústavnú žalobu štyridsiateho druhého amerického prezidenta Billa Clintona v rokoch 1998-1999. V úvode práca popisuje históriu ústavnej žaloby a jej miesto v americkej ústave a pokračuje popisom predošlých ústavných žalôb prezidentov. Práca tiež analyzuje Clintonov život, jeho prezidentské obdobie, udalosti ktoré prispievali k ústavnej žalobe a samotný proces žaloby. Jej dopad a následky práca skúma a zasadzuje ich do historickej perspektívy americkej politiky po studenej vojne. Práca sa tiež sústreďí na rôzne interpretácie termínu “priestupky hodné ústavnej žaloby” počas Clintonovej ústavnej žaloby. Cieľ tejto práce je preskúmať a zvážiť dôvody ústavnej žaloby a ich výsledok. Práca nakoniec argumentuje, že podľa definície tvorcov americkej ústavy Clinton nespáchal priestupky hodné ústavnej žaloby.

Kľúčové slová: ústavná žaloba, Bill Clinton, priestupky hodné ústavnej žaloby, závažné trestné činy a priestupky, nezávislý prokurátor, Kenneth Starr, Monica Lewinsky

ABSTRACT

This bachelor's thesis analyzes the impeachment of the 42nd American president, Bill Clinton, in 1998-1999. Focusing first on the history of impeachment and its place in the U.S. Constitution, the thesis then describes previous presidential impeachments. The thesis also analyzes Clinton's life and presidency, the events leading to the impeachment, and the impeachment process. Finally, its impact and aftermath are examined and located within the historical perspective of American post-Cold War politics. The thesis also looks at the various interpretations of the term “impeachable offenses” during Clinton's impeachment. The main goal of this thesis is to examine and consider the causes of the impeachment and their outcome. The thesis ultimately argues that Clinton did not commit impeachable offenses, as defined by the framers of the U.S. Constitution.

Keywords: impeachment, Bill Clinton, impeachable offenses, high crimes and misdemeanors, independent counsel, Kenneth Starr, Monica Lewinsky

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INTRODUCTION

We do not know how many U.S. presidents had had an extramarital affair in the White House. But we do know how many of them lied about it under oath and were subsequently impeached; exactly one. The case of Bill Clinton and his relationship with Monica Lewinsky captured the attention of the world in 1998 but is analyzed and scrutinized to this day.

American history is not filled with presidential impeachments, though it seems they are becoming more common with each century. Studying them is just as important as studying any historical event, as they carry lessons for the future and often provide insight into the flaws of the system in place. The impeachment of Bill Clinton is no exception, and even though people might mostly remember it for its sexual and scandalous nature, the political and legal struggle of those months is equally interesting and important.

Clinton didn't abuse his power, or betray his country nor was he a bad president, in fact, the United States prospered under his administration. But he had an extramarital affair and denied it under oath, which caused more than a year of political and legal struggle, attracted worldwide attention, and almost cost Clinton his presidency. All this was supported by other political factors and the events unfolded at a point in history when the internet, the press corps, and the scandal-hungry media became more interconnected than ever. Rumors and scandals were appearing left and right, often used as an advantage for the opposite party trying to bring Clinton down.

The impeachment of Andrew Johnson and the impeachment process of Richard Nixon proved to be important precedents to Clinton's impeachment¹. The three are often compared and historians and scholars look at them from many different points of view. The history of the U.S. Constitution is also not to be overlooked, as the founding fathers and their intentions play an important role in impeachments. It was they, after all, who decided on when and what for an official could be impeached.

¹ This thesis does not examine the impeachment of Donald Trump, as it came after and therefore did not influence Clinton's impeachment.

1 HISTORY OF IMPEACHMENT

The U. S. Constitution states in Article II, section 4 that “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.”² Such language, however, is vague. As a result, “high crimes and misdemeanors” have been interpreted in multiple ways and often disputed. To better understand the intended meaning, some historical perspective is required.

1.1 U. S. Constitution

Impeachment is not an American invention. It was first used in fourteenth-century England when parliament had a chance to remove top officials for bribery, intimidation, or other crimes. The House of Commons acted as a grand jury and decided whether or not to impeach the individual. If impeached, he was tried by the House of Lords, which could convict him and not only remove him from office but impose other criminal-type punishments. Historian Richard A. Posner claims, however, that this was not a particularly great substitute for a normal trial proceeding. The Commons and the Lords were mainly politicians, so it was easy to use impeachment not only as a means to remove a corrupt official but also as a political tool.³ Nevertheless, impeachment made its way to the U.S. Constitution.

Not long after independence in 1781, the U. S. government was struggling. Without the monarchy and a sense of unity and an adequate system of ruling, the thirteen states were in disorder. The Articles of Confederation, functioning as the first constitution after independence, established only a weak central government, with most of the power resting with the individual states. The federal government was necessary for the states to function as a single united country – a power strong enough to tackle the problems of the whole nation but constrained enough to ensure liberty.⁴ A government with balanced branches of power was a key idea during the Constitutional Convention of 1787.⁵

With its roots in British history and its use in the colonies as well, Americans were familiar with impeachment,⁶ an idea mentioned in some of the state constitutions as well. It is no surprise, therefore, that when the founders were debating the role of the president and

² U.S. Const. art. II, § 4.

³ Richard A. Posner, *An Affair of State: The Investigation, Impeachment and Trial of President Clinton* (Cambridge, MA: Harvard University Press, 2000), 96.

⁴ Jeffrey A. Engel, et al., *Impeachment: An American History* (New York: Modern Library, 2018), 3–4.

⁵ Engel et al., *Impeachment*, 8.

⁶ Engel et al., *Impeachment*, 26.

his powers, the idea of impeachment was soon introduced. Gouverneur Morris of Pennsylvania, however, argued that the executive's objective is to control the legislature and that impeachment would "hold him in such dependence that he will be no check on the legislature," and will not be able to execute his role of a public guardian.⁷ This argument, however, did not answer the question of potential criminal conduct by the president, and the founders heatedly debated the issue. As a result of the debate, a consensus began to form that the president should be impeachable.⁸ It was much harder to define what for.

The idea introduced by Morris was to specify exactly on what grounds the president could be impeached. One of the first terms introduced was "malpractice" or its more frequently used synonym, "maladministration." However, this meant that Congress could impeach any president they judged to be performing poorly or even a president they simply did not like. James Madison of Virginia specified that the president might "lose his capacity" or abuse his administration by embezzlement of public funds, or even worse, "betray his trust to foreign powers." Morris, who was now pro-impeachment, added bribery to the specific list. With this, the convention delegates began formulating the precise language. Moving away from the ambiguous term "maladministration," the terms "incapacity, negligence, or perfidy" were introduced by Madison. After a revision, the definition read that the president "shall be removed from his office on impeachment from the House of Representatives, and conviction by the Senate, for treason, or bribery."⁹

Soon, George Mason from Virginia argued that the definition was now too restricted and argued for reinserting the term "maladministration" into the definition once again. This was rejected by Madison, who stated that "an election every four years will prevent maladministration." Mason, therefore, suggested adding "other high crimes and misdemeanors" instead.¹⁰ This done, the Constitution to this day reads that "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."

⁷ Engel et al., *Impeachment*, 28.

⁸ Engel et al., *Impeachment*, 29.

⁹ Engel et al., *Impeachment*, 31–33.

¹⁰ Engel et al., *Impeachment*, 33–34.

1.2 Impeachable Offenses

Studying the Constitution today, it appears that the words chosen are not as clear to us as they might have been to the founders. The terms “bribery” and “treason” are either generally agreed upon or defined elsewhere in the Constitution,¹¹ but the term “high crimes and misdemeanors” can be variously interpreted and have perplexed readers ever since. During the times of the Constitutional Convention, the phrase was well known. The framers of the American Constitution were aware that the Constitution would have to be ratified by the states, which shows that the definitions of these terms were generally accepted at that time.¹²

Back in Britain, “high crimes” were those committed against the crown, and in a democracy that would be crimes committed against the people. In this sense, impeachable high crimes were those that a president might commit against the American people.¹³ Hugh Williamson from North Carolina, a key contributor to the impeachment debate, drew his understanding of the impeachable offenses and their political nature from his state’s constitution – “offenses against the public interest which need not be indictable under criminal law.”¹⁴ To the framers, a high crime need not violate the law, nor would a common violation be considered a “high” crime. The same can be said about the term “misdemeanor,” which was understood as an assault against governance and civil order.¹⁵ This point was made clear by Alexander Hamilton from New York, who recognized impeachable offenses as being “of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself.”¹⁶ Therefore, a president could commit a common crime but remain in office as long as the offense did not damage liberty or the people.

Posner argues that the same goes for a president being impeached without committing a crime. He provides the example of John Pickering, a federal district judge who was an alcoholic and a “lunatic” and who in 1804 became the first official to be impeached and convicted under the U. S. Constitution even though he did not commit a crime.¹⁷ He was merely incompetent, making this a case of “maladministration,” which the framers rejected. But Posner argues that limiting impeachment merely to court-punishable crimes, would

¹¹ Engel et al., *Impeachment*, 35–36.

¹² Engel et al., *Impeachment*, 35–37.

¹³ Engel et al., *Impeachment*, 37.

¹⁴ Engel et al., *Impeachment*, 38.

¹⁵ Engel et al., *Impeachment*, 38.

¹⁶ Hamilton, *Federalist Papers: No. 65*, emphasis in the original.

¹⁷ Posner, *An Affair of State*, 98–99.

leave a large gap in the structure of the Constitution, especially since impeachment is one of only two ways to legally remove a sitting president,¹⁸ the other being through the Twenty-Fifth Amendment, which states that if the president “is unable to discharge the powers and duties of his office, [...] such powers and duties shall be discharged by the Vice President as Acting President.”¹⁹ Posner takes the side of a more pragmatic interpretation, rather than originalistic and formalistic, claiming that the ability to impeach “for serious abuse or complete neglect of office is inevitable and right, whatever history shows.”²⁰

In relation to the impeachment of Bill Clinton, however, it is more important to look at whether or not impeachable offenses are restricted to official misconduct. Neil Kinkopf, for example, argues that “high crimes and misdemeanors” should not be limited just to official misconduct. Looking at the general understanding of the sentence, “treason” and “bribery” seem to be a part of “high crimes and misdemeanors,” and he states that both crimes can be committed without the use of one’s official power and still be considered as damage “done immediately to the society itself.”²¹

A stable definition seems to defy consensus. A “living meaning” of impeachable offenses, as Scott S. Barker put it, supports the theory that the framers intentionally left the definition loosely defined so it could evolve over time as needed. Another point of view, one that is, according to Barker, open-ended and extreme, was famously voiced by Congressman Gerald Ford in 1970, asserting that “an impeachable offense is whatever the House of Representatives, with the requisite concurrence of the Senate, considers it to be.”²²

This may not be far from the truth, as, during different impeachments, different interpretations were adopted. During the impeachment of Bill Clinton, the House of Representatives chose to impeach, but the Senate chose to acquit, suggesting that their interpretations of “high crimes and misdemeanors” were different. Nevertheless, it’s hard to ignore the founding fathers and their clear intention of preventing political crimes, thus in my thesis, I will be siding with the framers’ interpretation of “high crimes and misdemeanors.”

