

back in 1999. Now, I happen to think that is a good idea. The basic procedural framework of the Clinton impeachment trial served the Senate and the Nation well, in my view. But the problem is that while the Democratic leader notionally says he wants a potential 2020 trial to look like 1999, he goes on to demand things that would break with the 1999 model.

In President Clinton's trial, we handled procedural issues in two separate Senate resolutions that passed at different times. The first resolution passed unanimously before the trial. It sketched out basic things like scheduling, opening arguments, and the timing of a motion to dismiss. Other, more detailed questions about the middle and the end of the trial, including whether any witnesses would be called, were reserved for a second resolution that was passed in the middle of the trial itself. As a matter of fact, we passed it only after a number of Democrats, including Senator SCHUMER himself, voted to dismiss the case. They got a motion to dismiss before the Senate had even decided whether to depose a single witness.

Instead of the tried-and-true 1999 model—start the trial and then see how Senators wish to proceed—the Democratic leader wants to write a completely new set of rules for President Trump. He wants one single resolution up front instead of two or however many are needed. He wants to guarantee up front that the Senate hear from very specific witnesses instead of letting the body evaluate the witness issue after opening arguments and Senators' questions, like back in 1999.

Very tellingly, our colleague from New York completely omits any motions to dismiss the case, like the one he was happy to vote for himself as a new Senator back in 1999.

Almost exactly 20 years ago today, prior to the Senate trial, Senator SCHUMER said this on television—a direct quote—this is what he said:

Certainly any senator, according to the rules, could move to dismiss, which is done. . . . Every day, in criminal and civil courts throughout America, motions to dismiss are made. And if a majority vote for that motion to dismiss, the procedure could be truncated.

That was Senator SCHUMER in January of 1999, but now the same process that Senator SCHUMER thought was good enough for President Clinton, he doesn't want to afford President Trump. Go figure.

Look, most people understand what the Democratic leader is really after: He is simply trying to lock in live witnesses. That is a strange request at this juncture for a couple of reasons.

For one thing, the 1999 version of Senator SCHUMER vocally opposed having witnesses—even when the question was raised after hours of opening arguments from the lawyers, hours of questions from Senators, and a failed motion to dismiss. How can he have prejudged that he favors live witnesses so strongly this time before the Senate even has articles in hand?

Moreover, presumably it will be the House prosecutors' job to ask for the witnesses they feel they need to make their case. Why does the Democratic leader here in the Senate want to predetermine the House impeachment managers' witness request for them before the House has even impeached the President? Might he—just might he be coordinating these questions with people outside the Senate?

Here is one possible explanation: Maybe the House's public proceedings have left the Democratic leader with the same impression they have left many of us: that from everything we can tell, House Democrats' slapdash impeachment inquiry has failed to come anywhere near—anywhere near—the bar for impeaching a duly-elected President, let alone removing him for the first time in American history. So those who have been eagerly hoping for impeachment are starting to scramble.

Chairman ADAM SCHIFF and House Democrats actively decided not to go to court and pursue potentially useful witnesses because they didn't want to wait for due process. Indeed, they threatened to impeach the President if they had to go to court at all. That intentional, political decision is the reason why the House is poised to send the Senate the thinnest, least thorough Presidential impeachment in our Nation's history.

By any ordinary legal standard, what the House Democrats have assembled appears to be woefully, woefully inadequate to prove what they want to allege. Now the Senate Democratic leader would apparently like our Chamber to do House Democrats' homework for them. He wants to volunteer the Senate's time and energy on a fishing expedition to see whether his own ideas could make Chairman SCHIFF's sloppy work more persuasive than Chairman SCHIFF himself bothered to make it. This concept is dead wrong. The Senate is meant to act as judge and jury, to hear a trial, not to rerun the entire factfinding investigation because angry partisans rushed sloppily through it.

The trajectory that the Democratic leader apparently wants to take us down before he has even heard opening arguments could set a nightmarish precedent for our institution. If the Senate volunteers ourselves to do House Democrats' homework for them, we will only incentivize an endless stream of dubious partisan impeachments in the future, and we will invite future Houses to paralyze future Senates with frivolous impeachments at will.

