

Additional Dissenting Views of Rep. Martin T. Meehan

I write separately to state clearly my own views on the Majority's attempt to impeach President Clinton, though I do agree with most of the conclusions contained in the Minority's dissenting views.

President Clinton had an adulterous relationship with Monica Lewinsky, which for understandable reasons, he strove to conceal. His attempts at concealing that relationship long pre-dated Ms. Lewinsky's involvement in the Paula Jones civil case but ultimately came to include answering questions posed to him under oath in a deceptive manner. Contrary to the sweeping conclusions of the Majority, that deception occurred largely within the boundaries of the law. Yet I do suspect that the president's statements crossed the line on a few occasions, most prominently regarding precisely where he touched Ms. Lewinsky.

Thus, the president engaged in shameful conduct, breaking faith not only with his family but also with the American people. He did not, however, commit "Treason, Bribery, or other high Crimes and Misdemeanors." As such, I consider the Majority's approval of articles of impeachment to be a lawless overreach, setting a terrible precedent for the fate of future presidents and bound for the condemnation of history.

The historical precedents and the writings of our Founding Fathers indicate that the impeachment of a president is justified only by presidential conduct which clearly, concretely, and convincingly demonstrates that that president lacks the capacity *to govern*. In other words, impeachment is a means of saving our nation from a president who is unable or unwilling to fulfill his or her core responsibilities or respect the boundaries of his or her power.

President Clinton's conduct, though shameful, does not speak clearly, concretely, and convincingly to his capacity *to govern*. It does tell us that he is reckless in his private life and willing to deceive those who inquire about his recklessness. Yet it just as clearly tells us that this man is far from unmindful of or uncaring about his obligation to act lawfully. Indeed, in reviewing the president's acts of *governance*, I see no failure to execute our laws properly and no lack of respect for the boundaries of the presidential power.

Making sweeping conclusions about a president's capacity *to govern* based on his or her private misdeeds sets a terrible precedent. It is telling that the one presidential impeachment which enjoys history's stamp of approval focused on allegations involving the abuse of presidential power, including using the CIA to impede an FBI investigation of a politically motivated break-in and carrying out a regime of political repression from the White House. In fact, the Watergate-era House Judiciary Committee appears to have recognized the danger of speculating wildly about a president's capacity to govern on the basis of his or her private misdeeds, when it expressly rejected an article of impeachment alleging that former President Richard Nixon committed tax fraud.

We have heard much about the rule of law during the impeachment process. Our Chairman at one point implied that our society will gravitate towards the horrors of Auschwitz should we fail

to impeach this president for allegedly lying under oath. Even less excessive formulations of this argument lack merit. The American people are smart enough to know the difference between right and wrong or legal and illegal, and to recognize that presidents who engage in wrongful or illegal conduct are not worthy of emulation in certain respects. Moreover, no amount of dramatic rhetoric should distract anyone from the fact that this president remains subject to indictment and prosecution for any illegality he might have committed – whether we impeach or not.

The vote by the Majority to impeach President Clinton was the culmination of a process which, I believe, was a credit to neither the Constitution nor the House Judiciary Committee. The Majority voted to impeach this president for allegedly obstructing justice, even though it failed to call material witnesses to resolve key conflicts in testimony that go to the very heart of the obstruction of justice case it seeks to make. In terms of calling witnesses, the Majority instead summoned before the committee two individuals who had been convicted of perjury in a court of law, as if that were sufficient to establish that the president committed “high Crimes and Misdemeanors.” The House dumped the independent counsel’s gratuitously salacious Referral onto the Internet without having read it first. In short, the Majority acted as little more than a ready conduit for scandal between the Office of the Independent Counsel and the Senate.

And at the end of the process, during the committee’s debate on articles of impeachment, members of the Majority suggested that its approval of articles of impeachment had little to do with the president’s prospects for remaining in office. Rather, impeachment was merely the “ultimate censure,” or a “scarlet letter.” Their objective in making this argument is clear. That objective is to impeach the president without alerting the American people to the fact that impeachment is the House’s sole contribution to a process by which a president stands to be *removed from office*. With public opinion arrayed strongly against the removal of this president from office, avoiding the “r word” (“removal”) might make for smart political spin. But it is just as clearly a stunning abdication of responsibility and accountability for the clear import of the Majority’s actions. If one supports the removal of this president, let him or her simply say so, rather than absurdly pretending that impeachment has nothing to do with removal.

It is for these reasons that I fear not only how history will treat what has been done in the name of the House Judiciary Committee but also how those actions will shape history. Shall the vote and debate over whether or not to impeach the President of the United States exhibit the same degree of partisan division and rancor as the votes we cast on such issues as school vouchers and committee ratios? If so, perhaps impeachment will be viewed by generations-to-come to be of no greater gravity than those lesser issues. Shall an independent counsel’s fact-finding be the sole factual record upon which the House Judiciary Committee votes to impeach a president? If so, I would suggest we have much to fear. Indeed, both parties have at different times recognized that independent counsels are hardly infallible in terms of their methods, motives, and conclusions.

Accordingly, I strongly dissent from the decision to impeach President Clinton. We should instead enact a resolution strongly disapproving of the president’s conduct. Enactment of a censure resolution would fulfill the House’s dual responsibility to express outrage over the president’s conduct and to confine impeachment to cases truly involving “Treason, Bribery, or other high Crimes and Misdemeanors.” It would punish the president by inflicting a lasting

wound to his historical legacy. Just as importantly, it would avoid punishing this country with an unjustified impeachment and a contentious Senate trial.