CORRECTION

Congressional Record

United States of America

PROCEEDINGS AND DEBATES OF THE 116th CONGRESS, SECOND SESSION

Vol. 166 WASHINGTON, FRIDAY, JANUARY 31, 2020 No. 21

House of Representatives

The House was not in session today. Its next meeting will be held on Monday, February 3, 2020, at 1:30 p.m.

Senate

FRIDAY, JANUARY 31, 2020

The Senate met at 1:15 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.

Eternal Lord God, you have summarized ethical behavior in a single sentence: Do for others what you would like them to do for you. Remind our Senators that they alone are accountable to You for their conduct. Lord, help them to remember that they can't ignore You and get away with it for we always reap what we sow.

Have Your way, Mighty God. You are the potter. Our Senators and we are the clay. Mold and make us after Your will. Stand up, omnipotent God. Stretch Yourself and let this Nation and world know that You alone are sovereign.

I pray in the Name of Jesus. Amen.

The CHIEF JUSTICE. Please join me in reciting the Pledge of Allegiance to the flag.

PLEDGE OF ALLEGIANCE

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 CHIEF JUSTICE. Senators, please be seated.

THE JOURNAL

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

The Deputy Sergeant at Arms will make the proclamation.

The Deputy Sergeant at Arms, Jennifer Hemingway, made the 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. For the information of all colleagues, we will take a break about 2 hours in.

The CHIEF JUSTICE. Pursuant to the provisions of S. Res. 483, the Senate has provided up to 4 hours of argument by the parties, equally divided, on the question of whether or not it shall be in order to consider and debate under the impeachment rules any motion to subpoena witnesses or documents.

Mr. Manager SCHIFF, are you a proponent or opponent?

Mr. Manager SCHIFF. Proponent.

The CHIEF JUSTICE. Mr. Cipollone, are you a proponent or opponent?

Mr. CIPOLLONE. Opponent.

The CHIEF JUSTICE. Mr. SCHIFF, you may proceed.

Mr. Manager SCHIFF. Before I begin, Mr. Chief Justice, the House managers will be reserving the balance of our time to respond to the argument of counsel for the President.

Mr. Chief Justice, Senators, fellow House managers, and counsel for the President, I know I speak for my fellow managers, as well as counsel for the President, in thanking you for your careful attention to the arguments that we have made over the course of many long days.

Today, we were greeted to yet another development in the case when the New York Times reported with a headline that says:

Trump Told Bolton to Help His Ukraine Pressure Campaign, Book Says

The President asked his national security adviser last spring in front of other senior advisers to pave the way for a meeting between Rudolph Giuliani and Ukraine's new leader.

According to the New York Times:

More than two months before he asked Ukraine's president to investigate his political opponents, President Trump directed John R. Bolton, then his national security adviser, to help with his pressure campaign to extract damaging information on Democrats from Ukrainian officials, according to an unpublished manuscript by Mr. Bolton.

Mr. Trump gave the instruction, Mr. Bolton wrote, during an Oval Office conversation in early May that included the acting White House chief of staff, Mick Mulvaney, the president's personal lawyer Rudolph W. Giuliani and the White House counsel, Pat A. Cipollone, who is now leading the President's impeachment defense.

You will see in a few moments—and you will recall Mr. Cipollone suggesting that the House managers were concealing facts from this body. He said all the facts should come out. Well, there is a new fact which indicates that Mr. Cipollone was one of those who were in the loop—yet another reason why we ought to hear

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

Printed on recycled paper.

from witnesses. Just as we predicted—and it didn't require any great act of clairvoyance—the facts will come out. They will continue to come out. And the question before you today is whether they will come out in time for you to make a complete and informed judgment as to the guilt or innocence of the President.

Now, that Times article goes on to say:

Mr. Trump told Mr. Bolton to call Volodymyr Zelensky, who had recently won election as president of Ukraine, to ensure Mr. Zelensky would meet with Mr. Giuliani, who was planning a trip to Ukraine to discuss the investigations that the President sought, in Mr. Bolton's account. Mr. Bolton never made the call, he wrote.

''Never made the call.'' Mr. Bolton understood that this was wrong. He understood that this was not policy. He understood that this was a domestic political errand and refused to make the call.

The account in Mr. Bolton's manuscript portrays the most senior White House advisers as early witnesses in the effort that they have sought to distance the President from.

Including the White House Counsel.

Over several pages—

According to the Times—

Mr. Bolton laid out Mr. Trump's fixation on Ukraine and the president's belief, based on a mix of scattershot events, assertions and outright conspiracy theories, that Ukraine tried to undermine his chances of winning the presidency in 2016.

As he began to realize the extent and aims of the pressure campaign, Mr. Bolton began to object, he wrote in the book, affirming the testimony of a former National Security Council aide, Fiona Hill, who had said that Mr. Bolton warned that Mr. Giuliani was ''a hand grenade who's going to blow everybody up.''

Now, as you might imagine, the President denies this. The President said today: ''I never instructed John Bolton to set up a meeting for Rudy Giuliani, one of the greatest corruption fighters in America.''

So here you have the President saying John Bolton is not telling the truth. Let's find out. Let's put John Bolton under oath. Let's find out who is telling the truth. A trial is supposed to be a quest for the truth. Let's not fear what we will learn. As Mr. Cipollone said, let's make sure that all facts come out.

Mrs. Manager DEMINGS. Mr. Chief Justice, Senators, counsel for the President, last Tuesday, at the onset of this trial, we moved for Leader MCCONNELL's resolution to be amended to subpoena documents and witnesses from the outset. This body decided to hold the question over. You have now heard opening arguments from both sides. You have seen the evidence that the House was able to collect. You have heard about the documents and witnesses President Trump blocked from the House's impeachment inquiry. We have vigorously questioned both sides.

The President's counsel has urged you to decide this case and render your verdict upon the record assembled by the House. The evidence in the record is sufficient. It is sufficient to convict the President on both Articles of Impeachment—more than sufficient.

But that is simply not how trials work. As any prosecutor or defense lawyer would tell you, when a case goes to trial, both sides call witnesses and subpoena documents to bring before the jury. That happens every day in courtrooms all across America. There is no reason why this impeachment trial should be any different. The commonsense practice is borne out of precedence. There has never been—never before been—a full Senate impeachment trial without a single witness. In fact, you can see in the slide that in every one of the 15 prior impeachment trials the Senate has called multiple witnesses. Today we ask you to follow this body's uniform precedence and your common sense. We urge you to vote in favor of subpoenaing witnesses and documents.

Now, I would like to address one question at the outset. There has been much back and forth about whether if the House believes it has sufficient evidence to convict, which we do, why do we need more witnesses and documents? So I would like to be clear. The evidence presented over the past week and a half strongly supports a vote to convict the President. The evidence is overwhelming. We have a mountain of evidence. It is direct, it is corroborated by multiple sources, and it proves that the President committed grave impeachable offenses to cheat in the next election.

The evidence confirms that if left in office, President Trump will continue to harm America's national security. He will continue to seek to corrupt the upcoming election. And he will undermine—he will undermine—our democracy all to further his own personal gain.

But this is a fundamental question that must be addressed: Is this a fair trial? Is this a fair trial? Is this a fair trial? Without the ability to call witnesses and produce documents, the answer is clearly and unequivocally no. It was the President's decision to contest the facts, and that is his right, but because he has chosen to contest the facts, he shall not be heard to complain that the House wishes to further prove his guilt to answer the questions he would raise. He complains that few witnesses spoke directly to the President about his misconduct beyond his damning conversations with Sondland and Mulvaney. OK, let's hear from others, then—the witnesses the House wishes to call directly to the President's own words, his own admissions of guilt, his own confessions of responsibility. If they did not, all the President's men would be on their witness list, not ours.

These witnesses and the documents their agencies produced tell the full story. And I believe that we are interested in hearing the full story. You should want to hear it. More than that, the American people—we know they want to hear it.

The House Republicans' own expert witness in the House, Professor Turley, said, if you could prove the President used our military aid to pressure Ukraine to investigate a political rival and interfere in our elections, it would be an impeachable abuse of power. Senator GRAHAM, too, recognized that, if such evidence existed, it could potentially change his mind on impeachment.

Well, we now have another witness—a fact witness—who would reportedly say exactly that. Ambassador Bolton's new manuscript, which we will discuss in more detail in a moment, reportedly confirms that the President told him in no uncertain terms—we are talking about the former National Security Advisor saying that the President told him in no uncertain terms—no aid until investigations, including the Bidens.

For a week and a half, the President has said no such evidence exists. They are wrong. If you have any doubt about the evidence, the evidence is at your fingertips. The question is: Will you let all of us, including the American people, hear—simply hear—the evidence and make up their own minds? And you can make up your own minds, but will we let the American people hear all of the evidence?

You will recall that Ambassador Bolton, the President's former National Security Advisor, is one of the witnesses we asked for last Tuesday. We did not know, at the time, what he would say. We didn't know what kind of witness he would be, but Ambassador Bolton made clear that he was willing to testify and that he had relevant, firsthand knowledge that had not yet been heard. We urged—we argued—that we all deserved to hear that evidence, but the President opposed him. Now we know why—because John Bolton could corroborate the rest of our evidence and confirm the President's guilt.

So, today, Senators, we come before you, and we urge again—we argue—that you let this witness and the other key witnesses we have identified come forward so you will have all of the information available to you when you make this consequential decision.

If witnesses are not called here, these proceedings will be a trial in name only, and the American people clearly know a fair trial when they see one. Large majorities of the American people want to hear from witnesses in this trial, and they have a right to hear from witnesses in this trial. Let's hear from them. Let's look them in the eye, gain their credibility, and hear what they have to say about the President's actions.

For the same reasons, this body should grant our request to subpoena documents, the documents that the President also blocked the House from obtaining—documents from the White House, the State Department, the DOD, and the OMB—that will complete the story and provide the whole truth,

whatever that may be. We ask that you subpoena these documents so that you can decide for yourselves. If you have any doubt as to what occurred, let's look at this additional evidence.

To be clear, we are not asking you to track down every single document or to call every possible witness. We have carefully identified only four key witnesses with direct knowledge, who can speak to the specific issues that the President has disputed, and we have targeted key documents which we understand have already been collected. For example, at the State Department, they have already been collected.

This will not cause a substantial delay. As I made clear last night, these matters can be addressed in a single week. As we made clear last night, these matters can be addressed in a single week. We know that from President Clinton's case. There, the Senate voted to approve a motion for witnesses on January 27. The next day, it established procedures for those depositions and adjourned as a Court of Impeachment until February 4. In that brief period, the parties took three depositions. The Senate then resumed its proceedings by voting to accept the deposition testimony into the RECORD.

In this trial, too, let's do the same. We should take a brief, 1-week break for witness testimony and document collection, during which time the Senate can return to its normal business. The trial should not be allowed to be different from every other impeachment trial or any other kind of trial simply because the President doesn't want us to know the truth. The American people—the American people we all represent, the American people we all love and care about—deserve to know the truth, and a fair trial requires it.

This is too important of a decision to be made without all of the relevant evidence. Before turning to the specific need for these witnesses and documents, I want to make clear that we are not asking you, again, to break new ground. We are asking quite the opposite. We are asking you to simply follow the Senate's unbroken precedent and to do so in a manner that allows you to continue the Senate's ordinary business.

The Senate, in sitting as a Court of Impeachment, has heard witness testimony in every other—as we have said earlier—15 impeachment trials in the history of the Republic. In fact, these trials had an average of 33 witnesses, and the Senate has repeatedly subpoenaed and received new documents while adjudicating cases of impeachment. That makes sense. Under our Constitution, the Senate does not just vote on impeachments, and it does not just debate them. Instead, the Senate is commanded by the Constitution to try all cases of impeachment. Well, a trial requires witnesses. A trial requires documents. This is the American way, and this is the American story.

If the Senate denies our motions, it would be the only time in history it has written a judgment on Articles of Impeachment without hearing from a single witness or receiving a single relevant document from the President, whose conduct is on trial. And why? How can we justify this break from precedent? How would we justify it? For what reason would we break precedent in these proceedings?

There are many compelling reasons beyond precedent that demand subpoenas for witnesses and cases and documents in this case.

At this time, I yield to Manager GARCIA.

Ms. Manager GARCIA of Texas. Mr. Chief Justice, President's counsel, Senators, last week, I shared with you that I was reflecting on my first days at a school for baby judges. You all may recall that. I mentioned to you that one of the first things they told us was that we had to be good listeners and be patient, and you, as judges in this trial, have certainly passed the test. Thank you for being good listeners and for being patient with us. It has been quite a long journey.

We are here today to talk about the other thing they told us in baby judge school, and that was that we had to give all of the parties in front of us a fair hearing—an opportunity to be heard, an opportunity to cross-examine witnesses, an opportunity to bring evidence. That is what I want to talk to you about today because, in terms of fundamental fairness, subpoenas by the Senate in this trial would mitigate the damage caused by the President's wholesale obstruction of the House's inquiry.

The President claims that there is no direct evidence of his wrongdoing despite direct evidence to the contrary and Ambassador Bolton's offer to testify to even more evidence in a trial. Let's not forget that the President is arguing that there is no direct evidence while blocking all of us from getting that direct evidence.

