

Mr. SCALISE. Mr. Speaker, I appreciate the majority leader going

through those bills. There were a few bills that the Speaker had referenced earlier this week that would also be considered. Congresswoman LEE's resolution to repeal the 2002 AUMF, and there was also some legislation by Congressman KHANNA that would eliminate the ability for the administration to use certain funds related to Iran.

I wanted to ask if those two bills were going to be part of that package for next week, and I yield to the gentleman.

Mr. HOYER. That is a possibility, but they have not yet been scheduled.

Mr. SCALISE. As it relates to the War Powers Act, obviously, we had a heated debate on the floor yesterday.

We have had a robust debate for years in this House on whether or not to modify and make changes to the 2002 AUMF. It has been a constant debate.

There has been a lack of an ability to form consensus, clearly, on both sides. I know the gentleman is aware there are a number of Members on our side who have brought up this issue before, as well as Members on your side.

Yesterday, we were literally in the middle of a crisis. We had just taken out one of the worst and most brutal terrorists that we have seen, in Soleimani. I haven't seen a lot of disagreement that he was a brutal terrorist. The Obama administration designated him as the head of a terrorist organization, and he was in violation of international law that prohibited him from being in Iraq.

In the time of crisis, instead of having a conversation separate from that on actual changes to the AUMF, if that is where my friend's majority would like to go—clearly, again, on our side, there were people who were interested in having that debate. It was disappointing that, instead, we went into what turned out to be more of an effort to take a cheap shot at the administration by bringing a resolution that had absolutely no effect of law.

If the AUMF is going to be changed, it has to be an act of Congress. I know the gentleman is aware of that. On our side, we are aware of that, too. Instead of trying to engage in that kind of conversation, debate, and negotiation, it was just a resolution that everyone recognizes would not have made any changes to the AUMF.

Why, during this time that we are in right now, was that the path to go, as opposed to trying to have a sincere debate on whether or not real changes to the AUMF should take place?

Mr. Speaker, I yield to the gentleman.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his question.

As to the issue of authorizations of military force consistent with the War Powers Act and consistent with the Constitution of the United States, which sets forth clearly that it is the Congress and only the Congress that can declare war, we believed and still believe it was necessary to move as quickly as possible to clarify that the

expectation of the Congress of the United States is that it would be included in any conversation, discussion, and debate with reference to whether or not we ought to take an act of war.

Without getting into the complexities, I would call your attention to an extraordinarily good article that was in today's paper by Jim Webb, the former Secretary of the Navy and a Navy Cross awardee who fought in Vietnam and who served in the United States Senate, with reference to whether or not legally the action that was taken by the President was justified.

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Let me say something, Mr. Speaker. I would hope this debate—and I said this yesterday during the course of the debate—would not descend into demagoguery.

I was very disappointed with a remark that was made by one of the Republican Members of this House when he said, they are “in love with terrorists,” referring to the Democrats, presumably, who were proponents of assuring that the War Powers Act would be honored by the President and with the constitutional requirement that we are the ones, and only ones, who declare war. Not one of us loves terrorists.

He went on to say: “We see that they mourn Soleimani more than they mourn our Gold Star families.”

Now, that is interesting from, frankly, a member of a party whose President criticized very, very sharply and directly a Gold Star family, the Khans. It is ironic coming from a party whose President—our President, but of the Republican Party—said he didn't respect John McCain, one of America's great war heroes, who showed such courage.

So my point to the gentleman is that I would hope—Proverbs 19:5 says this: “A false witness will not go unpunished, and he who speaks lies will not escape.”

I would hope the gentleman that uttered these comments would apologize to every Member of this side of the aisle. The gentleman correctly, just now, I thought, made a very calm and correct statement with respect to that we ought to have a substantive debate.

I have criticized this Congress, others have criticized this Congress, from both sides of the aisle, for not, over the last 30 years, passing Authorizations for Use of Military Force. The last one we did, of course, was in 2001 and 2002.

The gentleman asked whether those bills may come to the floor. We voted on them, as you know, previously. Those amendments passed. They were in the National Defense Authorization Act to directly address the issue of authorization of military forces and the expenditures of funds in military action. Nobody laments the loss of Mr. Soleimani, who did, in fact, not only plan, but execute and fund terrorist actions that resulted in the loss of American life.

Having said that does not absolve us from the responsibility for policies which are akin to or are acts of war. Without going further into that, let me refer to what we did yesterday, and let me read from this War Powers Act, Mr. Speaker.

Congressional Action, paragraph (c): “Concurrent resolution for removal by President of United States Armed Forces.

“Notwithstanding subsection (b), at any time that United States Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs by concurrent resolution.”

That is what we passed yesterday. Many Republicans, Mr. Speaker, said, well, this is an act that has no consequence. I would hope that none of us believes that the expression of opinion by the Congress of the United States by majority vote in each House has no consequence. If that is the case, we are in a bad time in our democracy.

So, what we did yesterday was consistent with section (c) of section 1544 regarding congressional action, and it is exactly what we did yesterday.

It will go to the Senate. It will have, as we understand from the Parliamentarians in the Senate, privileged status, meaning that the Senate will have to consider that, and also meaning that it can be passed or defeated by a majority vote.

This is a serious time. Taking the kind of military action we took was a serious step. Many of us were not very pleased with the lack of substantive information that we received at the briefing this week. Obviously, many Members of the United States Senate were not pleased as well.

