THE HOWEY POLITICAL REPORT

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"QUOTE" OF THE WEEK

'The danger of my vote is I didn't make anyone happy. But this isn't about making people happy. I did the best I could...."

- U.S. Rep. Mark Souder, to HPR shortly after his impeachment votes on Dec. 19

Impeachment roils, widens the chasm

Hoosiers fall on different sides

By MARK SCHOEFF JR. *in Washington*
BRIAN A. HOWEY *in Indianapolis*

WASHINGTON - Amid the tumult of history in the making and military air strikes against Iraq this week, Hoosiers came down on starkly different sides of a widening political chasm in Washington.

As the House impeached President Clinton Saturday, most Republicans were serenely confident that they had done the right thing. Most Democrats seethed.

As night fell across America Saturday night, it was easy to imagine Democratic partisans bitterly weighing the Republican House's assault on their first re-elected president since Franklin Roosevelt. It sets the stage for the hardening of positions and the potential for paybacks reaching the most profound levels in American stability.

CONGRESS WATCH

At the same time, the most immediate casualties of the Monica Lewinsky sex scandal were Republicans - first Speaker Newt Gingrich and then his presumed successor, Robert Livingston. The latter was done in by a potential story about his extramarital affairs in, of all places, *Hustler* magazine. Livingston's resignation along with Clinton's impeachment provided a capstone to one of the most bizarre weeks in American history.

The impeachment of Clinton presents a volatile prelude to the 2000 elections for Republicans, who were stung by Clinton's 1996 re-election which came, in large part due to their government shutdown in 1995. "We're going to take the country back, we're going to take the Constitution back," promised Democratic strategist James Carville on NBC's *Meet the Press* Sunday morning. "The retribution is going to be at the polling place."

Impeachment and war, the two most profound issues that can face Congress, were at the top of a remarkable agenda. In jarring juxtaposition, television coverage of the House impeachment debate on Friday was interrupted for an update from the Pentagon on the progress of the Iraq air strikes and the eerie green photos of Baghdad as anti-aircraft shells streaked across the skies. The combustible mixture fomented partisan rancor and fixated the capital.

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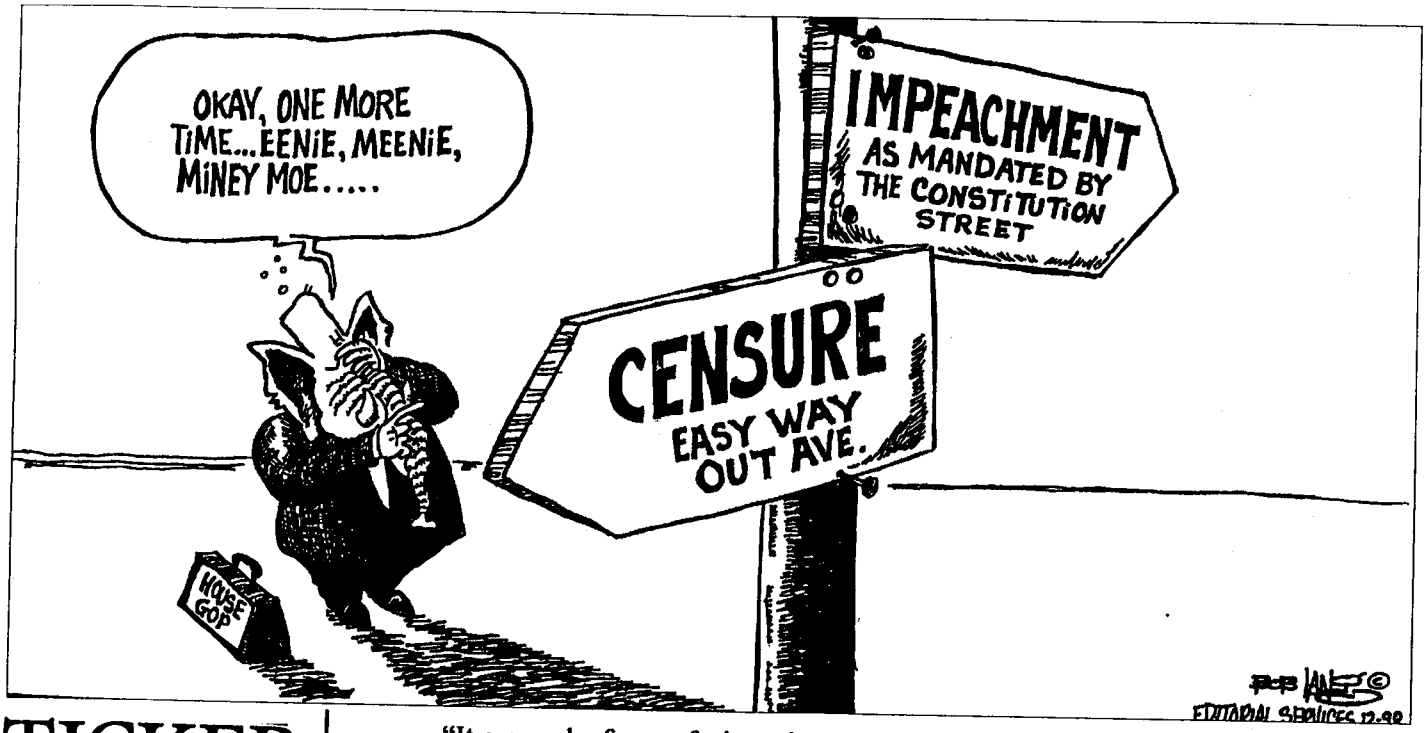