It is a remarkable position that they have taken. Quite frankly, never, as a lawyer or as a former judge, have I ever seen anything like this. For the first time in our history, President Trump ordered his entire administration—his entire administration—to defy every single impeachment subpoena. The Trump administration has not produced a single document in response to the congressional subpoenas—not a single page, nada. That has never happened before. There is no legal privilege to justify a blanket blocking of all of these documents. We know that there are more relevant documents. There is no dispute about that; it is uncontested. Witnesses have testified in exceptional detail about these documents that exist that the President is simply hiding.

President Trump's blanket order of prohibiting the entire executive branch from participating in the impeachment investigation also extends to witnesses. There are 12 in all who followed that order and refused to testify. Much of the critical evidence we have is the result of career officials who bravely came forward despite the President's obstruction, but those closest to the President—some may say, like in the musical ''Hamilton,'' those ''in the room when it happened''—followed his instruction.

The President does not dispute that these witnesses have information that is relevant to this trial, that these individuals have personal and direct knowledge of the President's actions and motivations and can provide the very evidence he says now that we don't have.

The President's counsel alleged the House managers hid evidence from you.

(Text of Videotape presentation:)

Mr. Counsel CIPOLLONE. [B]ecause as house managers, really their goal should be to give you all of the facts because they're asking you to do something very, very consequential.

And ask yourself, ask yourself, given the fact you heard today that they didn't tell you, who doesn't want to talk about the facts? Who doesn't want to talk about the facts?

Impeachment shouldn't be a shell game. They should give you the facts.

Ms. Manager GARCIA of Texas. This is nice rhetoric, but it is simply incorrect.

The President's counsel cherry-picked misleading bits of evidence, cited deposition transcripts of witnesses who subsequently corrected their testimony in public hearings and said the opposite and, in some cases, simply left out the second half of witness statements.

The House managers accurately presented the relevant evidence to you. We spent about 20 hours presenting the facts and the evidence. The President's counsel spent 4 hours focusing on the facts and the evidence, and that evidence shows that the President is guilty. But to the extent certain facts were shown to you, let's be very clear: We are not the ones hiding the facts. The House managers did not hide that evidence. President Trump hid the evidence. That is why we are the ones standing up here, asking you to not let the President silence these witnesses and hide these documents.

We don't know precisely what the witnesses will say or what the documents would show, but we all deserve to hear the truth. And, more importantly, the American people deserve to hear the truth.

Never before has a President been put—put himself above the law and hid the facts of his offenses from the American people like this one. We cannot let this President be different. Quite simply, the stakes are too high.

Second, as this builds on what we have been arguing, the Senate requires and should want a complete evidentiary record before you vote on the most sacred task that the Constitution entrusts in every single one of you.

I can respect that some of you have deep beliefs that the removal of this President would be divisive. Others,

you may believe that allowing this President to remain in the Oval Office would be catastrophic to our Republic and our democracy.

But regardless of where you are, regardless of where you land on the spectrum, you should want a full and complete record before you make a final decision and to understand the full story. It should not be about party affiliation; it should be about seeing all the evidence and voting your conscience based on all the relevant facts. It should be about doing impartial justice.

Consider the harm done to our institutions, our constitutional order, and the public faith in our democracy if the Senate chooses to close its eyes to learning the full truth about the President's misconduct.

How can the American people have confidence in the result of a trial without witnesses?

Third, the President should want a fair trial. He has repeatedly said that publicly; that he wants a trial on the merits. He specifically said it. You saw a clip that he wanted a fair trial in the Senate, and that would have to be with witnesses that testify, including John Bolton and Mick Mulvaney. He said that he wants a complete and total exoneration.

Well, whatever you say about this trial, there cannot be a total—an exoneration without hearing from those witnesses because an acquittal on an incomplete record after a trial lacking witnesses and evidence will be no exoneration. It will be no vindication—not for the President, not for this Chamber, and not for the American people.

And if the President is telling the truth and he did nothing wrong and the evidence would prove that, then we all know that he would be an enthusiastic supporter of subpoenas. He would be here probably himself, if he could, urging you to do subpoenas if he had information that would prove he was totally not in the wrong. If he is innocent, he should have nothing to hide. His counsel should be the ones here asking today to subpoena Bolton and Mulvaney and others for testimony.

The President would be eager to have the people closest to him to testify about his innocence. He would be eager to present the documents that show he was concerned about corruption and burden-sharing. But the fact that he has so strenuously opposed the testimony of his closest advisers and all the documents speak volumes.

You should issue subpoenas to the President so that the President can get the fair trial that he wanted—but more importantly, so the American people can get the fair trial that they deserve. The American people deserve a fair trial.

I said at the onset of this trial that one of the most important decisions you would make at this moment in history will not be whether you convict or acquit but whether the President and the American people will get a fair trial.

The process is more than just the ultimate decision because the faith in our institution depends on the perception of a fair process. A vote against witnesses and documents undermines that faith.

Senators, the American people want a fair trial. The overwhelming majority of Americans, three in four voters—three in four—as of this past Tuesday believe that this trial should have witnesses. Now, there is not much that the American people agree on these days, but they do agree on that, and they know what a fair trial is; that it involves witnesses and it involves evidence.

The American people deserve to know the facts about their President's conduct and those around him, and they deserve to have confidence in this process, confidence that you made the right decision. In order to have that confidence, the Senate must call relevant witnesses and obtain relevant documents withheld thus far by this President. The American people deserve a fair trial.

I now yield to my colleague Manager CROW.

Mr. Manager CROW. Mr. Chief Justice, Members of the Senate, counsel for the President, last week the House managers argued for the testimony of four witnesses: Ambassador John Bolton, Mick Mulvaney, Robert Blair, and Michael Duffey. And during the presentations from both parties, it has become abundantly clear why the direct testimony from those witnesses is so critical, and new evidence continues to underscore that importance.

So let's start with John Bolton. The President's counsel has repeatedly stated that the President didn't personally tell any of our witnesses that he linked the military aid to the investigations.

(Text of Videotape presentation:)

PURPURA: There is simply no evidence anywhere that President Trump ever linked security assistance to any investigations[.] [M]ost of the democrats[']] witnesses have never spoken to the President at all let alone about Ukraine security assistance.

. . .

Not a single witness testified that the President himself said that there was any connection between any investigations and security assistance, a presidential meeting, or anything else.

Mr. Manager CROW. Now, that is simply not true, as the testimony of Ambassador Sondland and the admission of Mick Mulvaney make very clear.

The evidence before you proves that the President not only linked the aid to the investigations, he also conditioned both the White House meeting and the aid on Ukraine's announcement of the investigations.

But if you want more, a witness to acknowledge that the President told them directly that the aid was linked, a witness in front of you, then you have the power to ask for it.

I mentioned this portion—there is a slide. I mentioned this portion of the Ambassador's manuscript in the beginning, and Manager SCHIFF referenced it as well, but he said directly that the President told him this.

Now, the President has publicly lashed out in recent days at Ambassador Bolton. He says that Ambassador Bolton is—what Ambassador Bolton is saying is ''nasty'' and ''untrue.'' But denials in 280 characters is not the same as testimony under oath. We know that.

Let's put Ambassador Bolton under oath and ask him point blank: Did the President use $391 million of taxpayer money—military aid intended for an ally at war—to pressure Ukraine to investigate his 2020 opponent? The stakes are too high not to.

I would like to briefly walk you through why Ambassador Bolton's testimony is essential to ensuring a fair trial, also addressing some of the questions that you have asked in the past 2 days.

First, turning back to Ambassador Bolton's manuscript, the President's counsel has said: No scheme existed. And the President's counsel has cited repeated denials, public denials of President Trump's inner circle about Bolton's allegations—none of them, of course, under oath. And as we know from the testimony of Ambassador Bolton, how important being sworn in really is.

But Ambassador Bolton, as the top national security aide, has direct insight into the President's inner circle, and he is willing to testify under oath whether ''everyone was in the loop,'' as he testified before.

Ambassador Bolton reportedly knows ''new details about senior cabinet officials who have publicly tried to sidestep involvement,'' including Secretary Pompeo and Mr. Mulvaney's knowledge of the scheme.

Second, Ambassador Bolton has direct knowledge of key events outside of the July 25 call that confirm the President's scheme. Remember, this is exactly the type of direct evidence the President's counsel say doesn't exist. That is partly because they would like you to believe that the July 25 call makes up all of the evidence of our case. The call, of course, is just a part of the large body of evidence that you have heard about the past week, but it is a key part. But Ambassador Bolton has critical insight into the President's misconduct outside of this call, and you should hear it.

Take, for example, the July 10 meeting with U.S. and Ukrainian officials at the White House. Dr. Hill testified during the meeting that Ambassador Sondland said that he had a deal with Mr. Mulvaney to schedule a White House meeting if Ukrainians did the investigations. According to Dr. Hill, when Ambassador Bolton learned this, he told her to go back to the NSC's Legal Advisor, John Eisenberg, and tell him, ''I am not a part of whatever drug deal Sondland and Mulvaney are cooking up on this.'' We already have corroboration of Dr. Hill's testimony from

other witnesses like Lieutenant Colonel Vindman.

And we have new corroboration from Ukraine too. Oleksandr Danylyuk, President Zelensky's former national security advisor, recently confirmed in an interview that the ''roadmap [for U.S.-Ukraine relations] should have been the substance but . . . [the investigations] were raised.''

Danylyuk also explained why this was so problematic. He raised concerns that being ''dragged into this internal process . . . would be really bad for the country. And also, if there's something that violates U.S. law, that's up to the U.S. to handle.''

Danylyuk elaborated that there were serious things to discuss at the meeting, but if instead Ukraine was dragged into ''internal politics, using our president who was fresh on the job, inexperienced, that could just destroy everything.''

Another key defense raised by the President has been that Ukraine felt no pressure, that these investigations are entirely proper. Well, here is Ukraine saying the opposite of that. You know what else Danylyuk said in the interview? ''It was definitely John who I trusted,'' talking about Ambassador Bolton.

So if you want to know whether Ukrainians felt pressure, call John Bolton as a witness. He was trusted by Ukraine, and he was there for these key meetings, and he was so concerned that he characterized the scheme as a ''drug deal'' and urged Dr. Hill and others to report their concerns to NSC legal counsel, who reports to White House Counsel Cipollone.

So let's ask Ambassador Bolton these questions directly under oath: The President says Ukraine felt no pressure, that soliciting these investigations wasn't improper. Is that true? If it is true, why is Ukraine publicly saying that the talk of investigations could destroy everything? And if the President's administration thought this was OK, why did you use the words ''drug deal?'' We should ask him that. Why did you urge your staff to report concerns to lawyers? These are all questions that we can get the answers to.

Third, the President has suggested the House managers have not presented any direct evidence about Mr. Giuliani's role in the scheme.

(Text of Videotape presentation:)

Ms. Counsel RASKIN. In fact, it appears the House committee wasn't particularly interested in presenting you with any direct evidence of what Mayor Giuliani did or why he did it. Instead, they ask you to rely on hearsay, speculation, and assumption, evidence that would be inadmissible in any court.

Mr. Manager CROW. Well, once again, that is simply not true. But if you want more evidence, we know that Ambassador Bolton has direct evidence of Mr. Giuliani's role regarding Ukraine and expressed concerns about it.

The President has suggested that Mr. Giuliani wasn't doing anything improper, and he was not involved in conducting policy. By their own admission, they said he wasn't doing policy. So let's ask John Bolton what Giuliani was doing and whether the investigations were politically motivated or part of our foreign policy.

He would know. Dr. Hill testified that Ambassador Bolton said Mr. Giuliani was ''a hand grenade,'' which he explained referred to ''all of the statements that Mr. Giuliani was making publicly, that the investigations that he was promoting, that the story line he was promoting, the narrative he was promoting was going to backfire.'' The narrative Mr. Giuliani was promoting, of course, was asking Ukraine to dig up dirt on Biden.

Dr. Hill also testified that Ambassador Bolton was so concerned, he told Dr. Hill and other members of the NSC staff that ''nobody should be meeting with Giuliani,'' and that he was ''closely monitoring what Mr. Giuliani was doing and the messaging he was sending out.''

So let's ask Ambassador Bolton: If Mr. Giuliani wasn't doing anything wrong, why were you so concerned about his behavior that you directed your staff to have no part in this? If Mr. Giuliani wasn't trying to dig up dirt on Biden, why did you seem to think that he could ''blow everything up''?

Fourth, the President has said that there was nothing wrong with the July 25 call. But once again the evidence suggests that Ambassador Bolton would testify that the opposite is true. According to witness testimony, Ambassador Bolton expressed concerns even before the call that it would be ''a disaster'' because he thought there could be ''talk of investigations or worse.'' Now, if the President would have you believe that the call was perfect, as he has repeatedly stated, why don't we find out? Because all of the evidence before you suggests otherwise.

And Ukraine knows this is not the case. The call was not perfect. Danylyuk is clear on this point. He said:

One thing I can tell you that was clear from this [July 25] call is that the issue of the investigations is an issue of concern for Trump. It was clear.

But if there is still any uncertainty, we must ask Ambassador Bolton: If there was no scheme, how did you know President Trump would raise investigations on the call? What made you so concerned the call would be a ''disaster''?

Fifth, the President's main defense, once again, is that he withheld the military aid for legitimate reasons. But the evidence doesn't support that. You have heard a lot. The evidence doesn't support that. Witness testimony, emails, and other documents confirm that Ambassador Bolton and his subordinates on many occasions, including through in-person meetings with the President himself, urged the President that there was no legitimate reason to withhold the aid.