So I would say to my friend, Mr. Speaker, it is important that this body, confronted with one of its most important and serious and consequential decisions—that is, the declaration of war and military action against another nation—that it be debated seriously without pejoratives being projected at either side, without invective similar to the one that I just read, and without the aspersions that somehow, if you believe the Constitution of the United States requires the Congress to act before we can take actions of war, that somehow that implies that you are in bed with or temporizing about or favorable to those who commit terror.

That is a McCarthy tactic. It is highly offensive. And, if said on this floor, would be subject to the words being taken down and the Member not being allowed to speak again on this floor during that day.

Mr. Speaker, let me, in closing on this response, simply say to the Republican whip that I agree with his premise that we ought to have a careful, adult, substantive discussion about policies that may plunge this Nation into war. That is our duty. That is what our citizens expect of us.

I think we had that yesterday. Strike that. I think in some instances we had a serious discussion, but in some instances there was too much invective that we were giving aid and comfort to terrorists.

That is a slippery slope if we cannot discuss what posture the United States ought to be in and exercise our constitutional duties to decide whether this Nation ought to go to war with a foreign country, with another nation. Hopefully, we can have that in the future, because it is one of the most consequential debates that this body ever has.

Mr. Speaker, I will tell the gentleman, again, that we may be taking up additional legislation consistent with the War Powers Act. I believe the Senate, hopefully, will, next week or—at the latest, I think they have 15 days or 10 days to consider it and put it on the Senate floor for a vote so that we can transmit to the President of the United States Congress' view on how carefully we ought to approach these issues.

Very frankly—I will say, sadly—there is much sentiment on this side of the aisle that the Commander in Chief does not address these issues carefully and thoughtfully and in concert with his advisers and the advisers in the Congress of the United States. We had no consultation. We didn't even have a notice, much less consultation of this action.

No one, I would close with, laments the loss of a life who has sponsored, funded, and advocated terrorism. But this is not about him. It is about us. It is about our Constitution. It is about our responsibility. It is about how these decisions ought to be made.

Mr. SCALISE. Mr. Speaker, to start with, the comment that the gentleman referenced on the floor yesterday, I will read from a statement from the gentleman who made that comment yesterday: "Let me be clear: I do not believe Democrats are in love with terrorists, and I apologize for what I said earlier this week."

So the gentleman has apologized for that statement.

Mr. HOYER. Mr. Speaker, I appreciate that, and I thank the gentleman for calling that to my attention.

Mr. SCALISE. Mr. Speaker, I point that out and that that not be used for any kind of justification for the other disagreements and issues and concerns we had with what happened on the floor yesterday.

Frankly, there were statements made on the gentleman's side as well that I think ought to be addressed, apologized for.

Mr. HOYER. Mr. Speaker, if the gentleman would call my attention to those statements and the speakers of those, I would be happy to oblige and talk to them.

I really do believe, Mr. Speaker, this issue should be handled in the most responsible and respectful way possible, because it is one of the most serious, if

not the most serious, issues with which we will deal. And we ought to deal with one another based upon the intellectual arguments, the constitutional premises, and the law, not on personalities or assertions of malintent.

Mr. SCALISE. Mr. Speaker, I thank the gentleman.

First of all, to start with, it is the President's not just authority, but it is the President's responsibility under the Constitution as our Commander in Chief to keep this country safe. President Trump has made it very clear that he is going to protect this country from terrorists or people who want to do us harm domestically or abroad.

In the case of Soleimani, there was a redline issued a long time ago.

I know, in the past, previous administrations have issued redlines and then let those lines be blown through without taking any action, and I would argue that makes our country less safe when people don't think we are going to back up our words with actions as not just the greatest military force in the world, but the greatest defender of freedom throughout the world, anyone who seeks freedom, including people in Iran who seek freedom today from this oppressive regime.

They have one place they can look to, and that is the United States of America. That is what makes us such a great nation is that we don't shed our blood to conquer more land; we shed our blood to keep people safe, not just here in America, but to provide freedom all around the world to anyone who seeks it.

The fact that President Trump maintained a redline that was crossed is something we all should applaud.

And I would say this. You can go back to when President Obama was in office and Osama bin Laden had been the number one target of this country since the September 11 attacks, and President Obama made the decision. It was his call to take out bin Laden when they thought—they weren't positive, but they thought—they might have a real intelligence understanding of where he was. And the President made that call.

We had a lot of disagreements with President Obama during that time on policy, but we applauded that decision. We united behind that decision because it was the right thing to do to take out a terrorist who had been a major threat to our country.

By the same token, I understand that your side has a lot of differences with the President. I just wish in a time like that, when everyone acknowledges how brutal a terrorist he was and he crossed a redline—he was in Iraq plotting to kill more Americans. We don't have to wonder if he was going to do it, because he has a decades-long history of killing Americans. The blood of hundreds of our men and women in uniform were on his hands, and no one disputes it.

And so he is taken out by a call that I think is the right call by our President to take him out in Iraq, which the

2002 AUMF gives him the authority to do, the Constitution gives him the authority to do.

Again, if there are some that didn't want the President to have that legal authority, that debate should happen here under the guise of changing the law, but the law gives the President that authority. Congress gave that authority to the President in 2002. I wasn't here. I know the gentleman was. It was heavily debated.

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But ultimately, that law was passed, and that law is still on the books today. If there is a desire to change the law, that debate should happen, not through a resolution in the middle of this conflict, where missiles are being fired back and forth, but where we can actually talk about changing the law in a responsible way that focuses on the longer-term objective; not just to try to undermine the President in the middle of him acting out his duties as Commander in Chief under the Constitution and under all legal authority.