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Salon Magazine, the Internet publication, is expected to run Russ Baker's expose on U.S. Rep. Dan Burton early this week, perhaps as early as Monday. Baker was originally working on the story for Vanity Fair, prompting Burton to his pre-emptive admission last summer of fathering a child out of wedlock.

A Sunday New York Times poll revealed that 66 percent were against President Clinton's resignation in the wake of his impeachment and 31 percent supported resignation.

A Sunday NBC/Wall Street Journal Poll had President Clinton's job approval rating at 72 percent, up from 68 percent last week.

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"It can make for confusion, chaos, and crisis, but it can also draw out the very best of our conscience, constituents and Constitution," said Rep. Tim Roemer (D-3rd CD). "I'm hoping for the latter."

The tension in Washington has stunned veteran political observers. An almost straight party-line vote on an issue such as impeachment is a watershed. "To think what this will do to relations between the parties makes me shudder," said Norman Ornstein, resident fellow at the American Enterprise Institute.

Conservative fervor may have helped spur the Republicans. "Their core constituency wants impeachment," said independent pollster John Zogby.

Roemer and other Democrats were angry, even bitter, about how the House came to vote to impeaching the President for perjury and obstruction of justice for his actions in legal proceedings involving his affair with former White House intern Monica Lewinsky.

"The Republican leadership was very crafty and extremely Machiavellian in making this an all-or-nothing impeachment vote," said Roemer, who had worked with Democratic colleagues on writing a censure resolution. The Republicans denied a vote on censure.

Giving the House a censure option would have been more fair than an up-or-down vote on impeachment, Roemer said. Being forced to vote on impeachment alone helped push an avalanche of moderate Republicans in that direction, dooming the president.

Roemer took his argument to the top Republican in Congress, then Speaker-designate Bob Livingston. "Bob said, 'I don't think censure is constitutional.' I said I strongly disagree," said Roemer, who cited censure and rebuke measures passed by the House in 1832, 1834, and 1860.

Neither Roemer nor Rep. Lee Hamilton (D-9th CD) are apologists for the president. Both were among only 31 Democrats who supported the Republican measure to begin an impeachment inquiry. Both have harshly criticized the president for his behavior. But neither thought Clinton's transgression reached the level of being an impeachable offense.