But if you are not sure, if you think this could in any way have been about a legitimate policy reason, let's ask the National Security Advisor, who was in charge of that. If this was simply a policy dispute, as the President argues, let's ask John Bolton whether that is true.

The President also argues that you cannot evaluate the President's subjective intent—that the President can use his power any way he feels is appropriate. That is, of course, not the case. Whether his intent was corrupt is a central part of this case, as it is in nearly every criminal case in the country. As a backup argument, however, the President's counsel claims that we want you to read the President's mind.

(Text of Videotape presentation:)

Mr. Counsel SEKULOW. This entire impeachment process is about the House managers' insistence that they are able to read everybody's thoughts. They can read everybody's intention . . .

Mr. Counsel SEKULOW. They think you can read minds.

Mr. PHILBIN. They want to tell you what President Trump thought.

Mr. Manager CROW. Now, juries, of course, are routinely asked to determine the defendant's state of mind. That is central to almost every criminal case in the country. And it is disingenuous for the President's counsel to argue that the defendant's state of mind in unknowable, that it requires a mind reader, or is anything but the most common element of proof of any crime, constitutional or otherwise. But if you want more information, let's ask the President whether John Bolton can help fill in any gaps about his state of mind.

(Text of Videotape presentation:)

President TRUMP. If you think about it, he knows some of my thoughts. He knows what I think about leaders.

Mr. Manager CROW. This case is about the President's conduct in Ukraine. John Bolton knows a lot about that. Let's hear from him. A fair trial demands it. It is more than just ensuring a fair trial, it is about remembering that in America, truth matters. As Mr. Bolton said on January 30, ''the idea that somehow testifying to what you think is true is destructive to the system of government we have, I think is very nearly the reverse, the exact reverse of the truth.''

As Manager SCHIFF started this out, the truth continues to come out. Again, in an article today, more information. The truth will come out, and it is continuing to. The question here before this body is, What do you want your place in history to be? Do you want your place in history to be let's hear the truth or that we don't want to hear it?

Mr. Manager JEFFRIES. Given our time constraints, we will now summarize the reasons why Mr. Mulvaney, Mr. Duffey, and Mr. Blair are also important.

Let's turn first to Mr. Mulvaney. To begin with, Mr. Mulvaney participated in meetings and discussions with President Trump at every single stage of this scheme. We just talked about motives and intent. Well, if you want further insight into the President's motives or intent, further direct evidence of why he withheld the military aid and the White House meeting, you should call his Acting Chief of Staff, who has more access than anyone.

Mr. Mulvaney is important because the President's counsel continues to argue—incorrectly—that our evidence is just hearsay and speculation. Faced with Ambassador Sondland and Mr. Holmes saying this was all as clear as two plus two equals four, the President says, ''[T]hey are just guessing.'' That is simply not true. The evidence is direct, the evidence is compelling and confirmed by many witnesses, corroborated by text messages, emails, and phone records. But if you want more evidence, if you want another firsthand account of why the aid was withheld for the undisputed quid pro quo for that White House meeting, let's just hear from Mick Mulvaney.

Over and over again, Ambassador Sondland described to multiple witnesses how Mr. Mulvaney was directly involved in the President's scheme. Here is some of that testimony.

(Text of Videotape presentation:)

Dr. HILL. So when I came in, Gordon Sondland was basically saying, Look, we have a deal here. There will be a meeting. I have a deal here with Chief of Staff Mulvaney, there will be a meeting if the Ukrainians open up or announce these investigations into 2016 and Burisma. And I cut it off immediately there.

Ambassador Bolton told me that: I am not part of this whatever drug deal that Mulvaney and Sondland are cooking up.

Mr. GOLDMAN. What did you understand him to mean by the drug deal that Mulvaney and Sondland were cooking up?

Dr. HILL. I took it to mean investigations for a meeting.

Mr. GOLDMAN. Did you go to see the lawyers?

Dr. HILL. I certainly did.

Mr. Manager SCHIFF. What I want to ask you about is, he makes reference in that drug deal to a drug deal cooked up by you and Mulvaney. It's the reference to Mulvaney that I want to ask you about. You've testified that Mulvaney was aware of this quid pro quo, of this condition that the Ukrainians had to meet, that is, announcing these public investigations to get the White House meeting. Is that right?

Ambassador SONDLAND. Yeah. A lot of people were aware of it . . .

Mr. Manager SCHIFF. Including Mr. Mulvaney.

Ambassador SONDLAND. Correct.

Mr. Manager JEFFRIES. Remarkably, the President is still denying the facts, even as they argue that if it is true, it is still not impeachable. But if the President did nothing wrong, if he held up the aid because of so-called corruption or burden-sharing reasons, he should want his chief of staff to come testify under oath before this distinguished body and say just that.

Why doesn't he want Mulvaney to appear before the United States Senate? Well, we know the answer—because Mr. Mulvaney will confirm the corrupt shakedown scheme because Mr. Mulvaney was in the loop.

Everyone was in the loop.

As Ambassador Sondland summarized in his testimony on July 19, he emailed several top administration officials, including Mr. Mulvaney, that President Zelensky was prepared to receive POTUS's call and would ''assure'' President Trump that ''he intends to run a fully transparent investigation and will 'turn over every stone.'''

Mr. Mulvaney replied: ''I asked NSC to set it up for tomorrow.''

The above email seems clear. Ambassador Sondland testified that it was clear; that he was confirming to Mr. Mulvaney that he had told President Zelensky he had to tell President Trump on that July 25 call that he would announce the investigation, which he explained was a reference to one of the two phony political investigations that President Trump wanted. And Mr. Mulvaney replies that he will set up the meeting—consistent with the agreement that Sondland explained he reached with Mr. Mulvaney to condition a meeting on the investigations.

But if there is any uncertainty, if there is any lingering questions about what this means, let's just question Mick Mulvaney under oath.

Mr. Mulvaney also matters because we have heard several questions from this distinguished body of Senators wanting to understand when or why or how the President ordered the hold on the security aid. As the head of the Office of Management and Budget, Mr. Mulvaney has unique insights into all of these questions—your questions.

Remember that email exchange between Mr. Mulvaney and his Deputy, Rob Blair, on June 27, when Mulvaney asked Blair about whether they could implement the hold and Blair responded that it could be done but that Congress would become ''unhinged''?

It wasn't just Congress. It was the independent Government Accountability Office that determined that the President's hold violated the law. But, if the President's counsel is going to argue—without evidence—that he withheld the aid as part of U.S. foreign policy, it seems to make sense that the Senate should hear directly from Mr. Mulvaney, who has firsthand knowledge of exactly these facts. He said so himself.

(Text of Videotape presentation:)

Mr. MULVANEY: Again, I was involved with the process by which the money was held up temporarily, okay?

Mr. Manager JEFFRIES. Why doesn't President Trump want Mick Mulvaney to testify? Why?

Perhaps here is why:

(Text of Videotape presentation:)

Answer. Did he also mention to me in the past that the corruption related to the DNC server, absolutely. No question about that. But that's it. And that's why we held up the money.

Question. So the demand for an investigation into the Democrats was part of the reason that he wanted to withhold funding to Ukraine.

Answer. The look back to what happened in 2016—

Question. The investigation into Democrats—

Answer.—certainly was part of the thing that he was worried about in corruption with that nation. That is absolutely appropriate.

Question. But to be clear, what you just described is a quid pro quo. It is: Funding will not flow unless the investigation into the Democratic server happens as well.

Answer. We do that all the time with foreign policy. We were holding the money at the same time for—what was it? The Northern Triangle countries. We were holding up aid to the Northern Triangle countries so that they would change their policies on immigration. By the way, and this speaks to an important—I'm sorry? This speaks to an important point, because I heard this yesterday and I can never remember the gentleman whose testimony—Was it McKinney, the guy—was that his name? I don't know him. He testified yesterday. And if you go—and if you believe those reports—okay? Because we've not seen any transcripts of this. The only transcript I've seen was Sondland's testimony this morning. If you read the news reports and you believe them—what did McKinney say yesterday? Well, McKinney said yesterday that he was really upset with the political influence in foreign policy. That was one of the reasons he was so upset about this. And I have news for everybody: Get over it. There's going to be political influence in foreign policy.

Mr. Manager JEFFRIES. Is that what the Constitution requires—''Get over it''? Is that good enough for this body, the world's greatest deliberative body—''Get over it''?

The President's counsel can try to emphasize Mr. Mulvaney and his attorneys' efforts to walk back this statement, but, as you have seen with your own eyes, the statement was unequivocal. And even when given the chance in real time on that day, on October 17, to deny a quid pro quo, he doubled down. ''Get over it,'' he said.

But if you have any questions about what the real answer is and where the truth lies, there is only one way to find out: Let's all just question Mr. Mulvaney under oath during the Senate trial. After all, counsel said that cross-examination was the greatest vehicle in the history of American jurisprudence ever invented to ascertain the truth—your standard.

Finally, I would like to touch briefly on the importance of Mr. Blair and Mr. Duffey to this case.

The President's lawyers have argued that withholding foreign aid is entirely within his right as Commander in Chief; that this was a normal, ordinary decision; and that this is all just one big policy disagreement.

We have proven exactly the opposite. This can't be a policy disagreement because the President's hold actually went against U.S. policy. The hold was undertaken outside of the normal channels by a President who, they admit, was not conducting policy. The hold was concealed not only from Congress but from the President's own officials responsible for Ukraine policy,

and, most importantly, the hold violated the law.

The President has the right to make policy, but he does not have the right to break the law and coerce an ally into helping him cheat in our free and fair elections, and he doesn't have a right to use hundreds of millions of dollars in taxpayer funds as leverage to get political dirt on an American citizen who happens to be his political opponent.

But if you remain unsure about all of this, who better to ask than Mr. Blair or Mr. Duffey? They oversaw and executed the process of withholding the aid. They can tell us exactly how unrelated to business as usual this whole shakedown scheme was when it was underway. They can testify about why the aid was withheld and whether there was any legitimate explanation for withholding it. Some of you have asked that very question.

Multiple officials—including Ambassador Sondland, Ambassador Taylor, David Holmes, Lieutenant Colonel Vindman, Jennifer Williams, and Mark Sandy—all testified that they were never given a credible explanation for the hold. So let's ask Mr. Blair and let's ask Mr. Duffey if this happens all the time, as Mick Mulvaney suggests. Why, at this time, in connection with this scheme, were all of those witnesses left in the dark?

Despite the President's refusal to produce a single document and to produce a shred of information in this impeachment inquiry undertaken in the House, his administration did produce 192 pages of Ukraine-related email records in Freedom of Information Act lawsuits, albeit in heavily redacted form. These documents confirm Mr. Duffey's central role in executing the hold. He is on nearly every single impeachment release—nearly every single email.

Here is an important email from that production.

Just 90 minutes after the July 25 call, Mr. Duffey emailed officials at the Department of Defense that they should ''hold off on any additional DOD obligations of these funds.'' Mr. Duffey added that the request was ''sensitive'' and that they should keep this information ''closely held.'' The timing is important because if the aid wasn't linked to the July 25 call and if it wasn't related, why the sensitive, closely held request made within 2 hours of that call? Let's just ask Mr. Duffey.

Mr. Duffey and Mr. Blair can testify about the concerns raised by DOD to the Office of Management and Budget about the illegality of the hold and why it remained in place even after DOD warned the administration that it would violate the Impoundment Control Act.

Now, the President, of course, has disputed this fact, but we have demonstrated that OMB was warned repeatedly by DOD officials of two things: first, continuing to withhold the aid would prevent the Department of Defense from spending the money before the end of the fiscal year, and second, the hold was potentially illegal, as turned out to be the case.

By August 9, DOD told Mr. Duffey directly that DOD—the Department of Defense—could no longer support the Office of Management and Budget's claims that the hold would ''not preclude timely execution'' of the aid for Ukraine, our vulnerable ally at war with Russian-backed separatists. Yet, as Mr. Duffey reportedly told Ms. McCusker at the Department of Defense on August 30, there was a ''clear direction from POTUS to continue to hold''—clear direction from the President of the United States to continue the hold. So how did Mr. Duffey understand the ''clear direction'' to continue the hold? Why is the President claiming that this wasn't unlawful when DOD—the Department of Defense—repeatedly warned his administration that it was? Wouldn't we all like to ask Mr. Duffey these questions?

Finally, here is another reason why we know this was not business as usual. On July 29, Mr. Duffey—a political appointee with zero relevant experience—abruptly seized responsibility for withholding the aid from Mark Sandy, a career Office of Management and Budget official—seized the responsibility from a career official. Mr. Duffey provided no credible explanation for that decision.

Mr. Sandy testified that nothing like that had ever happened in his entire governmental career. Let's think about that. If this is as routine as the President claims, why is a career official saying he has never seen anything like this happen before? Mr. Duffey knows why. Shouldn't we just take the time to ask him?

The American people deserve a fair trial. The Constitution deserves a fair trial. The President deserves a fair trial. A fair trial means witnesses. A fair trial means documents. A fair trial means evidence. No one is above the law.

I yield to my distinguished colleague, Manager LOFGREN.

Ms. Manager LOFGREN. Mr. Chief Justice and Senators, it is not just about hearing from witnesses; you need documents. The documents don't lie. There are specific documents relevant to this impeachment trial in the custody of the White House, OMB, DOD, and the State Department, and the President has hidden them from us.

I am not going to go through each category again in detail, but here are some observations.

This is, of course, an impeachment case against the President of the United States. Nothing could be more important. And the most important documents—documents that go directly to who knew what when—are being held by the executive branch.