There are Obama administration officials, multiple Obama administration officials who, just in the last few days, very publicly said that President Trump had the full legal authority to take the action he did.

Now, we can debate whether or not you think he should have done it. I think he should have. I am glad that Soleimani is no longer on this planet plotting to kill more Americans, which is what he was doing illegally in Iraq. And that, ultimately, is something that we can debate.

But a lot of us felt it was inappropriate to be bringing a resolution, not to change the War Powers Act, not to have this serious discussion about whether or not the 2002 AUMF should still be in place as it was; but to just take a cheap political shot at the President in the middle of this.

There was a Presidential candidate just yesterday, Democrat Presidential Candidate, a major candidate for President, who said innocent civilians are now dead because they were caught in the middle of an unnecessary and unwarranted military tit-for-tat.

So, in essence, equating the killing of one of the most brutal terrorists, who killed hundreds of Americans, and plotting to kill more, equating that to Iran shooting down an airplane and another 176 people dead because of Iran's actions, the two of those are not on the same level.

Those kinds of comments are unnecessary as well. I am not sure what is unwarranted about taking out Soleimani, if that is what he is suggesting, and others have suggested it too.

So, again, we can have that disagreement. But the legislation was not only untimely, but it wouldn't even achieve the purpose that many on both sides of the aisle would like to see, and that is a real discussion about whether the War Powers Act operates properly.

Frankly, there are many scholars who suggest the War Powers Act may be unconstitutional. We have never challenged it in the courts. On a number of fronts there were times when President Obama took action, many times, using drone strikes, using other attacks, where he never notified us.

I surely wasn't notified in advance of the Bin Laden killing. I am not sure if the gentleman from Maryland was notified by President Obama in advance of the Bin Laden killing, and I am okay with that. I don't think the President needed to get permission. He notified us afterwards, which is what the law requires, by the way. The law does require notification after.

I think it would be irresponsible to require the President to notify Congress prior to the taking out of a terrorist every time they are trying to take out a terrorist.

Again, President Obama used that authority multiple times to take out terrorists without prior notification of Congress, but clearly meeting other legal requirements along the way. If those legal requirements should be changed, let's have that debate.

I haven't seen that legislation come forward. Maybe the gentleman is going to bring the legislation to the floor next week that would repeal the AUMF. I think that would be an unwise move to do, but let's have that debate, if that is where the majority wants to go. But yesterday wasn't that debate because it wasn't a change of law.

A 1983 U.S. Supreme Court decision made it clear that measures do not have the force of law unless they are formally presented to the President; and we all know that that, even if it were to pass the Senate, which I doubt highly it would, it doesn't go to the President. It doesn't change the law.

So typically, when we have conflicts like this, Congress comes together behind our Commander in Chief to stand up for America against terrorists. A lot of us felt that that wasn't the case yesterday, it was disappointing.

Again, the gentleman from Georgia made his comments apologizing for that comment he made, but in the broader context of what happened yesterday, it was just disappointing that, instead of having a sincere debate about whether the 2002 AUMF should stay in place as is or be changed, which is a longer negotiation; that resolution just took a swipe at the President and tried to limit his ability. I mean, literally language that says directing the President to do certain things is disingenuous when the resolution doesn't have the effect of law.

You can't direct the President to do something. You can't call him on the phone and say I direct you to do something. You could pass a law to direct him to do something, but that is not what happened yesterday, and that is the point and the concern.

Again, as the gentleman knows, there is strong interest on both sides to revisit, maybe to keep it in place. But

the 2002 AUMF has been a topic of conversation for a long time and will continue to be one.

But if there is going to be a sincere effort to change it and a desire to change it, then it ought to happen through the proper course of legislation, and that wasn't what happened yesterday.

Mr. Speaker, I yield to the gentleman.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments.

Simply to focus on the RECORD and to make clear the RECORD, the 2002 Authorization for Use of Military Force to which the gentleman refers authorizes the use of force: One, to defend against Iraq, not Iran; and two, to enforce United Nations Security Council resolutions regarding Iraq.

For counsel or the administration to argue that the 2002 Authorization for Use of Military Force authorized the action that was taken, I think, is incorrect. That is what they do argue. It hasn't been resolved by a court, but I believe, and I think many on my side of the aisle and, frankly, I think many scholars around the country have opined, that the 2002 authorization did not authorize that particular act.

Again, no one laments the loss of Soleimani. Everybody agrees that he sponsored, paid for and ordered committed acts of terrorism. And we will continue to believe that the Congress needs to speak.

Whether or not a court would hold that the section that I just read with reference to the President would have to take action in the event that the Senate and the House adopt the concurrent resolution that we passed yesterday, and that is now at the Senate and under the War Powers Act will have to be considered by the Senate, and will be subject to a majority vote, not a 60-vote threshold for passage.

I would hope that if Congress did that, that the President would certainly take that into consideration and consult with the Congress on any further action that he might take; unless, of course, and as the War Powers Act authorizes, the President can and should, and the military can and should take any actions necessary to defend itself in the face of imminent threat and/or actual threat.

Mr. SCALISE. Mr. Speaker, finally, to talk about where we are on the impeachment resolution that was passed last year, at the end of last year by the House. Ultimately, it is typically an administrative duty to send papers over to the Senate if legislation passes, obviously impeachment managers would then need to be named.