¹⁸ Posner, *An Affair of State*, 99.

¹⁹ U.S. Const. amend. XXV, § 3.

²⁰ Posner, *An Affair of State*, 100.

²¹ Neil Kinkopf, “The Scope of ‘High Crimes and Misdemeanors’ after the Impeachment of President Clinton,” *Law and Contemporary Problems* 63, no. 1/2 (2000): 204.

²² Scott S. Barker, “An Overview of Presidential Impeachment,” *Colorado Lawyer* (August/September 2018): 34–35.

1.3 Impeachment Procedure

The procedure of impeachment was based on its British equivalent, imitating the roles of the lower and upper chambers. Just like in the House of Commons, impeachment is assigned to the assembly that is closer to the people – The House of Representatives,²³ which, as the Constitution states, “shall have the sole Power of Impeachment.”²⁴ The House can manage impeachment however it wishes, but the usual course is to give the responsibility of leading an impeachment effort to the House Judiciary Committee. The committee played this role during the impeachment of Andrew Johnson in 1868,²⁵ and every other presidential impeachment process has followed this precedent.

During the impeachment inquiry, the committee investigates whether an official has engaged in an impeachable offense. If the committee determines that grounds for impeachment exist, it sets forth written documents of charges that are known as articles of impeachment.²⁶ These are the constitutional equivalent of an indictment and become the basis for impeachment. The articles are reported to the full House of Representatives, which then votes on the separate articles individually, or all of them at once.²⁷ For the impeachment to proceed, a majority vote of those present is required. If the House impeaches, managers, who will present the case to the Senate, are selected. They are appointed either by a resolution or by the Speaker of the House. After presenting the case to the Senate, the managers report back to the House. The Senate summons the impeached official, who may choose to appear in person, by council, or not at all.²⁸ Acting like the House of Lords, the Senate, as stated in the Constitution, “shall have the sole Power to try all Impeachments.”²⁹ The Chief Justice of the United States Supreme Court presides, but this is the only role of the judiciary branch. Any other involvement is explicitly excluded by the Constitution. In order to convict, a “super majority” vote is required, which is two-thirds of the members present, as opposed to the House of Lords, where a simple majority could convict. This was included as a form of additional protection of the president from legislative intrusion into his powers, as it made impeachment more difficult for the legislature. After conviction, the

²³ Barker, “An Overview of Presidential Impeachment,” 31.

²⁴ U.S. Const. art. I, § 2.

²⁵ Timothy Naftali, “Richard Nixon,” in Engel et al., *Impeachment*, 93.

²⁶ American Law Division, *An Overview of the Impeachment Process* (Washington, DC: CRS, 2005), 3. <https://www.judicialmisconduct.us/sites/default/files/2017-07/CRS=OverviewOfImpeachmentProcess.pdf>.

²⁷ “Articles of Impeachment,” Legal Information Institute, accessed November 16, 2021, https://www.law.cornell.edu/wex/articles_of_impeachment.

²⁸ American Law Division, *An Overview of the Impeachment Process*.

²⁹ U.S. Const. art. I, § 3.

official is removed from the office,³⁰ however, the Constitution states that “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 official convicted “shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.”³¹

1.4 Impeachment of Andrew Johnson

The Civil War had claimed over 600,000 American lives. When it was over, however, the struggle between President Andrew Johnson and the Republican-controlled Congress over Reconstruction almost resulted in yet another war.³²

Abraham Lincoln, as he faced reelection amid the war, was afraid that the nation, tired of the conflict, might favor the Democratic Party nominee, General George B. McClellan. He decided to replace his vice president, Hannibal Hamlin, with broader appeal, beyond the Republican base. Andrew Johnson was one of the possibilities.³³

A self-made man, Andrew Johnson was born in Raleigh, North Carolina in 1808. His family belonged to the lowest class of whites, which would shape Johnson’s future views on class and race, for, during this time, the idea of herrenvolk democracy softened the reality of his poverty. Johnson started his professional life as a tailor, but in the Age of Jackson, he won elections as an alderman and then rose through the political ranks all the way to the position of the Union’s military governor of Tennessee during the Civil War. His life and experiences shaped him into a Democrat devoted to the rights of common white men, and a critic of black advancements. Even so, Lincoln saw in Johnson a strength that the Republicans badly needed. The war was not going well, and Republican reelection seemed increasingly in doubt. But, supported by a series of military victories, the Lincoln ticket won in 1864, and Johnson became the vice president.³⁴

Johnson had only been in office a few months, when on April 14, 1865, President Abraham Lincoln was assassinated. The next day, Johnson took the presidential oath of office. He was expected to follow in Lincoln’s footsteps, but on more and more issues during Reconstruction, he sided with white Southerners. He opposed Reconstruction legislation designed to protect the blacks’ rights. Johnson, who favored states’ rights, hated that the

³⁰ Barker, “An Overview of Presidential Impeachment,” 32.

³¹ U.S. Const. art. I, § 3.

³² Jon Meacham, “Andrew Johnson,” in Engel et al., *Impeachment*, 47.

³³ Meacham, “Andrew Johnson,” 52.

³⁴ Meacham, “Andrew Johnson,” 52–55.

federal government would go over the state authorities to ensure the civil liberties of the former slaves, claiming that it would be another step toward centralization. But most importantly, he was in constant disagreement with the Congress, often attacking its members. Congress needed to find a way to prevent Johnson from hindering their agenda until a new president would be elected, and soon passed, among other laws, the Tenure of Office Act, which prevented the president from removing any officials confirmed by the Senate without its approval. But as more controversy and confusion arose, Republicans in Congress desperately wanted Johnson out rather than to wait for the 1868 election, so they turned to impeachment in late 1866.³⁵

The first attempt did not work out, as it was mainly based on rumors without any known facts or misconduct. Johnson went ahead with further hindering Congress and its legislation, instructing his attorney general to curb the powers of the commanders in military districts in the South, as in his view, the new rights given to blacks need not be enforced. Congress counter-attacked with a new Reconstruction Act that restored the powers. Johnson tried to veto, but unsuccessfully. Refusing to give in, he suspended his secretary of war, Edwin Stanton, and appointed Ulysses S. Grant in his place. Despite some criticism, this was done according to the Tenure of Office Act, but the president still had to wait for the Senate's reaction. Johnson also removed two Union generals, who were serving as military governors, as their vision was more in line with the Congress than the president. Enraged Republicans once again pressed forward with impeachment.³⁶

This time they tried to find anything that would be convincing enough to constitute an impeachable offense. Again, this included mostly rumors and charges such as wrongful use of pardon, misuse of patronage, and possible complicity in Lincoln's assassination. Impeachment was taken more seriously this time, and with Republicans' anxiety rising, the vote managed to barely pass in the Judiciary Committee. The impeachment now moved to the House, where a debate quickly arose about whether or not Johnson could be impeached even without committing a specific crime. This was the case of "maladministration" that the framers feared when discussing impeachment, and now the time had come for its first test case. Congressman George Boutwell, a Massachusetts Republican, argued in favor of impeachment, claiming that even without a specific charge the president should not escape impeachment because of his crime of attacking Reconstruction legislation. On the opposite

³⁵ Meacham, "Andrew Johnson," 57–64.

³⁶ Meacham, "Andrew Johnson," 65–66.

side was a Republican representative, James F. Wilson, who claimed that without a specific crime, there is nothing to charge him with and carry the case to the Senate. This was the argument that most lawmakers sided with, and Johnson avoided impeachment by a 108 to 57 vote.³⁷

In early 1868, the Senate reconvened and voted in favor of reinstating the suspended Edwin Stanton. Johnson tried to keep him from taking back the office, but Grant surrendered his position. According to the Tenure of Office Act, Stanton was now the rightful secretary of war, but Johnson appointed Union general Lorenzo Thomas to replace him. After a face-off at the War Department, Thomas was arrested, and Stanton moved into his office. Johnson's maneuver with Thomas gave the Republicans, at last, a specific offense with which, they believed, they could charge the president. The House majority was so eager to finally move forward that they voted for impeachment before drawing up the actual articles. But soon, eleven articles of impeachment were drafted to be sent to the Senate. The first ten were detailed charges based on the Stanton drama, but the eleventh one included the Tenure of Office Act allegations and Johnson's attack on Congress during his 1867 annual message. The legal specifics, though, were problematic. The possible violation of the Tenure of Office Act was weak grounds for the president's removal. The act itself was constitutionally questionable (it would be repealed in 1887 and declared unconstitutional by the Supreme Court) but waiting for the Supreme Court to rule on the act would take too long, so the impeachment proceeded into the Senate for trial.³⁸

The trial began on March 5, 1868, with Chief Justice Salmon P. Chase presiding. The House appointed seven managers, and Johnson picked five lawyers for his defense. As the ten-week-long trial unfolded, Johnson and his team were working hard to do all they could to secure support for acquittal. This included what Meacham calls "a remarkable mélange of high politics and low dealings."³⁹ Even though it is not possible to determine how much of a role money and influence played, Johnson did go beyond the Senate floor to help himself. The debate in the trial was now familiar: pro-impeachment lawmakers claimed that Johnson was a threat to the nation in his Reconstruction policies, the Stanton removal, and his attack on Congress. Those against impeachment believed that no matter how controversial and out of sync with Congress, Johnson had not committed an impeachable offense. They also claimed that the Tenure of Office Act was unconstitutional and Johnson's attack on Congress

³⁷ Meacham, "Andrew Johnson," 67–69.

³⁸ Meacham, "Andrew Johnson," 70–73.