Many of these records are at the White House. The White House has records about the phone calls with President Zelensky, about scheduling an Oval Office meeting with President Zelensky, about the President's decision to hold security assistance, about communications among his top aides, and about concerns raised by public officials with legal counsel. We have heard about Ambassador Bolton's handwritten notes and book manuscript and Lieutenant Colonel Vindman's Presidential policy memorandum. We know of reports about a number of emails in early August trying to create after-the-fact justifications for the hold, but we haven't seen any of them. They are at the White House being hidden by the President. I think it is a coverup.

Documents are also at the State Department, records about the recall of Ambassador Yovanovitch, about Giuliani's efforts for the President, about concerns raised about the hold, about the Ukrainian reaction to the hold and when exactly they learned about it, and about negotiations with the Ukrainians for an Oval Office meeting. We know about Ambassador Taylor's first-person cable and notes and Mr. Kent's memos to file. We know about Mr. Sondland's emails with Pompeo and Brechbuhl and Mulvaney and Perry, but we haven't seen them. They are sitting in the State Department.

DOD and OMB also have records—records about President Trump's hold on military aid to Ukraine, about the justification for the hold, about hiding the hold from Congress and trying to justify the hold after the fact, and about why the hold was lifted, but we haven't seen them. They are at DOD and OMB. Why haven't we seen them? Because the President directed all his agencies not to produce them.

This trial should not reward the President's really unprecedented obstruction by allowing him to control what evidence you see and what will remain hidden. You should ask for these documents on behalf of the American people, and you should ask for these documents to get the truth yourself.

Now, let's come back to the issue of delay, since the President's lawyers have suggested that having witnesses and documents would make this trial take too long. There will be lengthy court battles, they say. The President might even invoke executive privilege for the very first time in this entire impeachment process. It would be better, we are told, to skip straight to the final verdict, to break from centuries of precedent and end this trial without hearing from a single witness and without reviewing a single document that the President ordered hidden. Respectfully, that shouldn't happen.

House managers aren't interested in delaying these proceedings. We are interested in the full truth; in a trial that is fair to the parties and to the American people; in the facts that the President's counsel agrees are so critical to this trial. It is why we said we

won't go to court; we will follow all the rulings of the Chief Justice. We can get the witness depositions done in a week. In fact, I know we can because if you, the Senators, order it, that is the law. You have the sole power to try impeachments.

If questions or objections come up, including objections based on executive privilege, the Senate itself and the Chief Justice, in the first instance, can resolve them. We aren't suggesting that the President waive executive privilege. We simply suggest that the Chief Justice can resolve issues related to any assertion of executive privilege.

As the Supreme Court recognized in the case of Judge Walter Nixon, judges will stay out of disputes over how the Senate exercises its sole power to try impeachments. That ensures there will be no unnecessary delay, and it is why we propose we suspend the trial for 1 week, and that during that time, you go back to business as usual. While the trial is suspended, we will take witness depositions and review the documents that are provided at your direction.

The four witnesses you should hear from are readily available. Ambassador Bolton has already said he will appear. We can and would move quickly to depose these witnesses within a week of the issuance of subpoenas. The documents, too, are ready to be produced. We are ready to review them quickly and to present additional evidence. Meanwhile, the Senate can continue going about its important legislative work, as it did during the depositions in the Clinton impeachment trial.

The President's opposition to this suggestion says a lot. The President is the architect of the very delay he warns against. He could easily avoid it. He could move things along. He could stop trying to silence witnesses and hide evidence. I think he is afraid the truth will come out. He hopes his threats of continued delay, however unjustified, will cause you to throw up your hands and give up on a fair trial. Please don't give up. This is too important for our democracy.

A decision to forgo witnesses and documents at this trial would be a big departure from Senate precedent. When the Senate investigated Watergate, it heard from the highest White House officials. That happened because a bipartisan majority of the Senate insisted. We got to the truth then because the Senate came together and put a fair proceeding above party loyalty.

We should all want the truth, and so we ask you to do it again—that you put aside any politics, party loyalty. Believe in your President, which we understand and sympathize with, but subpoena the documents and the witnesses necessary to make this a fair trial, to hear and see the evidence you need to impartially administer justice.

Now, there has been a lot of discussion of executive privilege during this trial. Even if the President asserts executive privilege—something he has not yet done—it wouldn't harm the President's legal rights or cause undue delay.

Here is why. Let's focus on John Bolton, since this week's revelations confirm the importance of his testimony.

First, as a private citizen, John Bolton is fully protected by the First Amendment if he wants to testify. There is no basis for imposing prior restraint for censoring him just because some of his testimony could include conversations with the President. That is commonplace. As long as his testimony isn't classified, it is shielded by the free speech clause of the First Amendment.

Ambassador Bolton has written a book. It is inconceivable that he is forbidden from telling the U.S. Senate, sitting as a High Court of Impeachment, information that shortly will be in print.

If the President did attempt to invoke executive privilege, he would fail. It is true for separate reasons. First, claims of executive privilege always involve a balancing of interests. The Supreme Court confirmed in U.S. v. Nixon—the Nixon tapes case—that executive privilege can be overcome by a need for evidence in a criminal trial. That is even more true here in an impeachment trial of the President of the United States, which is probably the most important interest under the Constitution. It would certainly outweigh any claim of privilege.

Precedent confirms the point. To name just a few, National Security Advisors for President Carter, Zbigniew Brzezinski; President Clinton, Samuel Berger; President George W. Bush, Condoleezza Rice; and President Obama, Susan Rice, testified in congressional investigations. These advisors discussed their communications with top government officials, including the Presidents they served. There is no reason why all of these officials could testify in the normal course of events and hearings, but Ambassador Bolton, a former official, couldn't testify in the most important trial there could possibly be.

The second reason is the President waived any claim of executive privilege about Ambassador Bolton's testimony. All 17 witnesses testified in the House about these matters without any assertion of privilege by the President.

President Trump, as well as his lawyers and senior officials, have publicly discussed and tweeted about these issues at some length. The President has also directly denied reports about what Ambassador Bolton will say in his forthcoming book. Under these circumstances, the President cannot be allowed to tell his version of his story to the public while using executive privilege to silence a key witness who would contradict him. You shouldn't let the President escape responsibility only to later see clearly what happened in Ambassador Bolton's book.

There are no national security risks here. The President has declassified the two phone calls with President Zelensky. All 17 witnesses testified about the President's conduct regarding Ukraine. We aren't interested in asking about anything other than Ukraine. That is simply a bogus argument.

The Constitution uses the words ''sole power'' only twice: first, when it gives the House sole power to impeach; and, second, article 1, section 3, where it gives the Senate sole power to try impeachments.

Here is what it says:

> The Senate shall have the sole Power to try all Impeachments. . . . When the President of the United States is tried, the Chief Justice shall preside.

Now, I think that provision in the Constitution means something. It is up to the Senate to decide how to try this impeachment with fairness, with witnesses, and documents.

Privileges asserted can be decided using the process that you devise. That is not unconstitutional. It is what the Constitution provides.

You have the power. You decide. Please decide for a fair trial that would yield the truth and serve our Constitution and the American people.

I yield now to Manager SCHIFF.

Mr. Manager SCHIFF. Senators, before we yield to counsel for the President, I would like to take a moment by talking about what I think is at stake here. A ''no'' vote on the question before you will have long-lasting and harmful consequences long after this impeachment trial is over.

We agree with the President's counsel on this much: This will set a new precedent. This will be cited in impeachment trials from this point to the end of history. You can bet in every impeachment that follows, whether it is a Presidential impeachment or the impeachment of a judge, if that judge or President believes that it is to his or her advantage that there shall be a trial with no witnesses, they will cite the case of Donald J. Trump. They will make the argument that you can adjudicate the guilt or innocence of the party who is accused without hearing from a single witness, without reviewing a single document. And I would submit that will be a very dangerous and long-lasting precedent that we will all have to live with.

President Trump's wholesale obstruction of Congress strikes at the heart of our Constitution and democratic system of separation of powers. Make no mistake. The President's actions in this impeachment inquiry constitute an attack on congressional oversight on the coequal nature of this branch of government, not just on the House but on the Senate's ability, as well, to conduct its oversight, to serve as a check and balance on this President and every President that follows.

If the Senate allows President Trump's obstruction to stand, it effectively nullifies the impeachment power. It will allow future Presidents to decide whether they want their misconduct to be investigated or not,

whether they would like to participate in an impeachment investigation or not. That is a power of the Congress. That is not a power of the President. By permitting a categorical obstruction, it turns the impeachment power against itself.

How we respond to this unprecedented obstruction will shape future debates between our branches of government and the executive forever. And it is not just impeachment. The ability of Congress to conduct meaningful and probing oversight—oversight that, by its nature, is intended to be a check and balance on the awesome powers of the executive branch—hinges on our willingness to call witnesses and compel documents that President Trump is hiding with no valid justification, no precedential support.

If we tell the President, effectively, ''You can act corruptly, you can abuse the powers of your office to coerce a foreign government to helping you cheat in an election by withholding military aid, and when you are caught, you can further abuse your powers by concealing the evidence of your wrongdoing,'' the President becomes unaccountable to anyone. Our government is no longer a government with three coequal branches. The President effectively, for all intents and purposes, becomes above the law.

This is, of course, the opposite of what the Framers intended. They purposely entrusted the power of impeachment to the legislative branch so that it may protect the American people from a President who believes that he can do whatever he wants.

So we must consider how our actions will reverberate for decades to come and the impact they will have on the functioning of our democracy. And as we consider this critical decision, it is important to remember that no matter what you decide to do here, whether you decide to hear witnesses and relevant testimony, the facts will come out in the end. Even over the course of this trial, we have seen so many additional facts come to light. The facts will come out. In all of their horror, they will come out, and there are more court documents and deadlines under the Freedom of Information Act. Witnesses will tell their stories in future congressional hearings, in books, and in the media. This week has made that abundantly clear.

The documents the President is hiding will come out. The witnesses the President is concealing will tell their stories. And we will be asked why we didn't want to hear that information when we had the chance, when we could consider its relevance and importance in making this most serious decision. What answer shall we give if we do not pursue the truth now, if we allow it to remain hidden until it is too late to consider on the profound issue of the President's innocence or guilt?

What we are asking you to do on behalf of the American people is simple: Use your sole power to try this impeachment by holding a fair trial. Get the documents they refuse to provide to the House. Hear the witnesses they refuse to make available to the House, just as this body has done in every single impeachment trial until now.

Let the American people know that you understand they deserve the truth. Let them know you still care about the truth, that the truth still matters.

Though much divides us, on this we should agree: A trial, stripped of all its trappings, should be a search for the truth, and that requires witnesses and testimony.

Now, you may have seen just this afternoon, the President's former Chief of Staff, General Kelly, said ''a Senate trial without witnesses is a job only half done.'' A trial without witnesses is only half a trial. Well, I have to say I can't agree. A trial without witnesses is no trial at all. You either have a trial or you don't. And if you are going to have a real trial, you need to hear from the people who have firsthand information. Now, we have presented some of them to you, but you know as well as we there are others that you should hear from.

Let me close this portion with words, I think, more powerful than General Kelly's. They come from John Adams, who in 1776 wrote: Together with the right to vote, those who wrote our Constitution considered the right to trial by jury ''the heart and lungs, the mainspring and the center wheel'' of our liberties, without which ''the body must die, the watch must run down, the government must become arbitrary.''

Now, what does that mean? Without a fair trial, the government must become arbitrary. Now, of course, he is talking about the right of an average citizen to a trial by jury.

Well, if in courtrooms all across America, when someone is tried but they are a person of influence and power, they can declare at the beginning of the trial ''If the government's case is so good, let them prove it without witnesses''; if people of power and influence can insist to the judge that the House, that the prosecutors, that the government, that the people must prove their case without witnesses or documents, a right reserved only for the powerful—because, you know, only Donald Trump—only Donald Trump, of any defendant in America can insist on a trial with no witnesses—if that should be true in courts throughout the land, then, as Adams wrote, the government becomes arbitrary because whether you have a fair trial or no trial at all depends on whether you are a person of power and influence like Donald J. Trump.

The body will die. The clock will run down. And our government becomes arbitrary. The importance of a fair trial here is not less than in every courtroom in America; it is greater than in any courtroom in America because we set the example for America.

I said at the outset, and I will repeat again: Your decision on guilt or innocence is important, but it is not the most important decision. If we have a fair trial, however that trial turns out, whatever your verdict may be, at least we can agree we had a fair trial. At least we can agree that the House had a fair opportunity to present its case. At least we can agree that the President had a fair opportunity to present their case—if we have a fair trial. And we can disagree about the verdict, but we can all agree the system worked as it was intended. We had a fair trial, and we reached a decision.

Rob this country of a fair trial, and there can be no representation that the verdict has any meaning. How could it, if the result is baked in by the process? Assure the American people, whatever the result may be, that at least they got a fair shake.

There is a reason why the American people want to hear from witnesses, and it is not just about curiosity. It is because they recognize that in every courtroom in America that is just what happens. And if it doesn't happen here, the government has become arbitrary; there is one person who is entitled to a different standard, and that is the President of the United States. And that is the last thing the Founders intended.

Mr. Chief Justice, we reserve the balance of our time.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The majority leader is recognized.

RECESS

Mr. MCCONNELL. Mr. Chief Justice, I request that the Senate take a 15-minute recess.

The CHIEF JUSTICE. Without objection, so ordered.