There is breaking news that the Speaker is announcing that she has asked Chairman NADLER to be prepared to bring impeachment managers to the floor next week. I am not sure if that is ongoing, or if that is something that had already been in the works.

But does the gentleman expect that legislation to come to the floor next

week? And does that mean that the papers either have been transmitted to the Senate or would be transmitted to the Senate within the next few days?

Mr. Speaker, I yield to the gentleman.

Mr. HOYER. Mr. Speaker, in answer to the gentleman's question, the expectation is that we will have, consistent with the letter just sent to all of our Members, and instructions to Mr. NADLER, or suggestions to Mr. NADLER, we do expect there to be legislation on the floor next week with reference to what we call supplemental legislation for the appointment of managers, the funding of the effort. And we expect the papers will be sent sometime soon.

Mr. SCALISE. Mr. Speaker, of course we have been seeing a chorus of Democrat Senators in the recent days expressing concern that the papers should be sent over. Obviously, on our side, we felt that there was no case, there was no crime, and it was clear I think in so many areas of this.

But ultimately, if the House passes legislation, any legislation, whether the Speaker voted for it or against it, it is not some power of the Speaker, exclusively and dictatorially, to hold onto that if the Speaker doesn't want to send it to the Senate. Ultimately, for the ability to function as a legislative body, if the House passes legislation, it goes to the Senate so that the Senate can take it up and do whatever they are going to do with it.

But this idea that one person out of 435 can make a decision that even if the House passes legislation and the motion to reconsider is tabled, then it goes to the Senate.

Hopefully, that is resolved by next week and that charade ends, and we finally get true justice where it is disposed of, which I think everybody acknowledges that will happen once it goes over to the Senate.

But let us get back to the business of doing the people's work. And hopefully, we can then get to some of the broader bipartisan legislation that has been in the works for a long time to address real issues like lowering drug prices, like securing our border, like so many other things that Republicans and Democrats actually in the middle of all of this are working on together to try to accomplish.

Mr. Speaker, I yield to the gentleman.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

As the gentleman knows, of course, we have 275 bipartisan bills which have been sent from the House to the Senate involving very, very serious issues, dealing with the environment, dealing with wages, and dealing with jobs, dealing with making our communities safer, dealing with violence against women, dealing with equal pay for equal work, which was something that John Kennedy signed in 1963, but is, today, not a reality, unfortunately. So there are many issues I could name. Obviously, a lot more, because there

are 275 and we sent over 400 bills to the Senate and they sit untended.

Why? Because the Senate has been confirming judges.

Why? So they can put in judges that agree with their positions. That is the irony of a party that was so intent, in my political life, in making sure that judges acted only on the law. What philosophical imprimatur has to be given to judicial appointments nowadays? And by a majority leader who refused a President of the United States who submitted a nominee, Mr. Garland, for 11 months.

It is inconceivable to me that any Founding Father thought, for 11 months—now, it has been a few days since we passed impeachment that we have sent those papers up.

For 11 months, a President of the United States, pursuant to his constitutional authority and responsibility, sent a nominee to the United States Senate; 11 months before the election. And the majority leader said, tough. We are not going to consider it. We are not going to allow the committee to consider it. We are not going to allow it to be reported out to the floor and there is going to be no vote on it.

So, yes, there has been some delay, because in that context and in the context of the majority leader working hand-in-glove with the defendant, or the respondent, however you want to call it, in a civil case, criminal case, hand-in-glove.

By his own admission he was not going to do anything that the President didn't want him to do. It is like the prosecutor saying—or the juror saying, I am not going to do anything that the defendant doesn't want me to do.

So, yes, we have been very concerned, and are concerned to this day. An honest trial—and that is what is the responsibility of the United States Senate. An honest trial tries to elicit from both sides all of the relevant evidence.

We are concerned that it appears that the Senate, certainly at this juncture has made no decision to receive all the relevant evidence. We think that is inconsistent with their responsibilities under the Senate rules and to the American people. We lament that fact and we have been trying to get from the Senate what are the rules?

Mr. Speaker, the other side talked a lot about process, about how they needed to have this avenue, that avenue, and the other. That is all we were asking because this is the trial, not the time when you have, essentially, a grand jury deciding whether or not there is probable cause that the President of the United States has abused his power.

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That is especially what our role is, as an analogy to a criminal case. But there was no expression from the Senate that a normal process to determine the truth of the allegation was going to

be pursued in the United States Senate.

The Speaker simply wanted to have that assurance. We have not gotten it. The American people have not gotten it.

What has happened since we passed that resolution? A number of people have come forward. Mr. Bolton, in particular, said that he will testify. Other people have been identified as having relevant, pertinent, firsthand knowledge, not hearsay, firsthand knowledge of the allegations that are included in the Articles of Impeachment I and II.

I am hopeful that, in fact, the Senate, both Republicans and Democrats, will come to an agreement that all the fact witnesses will raise their hand to tell the whole truth and nothing but the truth.

The Senate is going to raise their hand under Senate rules and say they swear to be impartial in consideration of the evidence, yet they will not allow the evidence, apparently, at this point in time at least, to be elucidated. I am hopeful that changes.

I expect, as I said earlier, Mr. Speaker, to the Republican whip, that those papers will be transferred in the near term. I don't know specifically when but in the near term to the Senate.

I am hopeful the American people will get what they deserve from the United States Senate serving as essentially jurors and will be sworn in as such by the Chief Justice, not by the Vice President presiding over the Senate but the Chief Justice presiding over a quasi-legal, quasi-political process.