³⁹ Meacham, "Andrew Johnson," 73–75.

was an act of free speech. Though the public opinion in the Northern states favored the removal and even General Grant spoke in favor of removal, Johnson's lawyers were winning, which became apparent after the vote was taken.⁴⁰

Seven Republicans broke ranks and voted "not guilty" which, though only by one vote, ensured Johnson's survival for the rest of his term. Another factor that influenced the outcome was the larger political atmosphere, as Republicans were just about to nominate Grant for president in May 1868, and Johnson was to lose the Democratic nomination in July.⁴¹

The case of Andrew Johnson shows that impeachment could be undertaken for political reasons but would be pursued only along more legally technical grounds.⁴² Whether this was an unconstitutional attempt to remove an innocent president, or a valid effort for removal of a president, who worked against Reconstruction and broke the law, may still be disputed. The removal of Johnson would have likely weakened the presidency, yet his actions, according to Congress at that time, did rise to the rank of impeachable offenses. The verdict was to acquit, but it could have easily been the opposite, as he was found "not guilty" by only one vote.

1.5 Impeachment Process of Richard Nixon

On June 19, 1972, five men working for President Richard Nixon's reelection committee were caught repairing listening devices that had been planted earlier in the headquarters of the Democratic National Committee at the Watergate office complex. Instead of turning his men in, Nixon decided to obstruct justice and cover the matter up. When the FBI found uncashed checks in the burglars' hotel room a few days later, Nixon ordered his chief of staff H. Robbins Haldeman to lie to the FBI through the CIA and get them to stop the investigation, as the checks would connect the crime to the Committee to Re-Elect the President. Despite growing demands and the difficulty of containing the cover-up, Nixon managed to do so and even won his reelection by a landslide in November 1972.⁴³

The first breach in the cover-up appeared in March 1973, as one of the burglars, a CIA veteran, wrote a letter to John Sirica, a Republican judge in the Watergate break-in trial, saying that there was in fact "political pressure applied to the defendants to plead guilty and

⁴⁰ Meacham, "Andrew Johnson," 75–79.

⁴¹ Meacham, "Andrew Johnson," 79.

⁴² Meacham, "Andrew Johnson," 80.

⁴³ Naftali, "Richard Nixon," 87–90.

remain silent.” The demands for clemency and cash meanwhile increased and on March 21, White House counsel John Dean warned the president that the cover-up was growing like “a cancer on the presidency.” The president did not care; instead, he assured him that the goal was still to contain and stonewall the investigation. On April 30, Nixon fired Dean and forced his chief of staff as well as his domestic affairs adviser to resign. Dean sought immunity, which was granted to him, and his highly detailed testimony shocked the nation, as for the first time, the president was implicated in the cover-up. In July, White House staff secretary Alexander Butterfield revealed to the Senate that Nixon had had a recording system installed in early 1971 and had been taping many of his conversations, some about the cover-up, ever since.⁴⁴ One of the tapes, which would be later known as “the smoking gun,” was the conversation from June 23, 1972, where Nixon ordered Haldeman to lie to the FBI.

Since May 1973, special prosecutor Archibald Cox had been investigating the Nixon administration. When Cox learned that the president had been secretly recording conversations in the White House, his investigation posed a huge threat to Nixon and his presidency. Even though Nixon’s aides tried to talk him out of it, on October 20, 1973, the president ordered Attorney General Elliot Richardson to fire Cox and close the Watergate probe, resulting in what would be known as the “Saturday Night Massacre.”⁴⁵

Neither the attorney general nor the deputy attorney general would fire Cox but instead resigned, arguing that the special prosecutor had done nothing wrong. The third man in the hierarchy was the Solicitor General Robert Bork, who, as acting attorney general, agreed to fire Cox. Nixon made things even worse when he ordered Bork to send the FBI to seal the offices of Cox’s team. The shocking takeover was televised, and even though Americans were familiar with the Watergate as well as other corrupt activities of the Nixon administration for over a year, there was no public evidence that would link the president himself to any of the “White House Horrors,” as described by the former attorney general John Mitchell. But the Saturday Night Massacre would awake the impeachment debate at last.⁴⁶

Not only Democrats, but Republicans too, were calling for a constitutional inquiry, and the House of Representatives started the process, giving the responsibility for leading this effort and drafting the articles to the House Judiciary Committee. The chairman of the committee was Peter Rodino, who had a clear view of what he wanted the impeachment to

⁴⁴ Naftali, “Richard Nixon,” 90–91.

⁴⁵ Naftali, “Richard Nixon,” 84–85.

⁴⁶ Naftali, “Richard Nixon,” 85–86.

be – a bipartisan effort, as up to this point, impeachment had a reputation of being a partisan tool. He planned to replace the committee’s partisan majority counsel Jerome Zeifman with someone not partisan, preferably a registered Republican. Alexander Haig, the president’s new chief of staff, learned on October 22, 1973, that Nixon still had many loyal friends. The margin for survival in the Senate, however, was narrow, so the best bet was to stop the process while still in the House Judiciary Committee. Nixon and his team decided to lay low for a while, not to risk losing more public and congressional support. The FBI agents guarding the special prosecutor’s offices were removed, and the White House also announced that it would be hiring Cox’s replacement and that it would hand over the tapes subpoenaed by Cox to the Sirica court.⁴⁷

Rodino finally found a suitable registered Republican, John Doar, who wasted no time in assembling his team and the materials needed. The Senate Watergate Committee gave him full cooperation, sending him eighteen boxes of materials. But as Doar was assembling his team and starting the inquiry, Judge Sirica, and Watergate Special Prosecutor Leon Jaworski, who had been hired as Cox’s replacement, already possessed what they believed was sufficient evidence to impeach the president. Both of them had listened to the March 21, 1973, conversation where Dean discussed the cover-up growing as “a cancer on the presidency.” The conclusion they reached was the same – the president had obstructed justice. Jaworski was convinced, however, that he could not share his findings with Congress, as the Federal Rules of Criminal Procedure prevented him from doing so. The president’s resignation would be the easiest solution, but Nixon was not yet ready to give up.⁴⁸

Doar disagreed with the idea of using a subpoena, which was one way to get the tape, as he did not want the impeachment to stand on this one piece of evidence alone. He and Rodino were aiming for a strong bipartisan impeachment that would not fail as it did in 1868. If an article was to be approved, it needed to be strong enough to succeed both in the entire House and the Senate, which required support from Republicans and pro-Nixon Democrats. In January 1974, during the first committee meeting, Doar’s team was given the first task: to define the meaning of the term “high crimes and misdemeanors,” and by February, the committee’s staff concluded that the president could be impeached without having committed a crime. The White House had also researched this term and arrived at the

⁴⁷ Naftali, “Richard Nixon,” 92–95.

⁴⁸ Naftali, “Richard Nixon,” 96–99.

opposite conclusion: a president should be removed only for committing a crime. On February 25, Doar wrote a letter to James St. Clair, Nixon's trial lawyer, requesting more recordings from the previous year, but the White House ignored this request. On March 1, 1974, the Watergate grand jury's activity was finally over, meaning that Jaworski was free to share the March 21, 1973, tape with the House. Upon realizing this, Nixon implemented a strategy based on deceptive cooperation, whereby the White House would repeatedly pretend to cooperate while stonewalling the investigation.⁴⁹

The Committee met on April 4, six weeks since Doar's unanswered request, and sent another letter to St. Clair, giving the White House one more chance to provide the materials voluntarily by April 9. Nixon decided that the White House would make transcripts of the conversations instead of giving out the tapes. He also insisted on personally editing every page of the transcript, which would not only create inaccurate transcripts but was also a recipe for obstruction of justice. This process took a long time, but the patience of the committee had worn out, and on April 11, 1974, it sent a subpoena giving the president until April 25 to comply. If not, his non-compliance could constitute an article of impeachment in itself. Meanwhile, unbeknownst to Nixon, the risk of releasing the transcripts was huge, as back in March, Doar had set up a team to transcribe the tapes from the Watergate grand jury. The transcripts, which the White House finally released on April 30, included conversations that the committee would now be able to check against their own versions.⁵⁰

When the committee learned that they would only be receiving transcripts, its members voted in favor of sending a short letter of noncompliance to the White House, which in response attacked the committee for partisanship and announced that they would not be providing any more tapes. But by this time, the transcripts, which were also released to the public, were in the hands of the people. The opinion in Washington turned against the president, and in early May, Republicans, rather than Democrats, were starting to call for Nixon's resignation. The Republican criticism, however, soon ceased for the sake of the upcoming midterm elections. Starting on May 9, Doar would present thousands of pages of documents to the committee, regarding everything on the controversial activities of Nixon and his administration. As most of the Republicans agreed with the "narrow view" of impeachment, they were not so impressed with Doar's presentation, which was hard to interpret and included a general pattern of misconduct. Even the tape from March 21, 1973,

⁴⁹ Naftali, "Richard Nixon," 100–106.

⁵⁰ Naftali, "Richard Nixon," 111–117.

was not enough to convince them. To their resolve, Rodino soon announced that witnesses would be called to answer questions of the committee's members to help connect the dots a bit better.⁵¹

Throughout July, the undecided representatives would seek each other out in private to talk through the next course of action, as this month included public hearings, and it finished with a vote. As the witnesses' interviews unfolded, more and more representatives turned to the pro-impeachment side. On July 9, differences between the White House transcripts and those of the grand jury were issued in a report, which served as additional proof of the cover-up. Multiple drafts of articles of impeachment, though mostly including non-specific misconduct, began circulating throughout the month. Southern Democrats and undecided Republicans were willing to vote for impeachment only for the president's involvement in Watergate and its cover-up, but nothing more. They met in private and drafted articles on the abuse of power and obstruction of justice, which were eventually brought to the committee, which finally began voting on them on July 27, 1974. The obstruction of justice article passed 27 to 11, and the abuse of power article passed 28 to 10. Nixon's presidency had, at this point, almost no chance of survival. The final blow came on August 5, 1974, when the White House publicly released the transcript of the conversation from June 23, 1972, in which Nixon ordered the obstruction of the FBI investigation through the CIA. With almost no support in the Senate, on August 7, Nixon announced his decision to resign the next day. He did so before being formally impeached by Congress.⁵²

The impeachment process of Richard Nixon never came to the actual impeachment, but had he not resigned, Naftali claims that "he would certainly have been impeached by the House and most likely convicted by the Senate." Peter Rodino and John Doar were correct to think that successful impeachment required not only facts accepted by everybody but also trust among the committee members and most importantly, bipartisanship.⁵³ Nixon's impeachment process served as a model precedent during the impeachment of Bill Clinton and is often compared to it.

⁵¹ Naftali, "Richard Nixon," 117–124.