This misunderstanding about constitutional roles brings me back to something I raised earlier. The Democratic leader's letter to me, by way of the press, literally misquoted the Constitution. Senator SCHUMER wrote that we should exercise "the Senate's 'sole Power of Impeachment' under the Constitution with integrity and dignity." He attributed to the Senate the "sole

Power of Impeachment." Well, there is his problem. That is the role the Constitution gives, actually, to the House, not to the Senate. It gives it to the House. Article I, section 2 says: "The House of Representatives . . . shall have the sole Power of Impeachment." It doesn't sound ambiguous to me.

If my colleague wants to read about our responsibilities here in the Senate, he needs to turn to the next page. Article I, section 3 says: "The Senate shall have the sole Power to try all Impeachments." We don't create impeachments over here; we judge them.

The House chose this road. It is their duty to investigate. It is their duty to meet the very high bar for undoing the national election. As Speaker PELOSI herself once said, it is the House's obligation to "build an ironclad case to act." That is Speaker PELOSI. "It is the House's obligation to build an ironclad case to act." If they fail, they fail. It is not the Senate's job to leap into the breach and search desperately for ways to get to guilty. That would hardly be impartial justice.

The fact that my colleague is already desperate to sign up the Senate for new factfinding, which House Democrats themselves were too impatient to see through, well, that suggests something to me. It suggests that even Democrats who do not like this President are beginning to realize how dramatically insufficient the House's rushed process has been.

Well, look, I hope the House of Representatives sees that too. If the House Democrats' case is this deficient and this thin, the answer is not for the judge and jury to cure it over here in the Senate; the answer is that the House should not impeach on this basis in the first place. If the House plows ahead, if this ends up here in the Senate, we certainly do not need jurors to start brainstorming witness lists for the prosecution and demanding to lock them in before we have even heard opening arguments.

I still believe the Senate should try to follow the 1999 model—two resolutions—first thing's first. The middle and the end of this process will come later.

So I look forward to meeting with the Democratic leader very soon and getting our very important conversation back on the right foot.

(Mr. ROUNDS assumed the Chair.)

LEGISLATIVE AGENDA

Mr. MCCONNELL. Mr. President, on an entirely different matter, there remains a great deal of outstanding legislation the Senate must complete for the American people before we adjourn for the holidays.

I was glad to see yesterday's overwhelming bipartisan vote to advance the conference report to the 59th consecutive National Defense Authorization Act. We moved it in the Senate by a vote of 76 to 6.

For months, unprecedented partisan delays threatened a nearly six-decade

tradition of expressing Congress's bipartisan commitment to our national defense, but with the Senate's final vote later today, we will finally put this vital legislation on the President's desk. I look forward to voting to pass the NDAA today by another overwhelming bipartisan vote for our servicemembers and the critical missions they carry out.

Of course, the Senate needs to follow up the Defense authorization bill with appropriations measures and funding our national defense and domestic priorities. Ensuring the Federal Government makes careful use of taxpayer dollars is an uphill battle by definition. So it is critical that we plan in advance and deliver clarity for the full year ahead, rather than careen from one short-term stopgap to another. This point is especially crucial for our Armed Forces. Underwriting the commitments we make to the security of America's interests and our allies are the investments we make in a 21st century fighting force.

Our Nation's top military commanders have been crystal clear: This requires stable and predictable annual funding. It is as simple as that. As the Chairman of the Joint Chiefs, General Milley, put it recently, continuing resolutions are "a very ineffective and inefficient use of the taxpayers' dollars."

The Secretary of Defense hasn't minced words either: "Every day that a CR continues is one less day that we can invest in future capabilities and future technologies."

As a simple matter of good governance, avoiding another stopgap CR is an important step. So I am encouraged that the House is preparing to advance full-year appropriations bills this week. Obviously, what is actually in these bills certainly matters. So I am glad to say the efforts of Chairman SHELBY, Senator LEAHY, and their counterparts in the House and White House negotiators have produced a bipartisan package of full-year funding measures that will make needed investments in our Nation's top priorities.