I will tell my friend that a letter has been sent. I do expect legislation to be considered next week, which is necessary to proceed with the process. I hope the process proceeds, Mr. Speaker, in a judicial, fair way that allows all the evidence on both sides, from the President's side and the House's side, which will carry the argument justifying the Articles of Impeachment and the finding of fact that those articles are, in fact, worthy of having the President of the United States removed for abuse of power.

That is the issue. It ought to be argued fairly on both sides, and the evidence ought to be adduced on both sides.

Mr. SCALISE. Mr. Speaker, it is interesting that the gentleman talks about fairness in the trial. It is quite rich of the Speaker to call for fairness in the Senate when she denied fairness in the House.

You can look at House rules that require the minority gets a day of hearings on impeachment, and that rule was thrown out the window.

The gentleman said an honest trial tries to elicit all the evidence. Of course, we had multiple witnesses we wanted to bring forward that were denied. Clearly, all the evidence didn't get out.

I guess, by definition, it was not an honest trial in the House. I am confident they will have an honest and fair

trial in the Senate. In fact, there are negotiations to make sure it will be fair.

By the way, I want to make this point because when the impeachment proceedings were moving forward with President Nixon, it was a Democratic Congress that negotiated with the Nixon administration, with the Nixon White House, to determine a fair set of rules, and the House adopted those rules. That was a Democratic conference.

Then, fast forward to the Clinton impeachment where you had a Democratic President and a Republican House. The House negotiated with the White House to come up with fair rules. Ultimately, they adopted the Nixon standard because everybody agreed that was a fair process.

Whether or not you like the outcome is one thing, but it was a fair process. That never happened here. This House didn't make an effort to try to negotiate a fair set of rules with us in the minority or with the White House.

Again, House rules actually require a minority day of hearings, and that was broken and not allowed. We didn't get that minority day of hearings. We requested it multiple times to try to get some fairness to elicit facts from all sides, but we weren't given that opportunity.

The Senate now has a case that was sent over to them. By a lot of estimates, it is an inadequate case, and it is a weak case. I think the majority must acknowledge that, which is why they are holding the papers and hoping for more things, which is what this was all about anyway.

It seems like every week we would hear more rumors that, next week, the big witness is going to come out and everything is going to be exposed, and then that witness would testify under oath that, no, they didn't see a crime. But don't worry, next week, there is going to be another one.

This will go on forever. It is like a Groundhog Day of impeachment. At some point, I would hope the majority says enough is enough, that they will actually let the people of this country decide, which they will. It is going to be the people of the country that decide the President at the end of this year in the election.

This President, obviously, has a very strong case to make with what he has done to get this economy back on track, to rebuild this military, to protect America, to secure our border, and all the other things that he will have a case to make to the people.

Of course, the gentleman is going to have a nominee who is going to make their case, however far left that case will be. We will see through the primaries. But the people will, ultimately, make that decision.

Our job should be to focus on doing the work of the American people, and hopefully, that happens. The Senate is going to have their opportunity. I am confident they are going to have a fair

trial. I wish that would have been the case here in the House.

Mr. Speaker, I yield to the gentleman.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

First of all, the Constitution does not provide for a trial in the House of Representatives, period.

However, Mr. Speaker, the minority continues to make the analogy of what is done in the House: impeachment, analogous to an indictment, making a charge and determining that there is probable cause.

Secondly, in the Nixon administration, there was a Democratic Congress, and there was discussion back and forth. Guess what? The President's witnesses came forward.

What happened in this case? The President said nobody can testify to the Congress. I believe that was obstruction of justice, but that is for the Senate to decide—certainly, obstruction of the Congress.

In the Clinton administration, the same thing happened. Witnesses came forward, including, I believe, the Chief of Staff of the White House. So it was a very different situation.

In addition, in both the Nixon and Clinton administrations, the minority shoves aside the fact that there were special prosecutors that had depositions of all the witnesses and were available in the United States Senate at the time of the trial. So the Senate had full information.

Thirdly, the gentleman does not either remember or assert, Mr. Speaker, that the Judiciary Committee said to the White House counsel that you can participate. There is time for you to come down. There is time for you to call witnesses. There is time for you to make your case. Mr. Cipollone, the White House counsel, notified the committee they were not interested. Why were they not interested? Because, in my opinion, their expectation is they were going to go to the Senate and have the case dismissed without any evidence being adduced.

Mr. Speaker, I think that is unfortunate, but those are the facts. That is what happened. If you make a further analogy of the grand jury, the defendant plays no role in the grand jury, none, zero, zip, no counsel, no witnesses in the room. The jury decides if there is probable cause to believe that X committed an offense worthy of going forward. That is what happens. There is no participation.

There was participation here. The President had opportunities here. All the Republicans participated and could cross-examine the witnesses that did, in fact, come forward in the Judiciary Committee, Oversight and Reform Committee, Intel Committee, Foreign Affairs Committee, and Financial Services Committee.

I would hope that would happen in the Senate. If you want to know the truth, Mr. Speaker, that is what ought to happen.

If it is just presenting information that is not relevant in this trial, i.e., "I did a good job on the economy. I did a good job on foreign policy. I did a good job on protecting our borders." That is the President's argument in a political sense. I understand that. But that is not legally relevant information as to whether or not he abused his power in particular in the phone call with the Ukrainians in which he withheld money appropriated by the Congress of the United States to help protect an ally, Ukraine, against incursion by Mr. Putin. I am sure Mr. Putin was very pleased that that money did not go to President Zelensky and the Ukrainian forces.