There being no objection, at 2:49 p.m., the Senate, sitting as a Court of Impeachment, recessed until 3:40 p.m.; whereupon the Senate reassembled when called to order by the CHIEF JUSTICE.

The CHIEF JUSTICE. Please be seated.

We are ready to hear the presentation from counsel for the President.

Mr. Counsel PHILBIN. Mr. Chief Justice, Members of the Senate, the House managers have said throughout their presentation and throughout all of the proceedings here again and again that you can't have a trial without witnesses and documents, as if it is just that simple. If you are going to have a trial, there have to be new witnesses and documents. But it is not that simple. It is really a trope that is being used to disguise the real issues, the real decisions that you would be making on this decision about witnesses, because there is a lot more at stake. Let me unpack that and explain what is really at stake there.

The first is this idea that, if you come to trial, you have to always go to witnesses, have new witnesses come in, but that is not true. In every legal system and in our legal systems on both the civil and criminal sides, there is a way to decide right up front, in some quick way, whether there is really a triable issue, whether you really need

to go to all the trouble of calling in new witnesses and having more evidence in something like that. There is not here. There is no need for that because these Articles of Impeachment, on their face, are defective, and we have explained that. Let me start with the second article, the obstruction charge.

We have explained that that charge is really trying to say that it is an impeachable offense for the President to defend the separation of powers. That can't be right. It is also the case that no witnesses are going to say anything that makes any difference to the second Article of Impeachment. That all has to do with the validity of the grounds the President asserted, the fact that he asserted longstanding constitutional prerogatives of the executive branch in specific ways to resist specific deficiencies in the subpoenas that were issued. No fact witness is going to come in and say anything that relates in any way to that. It is not going to make any difference.

On the first Article of Impeachment, that, too, is defective on its face. We have explained. We heard it again today here. They have this subjective theory of impeachment that will show abuse of power by focusing just on the President's subjective motives, and they said again today, here, that the way they can show the President did something wrong is that he defied the foreign policy of the United States. I talked about that before, this theory that he defied the agencies within the executive branch. He wasn't following the policy of the executive branch. That is not a constitutionally coherent statement.

The theory of abuse of power that they have framed in the first Article of Impeachment will do grave damage to the separation of powers under our Constitution because it would become so malleable that they could pour into it anything they want to find illicit motives for some perfectly permissible action. It becomes so malleable that it is no different than maladministration—the exact ground that the Framers rejected during the Constitutional Convention.

The Constitution defines specific offenses. It limits and constrains the impeachment power.

Now, there is also the fact that we actually heard from a lot of witnesses. We have heard from a lot of witnesses in the proceedings so far. You have heard 192 video clips, by our count, from 13 different witnesses. There were 17 witnesses deposed in closed hearings in the House, and 12 of them testified again in open hearings. You have got all of those transcripts, so you can see the witnesses' testimony there. The key portions have been played for you on the screens. And you have got over 28,000 pages of documents and transcripts. You have got a lot of evidence already.

But there is another principle that they overlook when they say ''Well, if you are going to have a trial, there just has to be witnesses,'' as if the most ordinary thing is you get to trial and then start subpoenaing new witnesses and documents. That is not true either, and we pointed this out.

In the regular courts, the way things work is you have got to do a lot of work preparing a trial—called discovery—to find out about witnesses and depose them and find out about documents before you get to trial. You can't show up the day of trial and say: Oh, Your Honor, actually, we are not ready. We didn't subpoena John Bolton or witness X or witness Y, and now we want to subpoena that witness. Now we want to do discovery.

And why does that matter here? Because here, to show up not having done the work and to expect that work to be done in the Senate, by this body, has grave consequences for the institutional interests of this body, and it sets a precedent—really sets an important precedent for two bodies—for the Senate and for the House—because what the Senate accepts as an impeachment coming from the House determines not just precedent for the Senate but, really, precedent for the House in the future as well.

If the procedures used in the House to bring this proceeding here to this stage are accepted, if the Senate says ''Yes, we will start calling new witnesses because you didn't get the job done in whatever process you used to get it here,'' then that becomes the new normal. And that is important in a couple of ways.

One is, as we have pointed out, the totally unprecedented process that was used in the House that violated all notions of due process. There are precedents going back 150 years in the House, ensuring that someone accused in an impeachment hearing in the House has due process rights to be represented by counsel, to cross-examine witnesses, to be able to present evidence. They didn't allow the President to do that, and if this body says that is OK, then that becomes the new normal.

And they stand up here, the House managers, and say this body will be unfair if this body doesn't call the witnesses. They talk about fairness. Where was the fairness in that proceeding in the House?

And Manager SCHIFF says that things would be arbitrary if you don't do what they said and call the witnesses they want. Well, wasn't it arbitrary in the House when they wouldn't allow the President to be represented by counsel, wouldn't allow the President to call witnesses? There was no precedent in a Presidential impeachment inquiry to have open hearings where the President and his counsel were excluded.

It also would set a precedent to allow a package, a proceeding, from the House to come here that the House managers say ''Well, now we need new witnesses; we haven't done all the work,'' and it is witnesses they didn't even try to get. They didn't subpoena John Bolton, and they didn't go through the process. When other witnesses were subpoenaed—when Dr. Kupperman—Charlie Kupperman—went to court, they withdrew the subpoena. And now to say that ''Well, fairness demands that this body has to do all that work''—that sets a new precedent, as well, and it changes—it would change for all of the future the relationship between the House and the Senate in impeachment inquiries. It would mean that the Senate has to become the investigatory body.

And the principles that they assert—they did a process that wasn't fair. They did a process that was arbitrary, that arbitrarily denied the President rights. They did a process that wouldn't allow witnesses, and then they came here on the first night—remember when we were all here until 2 o'clock—and in very belligerent terms said to the Members of this body: You are on trial. It will be treachery if you don't do what the House managers say.

That is not right. When it was their errors, when they were arbitrary and they didn't provide fairness, they can't project that onto this body to try to say that you have to make up for their errors, and if you don't, the fault lies here.

Now, they also suggest that it is not going to take a long time, that they only want a few witnesses. But, of course, if things are opened up to witnesses and it is going to be fair, it is not just one side; it is not just the witnesses that they would want. The President would have to be permitted to have witnesses.

And with all respect, Mr. Chief Justice, the idea that if a subpoena is sent to a senior adviser to the President and the President determines that he will stand by the principle of immunity that has been asserted by virtually every President since Nixon, that that will just be resolved by the Senate right here, whether or not that privilege exists, by the Chief Justice sitting as the Presiding Officer—that doesn't make sense. That is not the way it works.

The Senate, even when the Chief Justice is the Presiding Officer here, can't unilaterally decide the privileges of the executive branch. That dispute would have to be resolved in another way, and it could involve litigation, and it could take a lot of time.

So the idea that this will all be done quickly if everyone just does what the House managers say is not realistic. It is not the way that the process would actually have to play out in accord with the Constitution, and that has another significant consequence, again affecting this institution as a precedent going forward because what it suggests—the new normal that would be created then—is kind of an express path for precisely the sort of impeachment that the Framers most feared.

The Framers recognized that impeachments could be done for illegitimate reasons. They recognized that

there could be partisan impeachments. And if this is the new normal, this is the very epitome of a partisan impeachment. There was bipartisan opposition to it in the House, and it was rushed through with unfair procedures—78 days total of inquiry. Think about that. In Nixon there had been investigating committees, and there was a special prosecutor long before the House Judiciary Committee started its investigation.

In Clinton there was a special counsel—an independent counsel for the better part of a year before the House Judiciary Committee even started hearings.

Everything from start to finish in this case, from September 24 until the Articles of Impeachment were considered in the Judiciary Committee, was done in 78 days—in 78 days—and for 71 of them, the President was entirely locked out.

So the new normal would be slapdash: Get it done quickly, unfair procedures in the House to impeach a President; then bring it to the Senate, and then all the real work of investigation and discovery is going to have to take place with that impeachment hanging over the President's head, and that is a particular thing the Framers also were concerned about. I mentioned this the other day.

In Federalist No. 65 Hamilton warned specifically about what he called—I am quoting—''the injury to the innocent, from the procrastinated determination of the charges which might be brought against them'' because he understood that if an impeachment charge from the House wasn't resolved quickly, if it was hanging over the President's head, that in itself would be a problem. And that is why they structured the impeachment process so that the Senate could be able to swiftly determine impeachments that were brought. That also suggests that is why there is a system for having thorough investigations, a thorough process done in the House.

And Hamilton explained that delay after the impeachment would afford an opportunity for ''intrigue and corruption,'' and it would also be, as he put it, ''the detriment to the State, from the prolonged inaction of men whose firm and faithful execution of their duty might have exposed them to the persecution of an intemperate or designing majority in the House of Representatives.'' And that is what has happened here.

And if you create a system now that makes the new normal a half-baked, slapdash process in the House—just get the impeachment done and get it over to the Senate—and then once the President is impeached and you have the head of the executive branch, the leader of the free world, having something like that hanging over his head, then we will slow everything down, and then we will start doing the investigation and just drag it out. That is all part of what makes this even more political, especially in an election year.

It is not the process that the Framers had in mind, and it is not something the Senate should condone in this case. The Senate is not here to do the investigatory work that the House didn't do.

Where there has been a process that denied all due process, that produced a record that can't be relied upon, the reaction from this body should be to reject the Articles of Impeachment, not to condone and put its imprimatur on the way the proceedings were handled in the House and not to prolong matters further by trying to redo work that the House failed to do by not seeking evidence and not doing a fair and legitimate process to bring the Articles of Impeachment here.

Thank you.

The CHIEF JUSTICE. Mr. Sekulow.

Mr. Counsel SEKULOW. Mr. Chief Justice, Members of the Senate, over a 7-day period you did hear evidence. You heard evidence from 13 different witnesses, 192 video clips, and as my colleague the Deputy White House Counsel said, over 28,000 pages of documents.

You heard testimony from Gordon Sondland. He is the United States Ambassador to the European Union. You heard that testimony. He testified in the House proceedings. I did not have an opportunity to cross-examine him. If we get witnesses, I have to have that opportunity.

William Taylor, former Acting United States Ambassador to Ukraine, testified. You heard his testimony. We didn't get the opportunity to cross-examine him. He would be called.

Tim Morrison, the former senior director for Europe and Russia of the National Security Council. You saw his testimony. They put it up. We didn't get an opportunity—we did not have an opportunity to cross-examine him.

Jennifer Williams, special adviser on Europe and Russia for Vice President MIKE PENCE. You saw her testimony. They put it up. I did not have the opportunity to cross-examine her. If we call witnesses, we would have to have that opportunity.

David Holmes, political counsel to the United States Embassy in Ukraine. You saw testimony from him. We were not able to cross-examine him. If he is called or if we get witnesses, we will call the Ambassador, and we will cross-examine.

LTC Alexander Vindman. You saw his testimony. He appeared before the House. We didn't have the opportunity to cross-examine him. If we call witnesses, we will, of course, have that right to cross-examine him.

Fiona Hill. She is the former senior director for Europe and Russia on the National Security Council. She testified for the House. If we have witnesses, we have the opportunity to call her then and cross-examine Fiona Hill.

Kurt Volker, former United States Representative for Ukraine Negotiations. They called him; we did not have the opportunity to cross-examine. If we are calling witnesses—these are witnesses you have heard from—we would have the right to call witnesses and to cross-examine Mr. Volker. George Kent, the Deputy Assistant Secretary of State for the Bureau of European and Eurasian Affairs, you saw his testimony. They called him. If we have witnesses, we have the right to call that witness and to cross-examine Deputy Assistant Secretary Kent.

The former United States Ambassador to Ukraine, Ambassador Yovanovitch, they called her. You saw that testimony. We did not have the opportunity to cross-examine her. If we have witnesses, we would have to call her.

Laura Cooper, Deputy Assistant Secretary of Defense for Russia, Ukraine, and Eurasia, they called her. You saw her witness testimony right here. We did not have the opportunity to cross-examine her. We would have to be given that opportunity.

These are the witnesses against the President. Laura Cooper, Deputy Secretary of Defense for Russia and Eurasia—again, the same thing.

David Hale, the Under Secretary of State for Political Affairs. He was called by the House. You saw his testimony. We never had the opportunity to cross-examine him. If we have witnesses, we have to have the opportunity to do that.

There were other witnesses that were called where you saw their testimony or heard their testimony or it was referred to. Catherine Croft, Special Adviser for Ukraine negotiation, Department of State; Mark Sandy, the Deputy Associate Director for National Security Programs; and Christopher Anderson, Special Adviser for Ukraine Negotiations, Department of State—you heard their testimony referred to. We did not have the opportunity to cross-examine them.

So this isn't going to happen, if witnesses are called in a week. Now, that is just the witnesses that have been produced that you have seen by the House managers.

You are being called upon to make consequential constitutional decisions—consequential decisions for our Constitution. We talked about the burden of proof. I said this before, and I will say it again. Thirty-one times the managers said they proved their case. Twenty-nine times they said the evidence was overwhelming. Manager NADLER—he didn't only say it was overwhelming in his view, on page 739 of the CONGRESSIONAL RECORD, he is very clear. He says not only is it strong, there is no doubt. That is what he said. ''The one thing the House managers think the President counsel got right is quoting me''—talking about Mr. NADLER, Manager NADLER—''as saying 'beyond any doubt.' It is, indeed, beyond any doubt.''

Now, of course, we think that they have not proven their case by any stretch of any proper constitutional analysis.