First is a topline increase in funding that our national defense requires. For the third consecutive year, President Trump and Republicans in Congress will deliver on our commitment to continue rebuilding America's military after nearly a decade of forced belt-tightening.

As threats to the United States, our allies, and our interests continue to emerge and evolve, this work is more important than ever. America no longer stands unchallenged in the international system.

As Russia tests the reach of its meddling influence in Europe and the Middle East, as China invests heavily in reshaping the order of the Asia-Pacific region in its image, a new era of great power competition demands our attention and our action.

The defense funding measure the House will consider today answers

these realities with a significant increase in defense funding. Our commanders will have more resources to modernize force structure, develop cutting-edge weapon capabilities, and ensure that American servicemembers receive the best training, equipment, and support available. It includes much needed upgrades to the nuclear force that backs up America's strategic posture, investments in hypersonic technologies to keep pace with our biggest adversaries, and renewed commitments to our servicemembers and their families here at home.

But our efforts are about more than equipping the U.S. military to win a fight. The funding bill takes a comprehensive approach to the security of the United States and our allies. It will unlock targeted resources for countering the creeping influence of authoritarian powers so military engagements become less likely in the first place.

I am particularly proud that, thanks to my own efforts, the legislation modernizes the reporting requirements of the Hong Kong Policy Act I sponsored back in 1992. It expands our support for democracy in Hong Kong, including legal support to Hong Kong activists, and increases the Countering Russian Influence Fund.

Of course, our work goes beyond defense and foreign affairs. We are talking about full-year funding for the Federal Government's domestic work as well, for example, big wins for the President's agenda to bring more security to the southern border. This year's funding bills provide another \$1.4 billion for the border wall system plus more flexibility on location than last year's funding. Despite the efforts of some House Democrats during this process, Presidential authorities to transfer necessary funds remain intact.

The bills also fund critical transportation infrastructure grants and inland waterways projects. They provide for our Nation's continuing fight against the opioid epidemic and help equip local authorities and first responders combating the scourge of addiction nationwide.

I am very proud and pleased that this legislation also includes Tobacco 21 legislation that I introduced with my friend from Virginia, Senator KAINE, this year. Raising the age of purchasing vaping devices and other tobacco products to 21 years old nationwide will take bold, direct action to stem the tide of early nicotine addiction upon our Nation's youth.

In another provision I fought to include in this legislation, we will secure the pension benefits of nearly 100,000 coal miners and their dependents in Kentucky and across the country.

Another key section provides hundreds of millions of dollars more for election security, another step in the work by Congress and this administration to make sure the lapses that took place on the Obama administration's watch in 2016 are not repeated.

The list goes on and on. All manner of important priorities will benefit this bipartisan legislation. It is not just about what these bills will continue, it is also about what this legislation will end.

It will take several more big bites out of the failures of ObamaCare by repealing more of its burdensome taxes. Already Republicans have repealed the board that ObamaCare set up to micro-manage healthcare and zeroed out the individual mandate penalty. We have already done that. Now this legislation the House will pass today will repeal even more of ObamaCare's misguided measures such as the medical device tax and the Cadillac tax.

So there are two timeless truths about the appropriations process in divided government. First, neither side will ever get what they would consider to be perfect bills, but, second, full-year funding definitely beats drifting endlessly from CR to CR. This legislation we expect the House to send us today satisfies the important priorities for the White House, for each of my colleagues, and for the American people. I look forward to supporting it, and I hope Senators on both sides of the aisle will do the same.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

LEGISLATIVE SESSION

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2020—CONFERENCE REPORT—Resumed

The PRESIDING OFFICER. The Senate will now resume legislative session.

Under the previous order, the Senate will resume consideration of the conference report to accompany S. 1790, which will be stated by title.

The senior assistant legislative clerk read as follows:

The committee of conference on the votes of the two Houses on the amendment of the House to the bill (S. 1790) to authorize appropriations for fiscal year 2020 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, having met, have agreed that the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment and the House agree to the same, signed by a majority of the conferees on the part of both Houses.