The view on the Republican side contrasted vividly. "Every hour, every day, I become more comfortable with my decision," said Rep. Steve Buyer (R-5th CD), a member of the House Judiciary

Committee. "You can't do what is popular when you're upholding the law. It's a vote about helping to define our national character."

Buyer, an attorney, wrote an 80-page legal brief advocating the impeachment of President Clinton. After Clinton was impeached, Buyer was selected by U.S. Rep. Henry Hyde as one of 13 House managers of the impeachment trial in the U.S. Senate. Buyer circulated the brief to his nine colleagues in the Indiana House delegation and 19 other members.

At the other end of the political spectrum, Rep. Julia Carson (D-10th CD) was frustrated and exasperated. "This is no different than what the congressional leadership has wanted to happen since 1994," she said. "They have wanted to dismantle and disgrace the administration. The partisan politicians were dogged and determined. It was an abuse of power."

Another Hoosier on the Judiciary Committee, however, thought his colleagues on both sides of the aisle approached the impeachment vote with equanimity. "Members have been rather calm under the circumstances," said Rep. Ed Pease (R-7th CD). "It's a somber time and it's been difficult. I do believe the overwhelming majority have struggled through this. They're not rushing to judgment."

Hamilton's regret

Hamilton worked the phones in his waning days in Congress to try to persuade moderate Republicans to support censure. By Monday night, he sounded weary. "They're probably tired of hearing from us by now," Hamilton said before fence-sitting Republicans started to come down in favor of impeachment.

The retiring statesman was relegated to undignified surroundings. He and the other 38 members leaving the House set up makeshift offices in what is normally a banquet room in the basement of a House building. He didn't even have a staff member to answer the phone. All of this for a vote he dreads.

"I have cast over 16,000 votes," Hamilton said. "It's depressing to me that my final votes will be on impeachment. It's a depressing environment."

Souder struggles

The votes Rep. Mark Souder (R-CD 4) made on impeachment probably won't be his last. But they may have been his most difficult. For weeks, Souder indicated that he was leaning against impeaching the president over matters related to the Lewinsky affair. As moderate Republicans began to come out against impeachment, Souder found himself in the odd position of being the lone conservative opposing impeachment. He felt pressure from right-wing groups and activists. He was attacked in *The Weekly Standard*, a conservative magazine, and was even criticized by Allen County Republican Chairman Steve Shine.

CONGRESS WATCH

"I've been through multiple wringers," Souder sighed in a phone interview with HPR shortly after the impeachment vote."

Souder stood out conspicuously as the one conservative who appeared ready to vote against impeachment. In the end, Souder voted against Articles I, II and IV, and for Article III. As for the first two articles, Souder said, "I don't think these two things represented public acts."

On Article III - the obstruction of justice charge - Souder maintained, "Obstruction of justice was a combination; a series of things. At the end of the seven points, I believe it was clear and convincing. It was beyond a reasonable doubt. It was clear he (Clinton) attempted to get the gifts back. When you added it all together there was a pattern of trying to stop justice from being done. that met

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HOUSE JUDICIARY COMMITTEE TESTIMONY:

U.S. Rep. Ed Pease - "Last week, one of the witnesses impugned both the perceived collective motive of the House and of individual members. Today another witness did the same in his accusations of a cavalier attitude among members on this difficult subject or a disregard for the letter and spirit of the Constitution. There are members of this committee and of this House who have been scrupulously careful, often at the expense of attack from across the political spectrum, to reserve judgment in this matter, to listen carefully and respectfully, to avoid partisan attacks and to do their duty as they see it. I still believe there are members, despite the attacks, who will try to do the right thing in an atmosphere ot civility and respect. And words like those heard today make it more difficult for us to do so."

U.S. Rep. Steve Buyer - "You know, one thing that is a lot different is we don't have a John Dean. You had someone on the inside that came forward."