In the Clinton investigation, they talk about witnesses being called, but

the three witnesses that were called had either testified before the grand jury or before the House committee. There weren't new witnesses. What Mr. Philbin said is correct; that under our constitutional design, they are supposed to investigate; you are to deliberate. But what they are asking you to do is now become the investigative agency, the investigative body.

If they needed all this additional evidence, which they said they don't need—and, by the way, not only did they say it in the RECORD, this is House Manager NADLER when he was on CNN back on the 15th of this month: ''We brought the articles of impeachment. Because, despite the fact that we didn't hear from many witnesses we [could] have heard from, we heard from enough witnesses to prove the case beyond any doubt at all.''

The same can be said from Representative LOFGREN:

> You know, we have evidence proving the case through, for example, at the meeting when Bolton said it was a drug deal, well, we have fact witnesses. Hill was there, Vindman was there, Sondland was there.

So this idea that they haven't had witnesses, that is the smoke screen. You have heard from a lot of witnesses. The problem with the case, the problem with their position is, even with all of those witnesses, it doesn't prove up an impeachable offense. The articles fail.

I think it is very dangerous if the House runs up—which they did—Articles of Impeachment quickly, so quickly that they are clamoring for evidence, despite the fact that they put all of this evidence forward. They got their wish of an impeachment by Christmas. That was the goal. But now they want you to do the work they failed to do.

But, as I said, time and time again we heard: You didn't hear from witnesses. You didn't hear from many witnesses. Mr. SCHIFF modified that a little bit today, a little bit. You heard from a lot of witnesses. But if we go down the road of witnesses, this is not a 1-week process. Remember, I talked about the waving the wand and Ukrainian corruption was gone? You are not going to have a witness wand here, where, OK, you got a week to do this and get it done. There is no way that would be proper under due process. But, you know, due process is supposed to be for the person accused, and they are turning it on its head. They brought the articles before you. They are the ones that rushed the case up and then held it before you could actually start proceeding, but they are the ones who passed the articles before Christmas.

You know, we talked a lot about the court system and the fact that they were seeking witnesses, and when it got close to actually having a court proceeding, they decided that they didn't want to have that witness go through that proceeding, and they actually withdrew the subpoena to move the case out.

How many constitutional challenges will we have in this body because they placed the burden on you that they would not take themselves in putting their case forward? If we look at our constitutional framework and our constitutional structure, that is not the way it is supposed to work.

Now, our opposition to this motion is rather straightforward, as I have said. We came here ready to try the case on the record that they presented, the record that the managers told us was overwhelming and complete.

Mr. SCHIFF went through every sentence of the Articles of Impeachment just a few days ago and said: Proved, proved, proved. But the problem is that what is proved, proved, proved is not an impeachable offense. You could have witnesses that prove a lot of things, but if there is not a violation of the law, if it doesn't meet the constitutional required process, the constitutional required substantive issues of do these articles—these allegations rise to the level sufficient for a removal of office for a duly elected President of the United States? It doesn't and especially so—especially so—when we are in an election year.

I am not going to take the time—your time, which is precious, to go over each and every allegation about witnesses that I can. I could do it. I could stand here for a long time. I am not going to do that. I am just going to say this: They created the record. Do not allow them to penalize the country and the Constitution because they failed to do their job.

With that Mr. Chief Justice, we yield our time.

The CHIEF JUSTICE. Thank you, counsel.

The House managers have 30 minutes remaining.

Mr. Manager SCHIFF. Thank you, Mr. Chief Justice, Senators: I want to walk through some of the arguments that you just heard from the President's counsel.

The first argument was made by Mr. Philbin. Mr. Philbin began by saying the House managers assert that you can't have a trial without witnesses, and he said: ''It's not that simple.'' Actually, it is. It is pretty simple. It is pretty simple. In every courthouse, in every State, in every county in the country, where they have trials, they have witnesses. And I think you heard Mr. Philbin tie himself into knots as to why this should be the first trial in which witnesses are not necessary. But, you know, some things are just as simple as they appear. A trial without witnesses is simply not a trial. You could call it something else, but it is not a trial.

Now, Mr. Sekulow said something very interesting. He said: The House investigates, and the Senate deliberates. Well, he would rewrite our Constitution with that argument because the last time I checked the Constitution, it said that the House shall have the sole power of impeachment, and the Senate shall try the impeachment, not merely deliberate about it, not merely think about it, not merely wonder about it. I know you are the greatest deliberative body in the world, but not even you can deliberate in a trial without witnesses. But Mr. Sekulow would rewrite the Constitution: Your job is not to try the case, he says; your job is merely to deliberate. That is not what the Founders had in mind—not by a long shot.

Now, Mr. Philbin says none of these witnesses would have relevance on article II—I guess conceding that they would have relevant evidence under article I. But that is not true either. Imagine what you will see when you hear from the witnesses who ran the Office of Management and Budget or imagine what you will see when you read the documents from the Office of Management and Budget. What you will see is what they have covered up. What you will see is the motive for their complete obstruction of Congress. When you see not the redacted emails, not the fully blacked-out emails that they deigned to give in the litigation and Freedom of Information Act, but when you see what is under those redactions, you will have proof of motive. When you see those documents, you will see just how fallacious these nonassertions of executive privilege are. You will see, in essence, what they have covered up. It could not be more relevant to whether their panoply of legal argumentation to justify ''we shall fight all subpoenas'' is merely a coverup in a legal window dressing. So these witnesses and documents are critical on both articles.

Now, you also heard Mr. Philbin argue—and, again, this is where we expected we would be at the end of the proceeding, which is, essentially, they proved their case. They proved their case. We pretty much all know what has gone on here. We all understand just what this President did. No one really disputes that anymore. So what? So what? It is a version of the Dershowitz defense. So what? The President can do no wrong. The President is the State. If the President believes that corrupt conduct would help him get reelected, if he believes shaking down an ally and withholding military aid, if he believes soliciting foreign interference in our election, whether it be from the Ukrainians or the Russians or the Israeli Prime Minister or anyone else in any form it may take, so what? He has a God-given right to abuse his power, and there is nothing you can do about it. It is the Dershowitz principle of constitutional lawlessness. That is the end-all argument for them. You don't need to hear witnesses who will prove the President's misconduct because he has a right to be as corrupt as he chooses under our Constitution, and there is nothing you can do about it. God help us if that argument succeeds.

Now, they say that these witnesses already testified, and so you don't need

to hear from anybody. There are witnesses who already testified, so the House doesn't get to call witnesses in the Senate. That would be like a criminal trial in any courthouse in America where the defendant, if he's rich and powerful enough, can say to the judge: Hey, Judge, the prosecution got to have witnesses in the grand jury. They don't get to call anyone here. They had their chance in the grand jury. They called witnesses in the grand jury. They don't get to call witnesses here.

That is not how it works in any courtroom in America, and it is not how it should work in this courtroom.

Of course, you heard the argument again repeated time and time again: The House is saying they are not ready for trial. Of course, we never said we weren't ready for trial. We came here very prepared for trial. I would submit to you, the President's team came here unprepared for trial, unprepared for the fact that there would be, as we all anticipated, a daily drip of new disclosures that would send them back on their heels. We came here to try a case—prepared to try a case—and, yes, we had, I hope, the not unreasonable expectation that in trying that case, like in every courtroom in America, we could call witnesses. That is not a lack of preparation. That is the presence of common sense.

They didn't try to get Bolton, they argue. Someone said: They didn't even try to get Bolton.

Now, of course, we did try to get Bolton, and what he said when he refused to show up voluntarily is: If you subpoena me, I will sue you. I will sue you.

He said basically what Don McGahn told us 9 months ago: I will sue you; good luck with that.

Now, the public argument that was made by his counsel was that he and Dr. Kupperman, out of, you know, just due diligence, they just want a court to opine that it is OK for them to come forward and testify. As soon as the court blesses their testimony, they are more than willing to come in. They just are going to court to get a court opinion saying they can do it.

And so, of course, we said to them: If that is your real motivation, there is a court about to rule on this very issue of absolute immunity.

And very shortly thereafter, that court did. That was the court—Judge Jackson in the McGahn case—and the judge said that his argument about absolute immunity—which, yes, Presidents have always dreamed about and asserted but which has never succeeded in any court in the land—it was ridiculed in the case of Harriet Miers. It was made short shrift in the case of Don McGahn, where the judge said: No, we don't have Kings here. In the 250 years of jurisprudence, there is not a single case to support the proposition that the President can simply say that my advisers are absolutely immune from process.

And, of course, in every other nonimpeachment context where the courts have looked at the issue of a Congress's power to enforce subpoenas against witnesses or documents, the courts have said the power to compel compliance with a subpoena is coequal and coextensive with the power to legislate because you can't do one without the other. If we can't find out whether the President is breaking the law, violating the Impoundment Control Act or any other—whether he is withholding aid that we appropriated for an ally—how can we legislate a fix to make sure that this never happens again? We can't. If we can't get answers, we can't legislate.

That is a proposition indicated by every court in the land. And, of course, in the context of impeachment, the courts have said that is never more important—never more important.

Now, I don't know why, after saying he would sue us—and we had to expect that, like Don McGahn, where we are still in court 9 months later. I don't know why he changed his mind, but I suspect it is for the reason that if this trial goes forward and he keeps this to himself, it will be very difficult to explain to the country why he saved it for the book. When he knew information of direct relevance and consequence to a decision that you have to make about whether the President of the United States should be removed from office, it would be very difficult to explain why that is saved for a book.

Well, I would submit to you, it would be equally difficult for you to explain as it would be for him. But you can ask him that question: Why are you willing to testify before the Senate but not the House? And you should ask him that question.

Now, it was said, and it has the character of ''you should have fought harder to overcome our obstruction.'' The House should have fought harder to overcome our stonewalling. Shame on the House for not fighting harder to overcome our stonewalling. If only they had fought harder to overcome our stonewalling, maybe they could have gotten these witnesses earlier.

That is a really hard argument to make while they are stonewalling: You should have tried harder. You should have taken the years that would be necessary to overcome our stonewalling.

And the reason why that argument is in such bad faith? As I pointed out to you yesterday, while they are in this body arguing the House was derelict, slapdash, they should have fought harder and longer and endlessly to overcome our stonewalling—while they are making that argument to you that the House should have fought up and down the courts from the district to the court of appeals to the Supreme Court and back again—they are in the courthouse arguing the opposite. They are in the courthouse saying: Judge, they are trying to enforce a subpoena on Don McGahn. You need to throw it out. They don't have the jurisdiction. This is nonjusticiable. You can't hear this case.

That is a really hard argument to make. I credit them for making it with a straight face, but that is the character of it: You should have fought harder to overcome our stonewalling and obstruction.

Now, they also say the Chief Justice cannot decide issues of privilege. No, the Chief Justice can't make those decisions. You need to let us litigate this up and down the court system.

That is a pretty remarkable argument because the Senate rules allow the presiding officer to make judgments and to rule on issues of evidence, materiality, and privilege. That is permitted under your own rules. We don't need to go up and down the courts. We have got a perfectly good judge right here.

Now, you heard our proposal yesterday that we take a week—just a week—to depose the witnesses that we feel are relevant, that they feel are relevant, and that the Justice rules are relevant—just one week. Now, they can say that the Constitution requires them to go to court, but, of course, it doesn't. There is absolutely no constitutional impediment from these fine lawyers saying: You know, that is eminently reasonable. We will allow a neutral party, the Chief Justice of the United States of America, to rule on whether a witness is material or immaterial, whether they have been called for purposes of probative evidence or harassment, and whether you are making a proper claim of privilege or merely trying to hide crime or fraud.

The concern they have is not that the Chief Justice will be unfair, but rather that he will be fair. But do not make any mistake about it. Do not let them suggest that there is something constitutionally impermissible or it would violate the President's rights to allow the Chief Justice of the United States to make those decisions in this court, because he is empowered to do so by your rules and by the Constitution, which gives you the sole power to try impeachments. In the sole exercise of your power to try impeachments, you can say: We will allow the Chief Justice to make those decisions.

Now, Mr. Sekulow said that you have heard the testimony of 13 witnesses. And I think the impression is meant to be given, if not to you—we know otherwise—maybe the people watching at home, that they must have been in between errands while watching the Senate trial and missed where those 13 witnesses came before the Senate and testified.

But of course, you heard no live testimony in this body. There wasn't any live testimony before this body, and I don't recall any of you in that supersecret basement bunker they have been talking about. Now, I will admit, there were 100 Members eligible to be there. So maybe I missed one of you, but I don't think you were there for the live testimony in the House.

Now, Mr. Sekulow says the President was deprived of his right of calling

these witnesses himself and cross-examining these witnesses in the House, but that is not true either because the President was eligible to call witnesses in his defense in the Judiciary Committee and chose not to do so. If the President's counsel felt that, you know, Bill Taylor says that he spoke with Sondland right after this phone call with the President, and Sondland talked about how the military aid was conditioned on these investigations, the President wanted Zelensky in a public box, and I would really like to cross-examine that West Point grad and Vietnam vet because I don't believe him, you know, they could have called Bill Taylor in the Judiciary Committee and cross-examined him, or they could have called Mick Mulvaney and put him under oath and let him contradict what we know John Bolton would say. But of course, they didn't do that. No, they said merely: Just get it over with in the House. For all there, it was too quick, too slapdash. Get it over with in the House, because, as the President said, when it comes to the Senate, we will have a real trial where he gets to call witnesses. But they have changed their tune because now they know what they have really known all along; which is, that those witnesses would deeply incriminate this President.