We think that was an abuse of power. My friend the Republican whip thinks it was not. I get that. That is what makes the world go around, differences of opinion.

It is now in the Senate. That is where a trial is provided for in the Congress. That is where witnesses should be provided. That is where both sides ought to be able to make their arguments before the jury, the United States Senate. Then and only then should the United States Senate make a determination whether or not the allegations had merit and warrant the consequences.

I tell my friend, when you make these analogies of what happened here in the House, it is done. The whip may think it is bad, Mr. Speaker. The whip may think it wasn't done correctly. But the proof in the pudding will be: Is he urging the Senate to do what everybody in America thinks of as a trial? That is what the Senate under the Constitution is: the trier of the facts and law, presided over by the Chief Justice of the Supreme Court of the United States.

I would hope the gentleman would be urging as strenuously in the Senate, where trial and proper procedures should be followed, as they did here in the House.

Mr. SCALISE. Mr. Speaker, clearly, as the gentleman knows, it is the Senate's job to try the House's case. If the House failed to make its case, that is the House's fault. To suggest that the Senate needs to mop up the mess that was done here because there was not fairness, because both sides didn't get the opportunity, if one side wants to say, "I have a case to make. I am going to make my case, but I am not going to let them make theirs, and I am not going to let them call their witnesses," and we had a long list of witnesses we wanted to call that we were denied.

You are in the majority. You get to make the rules. If that is what you want to call fair, you can, but it is not.

The Senate has it, but it was all done according to the majority out of urgency. That is the word we heard over and over again. If the gentleman wanted to have other people come to testify, the President and every President exerts executive privilege, so if the standard is a President exerting execu-

tive privilege equates to obstruction of Congress, then you would have to retroactively go back and impeach every President, including George Washington.

Exerting executive privilege is not an obstruction of Congress. Congress can have a disagreement with the President. We have surely had disagreements with previous Presidents exerting executive privilege when we were in the majority. You fight those out in the courts. The gentleman is well aware of that. Maybe the courts will say yes, and maybe the courts will say no, but that attempt wasn't made. Why? Because according to your own leader, Speaker PELOSI, "urgent"; Chairman SCHIFF, "The timing is driven by the urgency"; Chairman NADLER, "The threat is urgent." They rammed it through, and other facts and other witnesses that they didn't want, they discarded.

The actual rule of the House, clause 2(j)(1) of rule XI requires—not allows but requires—the minority to have a day of hearing. That was denied because there was urgency. They didn't want all the facts to get out. They were concerned about urgency.

Lo and behold, it passes, and all of a sudden, what happened to the urgency? The Speaker says we are going to hold the papers. You had Democratic Senators: I think it is time to send the impeachment to the Senate. Let MITCH MCCONNELL be responsible for the fairness of the trial. He ultimately is.

Other Senators said very similar things. At some point in time, if it was urgent and then it happened, and then you don't send it over because now all of a sudden you realize it is a weak case and you are hoping something else pops up, you are hoping maybe the Senate can do the things that weren't done here because it was an urgency, it was expediency, appeasing a political base.

□ 1215

There was no crime. Every other impeachment started with a crime, not the hope of a crime. You can listen to a phone call and suggest something.

Interestingly, I never saw any attempt to impeach President Obama because he didn't give that aid to Ukraine. If the aid was so important that it was impeachable not to give it, Obama didn't give it. We didn't try to impeach him. It was bad foreign policy that he didn't provide Javelin missiles to Ukraine. It wasn't impeachable.

But President Trump did give the aid, President Trump did sell the Javelin missiles to help Ukraine stand up to Putin.

President Obama didn't help Ukraine stand up to Putin. If that is who you are most concerned about, then maybe the impeachment would have been in the other direction.

But, again, that was bad foreign policy that President Obama didn't give Ukraine the tools that they asked for and were denied by the Obama administration, but it wasn't impeachable.



Here you might have a disagreement with President Trump's foreign policy. You might have a disagreement that he did sell the Javelin missiles, maybe you agreed with it. But ultimately the President did send that aid. There was no investigation and he sent the aid. But impeach him for it anyway because you disagree with other things. I think that became very clear.

At some point, if it is focused on personality, I think that is what people are most fed up with.

If there were facts, then both sides would have been able to present all of the evidence, both sides would have been able to call all of the witnesses.

If the majority had confidence in their case, they would have said, Okay. You can call your witnesses, because our witnesses are better. We have higher confidence in our case. But that didn't happen.

We were denied what the rules of the House requires: a minority day of hearing. We wanted it, we asked for it, the rules required it, but they blew through it, they threw that away.

That is not fairness. But the Senate will conduct a fair trial based on a weak case. If the case was stronger, regardless, the Senate's job is to try the case that was made in the House, whether it was a strong or a weak case, and that ought to happen. Justice is being denied every day it is not.

Mr. Speaker, I yield to the gentleman.

Mr. HOYER. Mr. Speaker, the gentleman, I don't know what analogy he is using to process, but what he just said would effectively say, if the witnesses weren't called and presented in the grand jury, then the defense attorney can't call them, then the prosecutor can't call them.

That is absolutely untrue. I could use a harsher word of how lacking in substance I think that representation is.

The Senate is now trying the case. The grand jury has sent the case over there strong enough to have a significant majority of the House vote for it, by the way, in a partisan sense, not a single Republican. Well, there was a single Republican. As a matter of fact, there are three or four who have talked to me privately—I will not mention their names—but they didn't vote, as they talked to me.