⁵² Naftali, "Richard Nixon," 128–152.

⁵³ Naftali, "Richard Nixon," 152–153.

2 BILL CLINTON

William Jefferson Clinton was the 42nd president of the United States of America. He won the election in 1992 as the first Democratic president after three terms of the Republican administration and served two terms from 1993 to 2001. As the first baby-boomer president, he represented a new generation of America. In 1998 he was impeached by The House of Representatives and later acquitted of the charges by the Senate in 1999.⁵⁴

2.1 Pre-Presidency Life

William Jefferson Blythe III was born on August 19, 1946, in Hope, Arkansas. His father died three months earlier in a traffic accident. His mother married Roger Clinton from Hot Springs, Arkansas when Bill was four years old, and in high school, he took the family name. He excelled not only as a student but also as a saxophone player and even considered becoming a musician. As a Boys Nation delegate in high school, he got the chance to meet President John Kennedy, an experience that led him to enter a public service life.

He graduated from Georgetown University and in 1968 Clinton won a Rhodes Scholarship to Oxford University. In 1973 he received his law degree from Yale University and launched his political life in Arkansas. A year later, he was defeated in his campaign for Congress in Arkansas's Third District. In 1975 he married Hillary Rodham and in 1980 their only child Chelsea was born. In 1976, Clinton was elected as Arkansas Attorney General. Two years later he won the governorship but lost the bid for a second term. He managed to regain office eventually and served until 1992 when he defeated George H. W. Bush and Ross Perot in the presidential race.⁵⁵

The Nixon impeachment crisis was an important part of Clinton's life. After he graduated from Yale, Clinton was offered a position at the House Judiciary Committee during the Watergate investigation. He turned it down, but when Hillary was offered the same position, she accepted. During this job, she helped compose a memo that examined the constitutional grounds for impeachment. With Nixon's resignation in August 1974, her job ended, and she returned to Arkansas where Clinton, now twenty-eight years old, was running for Congress. Even though he lost the congressional seat, the Nixon scandal had helped Clinton and his wife jump-start their career.

⁵⁴ "Presidents: William J. Clinton," The White House, accessed November 19, 2021, <https://www.whitehouse.gov/about-the-white-house/presidents/william-j-clinton/>.

⁵⁵ The White House, "Presidents: William J. Clinton."

It was in the seventies that the trouble began for the Clintons when Bill would start having extramarital affairs.⁵⁶ More and more women would later admit to having some form of sexual relationship with Bill Clinton. This sex addiction, as many have called it, would ultimately result in the near destruction of his presidency. During his campaign in 1992, Gennifer Flowers came forward and publicly stated that she had had an intimate relationship with Clinton for over a decade. Though the claim was backed by taped phone conversations,⁵⁷ Clinton denied the accusation, most famously in a *60 Minutes* interview, though admitted “causing pain” in his marriage.⁵⁸ The theme of adultery and sex became associated with Clinton throughout his presidency. The public forgave him, and he won the elections, but the scandals and allegations were a foreshadowing of his upcoming presidential years.

2.2 An Overview of the Clinton Presidency

After a three-term long era of the Republican White House, Bill Clinton was elected president to the aftermath of Ronald Reagan and George H. W. Bush’s presidencies, with numerous post-Cold War issues. Even though he won the elections, the Democratic party was out-of-date and broken, which later contributed to the Democrats’ losing control in Congress in 1994.⁵⁹

Clinton quickly showed his intent to govern differently than his predecessors. His top priority was the economic recovery and even with Republican opposition, he managed to push through a package of spending cuts and tax increases, which proved successful. He appointed Janet Reno as the first female attorney general. Clinton decided to tackle health care as soon as January 1993, when he announced the creation of his task force, headed by his wife Hillary. Even though it genuinely attacked the inequalities of the system in place, the plan eventually failed for several reasons and was finally abandoned in September 1994. In May 1993, the Clinton administration fired the staff of the executive travel office, an event that would be later dubbed as “Travelgate.” Though within the president’s authority, it led to partisan attacks and later became one of the subjects of the independent counsel Kenneth Starr’s investigation.⁶⁰

⁵⁶ Barker, “Bill Clinton,” 159–160.

⁵⁷ Mark White, “Son of the Sixties: The Controversial Image of Bill Clinton,” *History: The Journal of the Historical Association* 103, no. 354 (2018): 107.

⁵⁸ CBS, “01/26/92: The Clintons,” 2009, YouTube Video, 5:39. https://www.youtube.com/watch?v=5IpJUfy-Roo&t=213s&ab_channel=CBS.

⁵⁹ Sean Wilentz, *The Age of Reagan: A History, 1974-2008* (New York: Harper Perennial, 2008), 324–325.

⁶⁰ Wilentz, *The Age of Reagan*, 326–335.

Clinton's foreign policy began with issues inherited from the Bush administration, such as the UN mission in Somalia. Though mostly withdrawn, some troops remained and on October 3, the forces of one of the Somalia warlords shot down two U.S. helicopters in Mogadishu. Only a week later, a U.S. ship on another UN mission arrived in Haiti, but the engineers it was carrying were prevented from disembarking by a mob of armed thugs. Clinton's administration was paralyzed and eventually, the ship was ordered to return home. The Clinton administration also refused to take any action in Rwanda, a country where by 1994, a rapid genocide of the Tutsi minority was unfolding. In 1992, the Bush administration refused to intervene in Bosnia, where European Muslims were being slaughtered in the wake of "ethnic cleansing," promoted by Slobodan Milosevic, a Serbian nationalist who came to power in 1989. Clinton criticized Bush's passive behavior, but when he took office and was told that the intervention would require too many troops, he too remained paralyzed.⁶¹

Clinton acted more decisively concerning terrorism. After the terrorist attack on the World Trade Center in February 1993, authorities successfully captured, tried, and convicted the plotters. Clinton also ordered an attack on Baghdad, destroying the intelligence headquarters of Saddam Hussein, whose militants tried to assassinate former President Bush in early 1993. The situation in Haiti was also resolved after Clinton threatened to send in U.S. troops. In October 1994, an agreement was reached with North Korea, that would shut down their nuclear weapons development and submit to inspections, in exchange for supplies.⁶²

In July 1993, Vince Foster, the White House deputy counsel, and a longtime friend of the Clintons committed suicide, a tragedy that would later become a subject of Kenneth Starr's investigation. A lot of pressure was also applied to the Clintons by the press corps and Republicans to release their personal financial and legal records, so in January 1994, Clinton gave the go-ahead to Attorney General Reno to appoint a special prosecutor to investigate Whitewater – a failed land deal that Clintons were a part of. The job went to Robert Fiske, but soon he would be replaced by Kenneth Starr. In May, a former Arkansas state employee, Paula Corbin Jones, filed a lawsuit against Clinton, accusing him of sexual harassment back when he was a governor. All these issues signaled the beginning of Bill Clinton's legal and political troubles.⁶³

⁶¹ Wilentz, *The Age of Reagan*, 336–339.

⁶² Wilentz, *The Age of Reagan*, 340.

⁶³ Wilentz, *The Age of Reagan*, 341–346.

Despite some successful initiatives, Clinton's public image was falling. With the midterm elections coming up, Republicans, led by Newt Gingrich, who secured the unity and confidence among the Republicans, took the majority in both houses. Clinton quickly realized that he would have to change his approach; stick to the Republicans' program but co-opt some of its main issues in a more Democratic way. In April 1995, a bomb exploded in Oklahoma City, killing 168 people and wounding 600 – the worst domestic terrorism incident in American history. But Clinton's handling of the tragedy brought him back to relevance. He was also finally pushed into action concerning the situation in Bosnia, where by 1995 genocide was unfolding. At the end of August, the United States joined NATO forces in the bombing of the Serbian positions and Milosevic soon sued for peace.⁶⁴

Back in spring, Republicans proposed their idea of the budget plan, which Clinton rejected. The dispute over the budget would continue all the way to the fall of 1995, forcing the government into two shutdowns. The public opinion of Gingrich and Republicans showed disapproval, and they finally agreed to some of Clinton's proposals, such as deficit reduction. With multiple accomplishments, Clinton was ready to move into the election year. His next objective was the welfare reform, promised back in his 1992 campaign. He had to settle for a reform bill that, though not optimal, was acceptable. Despite some criticism from Democrats, the bill proved to be effective, and Clinton would eventually repair its flaws.⁶⁵

Republicans went to nominate Senator Bob Dole as their presidential candidate, but it was hard to campaign against a young and already-established president who, besides being able to point to some accomplishments in the office, had a good economy on his side. Clinton won the reelection with 49.2% of the popular vote. After the inauguration in 1997, he was ready to continue his welfare reform, and introduce some new initiatives.⁶⁶

Clinton's main goal in Europe was to expand NATO to include countries of the former eastern bloc. Russia's president Boris Yeltsin, who stood against this despite the countries now being independent, eventually agreed to let the expansion continue in March 1997. But multiple threats were rising beyond Europe, such as suspicion that despite the agreement, North Korea was violating the pledge to stop the nuclear weapons development and in the Middle East, Saddam Hussein in Iraq, and Osama bin Laden's Al Qaeda were becoming a

⁶⁴ Wilentz, *The Age of Reagan*, 347–361.

⁶⁵ Wilentz, *The Age of Reagan*, 357–367.

⁶⁶ Wilentz, *The Age of Reagan*, 367–373.

growing concern. The public's focus was, however, on the new developments and turns in Starr's investigation and Paula Jones case.⁶⁷

When in December 1997, Clinton received a list of witnesses for the Paula Jones case, one of the names was Monica S. Lewinsky, with whom Clinton had had a secret relationship that began during the government shutdown in 1995 and ended in May 1997. In January 1998, Clinton's affair with Lewinsky was exposed and led to an eventful year full of drama, pain, shame, and a battle that would result in the second presidential impeachment in U.S. history. Throughout the nightmare, Clinton's strategy was to get back to his work, while his administration fought the battle.⁶⁸

The first big accomplishments during the distracting time were the negotiations of the Good Friday Accords in Northern Ireland as well as peace negotiations between Israel and Palestine. In the Balkans, meanwhile, The Kosovo Liberation Army, formed by the Albanian Muslims, tried to push for independence, but Slobodan Milosevic repressed the group in another ethnic cleansing effort. Clinton again turned to air warfare and bombed Belgrade, which forced Milosevic to sign another peace agreement. Clinton would also bomb Iraq for obstructing the UN's weapons inspections since 1997, an action that was claimed by some to be an attempt to distract the public from the impeachment.⁶⁹

During his last two years, Clinton pushed for some extra social reform programs, while protecting the already established ones. Even though Congress rejected many of his social spending ideas, Clinton could still point to many accomplishments of his two terms. During his presidency, both unemployment and poverty had decreased, as had rates of both violent and property crimes. The federal deficit had shrunk and in 1998 turned into a surplus, which by 2000 was \$236 billion, dedicated mostly to Social Security. But despite the success, he was not able to wash away the stains of the Lewinsky scandal and impeachment, which made election year much more difficult for his Vice President Al Gore, who would run for the 2000 election.⁷⁰

⁶⁷ Wilentz, *The Age of Reagan*, 373–376.