So, instead, they have fallen back on the argument that if we are going to go down the road to having a real trial, if we are going to go down the road in having a real trial, we, the President's lawyers, are going to make you pay. And the form of this argument is: We are going to call every witness under the Sun. We are going to call every witness that testified before the House. We are going to call every witness that we can think of that would help smear the Bidens. We are going to keep you here until kingdom come. That is essentially the argument that they are making when Mr. Sekulow says: We are going to bring in Fiona Hill, and we are going to bring in Tim Morrison, and we are going to bring in this witness and bring in that witness.

You have the sole power to try this case. You do not have to allow the President's lawyers to abuse your time or this process. You have the power to decide: No, we gave each side 24 hours to make their arguments. We are going to give each side a shared week to call their witnesses. You have that power. If you didn't, you couldn't have constricted the amount of time for our argument. You can likewise determine how much time should be taken with witness testimony.

Now, Mr. Sekulow ended his argument against witnesses with where Mr. Philbin essentially began. It all comes back to the Dershowitz principle. What is the point of witnesses if the President can do whatever he wants under article II? What is the point of calling witnesses? What is the point of having a trial if the President can do whatever he wants under article II?

The only constraining principle—and I think that one of the Senators asked yesterday: What is the limiting principle in the Dershowitz argument? If a President can corruptly seek foreign interference in his election because he believes that his election is in the national interest, then, you cannot impeach him for it, no matter how damaging it may be to our national security. What is the limiting principle?

And I suppose the limiting principle is only this: It only requires the President to believe that his reelection is in the national interest. Well, it would require an extraordinary level of self-reflection and insight for a President of the United States to conclude that his own reelection was not in the national interest—not unprecedented, mind you. I think that was the decision that LBJ ultimately arrived at, but I would not want to consider that a meaningful limitation on Presidential power, and neither should you.

Finally, counsel expressed some indignance—indignance—that we should suggest that it is not just the Senate—it is not just the President, rather, who is on trial here but it is also the Senate; how dare the House managers suggest that your decision should reflect on this body. That is just such a calumny.

Well, let me read you a statement made by one of your colleagues. This is what former U.S. Senator John Warner, a Republican of Virginia, had to say:

> As conscientious citizens from all walks of life are trying their best to understand the complex impeachment issues now being deliberated in the U.S. Senate, the rules of evidence are central to the matter. Should the Senate allow additional sworn testimony from fact witnesses with firsthand knowledge and include relevant documents?
>
> As a lifelong Republican and a retired member of the U.S. Senate, who once served as a juror in a Presidential impeachment trial, I am mindful of the difficult responsibilities those currently serving now shoulder. I believe, as I am sure you do, that not only is the President on trial, but in many ways, so is the Senate itself. As such, I am strongly supportive of the efforts of my former Republican Senate colleagues who are considering that the Senate accept the introduction of additional evidence that they deem relevant.
>
> Not long ago Senators of both major parties always worked to accommodate fellow colleagues with differing points of view to arrive at outcomes that would best serve the nation's interests. If witnesses are suppressed in this trial and a majority of Americans are left believing the trial was a sham, I can only imagine the lasting damage done to the Senate, and to our fragile national consensus. The Senate embraces its legacy and delivers for the American people by avoiding the risk.
>
> Throughout the long life of our nation, federal and state judicial systems have largely supported the judicial norms of evidence, witnesses and relevant documents. I respectfully urge the Senate to be guided by the rules of evidence and follow our nation's judicial norms, precedents and institutions to uphold the Constitution and the rule of law by welcoming relevant witnesses and documents as part of this impeachment trial.

That is your colleague, former Senator John Warner.

Senators, there is a storm blowing through this Capitol. Its winds are strong, and they move us in uncertain and dangerous directions.

Jefferson once said: ''I consider trial by jury as the only anchor . . . yet imagined by man, by which a government can be held to the principles of its constitution''—the only anchor yet imagined by man by which a government can be held to the principles of its constitution. I would submit to you, remove that anchor, and we are adrift, but if we hold true, if we have faith that the ship of state can survive the truth, this storm shall pass.

I yield back.

The CHIEF JUSTICE. Thank you, Mr. Manager.

Mr. MCCONNELL. Mr. Chief Justice.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. MCCONNELL. I suggest the absence of a quorum.

The CHIEF JUSTICE. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. Chief Justice, I ask unanimous consent that the order for the quorum call be rescinded.

The CHIEF JUSTICE. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. Chief Justice, the Democratic leader and I have had an opportunity to have a discussion, and it leads to the following: We will now cast a vote on the witness question.

Once that vote is complete, I would ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

The CHIEF JUSTICE. Thank you. Without objection, it is so ordered.

The question is, Shall it be in order to consider and debate under the impeachment rules any motion to subpoena witnesses or documents?

The yeas and nays are required under S. Res. 483.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The CHIEF JUSTICE. Are there any Senators in the Chamber wising to change his or her vote?

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 27]

YEAS—49

Baldwin	Hassan	Rosen
Bennet	Heinrich	Sanders
Blumenthal	Hirono	Schatz
Booker	Jones	Schumer
Brown	Kaine	Shaheen
Cantwell	King	Sinema
Cardin	Klobuchar	Smith
Carper	Leahy	Stabenow
Casey	Manchin	Tester
Collins	Markey	Udall
Coons	Menendez	Van Hollen
Cortez Masto	Merkley	Warner
Duckworth	Murphy	Warren
Durbin	Murray	Whitehouse
Feinstein	Peters	Wyden
Gillibrand	Reed	
Harris	Romney	

NAYS—51

Alexander	Braun	Cotton
Barrasso	Burr	Cramer
Blackburn	Capito	Crapo
Blunt	Cassidy	Cruz
Boozman	Cornyn	Daines

Enzi	Lankford	Rounds
Ernst	Lee	Rubio
Fischer	Loeffler	Sasse
Gardner	McConnell	Scott (FL)
Graham	McSally	Scott (SC)
Grassley	Moran	Shelby
Hawley	Murkowski	Sullivan
Hoeven	Paul	Thune
Hyde-Smith	Perdue	Tillis
Inhofe	Portman	Toomey
Johnson	Risch	Wicker
Kennedy	Roberts	Young

The motion was rejected.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The CHIEF JUSTICE. Under the previous order, the Senate stands in recess subject to the call of the Chair.

Thereupon, at 5:42 p.m., the Senate, sitting as a Court of Impeachment, recessed until 7:13 p.m.; whereupon the Senate reassembled when called to order by the CHIEF JUSTICE.

The CHIEF JUSTICE. The Senate will come to order. The majority leader is recognized.

PROVIDING FOR RELATED PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST DONALD JOHN TRUMP, PRESIDENT OF THE UNITED STATES

Mr. MCCONNELL. Mr. Chief Justice, I send a resolution to the desk, and I ask the clerk to report.

Mr. CHIEF JUSTICE. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 488) to provide for related procedures concerning the articles of impeachment against Donald John Trump, President of the United States.

Resolved, That the record in this case shall be closed, and no motion with respect to reopening the record shall be in order for the duration of these proceedings.

The Senate shall proceed to final arguments as provided in the impeachment rules, waiving the two person rule contained in Rule XXII of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. Such arguments shall begin at 11:00 am on Monday, February 3, 2020, and not exceed four hours, and be equally divided between the House and the President to be used as under the Rules of Impeachment.

At the conclusion of the final arguments by the House and the President, the court of impeachment shall stand adjourned until 4:00 pm on Wednesday, February 5, 2020, at which time the Senate, without intervening action or debate shall vote on the Articles of Impeachment.

Thereupon, the Senate, sitting as a Court of Impeachment, proceeded to consider the resolution.

The CHIEF JUSTICE. The majority leader.

Mr. MCCONNELL. Mr. Chief Justice, I ask unanimous consent that the Democratic leader or designee be allowed to offer up four amendments to the resolution; further, that I be recognized to make a motion to table the amendment after it has been reported with no intervening action or debate.

The CHIEF JUSTICE. Is there objection? Without objection, it is so ordered.

The Democratic leader is recognized.

Mr. SCHUMER. Mr. Chief Justice, I have a parliamentary inquiry.

The CHIEF JUSTICE. The Democratic leader will state the inquiry.

Mr. SCHUMER. Is the Chief Justice aware that in the impeachment trial of President Johnson, Chief Justice Chase, as Presiding Officer, cast tie-breaking votes on both March 31 and April 2, 1868?

The CHIEF JUSTICE. I am, Mr. Leader. The one concerned a motion to adjourn. The other concerned a motion to close deliberations. I do not regard those isolated episodes 150 years ago as sufficient to support a general authority to break ties.

If the Members of this body, elected by the people and accountable to them, divide equally on a motion, the normal rule is that the motion fails.

I think it would be inappropriate for me, an unelected official from a different branch of government, to assert the power to change that result so that the motion would succeed.

AMENDMENT NO. 1295

(Purpose: To subpoena certain relevant witnesses and documents.)

Mr. SCHUMER. Mr. Chief Justice, I send an amendment to the desk to subpoena Mulvaney, Bolton, Duffey, Blair, and the White House, OMB, DOD, and State Department documents, and I ask that it be read.

The CHIEF JUSTICE. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 1295.

Mr. SCHUMER. Mr. Chief Justice, I ask unanimous consent that the amendment be considered as read.

The CHIEF JUSTICE. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The CHIEF JUSTICE. The majority leader is recognized.

MOTION TO TABLE

Mr. MCCONNELL. Mr. Chief Justice, I move to table the amendment, and I ask for the yeas and nays.

The CHIEF JUSTICE. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The CHIEF JUSTICE. Does any Member in the Chamber wish to change his or her vote?

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 28]

YEAS—53

Alexander	Fischer	Perdue
Barrasso	Gardner	Portman
Blackburn	Graham	Risch
Blunt	Grassley	Roberts
Boozman	Hawley	Romney
Braun	Hoeven	Rounds
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Johnson	Scott (FL)
Collins	Kennedy	Scott (SC)
Cornyn	Lankford	Shelby
Cotton	Lee	Sullivan
Cramer	Loeffler	Thune
Crapo	McConnell	Tillis
Cruz	McSally	Toomey
Daines	Moran	Wicker
Enzi	Murkowski	Young
Ernst	Paul	

NAYS—47

Baldwin	Hassan	Rosen
Bennet	Heinrich	Sanders
Blumenthal	Hirono	Schatz
Booker	Jones	Schumer
Brown	Kaine	Shaheen
Cantwell	King	Sinema
Cardin	Klobuchar	Smith
Carper	Leahy	Stabenow
Casey	Manchin	Tester
Coons	Markey	Udall
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murphy	Warren
Feinstein	Murray	Whitehouse
Gillibrand	Peters	Wyden
Harris	Reed	

The motion to table is agreed to; the amendment is tabled.

The CHIEF JUSTICE. The Democratic leader is recognized.

AMENDMENT NO. 1296

Mr. SCHUMER. Mr. Chief Justice, I send an amendment to the desk to subpoena John R. Bolton, and I ask that it be read.

The CHIEF JUSTICE. The clerk will read the amendment.

The senior assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 1296.

The amendment is as follows:

(Purpose: To subpoena John Robert Bolton)

At the appropriate place in the resolving clause, insert the following:

SEC. _____. Notwithstanding any other provision of this resolution, pursuant to rules V and VI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, the Chief Justice of the United States, through the Secretary of the Senate, shall issue a subpoena for the taking of testimony of John Robert Bolton, and the Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or any other employee of the Senate in serving the subpoena authorized to be issued by this section.

MOTION TO TABLE

The CHIEF JUSTICE. The majority leader is recognized.

Mr. MCCONNELL. Mr. Chief Justice, I move to table the amendment, and I ask for the yeas and nays.

The CHIEF JUSTICE. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The CHIEF JUSTICE. Are there any Senators in the Chamber wishing to vote or change his or her vote?

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 29]

YEAS—51

Alexander	Fischer	Paul
Barrasso	Gardner	Perdue
Blackburn	Graham	Portman
Blunt	Grassley	Risch
Boozman	Hawley	Roberts
Braun	Hoeven	Rounds
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Johnson	Scott (FL)
Cornyn	Kennedy	Scott (SC)
Cotton	Lankford	Shelby
Cramer	Lee	Sullivan
Crapo	Loeffler	Thune
Cruz	McConnell	Tillis
Daines	McSally	Toomey
Enzi	Moran	Wicker
Ernst	Murkowski	Young

NAYS—49

Baldwin	Hassan	Rosen
Bennet	Heinrich	Sanders
Blumenthal	Hirono	Schatz
Booker	Jones	Schumer
Brown	Kaine	Shaheen
Cantwell	King	Sinema
Cardin	Klobuchar	Smith
Carper	Leahy	Stabenow
Casey	Manchin	Tester
Collins	Markey	Udall
Coons	Menendez	Van Hollen
Cortez Masto	Merkley	Warner
Duckworth	Murphy	Warren
Durbin	Murray	Whitehouse
Feinstein	Peters	Wyden
Gillibrand	Reed	
Harris	Romney	

The motion to table is agreed to; the amendment is tabled.

The CHIEF JUSTICE. The Democratic leader is recognized.

AMENDMENT NO. 1297

Mr. SCHUMER. Mr. Chief Justice, I send an amendment to the desk to subpoena John R. Bolton; providing further that there be 1 day for a deposition, presided over by the Chief Justice, and 1 day for live testimony before the Senate, both of which must occur within 5 days of the adoption of the underlying resolution, and I ask that it be read.