But the fact of the matter is, what the gentleman's proposition is is that if you didn't call the witnesses in the House, then you can't call them in the Senate.

Now, the reason for that is because they don't want the witnesses called, which is why the President told them, Don't testify in the House.

They were asked to testify. And what happened when we asked them to testify? No, you have to have a subpoena.

What happened when we had subpoenas when we talked to Mr. McGahn? He went to court. And when he lost, he appealed, and they were going to appeal to the Supreme Court. That takes forever.

The fact of the matter is there was certainly, from our perspective, overwhelming evidence, not that he withheld money, but the reason he withheld money.

Obviously in the cases cited by the minority whip, Congress had not appropriated and directed that money to be sent to Ukraine. And, in fact, President Obama gave significant aid. He didn't give them missiles, but he gave significant aid and assistance to the Ukrainians. But the fact of the matter is, we didn't direct him to send the money.

We directed this President to send the money. Why? As we have done before on Russian sanctions very early on with Mr. MCCARTHY and I cosponsoring legislation which directed the President to impose the sanctions on Russia because we weren't confident that he would do so on his own.

But the analogy that the gentleman continues to make as a rationalization for why the Senate does not appear to be going to have a fair, open trial-like, as the Constitution requires, with swearing to be impartial, meaning they want to get at the facts and make a judgment on the facts, he has not, Mr. Speaker, explained why he is not recommending the same fairness that he wanted to have here.

He wasn't in charge. He says he didn't get it. I get that. But they are in charge over there. And I would urge the minority whip to urge the majority leader to have a trial as we would expect to have a trial if either of us were under indictment. We would expect to be able to call witnesses, and we would understand that the prosecution would call such witnesses as they believe necessary and are relevant to the case.

That is a very important phrase I want to emphasize, "relevant to the case," because so many of the witnesses, like the whistleblower, who is protected by our laws that we have passed from being exposed to adverse actions, and the President says, Bring us the whistleblower. The Republicans say, Bring us the whistleblower. The whistleblower doesn't have any knowledge to testify on. They are correct: it was hearsay.

He heard from somebody that the guy down the street committed a crime. I didn't see it. He told me. So what do I do? I call up the police and say, Joe Doe told me a crime is being committed down the street. You better go see.

So I emphasize, Mr. Speaker, hopefully in closing, that we have passed—Republicans all voted "no," I get that. But the House of Representatives believed by a majority vote that we had made a case for probable cause. And under those circumstances, the Constitution says the Senate will then try that case to determine whether or not, in fact, the probable cause was accurate.

All we are asking is that it be done in a fair, open, and complete manner. Because there was no Special Prosecutor, there was no way to compel some of

those witnesses who refused to come testify, who now, John Bolton being the specific example, are saying, Yes, I will testify.

Personally, I don't believe that the Senate majority leader wants John Bolton to testify, but he clearly has firsthand knowledge, not the whistleblower, not somebody told me, but firsthand knowledge. By the way, when he heard about it, apparently he called it a drug deal.

So I hope, Mr. Speaker, that the whip will urge the Senate to do what he wanted done here, or perhaps take the position, they are wrong means we can be wrong. Maybe two wrongs will make a right. That is not the way we usually think of it, but I am hopeful that not only will the minority whip, the Republican whip do that, I hope the minority leader will do that. It would be good for the country.

Mr. SCALISE. Mr. Speaker, if the gentleman wants to talk about how the process works, I have made it clear. The gentleman is in the majority. They get to make the rules however they want.

But to say, as the gentleman said earlier, an honest trial tries to elicit all of the evidence, no one can make the argument that all of the evidence was presented.

Again, we called and asked for multiple witnesses and were denied. We were denied the ability to have the witnesses we asked for.

Now, they are in the majority. They said no, and they were able to roll over that because they had the votes. But don't say it was fair. Don't say it was an honest trial, when by their own definition, all of the facts in evidence have to come out.

Mr. HOYER. Mr. Speaker, will the gentleman yield for just one second so I can clarify?

Mr. SCALISE. Mr. Speaker, I yield to the gentleman.

Mr. HOYER. Mr. Speaker, we did not have a trial. The Constitution does not require a trial. We are not the trial forum. The Senate is the trial forum.

Certainly the gentleman has watched enough television trials, maybe been in trials for all I know, I am a lawyer, so obviously I have been in trials. That is the place where you call witnesses. That is where the defendant has the right.

He has no right in the grand jury to call witnesses. He has no right in the grand jury to be there. He has no right to have his lawyer in the grand jury room.

Now, we afforded the President of the United States that right, and he rejected it. His lawyer sent a letter to Mr. NADLER and said, Thank you, but no thanks. We are not going to play.

So, Mr. Speaker, in my view, the minority leader, minority whip continues to conflate the responsibility we had here in the House and the responsibility the Senate has.

The Senate is the trier of facts, not the House. The House is the determinant of whether there is probable

cause, and we did that and it is over in the Senate, and it is their responsibility and duty.

They lift their hands to swear they will be impartial, to get all the relevant evidence—relevant evidence, relevant evidence—not just some fishing expedition on either side, the prosecution or defense.

And with that, I hope we can end this debate, because it will be endless if we do not, simply because we are not going to agree, Mr. Speaker.

We have, obviously, very different perceptions as to what the duty of the House was and very different perceptions that if we thought what we did in the House was wrong, we ought to repeat it in the Senate.