⁶⁸ Wilentz, *The Age of Reagan*, 381–389.

⁶⁹ Wilentz, *The Age of Reagan*, 403–405.

⁷⁰ Wilentz, *The Age of Reagan*, 407.

3 EVENTS LEADING TO THE IMPEACHMENT

During Clinton's presidency, multiple events that would ultimately contribute to his impeachment were happening simultaneously. The most prominent one was the investigation of the independent counsel Kenneth Starr, which first probed into Whitewater – a failed investment deal, of which the Clintons were a part of, that was supposedly connected to fraudulent activities of a company the Clintons were linked to. Among other things, the investigation then moved to Monica Lewinsky and her relationship with the president. Questions that would expose Clinton's relationship with Lewinsky forced Clinton into perjury during the deposition in the Paula Jones case – another event happening at the same time. Clinton and sometimes his wife's names would be connected to more and more scandals and conspiracies encouraged and voiced by the press corps and the Republicans, trying to bring Clinton down.

3.1 The Kenneth Starr Investigation

Before looking at the investigation of the independent counsel, it is vital to clarify the function and role of the independent counsel. The independent counsel (also known as special counsel or special prosecutor) is a prosecutor who, to avoid conflict of interest, is independent of an office that would generally conduct a criminal investigation.⁷¹ The system of an independent counsel was established by The Ethics in Government Act of 1978, after the Watergate scandal, but special prosecutors had been used ever since the creation of the Justice Department in 1870.⁷² The Ethics in Government Act had also created the Special Division – a panel of three federal judges who would appoint special prosecutors. But the special prosecutor law had expired in December 1992, so when in January 1994, Clinton had asked the Attorney General Reno to appoint an independent counsel to investigate the Whitewater matter, there was no panel of judges to turn to. However, Reno could still use her powers to appoint a “special counsel,” which she did on January 20, 1994, appointing Robert B. Fiske.⁷³

On June 30, however, Congress reauthorized the independent counsel statute, bringing back the Special Division, which instead of reappointing Fiske, chose a new independent counsel, arguing that there was a conflict of interest with Fiske, as he was appointed by the

⁷¹ “Special prosecutor,” Legal Information Institute, accessed November 26, 2021, https://www.law.cornell.edu/wex/special_prosecutor.

⁷² Brett M. Kavanaugh, “The President and the Independent Counsel,” *Georgetown Law Journal* 86 (1998): 2135–2143.

⁷³ Kenneth W. Starr, *Contempt: A Memoir of the Clinton Investigation* (New York: Sentinel, 2018), 29–30.

attorney general, who had been appointed by the president.⁷⁴ The job went to Kenneth Starr, who would continue the already established Fiske's investigation.

3.1.1 Whitewater

In 1978, Bill and Hillary Clinton decided to invest in Whitewater – vacation homes development deal in the Ozark Mountains. James McDougal, whom Clinton had known for some years, approached the Clintons with this idea. James and his wife Susan became business partners with the Clintons, and both couples purchased the land that was to be developed. But the deal eventually failed, and the Clintons lost over \$40,000. Bill Clinton carried on with his political career, while James McDougal moved to the banking industry.⁷⁵ He created Madison Guaranty Savings and Loan, an institution that provided loans and ready cash. The bank, however, soon collapsed and required a federal bailout of \$50 million (McDougal would be later convicted of bank fraud conspiracy in 1996). The connection between the Clintons and McDougal received some attention by the press in Clinton's campaign in 1992, but even though Republicans were pushing for more investigations, multiple reports cleared the Clintons of any wrongdoing.⁷⁶

Before being replaced by Starr, Fiske and his team had been reinvestigating multiple aspects of the Whitewater matter. The foundation of the investigation was a fraudulent Madison Guaranty transaction of \$825,000 dubbed the "825 loan," from which six people supposedly benefited: the Clintons, the McDougals, Jim Guy Tucker – the Arkansas governor who succeeded Clinton, and David Hale. \$300,000 of the 825 loan went to Susan McDougal for her marketing company, but it seemed that the finances had been used to pay off her personal expenses and repay loans, including some that involved the Whitewater Development Corporation, which was partially owned by the Clintons. The question was whether the Clintons knowingly benefited from this fraudulent loan or not.⁷⁷

A key witness of the investigation was David Hale – a former municipal judge whose company worked with James McDougal to create the 825 loan. After pleading guilty to conspiracy and fraud, Hale testified that Bill Clinton pressured him to use the portion of the 825 loan to create the \$300,000 loan for Susan McDougal. The Clintons had denied both Hale's allegations and benefiting from the loan, claiming that they were only passive

⁷⁴ Starr, *Contempt*, 30–31.

⁷⁵ "The Whitewater Scandal: What You Should Know," Investopedia, accessed November 28, 2021, <https://www.investopedia.com/ask/answers/08/whitewater-scandal.asp>.

⁷⁶ Wilentz, *The Age of Reagan*, 342–343.

⁷⁷ Starr, *Contempt*, 47–48.

investors.⁷⁸ The credibility of David Hale is, however, questionable, as he only came forward to accuse Clinton after he was indicted – possibly an attempt to secure a plea bargain with the independent counsel.⁷⁹

The case of the 825 loan was complex and connected to multiple subjects. During 1995, multiple indictments were made, including those of the McDougals, and the Clintons were deposed on the subject of the loan, Whitewater, and Vince Foster's death. Hillary would also testify before the grand jury concerning the missing Rose Law Firm records. But the main 825 trial began in March 1996, resulting in convictions of both the McDougals – a major victory for Kenneth Starr.⁸⁰

3.1.2 Vince Foster

Kenneth Starr decided to take a second look at Vince Foster's suicide, as many questions remained unanswered and conspiracy theories were spreading. Foster was not only the first line of defense in the White House, but he was also a long-time friend of the Clintons. During the 1980s, he worked with Hillary Clinton, and the two along with Webster Hubbell were partners in the Rose Law Firm. Working in the Clinton administration, he was the one taking most of the blame for the major scandals in the White House. The news of the suicide was shocking for everyone. His body was found in Ft. Marcy Park on July 20, 1993, and multiple reports, including the Fiske's, would conclude that he committed suicide and that issues relating to the Whitewater did not play any part.⁸¹

Kenneth Starr would reinvestigate the matter from 1994 to 1997 in more detail. Back in December 1993, it was revealed that at the time of Foster's death, documents relating to Whitewater had been in his office, but were removed by the White House staff. This and other suspicious activities, as well as the fact that Foster was close to the Clintons both in administration and as a friend, led to conspiracy theories such as that Foster was murdered by the Clintons to protect themselves.⁸² The bullet with which he took his life was also never found and the initial investigation by the Park Police was poorly documented.⁸³ But in

⁷⁸ Starr, *Contempt*, 48–50.

⁷⁹ Jeffrey Toobin, *A Vast Conspiracy: The Real Story of the Sex Scandal That Nearly Brought Down a President* (London: William Collins, 2020), 72.

⁸⁰ Starr, *Contempt*, 85–115.

⁸¹ Starr, *Contempt*, 63–69.

⁸² Starr, *Contempt*, 69–141.

⁸³ "Following Orders: The Death of Vince Foster, Clinton White House Lawyer," Marinka Peschmann, accessed December 6, 2021, <https://marinkapeschmann.com/following-orders-death-vince-foster-chapter-3-the-foster-investigations/>.

October 1997, Starr reached the same conclusion as Fiske had three years earlier: Vince Foster committed suicide by his pistol.⁸⁴

3.1.3 Travelgate and Filegate

The White House Travel Office, responsible for arranging accommodations for the president's press corps, was investigated by the FBI in 1988 for embezzlement and other illegal activities. No action was taken by the Bush administration, but Clinton in May 1993, responded by firing the travel office staff. Though this was perfectly within the president's power, many viewed this as an abuse of power, as the newly appointed director was connected to Clintons' family friends.⁸⁵

The initial investigation into the matter was conducted by Robert Fiske, as it was connected to Vince Foster. Kenneth Starr continued, interviewing White House officials, and trying to answer whether a potential crime had been committed. After months of investigation, he concluded that despite the arrogance of the mean-spirited event, the actions did not amount to a federal crime.⁸⁶

"Filegate" was a case of hundreds of FBI files, that were supposed to be in the FBI's vaults, but somehow appeared in the office of Craig Livingstone, a White House official responsible for reviewing background checks of appointees. The documents included files on some Republicans, and even though the White House claimed that it was just a bureaucratic mistake, Janet Reno assigned the investigation to Starr in June 1996. No criminal wrongdoing was found, and it proved to be indeed a bureaucratic mishandling of files caused by the incompetence and inexperience of Livingstone. There was also no evidence that the president or the First Lady had any say in hiring Livingstone, and forensic analysis showed that neither of them even touched the files.⁸⁷

3.2 Paula Jones Case

On May 8, 1991, when Clinton was the Arkansas governor, he attended the Arkansas Industrial Development Commission conference in Excelsior hotel in Little Rock, AR. Paula Jones, at the time of the conference named Paula Corbin, working there as a clerk, was told by one of Clinton's troopers that the governor had invited her to meet him in a hotel room. She agreed and after meeting him, Clinton began touching her and asked her to perform oral

⁸⁴ Starr, *Contempt*, 144.

⁸⁵ Wilentz, *The Age of Reagan*, 331.

⁸⁶ Starr, *Contempt*, 144–145.

