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Senate

The Senate met at 1:13 p.m. and was called to order by the Chief Justice of the United States.

TRIAL OF DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment.

The Chaplain will lead us in prayer.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Divine Shepherd, honor, glory, and power belong to You. Refresh our Senators as they enter a new phase of this impeachment trial. May they realize that You have appointed them for this great service, and they are accountable to You.

Lord, empower them to labor today with the dominant purpose of pleasing You, knowing that it is never wrong to do right. Give them resiliency in their toil, as they remember Your promise that they will reap a bountiful harvest if they don't give up. Help them to follow the road of humility that leads to honor, as they find their safety in trusting You.

We pray in Your majestic Name. Amen.

PLEDGE OF ALLEGIANCE

The Chief Justice led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE JOURNAL

The CHIEF JUSTICE. If there is no objection, the Journal of proceedings of the trial is approved to date.

Without objection, it is so ordered.

The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, Michael C. Stenger, made proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment,

while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against Donald John Trump, President of the United States.

The CHIEF JUSTICE. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. Chief Justice, today the Senate will conduct up to 8 hours of questions to the parties delivered in writing to the Chief Justice. As a reminder, the two sides will alternate and answers should be kept to 5 minutes or less.

The majority side will lead off with a question from the Senator from Maine. Ms. COLLINS. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator is recognized.

Ms. COLLINS. I send a question to the desk on behalf of myself, Senator MURKOWSKI, and Senator ROMNEY.

The CHIEF JUSTICE. This is a question for the counsel for the President:

If President Trump had more than one motive for his alleged conduct, such as the pursuit of personal political advantage, rooting out corruption, and the promotion of national interests, how should the Senate consider more than one motive in its assessment of article I?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, in response to that question, there are really two layers to my answer because I would like to point out first that, even if there was only one motive, the theory of abuse of power that the House managers have presented, that the subjective motive alone can become the basis for an impeachable offense, we believe is constitutionally defective. It is not a permissible way to frame a claim of an impeachable offense under the Constitution.

I will put that aside and address the question of mixed motive. If there were a motive that was of public interest and also of some personal interest, we think it follows even more clearly that that cannot possibly be the basis for an impeachable offense. Even the House

managers, as they have framed their case, they have explained—and this is pointed out in our trial memorandum—that in the House Judiciary Committee report, they specify that the standard they have to meet is to show that this is a sham investigation; it is a bogus investigation. These investigations have—there is not any legitimate public purpose. That is the language: any “legitimate public purpose.” That is the standard they have set for themselves in being able to make this claim under their theory of what an abuse of power offense can be.

It is a very demanding standard that they have set for themselves to meet, and they have even said—they came up, and they talked a lot about the Bidens. They talked a lot about these issues and 2016 election interference because they were saying there is not even a scintilla—a scintilla of any evidence of anything worth looking into there. And that is the standard that they would have to meet, showing that there is no possible public interest and the President couldn't have had any smidgeon, even, of a public interest motive because they recognize that once you get into a mixed-motive situation—if there is both some personal motive but also a legitimate public interest motive—it can't possibly be an offense because it would be absurd to have the Senate trying to consider: Well, was it 48 percent legitimate interest and 52 percent personal interest or was it the other way, was it 53 percent and 47 percent? You can't divide it that way.

That is why they recognize that to have even a remotely coherent theory, the standard they have to set for themselves is establishing there is no possible public interest at all for these investigations. And if there is any possibility, if there is something that shows a possible public interest and the President could have that possible public interest motive, that destroys their case. So once you are into mixed-motive

● This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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