ON THE HOUSE FLOOR:
U.S. Rep. Julia Carson - "Some say, 'This is not about sex; it's about lying under oath.' Lying under oath about sex is about sex.

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And the only reason it's about sex is that you guys couldn't get anything else on him."

Rep. Buyer: "Mr. Barrett brought up the issue of censure to this House, and I'd like to address it at this time. While I appreciate the intentions of the supporters of censure, I nonetheless urge members to oppose it, because it is a fraud and an assault upon the Constitution. Censure is not an authorized alternative to impeachment. Congress has the express Constitutional authority to censure its own members for misconduct, but there is no expressed authority in the Constitution for Congress to censure the President. Impeachment is the only power in the Constitution granted to Congress to address Presidential misconduct and dereliction in his executive duties. The founding fathers set high standards for impeachment. And by also providing that conviction requires a two-third vote in the Senate to remove the President from office, they insured impeachment would not become a method for Congress to harass executive or judicial officials. A censure resolution would fly in the face of the separation of powers doctrine. Congress can't make it up as we go along. Constitutional scholar Gary McDowell stated: 'Impeach-

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the Constitutional threshhold. Most of the hammering I took was from Article I, and it distracted me from Article III.

Souder's position against impeachment was well-documented in the 4th CD throughout much of November and December. "When the story ran in the *New York Times*, it became a national story and then a tornado started in the 4th District."

Souder moved to the undecided column after meeting with Buyer and Pease and spending most of Wednesday pouring through thousands of pages of non-public Lewinsky investigation documents in the Ford Office Building. Souder continued down the tortuous impeachment road all the way up to the Saturday morning votes.

"I was impressed by his questions," said Buyer. "He was being studious. He wanted to see more evidence. Ed and I directed him to the Ford Building."

Pease also praised his anguished colleague. "He is what I've always known him to be--conscientious," he said.

Later Wednesday, Souder consulted with U.S. Rep. Christopher Shays, who had just endured an emotional town hall meeting with his constituents in Connecticut. The two pondered the material. "We were both unnerved," Souder said of the first two articles. "It didn't meet the standards of impeachment. But Chris got me starting reading on Article III."

Thursday night, Souder and Shays met with Rep. Hyde and Republican Counsel Shippers. Then from 10 p.m. until 3 a.m. Friday, Souder "went through these reports. I saw a lot in the minority report that didn't see the light of day." There were conversations with U.S. Sen. Dan Coats, Charles Colson, Gary Bauer and phone tag with Dan Quayle.

"Colson was pushing me, telling me that in prisons, the powerless get nothing, but they'll be saying, 'See, look what is happening with Clinton.'" Souder countered, "My position was, he should still be prosecuted."

Also crossing Souder's options was voting as an act of civil disobedience. "Can a public official commit civil disobedience?" Souder asked. "If I did, then I would have to resign."

Souder sighed. "The danger of my vote is I didn't make anyone happy. But this isn't about making people happy. I did the best I could."

The pressures were varied. His own staff disagreed with him, as did some in his own family. So did 4th CD Republican Chairman Don Clark. There were 2,000 calls and e-mails during the last week, and when it was all done, he had talked to 5,000 constituents including

those along summer and fall parade routes. "Out of 250,000 people who vote, that is not a majority," Souder explained. "Nearly all of those 250,000 people had an opinion. In the 21 poll (WPTA-TV), 31 percent were for impeachment, when the question of resignation, it was up to 70 percent.

"Sometimes people forget we're a republic, not a democracy. We are elected to sort through and that person makes decisions in office. I have been about as open as anybody."

As for President Clinton, Souder said, "I believe Bill Clinton is near the end of history. He will be through soon."

As for his own political future, Souder said, "I'll get a primary opponent, but you don't lose primaries."

And there were reassuring words from unusual sources. "One of the people who has been very interested and supportive was Tim Roemer. He told me, 'I appreciate you were so reflective.' He got beat up for supporting the inquiry, and then when he voted against impeachment, the inquiry supporters beat him up."