⁸⁷ Starr, *Contempt*, 66–147.

sex. She immediately left and shared the story of the incident with only a few people in the following years.⁸⁸

The story was, however, published in *The Spectator* in December 1993. It was based on the stories of Clinton's state troopers, and it portrayed a different version of the event, where it seemed that Jones and Clinton had had a consensual sexual encounter. After the publication, Paula Jones claimed that the story was false and that it had damaged her name, eventually filing a sexual harassment lawsuit against Clinton, now president, on May 6, 1994. Though the lawyers of both parties had discussed an agreement, the suit seemed unavoidable, as Paula's husband demanded an apology from the president and Clinton claimed that settling the lawsuit would be admitting to the charges. Jones was represented by Gil Davis and Joe Cammarata, while Bob Bennett represented the president.⁸⁹

But the lawsuit had a political motivation as well. The National Conservative Political Action Committee, a Republican support organization, sponsored Jones, and her decision to sue the president, even providing her with financial backing.⁹⁰ Before Davis and Cammarata, other lawyers had been secretly helping the case by drafting the early version of the sexual harassment complaint and assisting in getting it filed. Though it is common for lawyers to help each other when they, for example, believe in the cause, their motive was to damage Bill Clinton and his presidency. This secret group of lawyers would later be known as "the elves." Davis and Cammarata, on the other hand, were only trying to help their client and the political motivation behind the suit would eventually force them to quit.⁹¹

After the suit was filed, a debate quickly arose in judiciary circles whether a case against the president concerning actions that took place before he took the office could be followed. Clinton argued that he should be immune from this kind of lawsuit while in office and asked for a postponement. The issue eventually reached the Supreme Court, which on May 27, 1997, more than three years after the suit was filed, ruled that Clinton could not enjoy immunity from a civil lawsuit.⁹² Still, Bennett succeeded in his main goal, delaying the lawsuit beyond Clinton's reelection.⁹³

The case proceeded and the lawyers from both parties tried to settle the case, though unsuccessfully. Davis and Cammarata failed to persuade Jones that the apology she and her

⁸⁸ Toobin, *A Vast Conspiracy*, 11–12.

⁸⁹ Toobin, *A Vast Conspiracy*, 4–54.

⁹⁰ Wilentz, *The Age of Reagan*, 346.

⁹¹ Toobin, *A Vast Conspiracy*, 44–46.

⁹² Starr, *Contempt*, 161–165.

⁹³ Toobin, *A Vast Conspiracy*, 101.

husband demanded was unreasonable and the trial would most likely be won by the president. The two lawyers pointed out the ever-growing differences between their and their client's goals and the political motivation behind the lawsuit. As they believed that they had done everything they could for their client, the lawyers quit in September 1997.⁹⁴

With the case not settled even after Judge Susan Webber Wright had urged both sides to do so, all would depend on the president's televised deposition, scheduled for January 17, 1998.⁹⁵ But unbeknownst to Clinton and his lawyers, by this time, Linda Tripp had contacted the Jones' lawyers and told them about Monica Lewinsky and her relationship with the president. When Lewinsky's name appeared on the witness list, Clinton denied any relationship with her to his lawyers.⁹⁶

3.2.1 Clinton's Deposition

Bill Clinton's deposition began with Jones' lawyer James Fisher presenting a definition of "sexual relations," to be used for the purpose of the deposition. Though it included three items, to avoid confusion, Judge Wright restricted the definition to only the first item, which read that "a person engages in 'sexual relations' when the person knowingly engages in or causes [...] contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to arouse or gratify the sexual desire of any person; [...] 'Contact' means intentional touching, either directly or through clothing."⁹⁷

The strategy of Jones' lawyers was to prove the "pattern and practice" in Clinton's behavior, meaning that his relationships with other women would point to a certain pattern that would support Paula Jones' accusations. Fisher began by asking Clinton questions about Kathleen Willey, a White House volunteer whom Clinton had allegedly sexually harassed, too. Soon the questioning turned to the subject of Monica Lewinsky. During these questions, Bennett jumped in to remind the Court of an affidavit that Monica Lewinsky had filed, stating in his words that "there is absolutely no sex of any kind in any manner, shape or form, with President Clinton." But the questioning proceeded and to answer the questions, Clinton acknowledged that he knew Lewinsky, and possibly was alone with her on multiple occasions, but when he was asked whether he had a sexual relation with her, he denied it.⁹⁸

⁹⁴ Toobin, *A Vast Conspiracy*, 135–139.

⁹⁵ Toobin, *A Vast Conspiracy*, 225–226.

⁹⁶ Toobin, *A Vast Conspiracy*, 178–181.

⁹⁷ Toobin, *A Vast Conspiracy*, 235–236.

⁹⁸ Toobin, *A Vast Conspiracy*, 225–243.

Unprepared for the specific questions about his relationship with Lewinsky, Clinton answered the questions in a perjurious way. Knowing what he had done, he met with his secretary, Betty Currie, and told her about the deposition. He asked her multiple reassuring statements about how he was “never really alone” with Lewinsky and how she was “always there when Monica was there.” This was among many considered to be witness tampering and obstruction of justice when it came to light, but Currie would later testify that she did not feel any pressure to agree with the statements.⁹⁹

After the Lewinsky story broke, Clinton denied the allegations to everyone around him, even to his wife and daughter. But he did share the truth with his old friend Dick Morris. Morris then conducted a public attitude poll and according to his interpretation of the results, he informed the president that the people were not yet ready for a confession. On January 26, 1998, Clinton made a speech in the White House, showcasing his child-care program. At the end of his speech, he famously denied having “sexual relations with that woman, Miss Lewinsky.”¹⁰⁰

Hillary Clinton, unaware of the truth, supported her husband passionately. On January 27, she appeared on the *Today* show where she famously denounced the scandal and the Starr investigation as a “vast right-wing conspiracy.” Even after Clinton finally confessed his sexual relations with Lewinsky months later, Hillary decided to forgive him and continued to support him.¹⁰¹

3.3 Monica Lewinsky

Monica Lewinsky grew up in Beverly Hills in a well-established family. In 1995 she graduated from Lewis and Clark College and only months later, with no previous work experience, began her internship in the White House just before turning twenty-two. In the following months, she would become obsessed with President Clinton and the two would flirt with each other through eye contact.¹⁰²

During the government shutdown on November 15, 1995, Clinton, while alone in an office, noticed Lewinsky and invited her in. While they were alone after a brief conversation, their first kiss ensued. Later that evening, Clinton again invited Lewinsky, this time to a small hallway next to Clinton’s private study, and they had their first sexual encounter. It

⁹⁹ Toobin, *A Vast Conspiracy*, 251–253.

¹⁰⁰ Toobin, *A Vast Conspiracy*, 262–271.

¹⁰¹ Toobin, *A Vast Conspiracy*, 273–276.

¹⁰² Toobin, *A Vast Conspiracy*, 91–92.

was followed by similar events, mainly during the government shutdown and January 1996. During the peak of their secret relationship in early 1996, some disturbing events were happening in Clinton's private life simultaneously. His wife Hillary was fighting her own legal battles, while Clinton arranged multiple sexual encounters with Lewinsky. In February, Clinton met with Lewinsky to break the relationship off.¹⁰³

This was an unsuccessful attempt, however, and their relationship continued. But on April 5, 1996, Lewinsky was fired from the White House for two reasons: underperformance at her job, and the fact that she was trying too hard to be with the president. But instead of being let off completely, she was transferred to the public affairs office at the Pentagon. Not long after she started working there, she met Linda Tripp, a former White House employee, and they quickly developed a friendship, or so Lewinsky thought.¹⁰⁴

Linda Tripp started working at the White House as a secretary in 1991. Even though she was kept after Clinton won the elections, she disliked the change in administration. In 1994, her supervisor resigned, and she took a job at the Pentagon. In 1996, she began working with Lucianne Goldberg, a literary agent, on a book project about an insightful image of the Clinton White House.¹⁰⁵

The project eventually failed, but Tripp contacted Goldberg again in September 1997, after more than a year, to pitch another book idea. Monica Lewinsky had by this time shared the secret of her relationship with the president with Tripp, who thought that the scandalous nature of the relationship would make a good book. Goldberg agreed to the idea and suggested that Tripp tape-records her conversations with Lewinsky. Tripp had already told Monica to keep a detailed record of her sexual encounters with the president to find a "pattern" in the relationship. This, along with the taped phone conversations would later prove to be fundamental evidence.¹⁰⁶

After Lewinsky was fired from the White House, Clinton promised to bring her back after the reelection. Although he never delivered on the promise, the relationship went on, though with less frequent meetings, and finally ended in May 1997. Lewinsky continued to ask Clinton for help, as she was looking for a new job. She had changed her sight from the White House to a job in New York, and Clinton assisted her in finding the right job for her – something that would be later brought as a charge against him as an attempt to buy

¹⁰³ Toobin, *A Vast Conspiracy*, 92–99.

¹⁰⁴ Toobin, *A Vast Conspiracy*, 117–119.

¹⁰⁵ Toobin, *A Vast Conspiracy*, 105–108.

¹⁰⁶ Toobin, *A Vast Conspiracy*, 121–142.

Monica's silence. Clinton got her in touch with Bill Richardson, who would offer her a job at the United Nations, a position she wasn't interested in, and Vernon Jordan, a friend of Clinton, who managed to find her a job at Revlon in early January 1998.¹⁰⁷

In December 1997, Lewinsky was included as a witness in the Jones case. On December 17, Clinton called Lewinsky to discuss the situation with her. He suggested that if she was subpoenaed, she could file an affidavit and perhaps avoid testifying. They also discussed how to cover up and explain Lewinsky's visits to the Oval Office. On December 28, 1997, Betty Currie visited Lewinsky to pick up all the gifts that the president gave Lewinsky throughout their relationship. It is not clear whether this was arranged by Lewinsky or Currie, as neither of them had a precise memory of the event, as they would later testify. A few days prior, Vernon Jordan had introduced Lewinsky to a criminal defense lawyer, Frank Carter, who drafted an affidavit for Lewinsky.¹⁰⁸ In the affidavit, Lewinsky, among other things, denied any sexual relations with the president and claimed that she does not possess any relevant information for the Paula Jones lawsuit.¹⁰⁹

By this time, Tripp had contacted both the Paula Jones' lawyers and the office of independent counsel and shared everything she had on Lewinsky. She also sought immunity, as the tapes of her conversations with Lewinsky were made illegally. On January 12, 1998, Starr sent prosecutors to debrief her, and she agreed to go undercover on their behalf. The next day Tripp, wearing a body wire, met with Lewinsky in the Ritz-Carlton hotel and the two spoke for three hours. The event later became known as "the sting tape." On January 14, Lewinsky wrote and gave to Tripp the "talking points," suggesting that Tripp file an affidavit too to avoid testifying in the Paula Jones case (Tripp had been subpoenaed in connection with Kathleen Willey). The "talking points" was a document explaining how an affidavit should be constructed.¹¹⁰

The scope of Starr's investigation was, however, limited to Whitewater and related matters. The office contacted the Justice Department and Janet Reno and explained how Tripp, who was a former witness in the Vince Foster investigation, would lose her usefulness as a witness if she were to perjure herself, as Lewinsky urged her to do. Vernon Jordan was also previously investigated in relation to Whitewater. By January 15, Starr was authorized to investigate obstruction of justice in the Paula Jones case. Starr didn't waste any time and

¹⁰⁷ Toobin, *A Vast Conspiracy*, 119–192.