The CHIEF JUSTICE. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 1297.

Mr. SCHUMER. Mr. Chief Justice, I ask unanimous consent that the amendment be considered as read.

The CHIEF JUSTICE. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To subpoena John Robert Bolton)

At the appropriate place in the matter following the resolving clause, insert the following:

Notwithstanding any other provision of this resolution, pursuant to rules V and VI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, the Chief Justice of the United States, through the Secretary of the Senate, shall issue a subpoena for the taking of testimony on oral deposition and subsequent testimony before the Senate of John Robert Bolton, and the Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or any other employee of the Senate in serving the subpoena authorized to be issued by this paragraph.

The deposition authorized by this resolution shall be taken before, and presided over by, the Chief Justice of the United States, who shall administer to the witness the oath prescribed by rule XXV of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. The Chief Justice shall have authority to rule, as an initial matter, upon any question arising out of the deposition. All objections to a question shall be noted by the Chief Justice upon the record of the deposition but the examination shall proceed, and the witness shall answer such question. The witness may refuse to answer a question only when necessary to preserve a legally recognized privilege, or constitutional right, and must identify such privilege cited if refusing to answer a question.

Examination of the witness at a deposition shall be conducted by the Managers on the part of the House of Representatives or their counsel, and by counsel for the President. The witness shall be examined by not more than 2 persons each on behalf of the Managers and counsel for the President. The witness may be accompanies by counsel. The scope of the examination by the Managers and counsel for both parties shall be limited to subject matters reflected in the Senate record. The party taking a deposition shall present to the other party, not less than 18 hours in advance of the deposition, copies of all exhibits which the deposing party intends to enter into the deposition. No exhibits outside of the Senate record shall be employed, except for articles and materials in the press, including electronic media. Any party may interrogate the witness as if the witness were declared adverse.

The deposition shall be videotaped and a transcript of the proceeding shall be made. The deposition shall be conducted in private. No person shall be admitted to the deposition except for the following: The witness, counsel for the witness, the Managers on the part of the House of Representatives, counsel for the Managers, counsel for the President, and the Chief Justice; further, such persons whose presence is required to make and preserve a record of the proceeding in videotaped and transcript forms, and staff members to the Chief Justice whose presence is required to assist the Chief Justice in presiding over the deposition, or for other purposes, as determined by the Chief Justice. All persons present must maintain the confidentiality of the proceeding.

The Chief Justice at the deposition shall file the videotaped and transcribed records of the deposition with the Secretary of the Senate, who shall maintain them as confidential proceedings of the Senate. The Sergeant at Arms is authorized to make available for review at secure locations, any of the videotapes or transcribed deposition records to Members of the Senate, one designated staff member per Senator, and the Chief Justice. The Senate may direct the Secretary of the Senate to distribute such materials, and to use whichever means of dissemination, including printing as Senate documents, printing in the Congressional Record, photo- and video- duplication, and electronic dissemination, he determines to be appropriate to accomplish any distribution of the videotaped or transcribed deposition records that he is directed to make pursuant to this paragraph.

The deposition authorized by this resolution shall be deemed to be proceedings before the Senate for purposes of rule XXIX of the Standing Rules of the Senate, sections 101, 102, and 104 of the Revised Statutes (2 U.S.C. 191, 192, and 194), sections 703, 705, and 707 of the Ethics in Government Act of 1978 (2 U.S.C. 288b, 288d, and 288f), sections 6002 and 6005 of title 18, United States Code, and section 1365 of title 28, United States Code. The Secretary of the Senate shall arrange for stenographic assistance, including videotaping, to record the depositions as provided in section 205. Such expenses as may be necessary shall be paid from the ''Appropriation Account—Miscellaneous Items'' in the contingent fund of the Senate upon vouchers approved by the Secretary.

The deposition authorized by this resolution may be conducted for a period of time not to exceed 1 day. The period of time for the subsequent testimony before the Senate authorized by this resolution shall not exceed 1 day. The deposition and the subsequent testimony before the Senate shall both be completed not later than 5 days after the date on which this resolution is adopted.

The CHIEF JUSTICE. The majority leader is recognized.

MOTION TO TABLE

Mr. MCCONNELL. Mr. Chief Justice, I move to table the amendment, and I ask for the yeas and nays.

The CHIEF JUSTICE. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The CHIEF JUSTICE. Is there any Member in the Chamber who wishes to vote or change his or her vote?

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 30]

YEAS—51

Alexander	Fischer	Paul
Barrasso	Gardner	Perdue
Blackburn	Graham	Portman
Blunt	Grassley	Risch
Boozman	Hawley	Roberts
Braun	Hoeven	Rounds
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Johnson	Scott (FL)
Cornyn	Kennedy	Scott (SC)
Cotton	Lankford	Shelby
Cramer	Lee	Sullivan
Crapo	Loeffler	Thune
Cruz	McConnell	Tillis
Daines	McSally	Toomey
Enzi	Moran	Wicker
Ernst	Murkowski	Young

NAYS—49

Baldwin	Harris	Reed
Bennet	Hassan	Romney
Blumenthal	Heinrich	Rosen
Booker	Hirono	Sanders
Brown	Jones	Schatz
Cantwell	Kaine	Schumer
Cardin	King	Shaheen
Carper	Klobuchar	Sinema
Casey	Leahy	Smith
Collins	Manchin	Stabenow
Coons	Markey	Tester
Cortez Masto	Menendez	Udall
Duckworth	Merkley	Van Hollen
Durbin	Murphy	Warner
Feinstein	Murray	Warren
Gillibrand	Peters	Whitehouse
		Wyden

The motion to table is agreed to; the amendment is tabled.

The CHIEF JUSTICE. The Senator from Maryland.

AMENDMENT NO. 1298

Mr. VAN HOLLEN. Mr. Chief Justice, I send an amendment to the desk to have the Chief Justice rule on motions to subpoena witnesses and documents and to rule on any assertion of privilege, and I ask that it be read.

The CHIEF JUSTICE. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Maryland [Mr. VAN HOLLEN] proposes an amendment numbered 1298.

At the appropriate place in the matter following the resolving clause, insert the following:

Notwithstanding any other provision of this resolution, the Presiding Officer shall issue a subpoena for any witness or any document that a Senator or a party moves to subpoena if the Presiding Officer determines that the witness or document is likely to have probative evidence relevant to either article of impeachment before the Senate, and, consistent with the authority of the Presiding Officer to rule on all questions of evidence, shall rule on any assertion of privilege.

The CHIEF JUSTICE. The majority leader is recognized.

MOTION TO TABLE

Mr. MCCONNELL. Mr. Chief Justice, I move to table the amendment, and I ask for the yeas and nays.

The CHIEF JUSTICE. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The CHIEF JUSTICE. Is there any Senator in the Chamber wishing to vote or change his or her vote?

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 31]

YEAS—53

Alexander	Fischer	Perdue
Barrasso	Gardner	Portman
Blackburn	Graham	Risch
Blunt	Grassley	Roberts
Boozman	Hawley	Romney
Braun	Hoeven	Rounds
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Johnson	Scott (FL)
Collins	Kennedy	Scott (SC)
Cornyn	Lankford	Shelby
Cotton	Lee	Sullivan
Cramer	Loeffler	Thune
Crapo	McConnell	Tillis
Cruz	McSally	Toomey
Daines	Moran	Wicker
Enzi	Murkowski	Young
Ernst	Paul	

NAYS—47

Baldwin	Hassan	Rosen
Bennet	Heinrich	Sanders
Blumenthal	Hirono	Schatz
Booker	Jones	Schumer
Brown	Kaine	Shaheen
Cantwell	King	Sinema
Cardin	Klobuchar	Smith
Carper	Leahy	Stabenow
Casey	Manchin	Tester
Coons	Markey	Udall
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murphy	Warren
Feinstein	Murray	Whitehouse
Gillibrand	Peters	Wyden
Harris	Reed	

The motion to table is agreed to; the amendment is tabled.

The CHIEF JUSTICE. The question occurs on the adoption of S. Res. 488.

Mr. MCCONNELL. Mr. Chief Justice, I ask for the yeas and nays.

The CHIEF JUSTICE. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The CHIEF JUSTICE. Is there any Member in the Chamber who wishes to vote or change his or her vote?

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 32]

YEAS—53

Alexander	Fischer	Perdue
Barrasso	Gardner	Portman
Blackburn	Graham	Risch
Blunt	Grassley	Roberts
Boozman	Hawley	Romney
Braun	Hoeven	Rounds
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Johnson	Scott (FL)
Collins	Kennedy	Scott (SC)
Cornyn	Lankford	Shelby
Cotton	Lee	Sullivan
Cramer	Loeffler	Thune
Crapo	McConnell	Tillis
Cruz	McSally	Toomey
Daines	Moran	Wicker
Enzi	Murkowski	Young
Ernst	Paul	

NAYS—47

Baldwin	Brown	Casey
Bennet	Cantwell	Coons
Blumenthal	Cardin	Cortez Masto
Booker	Carper	Duckworth
Durbin	Manchin	Shaheen
Feinstein	Markey	Sinema
Gillibrand	Menendez	Smith
Harris	Merkley	Stabenow
Hassan	Murphy	Tester
Heinrich	Murray	Udall
Hirono	Peters	Van Hollen
Jones	Reed	Warner
Kaine	Rosen	Warren
King	Sanders	Whitehouse
Klobuchar	Schatz	Wyden
Leahy	Schumer	

The resolution (S. Res. 488) was agreed to.

(The resolution is printed in today's RECORD under ''Submitted Resolutions.'')

UNANIMOUS CONSENT AGREEMENT—PRINTING OF STATEMENTS IN THE RECORD AND PRINTING OF SENATE DOCUMENT OF IMPEACHMENT PROCEEDINGS

The CHIEF JUSTICE. The majority leader is recognized.

Mr. MCCONNELL. Mr. Chief Justice, I ask unanimous consent that the Secretary be authorized to include statements of Senators explaining their votes, either given or submitted during the legislative sessions of the Senate on Monday, February 3; Tuesday, February 4; and Wednesday, February 5; along with the full record of the Senate's proceedings and the filings by the parties in a Senate document printed under the supervision of the Secretary of the Senate that will complete the documentation of the Senate's handling of these impeachment proceedings.

The CHIEF JUSTICE. Without objection, so ordered.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL:

S. Res. 488. A resolution to provide for related procedures concerning the articles of impeachment against Donald John Trump, President of the United States; considered and agreed to.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 488—TO PROVIDE FOR RELATED PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST DONALD JOHN TRUMP, PRESIDENT OF THE UNITED STATES

Mr. MCCONNELL submitted the following resolution; which was considered and agreed to:

S. RES. 488

Resolved, That the record in this case shall be closed, and no motion with respect to reopening the record shall be in order for the duration of these proceedings.

The Senate shall proceed to final arguments as provided in the impeachment rules, waiving the two person rule contained in Rule XXII of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. Such arguments shall begin at 11:00 am on Monday, February 3, 2020, and not exceed four hours, and be equally divided between the House and the President to be used as under the Rules of Impeachment.

At the conclusion of the final arguments by the House and the President, the court of impeachment shall stand adjourned until 4:00 pm on Wednesday, February 5, 2020, at which time the Senate, without intervening action or debate shall vote on the Articles of Impeachment.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1295. Mr. SCHUMER proposed an amendment to the resolution S. Res. 488, to provide for related procedures concerning the articles of impeachment against Donald John Trump, President of the United States.

SA 1296. Mr. SCHUMER proposed an amendment to the resolution S. Res. 488, supra.

SA 1297. Mr. SCHUMER proposed an amendment to the resolution S. Res. 488, supra.

SA 1298. Mr. VAN HOLLEN proposed an amendment to the resolution S. Res. 488, supra.

TEXT OF AMENDMENTS

SA 1295. Mr. SCHUMER proposed an amendment to the resolution S. Res. 488, to provide for related procedures concerning the articles of impeachment against Donald John Trump, President of the United States; as follows:

At the appropriate place in the matter following the resolving clause, insert the following:

SEC. _____. Notwithstanding any other provision of this resolution, pursuant to rules V and VI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials—

(1) the Chief Justice of the United States, through the Secretary of the Senate, shall issue a subpoena—

(A) for the taking of testimony of—

(i) John Robert Bolton;

(ii) John Michael ''Mick'' Mulvaney;

(iii) Michael P. Duffey; and

(iv) Robert B. Blair;

(B) to the Acting Chief of Staff of the White House commanding him to produce, for the time period from January 1, 2019, to the present, all documents, communications, and other records within the possession, custody, or control of the White House, including the National Security Council, referring or relating to—

(i) all meetings and calls between President Trump and the President of Ukraine, including documents, communications, and other records related to the scheduling of, preparation for, and follow-up from the President's April 21 and July 25, 2019 telephone calls, as well as the President's September 25, 2019 meeting with the President of Ukraine in New York;

(ii) all investigations, inquiries, or other probes related to Ukraine, including any that relate in any way to—

(I) former Vice President Joseph Biden;

(II) Hunter Biden and any of his associates;

(III) Burisma Holdings Limited (also known as ''Burisma'');

(IV) interference or involvement by Ukraine in the 2016 United States election;

(V) the Democratic National Committee; or

(VI) CrowdStrike;

(iii) the actual or potential suspension, withholding, delaying, freezing, or releasing