Clinton's hubris

Souder's isolation stemmed in part from the fact that so many moderate GOP members came out against impeachment. In a remarkable loss of momentum, Clinton went from thinking he had beaten impeachment after the election to becoming only the second president ever to suffer the humiliation.

Many thought his cavalier attitude in November and December cost him crucial support. He never admitted he lied, even in statements as late as last weekend. His answers to 81 questions about the scandal posed by the Judiciary Committee were dismissed as legalistic and evasive by Republicans and some Democrats.

"There was a psychological shift that occurred with those answers, and it brought it into focus for everyone," said Rep. David McIntosh (R-2nd CD).

Will voters remember?

McIntosh acknowledged that voting in favor of impeachment might upset many voters, who according to polls opposed the action. "There could be political consequences," he said. But "this should be a matter of constitutional law, legal questions and what's right for the country."

It's impossible to know what will happen from week to week in politics. But the impact of impeachment probably won't reach the magnitude of the 1995-'96 government shutdown. "Unlike the government shutdown, this doesn't affect (voters') personal lives," said Marshall Wittmann, director of congressional relations at the conservative Heritage Foundation.

Although people may be satisfied with the job the president is doing, his personal approval is low. "There is a distinct lack of outrage on the left side about this process," said Wade Anderson, of QEV Analytics, a Washington consulting firm.

Another pollster agreed that the impact could be limited. "The great American middle is concerned about Christmas and getting the kids to school on time," said Zogby.

Throughout Indiana, the detachment was obvious. There were many letters to the editor throughout the state. Talk radio was particularly stoked up on Wednesday night and Thursday morning when President Clinton announced the Iraqi air strikes on the eve of impeachment. Commentators such as Greg Garrison and Mike Pence on WIBC-AM felt the timing of the air strikes was too coincidental and not unlike Clinton's assaults agaisnt terrorists in Sudan and Afghanistan three days after his grand jury testimony and his disastrous Aug. 17 address to the nation.

The only public demonstration HPR heard about was against the military action, taking place in downtown Indianapolis on Friday.

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ment is the only power granted by the Constitution to Congress to deal with errant executives. Had the founders intended some other means of punishment to be available to your branch, they would have say so."

U.S. Rep. Tim Roemer - "There is a precedent. There is no prohibition or prevention to censure, and it is unfair and against our own rules not to let us vote."

U.S. Rep. Ed Pease - "If censure is intended as punishment of the President, it is specifically constitutionally prohibited as a bill of attainder. If censure is not intended as a punishment of the president, it is meaningless. I have not researched the options available to the Senate, but for the House, I am convinced this option is not available."

Rep. Buyer - "There have been many who have come to the well today (Saturday) and they've been requesting that this body take up the issue of censure of the President. You know, it would be nice, I guess, if you could take the easy way out; cut and run. But we can't do that, nor can Congress make it up as we go. ng know it's a legal technical term and people don't like the lawyerly language, but it's called extra-constitutional. What that

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means is, the Constitution does not specifically provide for censure as an alternative to impeachment. You see, we also, as members of Congress, took an oath, and it was to defend the Constitution. We have a duty to exercise legislative competence, and we can't make it up as we go. President Andrew Jackson, who is known as one of the founding fathers of the Democratic Party, he was censured by the Senate. Then there was an election, and then the next Senate, they expunged it from the record. President Jackson's - I'll repeat - he has - his own words shed great light on this challenge we have here today. And he penned these words over 150 years ago. President Jackson wrote that 'the very idea of censure is a subversion of the powers of government and destructive to the checks and safeguards of governmental power.' President Jackson rightly claimed that censure was 'wholly unauthorized by the Constitution and is a derogation of its entire spirit.' You see, for us to make it up as we go, to cut expediently and to censure the President, we can't make it up. It's not constitutional."