¹⁰⁸ Toobin, *A Vast Conspiracy*, 192–198.

¹⁰⁹ "The Lewinsky Affidavit," *Washington Post*, accessed December 22, 2021, <https://www.washingtonpost.com/wp-srv/politics/special/pjones/docs/lewinskyaffidavit.htm>.

¹¹⁰ Toobin, *A Vast Conspiracy*, 210–215.

organized a meeting between Tripp and Lewinsky near the Ritz-Carlton. As soon as Tripp identified her, two FBI agents descended on Lewinsky and escorted her to one of the hotel rooms for interrogation. Lewinsky refused to cooperate and telephoned her mother, who arrived at the hotel later that evening. Lewinsky's father contacted his lawyer friend, William Ginsburg, who spoke to the prosecutors and would represent Monica in the months to come.¹¹¹ Starr would be later criticized for violating Lewinsky's rights, though he claims that she was not held against her will and was free to leave and call anybody, as she was not under arrest.¹¹²

By this time, rumors of a sexual relationship between the president and an intern were circulating everywhere. The story first broke in the early morning on January 18, 1998, on *Drudge Report* – an internet news site, focused on scandals and gossip, which gained popularity in the early days of the internet. It didn't take long for the story to spread to the mainstream media. Clinton and the White House continued to deny the allegations.¹¹³

On January 17, Ginsburg began negotiating with Starr's prosecutors about Lewinsky's immunity deal. Though the two sides came very close in early February, no agreement was reached by Ginsburg, who was eventually replaced by Plato Cacheris and Jacob Stein. Starr wanted Lewinsky to provide an oral proffer, where she would provide a truthful account of her relationship with the president and answer the prosecutors' questions in exchange for full immunity. The deal was finally agreed on and Monica was interviewed on July 27, 1998, more than five months after the negotiations began. The next day Lewinsky handed over to the prosecutors a key piece of evidence that she kept for months, as Linda Tripp had advised her to do so. It was a blue dress containing Clinton's DNA, which the prosecutors could now match to Clinton's blood sample.¹¹⁴

3.4 Clinton's Grand Jury Testimony

Throughout 1998 Starr's team subpoenaed multiple witnesses before a grand jury, such as Linda Tripp, Betty Currie, Lewinsky's mother, and many more. On February 2, 1998, with Lewinsky's immunity not settled, one of Starr's prosecutors wrote a letter to David Kendall, Clinton's lawyer, asking Clinton for his testimony. The letter was more of an invitation than a subpoena, as it was not clear whether a president could be subpoenaed before a federal

¹¹¹ Toobin, *A Vast Conspiracy*, 216–223.

¹¹² Starr, *Contempt*, 181.

¹¹³ Toobin, *A Vast Conspiracy*, 247–259.

¹¹⁴ Toobin, *A Vast Conspiracy*, 286–332.

grand jury. The two would exchange multiple letters and Kendall would always stall the situation until July 17, when the Office of independent counsel decided to send the subpoena to Clinton.¹¹⁵

A few days later Kendall responded, stating that the president would be willing to testify given certain conditions, among which was the withdrawal of the subpoena, so Clinton could testify voluntarily. Conditions were accepted by both sides and Clinton would testify from the White House on August 17. In the days before the testimony, he finally told the truth to his family and prepared to do the same in the testimony.¹¹⁶

The questioning began right away with the subject of the relationship between Clinton and Lewinsky. Clinton was prepared and asked to read out a statement, in which he acknowledged “inappropriate intimate contact” with Lewinsky. He stated, however, that the “encounters did not consist of sexual intercourse” and “they did not constitute sexual relations as [he] understood that term to be defined at [his] January 17th, 1998 deposition.” The questions then moved to the definition of sexual relations back in Paula Jones deposition and Clinton’s understanding of it. Clinton asserted that the definition of sexual relations provided at the January deposition as he understood it, did not include oral sex performed on the person being deposed, therefore, his denial of sexual relations with Lewinsky would be truthful. The rest of the questions were either on the same subject or concerning Vernon Jordan and Betty Currie.¹¹⁷

Clinton spoke to the nation on the same day. He confessed his relationship with Lewinsky but denied any “unlawful action,” such as asking somebody to lie or hide evidence. He also acknowledged that though his answers in the January deposition “were legally accurate, [he] did not volunteer information.” He then expressed his regret for misleading people and criticized the independent counsel for probing into his private life and ended by encouraging the nation to move on and focus on the issues at hand. The speech was surprisingly well-received by the public, but it did not change the fact that Starr and his team were almost ready to send the case to Congress.¹¹⁸

The independent counsel law provided only little guidance about forming a report for Congress. Starr decided to split the report into two parts, “Narrative” focusing on the entire account of Lewinsky’s relationship with the president and a detailed description of their

¹¹⁵ Toobin, *A Vast Conspiracy*, 309–325.

¹¹⁶ Toobin, *A Vast Conspiracy*, 330–336.

¹¹⁷ “Clinton’s Grand Jury Testimony,” *Washington Post*, accessed January 24, 2022, https://www.washingtonpost.com/wp-srv/politics/special/clinton/stories/bctest092198_1.htm.

¹¹⁸ Toobin, *A Vast Conspiracy*, 344–352.

sexual encounters, and “Grounds,” providing evidence for the alleged perjury, obstruction of justice, and more. But both parts were sexually explicit, and Starr came under a lot of criticism. Much of the content in the report was seen as irrelevant and humiliating.¹¹⁹ Starr claims, however, that all the evidence was relevant and that the report had to be sexually explicit in order to prove the president’s guilt.¹²⁰

¹¹⁹ Toobin, *A Vast Conspiracy*, 355–357.

¹²⁰ Starr, *Contempt*, 246–247.

4 IMPEACHMENT

On September 9, 1998, the Starr report along with other materials arrived at the House Judiciary Committee on Capitol Hill. Only two days later, the House of Representatives voted to release the report to the public and it quickly spread to the worldwide web. The House Democrat leader Richard Gephardt asked Abbe Lowell, chief counsel of the Democratic party in the committee, to go over the report and conclude whether the president had committed an impeachable offense. Gephardt was relieved when Lowell reported to him that, though criminal, the president's actions did not constitute an impeachable offense. His conclusion was based on the originalistic approach voiced by Hamilton – the perjury committed by Clinton had done no injury to the “society itself.”¹²¹

The House Judiciary Committee additionally passed a vote to publicly release the videotape of Clinton's grand jury testimony. Surprisingly, the public reacted with sympathy, as they identified with his uncomfortable situation. Democrats used this to their advantage to further reinforce their strategy of “winning by losing,” whereby the Democratic minority would get outvoted along the party lines on various issues, demonstrating to the public that the impeachment was a partisan effort.¹²²

The strategy worked well and on October 8, 1998, the House of Representatives voted on starting a full impeachment investigation. Henry J. Hyde, the chairman of the House Judiciary Committee, put forward a proposal that passed 258 to 176. The impeachment movement had begun, and the committee decided to call Kenneth Starr as a witness. His testimony on November 19 lasted almost twelve hours during which both the Democrats and Republicans examined the prosecutor and his investigation.¹²³

From Starr's testimony until the impeachment vote in December, Abbe Lowell along with other representatives discussed the possibility of a deal to avoid impeachment, which relied on Clinton admitting to both lying and perjury. The idea was to create a movement for censure – a punishment lesser than impeachment,¹²⁴ defined as “a formal statement of disapproval.”¹²⁵ Though this idea generated some attention from the media, it failed as Starr could have indicted Clinton at any time if he were to confess to a crime. Clinton was also by

¹²¹ Toobin, *A Vast Conspiracy*, 357–363.

¹²² Toobin, *A Vast Conspiracy*, 364–368.

¹²³ Toobin, *A Vast Conspiracy*, 369–381.

¹²⁴ Toobin, *A Vast Conspiracy*, 387–388.

¹²⁵ “Censure,” United States Senate, accessed February 2, 2022, https://www.senate.gov/reference/reference_index_subjects/Censure_vrd.htm.

this time ready to face his fate; either the House found his action to amount to “high crimes and misdemeanors” or it did not.¹²⁶

On December 11, one day after the impeachment debate had begun in the committee, Clinton gave a statement apologizing again for his actions and acknowledging that he must be held accountable. The debate remained unchanged – Republicans argued for impeachment and Democrats against it. During the committee’s investigation, four articles of impeachment were written and given to vote on December 11 and 12, 1998.¹²⁷

Article one alleging that Clinton “provided perjurious, false and misleading testimony to the grand jury regarding the Paula Jones case and his relationship with Monica Lewinsky,” passed along party lines 21 to 16. Article two stating that “the president provided perjurious, false and misleading testimony in the Jones case in his answers to written questions and in his deposition,” passed 20 to 17, with only one republican breaking the line. The third article claimed that Clinton had “obstructed justice in an effort to delay, impede, cover up and conceal the existence of evidence related to the Jones case,” and passed 21 to 16, the same as the last one which alleged that “the president misused and abused his office by making perjurious, false and misleading statements to Congress.”¹²⁸ The last article was connected to the eighty-one questions that were sent to Clinton in November, as he had refused to testify. Clinton answered them, but his stance did not change, resulting in the fourth article.¹²⁹

The vote on impeachment in the House was scheduled for December 19, 1998. The debate took place days before and the idea of censure was once again revived, but soon failed. As the representatives were reviewing the material and deciding on what their vote is going to be, Bob Livingston, the speaker-designee, announced that his extramarital affairs were revealed. On December 19, he unexpectedly announced his resignation and urged Clinton to do the same. The event resulted in an outrage on the House floor.¹³⁰

The voting finally began. Article one, concerning perjury in the grand jury, passed in the House 228 to 206. Article two, perjury in the Jones case, failed 229 to 205. Article three, obstruction of justice, passed 221 to 212 and the fourth article, based on Clinton’s answers

¹²⁶ Toobin, *A Vast Conspiracy*, 387–388.

¹²⁷ Toobin, *A Vast Conspiracy*, 388–390.