I think the papers will be going to the Senate. The Senate will decide what it is going to do. I hope the Senators comport themselves as the Founders and the people would expect.

Mr. SCALISE. Mr. Speaker, let's be clear. Probable cause is not the standard in the Constitution.

To remove a sitting President, the Constitution is very specific: treason, bribery, or other high crimes and misdemeanors, not probable cause. That would be in the Constitution if that is what the Framers intended for impeachment to be used for, but that is not what impeachment is to be used for.

There were witnesses called, multiple witnesses.

There were tryouts, by the way, in secret that Chairman SCHIFF had prior to asking the President at the last minute, after all of this innuendo and you would hear leaks and leaks and this is going to happen, and then they would have a secret hearing where witnesses were sworn in, but none of us could find out what was happening in those secret hearings.

And as we talked to Members that were there, all of the leaks and innuendos turned out to be disproven. We couldn't find that out, because the chairman closed those hearings to the public, closed those hearings to most Members of Congress.

But ultimately the Senate's job is to try the case that was made in the House, weak or strong. And clearly it was weak, because the urgency that was talked about, it would already be going on if it was a strong case. But even if it is a weak case, it is not the Senate's job to mop up that mess.

It is the Senate's job to go and hear the case that was made in the House with one side presenting their witnesses.

And, again, the majority got to have that opportunity. We didn't have the opportunity to present witnesses we wanted to bring forward. And there were witnesses. They were sworn in. I don't know if you would call them something different, but that is what they were. They were there to present facts.

Many gave innuendo, but when asked under oath, Can you name the crime?

No.

Was there bribery?

No.

But let the Senate do their job, and hopefully they get that next week. I would encourage that the House get that done next week. It should have been done a while back.

Mr. Speaker, I yield to the gentleman if he has anything else.

Mr. HOYER. Mr. Speaker, I have nothing else at this time.

Mr. SCALISE. Mr. Speaker, I yield back the balance of my time.

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Miss Kaitlyn Roberts, one of his secretaries.

□ 1230

#### CONGRATULATING NATHAN KIRSCH, MILKEN EDUCATOR AWARD WINNER

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. Mr. Speaker, I rise today to congratulate Whitehaven High School math teacher Nathan Kirsch. He won the Milken Educator Award. This award is given to only 40 early- and mid-career teachers across the United States, and there was only one in Tennessee who won it.

Mr. Kirsch was surprised with the award at a school assembly Wednesday morning, where the entire student body applauded him for being the only teacher in Tennessee to receive the national distinction, which some have called the Oscar award for teaching. It could be the Nobel Prize for teaching.

In accepting the award, Mr. Kirsch called it one "for all of my students," past, current, and future.

The Whitehaven High School community is rightly proud of this accomplishment, and I am, too.

It is very encouraging that a program known for being an athletic powerhouse is also recognized for its excellence in academics. The principal at Whitehaven, Vincent Hunter, posts the names of the scholars, the ones who have gotten the best scores and the most scholarship offers, on the wall outside of his office—not athletic awards, of which there are a plethora, but academic awards.

Mr. Kirsch embodies both traditions that Whitehaven has—as a coach of teams and a great teacher who has raised their calculus scores.

Mr. Speaker, I congratulate Mr. Kirsch and all the Whitehaven Tigers on this exceptional achievement.

#### RECOGNIZING DR. MARTHA HUGHES CANNON

(Mr. CURTIS asked and was given permission to address the House for 1 minute.)

Mr. CURTIS. Mr. Speaker, my family tree on both sides is full of prominent women who served in elected office. The most notable of these is my wife's great-grandmother, Dr. Martha Hughes Cannon, a pioneer in both government and heritage.

123 years ago, she was sworn into the Utah State Senate, becoming the first woman in the country to hold that office. My wife is quick to remind me that she won that office by defeating her husband.

Utah is home to some of the most capable and influential female leaders in the Nation, and I am fortunate to have these impressive women help advise me on all issues, and specifically those that impact Utah women.

Because of the initiative of Martha Hughes Cannon, thousands of women have followed in her footsteps and served in State legislatures and as local and national leaders.

I am excited and proud to introduce a resolution dedicating January 11, 2020, as National Martha Hughes Cannon Day and honor the path that she paved for the many women who serve today.

#### SWEEPING ACTION TO ADDRESS PFAS CONTAMINATION

(Ms. KUSTER of New Hampshire asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KUSTER of New Hampshire. Mr. Speaker, today the House took sweeping bipartisan action to address PFAS contamination that has proliferated across communities in America. These forever chemicals have been linked to negative health effects, including cancer, impaired child development, and even infertility.

Granite Staters have already seen the harmful consequences of PFAS contamination, and I am pleased that the legislation we passed today will safeguard communities, clean up contaminated sites, and protect public health.

Importantly, the bipartisan bill we passed today includes language I authored to turn off the tap for new PFAS chemicals being approved by the EPA. Enough is enough. There are already too many dangerous PFAS chemicals in our environment, and the last thing Americans need is more of these forever chemicals.

The PFAS Action Act also included a bipartisan amendment offered by my good friend and colleague CHRIS PAPPAS and myself, which would authorize significant grant funding to public water treatment facilities to safeguard our drinking water.

Mr. Speaker, I urge the Senate to take up this important bill.

#### RECOGNIZING LIEUTENANT COLONEL DANIEL DAUBE

(Mr. DUNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)