U.S. Rep. Pete Visclosky - "It was fascinating sitting there. We're voting on articles of impeachment ... and everybody is running around on the other side of

Although the general population may not be paying attention, emotions ran high enough to generate record-setting numbers of phone calls and e-mails to the Hill. People calling in were often confronted with busy signals. "I can't even get through to my own office," McIntosh said when talking to reporters from Indiana.

Voters could remain upset, causing trouble for individual members, depending on the makeup of their districts. Rep. John Hostettler (R-8th CD) voted in favor of impeachment.He has been elected by less than 55 percent twice and his district voted for Clinton twice. He could potentially be at risk in 2000.

Hostettler, though, has proven himself a survivor so far. "He's certainly taken a number of votes you could argue would be controversial," said Amy Walter, House editor of the *Cook Political Report*. "It's not out of character for him. He won big, for him, this time around (1998) against a well-funded, good candidate."

The key impeachment Republican players - Pease, Souder and Buyer - all hail from relatively safe districts. Only a national wave roiling up from the impeachment action would endanger their tenures.

On to the Senate

Voter sentiment may be determined in large part by how the impeachment process unfolds. Senate Majority Leader Trent Lott has said that the Senate will conduct a trial beginning in January. Although a majority vote could bring the proceedings to a close, it is unclear what will happen because it will be the first impeachment trial in 130 years.

Neither Sen. Dick Lugar (R) nor Sen.-elect Evan Bayh (D) have indicated whether they will vote to convict or acquit the president. Both are refraining from commenting because they are potential jurors. Lugar has said, however, that perjury could be an impeachable offense and that the Senate must be deliberate and thorough in its consideration rather than reaching a quick censure compromise.

Lugar told the *Indianapolis Star* on Sunday, "I'm going to watch the evidence very carefully. It's a solemn duty. Each one of us in the Senate now serves as a member of the jury, and I think we all take that responsibility very seriously."

Lugar said he believed Articles I and III "were ones in which the evidence seemed to be much more comprehensive."

Bayh told the *Bloomington Herald-Times* on Saturday, "I often said when I was governor, I didn't take the oath of office just to make the easy decisions. I have to make the hard ones, too. Sen. Lugar has taken a similar approach. We'll comment when the trial is over."
Bayh did say that what the president did was wrong. "Now we need to determine what punishment is appropriate, get it behind us and move on to other business as quickly as we can," he said.

A trial could present Bayh with his first public stance as a voter. Polls have shown that a majority of Hoosier voters support either impeachment or resignation. Bayh has been described as a friend of Clinton who delivered the keynote address to the 1996 Democratic National Convention. During this year's Senate race, Fort Wayne Mayor Paul Helmke and other Republicans constantly raised the spector of Bayh cancelling out Lugar's vote.

While there might be short-term risks for Bayh with Indiana voters should he vote against impeachment in a Senate trial, the long-term risks would probably be low. Bayh won't be up before Indiana voters until 2004, unless he's on a national ticket before then, and if that's the case the greater political danger in a national context would have him cast a vote against a Democratic president. Such a vote would have the potential of dooming his viability at that level.

Lugar will be on the ballot for re-

election in two years. But it is hard to imagine how an impeachment vote could have any real impact on his prospects for 2000.

The next few weeks will give the Senate an opportunity to distinguish itself, said one analyst. "The Senate's going to step up to the plate and be the hero," said Larry Sabato, professor of political science at the University of Virginia. "And both parties could look good."

The chief justice of the Supreme Court would preside and witnesses, including Lewinsky, could be called as senators observe from their desks on the floor. Buyer will serve as one of the prosecutors in the trial.

Hamilton is not optimistic. "A trial in the Senate would be extended and very disruptive," he said. Proposals have been floated that would require the Senate to conduct normal business in the mornings and the trial in the afternoon.

The stakes on how impeachment is handled in the Senate are huge. If it slips into bitter, partisan rancor, the two major political parties could be setting the stage for someone like Minnesota Gov.-Elect Jesse "The Body" Ventura to enter the national scene and pose as a viable option to the notion of politics as usual.