¹²⁸ “Articles of Impeachment and Judiciary Committee Roll Call Votes,” *Washington Post*, accessed February 2, 2022, <https://www.washingtonpost.com/wp-srv/politics/special/clinton/stories/impeachvote121198.htm>.

¹²⁹ Toobin, *A Vast Conspiracy*, 375–391.

¹³⁰ Toobin, *A Vast Conspiracy*, 393–397.

to the Judiciary Committee, failed 285 to 148.¹³¹ By this, Clinton became the second president in U.S. history to be impeached and the case moved to the Senate.

4.1 Senate Trial

By the end of 1998, the public, as well as politicians, were tired of the impeachment. Senators were mostly united and prepared to put the entire thing behind them. But Hyde argued that it is the constitutional duty of the Senate to carry out a proper trial, meaning the need to call live witnesses. Thirteen Republicans from the Judiciary Committee were selected as managers and the trial was scheduled to begin on January 7, 1999.¹³²

The trial began with Chief Justice William H. Rehnquist presiding. As the Constitution says nothing about how the inquiry and trial should be conducted, the Senate decided to follow the precedent of Andrew Johnson's impeachment trial. Senators agreed to start with opening statements from both sides and ask questions, but only after that, they would finally vote on whether to call witnesses. The most notable statement was from Hyde, who argued that the law is the law, and it simply applies to everyone. But Clinton's supporters quickly pointed out that Hyde defended Reagan during the Iran-Contra affair, in which President Reagan was eventually found guilty of lying. Hyde defended himself claiming that lies are acceptable when it comes to national interest and the common good, but the opposite argument could be made too; Clinton's lies were less serious because they were only about a private affair. The defense statements from the White House were presented by Chuck Ruff and Dale Bumpers, beginning on January 19, arguing that the case was built on sex rather than perjury and that it lacks proportionality.¹³³

On January 22, a motion to dismiss the charges was forming, but Hyde spoke against it and the motion eventually failed. The trial, therefore, proceeded and three witnesses were called: Lewinsky, Jordan, and Sidney Blumenthal, a White House aide. After their testimonies were taken and reviewed, Senate went through the closing statements. On February 12, 1999, after more than a month of trial, the chief justice announced the beginning of the voting. On count one, the vote was 45 guilty to 55 not guilty, ten Republicans broke the ranks and joined the Democrats. On count two, the vote came to 50 guilty and 50 not

¹³¹ *Washington Post*, "Articles of Impeachment and Judiciary Committee Roll Call Votes."

¹³² Toobin, *A Vast Conspiracy*, 400–402.

¹³³ Toobin, *A Vast Conspiracy*, 404–413.

guilty, five Republicans joined the Democrats. As none of the counts reached the required two-thirds majority, Clinton was acquitted.¹³⁴

4.2 The Public

An important and often overlooked role in the impeachment of Bill Clinton is that of the public. Clinton himself used the public polls to see how the people would react, for example, to his confession. After the story broke in January 1998, the early polls conducted by Dick Morris showed that the public was not ready for a confession.¹³⁵

But during the following months, Clinton's public support would unexpectedly rise. His performance approval ratings jumped significantly and remained high during the crisis. By July, when Clinton was still denying the affair, only around 20% of respondents wanted him out of the office and after his confession, the results stood at about two-thirds of respondents opposing his removal. After the drama ended in February 1999, the levels were approximately the same.¹³⁶

There are multiple reasons why people supported Clinton during the scandal. One of them was partisanship, as people of his own party refused to turn against their president. But many people disliked Starr's zealous investigation and they genuinely believed that the scandal was only about sex, which is a private matter. Another important factor was the social and economic situation in the country, which improved significantly during Clinton's administration.¹³⁷

The question is why, despite the public support of Clinton and disapproval of impeachment, did the House of Representatives, supposed to represent the public, choose to impeach the president? The way that the impeachment process is set up contributes to this, as a different majority is required for impeachment and a different one for conviction. The main answer, however, is found in a larger political sphere of the post-Cold War era and the ever-growing polarization of U.S. politics. On a large scale, during the second half of the 20th century, there was what Toobin describes as "a conspiracy within the legal system to take over the political system of the United States," used by both Democrats and Republicans to advance their political agenda through the judicial branch of the government.¹³⁸ Combined

¹³⁴ Toobin, *A Vast Conspiracy*, 416–423.

¹³⁵ Toobin, *A Vast Conspiracy*, 262–263.

¹³⁶ Gary C. Jacobson, "Public Opinion and the Impeachment of Bill Clinton," *British Elections & Parties Review* 10, no. 1 (2000): 1–3, <https://doi.org/10.1080/13689880008413034>.

¹³⁷ Jacobson, "Public Opinion and the Impeachment of Bill Clinton," 4.

¹³⁸ Toobin, *A Vast Conspiracy*, 6.

with the growing media polarization, public influence, and the rise of the internet, the late 1990s set the stage for the impeachment of Bill Clinton.

5 AFTERMATH

Judge Wright dismissed the Paula Jones case in April 1998. Soon after that, it became clear that Starr was going to submit his report to Congress for impeachment, so the political objectives of the case were achieved. Both sides finally agreed that a settlement would benefit everyone. Jones's lawyers reached out to Bob Bennet in September, stating that their client would no longer demand an apology, only \$1 million. The amount was reduced after negotiations to \$850,000 in November.¹³⁹

The Starr investigation also came to a close. The prosecutors filed more indictments against Webster Hubbell. Susan McDougal served eighteen months in prison for her refusal to cooperate. Starr also planned to build another perjury case against Clinton, based on Kathleen Willey's allegations. But Willey proved to be an untrustworthy witness and the case was stuck on two conflicting testimonies.¹⁴⁰ Starr let the case go and on October 18, 1999, he stepped down as an independent counsel and the Special Division appointed Robert Ray as his successor.¹⁴¹

Probably the biggest victim of the affair was Monica Lewinsky. Thanks to the internet, she was humiliated worldwide and unlike for Clinton, for Lewinsky, the nightmare continued well after the impeachment. She shared her experience of the scandal aftermath with *Vanity Fair* in 2014. A few years following the scandal she moved to England to study and got her master's degree in social psychology, though she failed to land a job. After many years of silence, she reemerged into public life, speaking against online harassment and humiliation.¹⁴²

On April 12, 1999, Clinton was found in contempt of court for his lies in the Jones deposition. He was ordered to pay \$90,000 for the expenses of Jones' lawyers. As for Bill Clinton, he viewed the outcome as a victory. In his mind, it was still just a political battle, which he won.¹⁴³ In 2001, Clinton made a plea bargain with Ray and his law license was suspended for five years. He was also given a \$25,000 fine and in October, he was disbarred from the high court.¹⁴⁴ But considering the larger political sphere, the outcome was much

¹³⁹ Toobin, *A Vast Conspiracy*, 425–427.

¹⁴⁰ Toobin, *A Vast Conspiracy*, 428–430.

¹⁴¹ Starr, *Contempt*, 298–300.

¹⁴² Monica Lewinsky, "Shame and Survival," *Vanity Fair*, May 28, 2014, <https://www.vanityfair.com/style/society/2014/06/monica-lewinsky-humiliation-culture>.

¹⁴³ Toobin, *A Vast Conspiracy*, 430–432.

¹⁴⁴ Duncan Campbell, "Lewinsky scandal ends as Clinton is disbarred," *The Guardian*, October 2, 2001, <https://www.theguardian.com/world/2001/oct/02/duncancampbell>.

more significant, as the impeachment and the Lewinsky scandal contributed to Democrats losing the election.

Clinton's vice president Albert Gore stood by Clinton during his two terms, even during the impeachment battle. But with his own presidential campaign on the way, his association with Clinton would cause him harm. He did his best to distance himself from Clinton and tried to establish an image of his own, clear of Clinton's actions. George W. Bush won the Republican nomination and quickly achieved a lead in the polls. During the campaign, Gore struggled to find the right balance between attack and defense and the public impression began to turn negative. But both candidates were very close in the polls and on the election day, it all came down to results in Florida. After various errors and problems, the votes were recounted multiple times to determine the winner, George W. Bush.¹⁴⁵

¹⁴⁵ Wilentz, *The Age of Reagan*, 410–426.

CONCLUSION

Relying on the original interpretation of impeachable offenses, the evidence suggests that Bill Clinton did not commit these offenses. Though he was impeached for perjury and obstruction of justice, both of which are serious criminal offenses, his actions did not amount to an impeachable offense according to the framers' definition, i.e., political crimes that damage the society.

If the impeachable offenses were to be understood with a different interpretation, the conclusion might be different. Loosely defined impeachable offenses make it much harder to charge an official with an offense that would be widely considered and agreed upon to be impeachable. This can easily turn the impeachment into a political tool, something that the framers feared. Multiple politically motivated events contributed to Clinton's impeachment, such as the conservative backing of the Jones case as well as "the elves," or the questionable independence of Kenneth Starr and his investigation.

The fact that Clinton's offenses did not amount to an impeachable offense, however, does not mean that his actions were to go unpunished. As the Constitution states, even after conviction, the official "shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law."¹⁴⁶ Though he was not convicted, the independent counsel could have still indicted the president for his criminal wrongdoing had he not made a deal with Robert Ray.

Regarding previous impeachments, Johnson was impeached for breaking the Tenure of Office Act, but the main motivation behind his impeachment was that he was working against Reconstruction. His attackers described his actions as a threat to the nation, which would technically fall under the definition of political crimes that damage society. Nixon was charged with obstruction of justice, same as Clinton, but Clinton tried to cover up his extramarital affair, while Nixon was hiding a politically motivated break-in, which is a political crime.

Impeachment remains a complicated act, but the impact of the Clinton impeachment and its lessons are great. It brought to attention many important issues such as private and public morality, privacy, and political polarization. It also pointed out the insufficient explanation of impeachable offenses in the Constitution, as well as the lack of details concerning how the impeachment and the subsequent trial should be organized. The case of

¹⁴⁶ U.S. Const. art. I, § 3.

Bill Clinton also demonstrated how impeachment can be used as a political tool. Yet the term “high crimes and misdemeanors” remains unspecified and up for interpretation.

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LIST OF ABBREVIATIONS

- U.S. First abbreviation – United States
FBI Second abbreviation – Federal Bureau of Investigation
CIA Third abbreviation – Central Intelligence Agency
UN Fourth abbreviation – United Nations
NATO Fifth abbreviation – North Atlantic Treaty Organization
DNA Sixth abbreviation – Deoxyribonucleic acid