It is important to keep in mind how volatile the prospects of a Senate trial would be. President Clinton got into this predicament when he totally misread the Nov. 3 election results. A mere three weeks ago, no one believed the House would impeach Clinton. During the Bulen Symposium at IUPUI on Dec. 1, the *Chicago Tribune's* Michael Tackett gently needled HPR Publisher Brian Howey as perhaps the only person to bring up the name of Monica Lewinsky as a relevant political element at that time.

What we'll be watching will be public opinion polls over the next week. Don't be shocked if Clinton's approval rating shoots into the 70th or 80th percentile. If that occurs, it will suck the oxygen away from a Senate conviction. Should his favorable numbers fall, or earlier numbers showing that while most

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the aisle trying to become the new king at the very moment we're trying to do articles of impeachment. This is a Constitutional crisis now, and I think it will be very deliberate and very protracted in the Senate" (Indiana-polis Star).

U.S. Rep. David McIntosh - "Bill Clinton violated the Constitution he swore to uphold and perverted the rule of law that is the foundation on which our nation rests. It is time for Clinton to put the interests of the nation ahead of his personal interests: I call on Bill Clinton to resign. Bob Livingston deserves much credit for what I believe was a selfless, courageous and heroic act to put the interest of the country and the Republican Party ahead of his personal interests. Actions do speak louder than words, and Bob's actions this morning speak volumes about his character and his courage. He deserves the nation's respect."

U.S. Rep. John Hostettler - "It's clear that President Clinton may have broken the laws he is bound to enforce."

U.S. Rep. Lee Hamilton - "It's distressing, of course, to end my voting career over the topic of impeachment of a president. There are a thousand and one issues I would

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rather vote on" (Indianapolis Star).

Rep. Hamilton - On Livingston's resignation. "It took me completely by surprise. We were just shocked by the news. And I am afraid that this Congress is seeing the devouring of our own" (Indianapolis Star).

U.S. Sen. Richard Lugar on Wednesday night's bombing of Iraq: "If we had failed to commence military action tonight, we would have no credibility in the second half of our Iraq policy. Any other decision would have severely damaged the credibility of the United States not only in Iraq, but in the eyes of others around the world who pose current threats to our security" (Evansville Courier). ❖

were against impeachment but for resignation if that occurred, then the pressure for Clinton's resignation will build. The key players in a resignation scenario would be Democratic Sens. Joe Liebermann, Patrick Moynihan and Christopher Dodd. All remain undecided and fully support proceeding with a Senate trial.

Life after impeachment

Most observers predict that Clinton will survive in the Senate. At that point, the country will face a situation it hasn't confronted since 1868 - living with an impeached president. How does a president deal with the House, after it said, in effect, he's not fit to serve?

Pease said government would continue to function properly. "I've approached this as a constitutional responsibility," he said "I understand there's a responsibility to procedure as well as to substance. There is a process and we followed the process."

But Congress is much less likely to give Clinton the benefit of the doubt, Buyer said. This dynamic was demonstrated forcefully by the controversy surrounding the launch of air strikes in Iraq on the eve of the impeachment debate. "His judgment will always be second-guessed," said Buyer.

The coin of the realm in the political world is compromise, which may be the path toward healing. "They're all politicians, which means by definition they're very practical," said Sabato.

Ornstein is much less sanguine. The Republicans may be in for some payback. "If the Republicans think they'll turn around and make deals on policy, it's not going to happen that way," he said.

The airing on Thursday of extramarital affairs in Livingston's past and his subsequent and stunning resignation on Saturday morning may be a barometer of the future political climate. "Everyone is going to be out there trying to destroy the other side," said Ornstein.

Regardless of the outcome of the impeachment process, already low public opinion of politics may sink to new depths. "We have had a continuous erosion of people's faith in Washington," said Curtis Gans, director of the Committee on the Study of the American Electorate. "This will just add to it." ❖

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