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 offer a 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 PROCEEDURE

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. CIPOZZONE. 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
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 elections in Ukraine, to persuade 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 advisors as early witnesses in the effort that they have to remove the President from office.

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 and the president's belief, based on a mix of scattershot events, assertions and outright conspiracy theories, that Ukraine portrayed the most senior White House advisors and produce documents, and that is his right, but being the President, Mr. Bolton began to realize the extent and aims of the President to further his own personal gain. Now we know why—because John Bolton is not telling the truth. A trial is supposed to be a quest for the truth. Let's not have an investigation 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 on the impeachment and this broad evidence of subpoenas, 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 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—votetrivializing our democracy all to further his own personal gain.
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 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. We 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, and we targeted key documents which we understand already had been collected. For example, at the State Department, they have already been collected.

We should take a brief, 1-week break from 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, and we targeted key documents which we understand already had been collected. For example, at the State Department, they have already been collected.

In this trial, too, let's do the same. We should take a brief, 1-week break for witnesses, an opportunity to bring evidence. This is too important of a decision to make 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 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, the Senate 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, it is not just the impeachment, and it does not just debase 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 allowing me to speak to you 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 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 precedent by the impeachment court. 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 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, at his own admission—his entire administration—to defy every single impeachment subpoena. The Trump administration has not produced a single document in response to the congressional subpoenas—nada, nada, 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 instructions.

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 that there is no dispute that there is the very evidence he says now that we don't have.

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

(Text of Videotape presentation:)

Mr. Counsel CIPOLLONE. (Because 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 the President's misrepresentations 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 are known to you, you are in a position to know: 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. It should not be about personal politics. 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. Senator McConnell said that he would have to weigh evidence that testify, including John Bolton and Mick Mulvaney. He said that he wants a complete and total exoneration.

We know whatever you say about this trial, there cannot be a total—an exonerated without hearing from those witnesses because an acquittal on an incomplete record after a trial lacking witnesses and evidence will be no exonerated. It will be no better than acquittal 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 want 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 by his own advisors 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 should be whether you can 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.

Second, 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 this does not, 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, the President's counsel has said: No scheme existed. He 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 that everyone was in the loop,” as he testified before. Ambassador Bolton reportedly knows “new details about senior cabinet officials who have publicly tried to side-step 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. He has had critical insight into the President’s inner circle, and he is willing to testify under oath that everyone was in the loop,” as he testified before. Ambassador Bolton reportedly knows “new details about senior cabinet officials who have publicly tried to side-step involvement,” including Secretary Pompeo and Mr. Mulvaney’s knowledge of the scheme.

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 can then 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 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.

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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 Sondland, and that he told him to schedule a White House meeting if Ukrainians did the investigations. According to Dr. Hill, when Ambassador Bolton learned this, he told him to go back to the NSC’s Legal Advisor, John Eisenberg, and tell him that he would not participate in 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 raising.”

Danylyuk also explained why this was so problematic. He raised concerns that being “dragged into this internal process, that it’s really bad for our 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. This investigation is an issue of concern for 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 evidence of what Mayor Giuliani did or why he was 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 he was doing 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?”

Fifth, the President’s main defense, the President also argues that you want you to read the President’s mind. The truth will come out, and it is very nearly the reverse, the exact reverse of the truth.”

As Mr. Bolton said on January 30, “the truth will come out, and it is very nearly the reverse, the exact reverse of the truth. 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, do you think 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. Duffy, and Mr. Blair are also important.
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 it done.”

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 inves-
tigations into 2016 and Burisma. 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 investiga-
tions.

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 the hold couldn’t be 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.

(The 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:

(The 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. Perhaps here is why:

Mr. Manager JEFFRIES. Is that the Constitution requires—“Get over it”? Is that good enough for this body or the world’s greatest deliberative body—“Get over it”? The President’s counsel can try to emphasize Mr. Mulvaney and his attor-
neys’ efforts to walk back this state-
ment, but, as you have seen with your own eyes, the statement is verifiable. Mr. McKinney said yesterday that he was really up for 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.

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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 the right to use hundreds of millions of dollars in taxpayer funds as leverage to get political gain 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 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 Yovanovitch, 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. Sandy if this happened during 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 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 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, Mr. Duffey told Ms. Vindman and Mr. McCuisker 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 unlawful? Mr. Duffey all but asked 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 of a career official. Mr. Duffey provided no credible explanation for this 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?


I yield to my distinguished colleague, Manager LOFRENS.

Mr. Manager LOFRENS, 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 that have not been released. Mr. Duffey is refusing to release these documents to Congress. Mr. Duffey is the official responsible for these documents. 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 the President, about the effect of the hold—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. This document is 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 Volker and Brochen 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 aid to deny the President’s hold on aid to Congress. Why are these records 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 the very evidence you 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 may even invoke college 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 matters to the democracy and 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 the 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 could move quickly to de- pose 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, our side 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 threatened delay, or whatever 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 go to the truth then because the Senate considered it 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 relevant 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 weight we would give to the President's privilege claims.

Precedent confirms the point. To name just a few, National Security Advisors for President Carter, Zbignew 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.

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, you 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 the Constitution and the 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, too. The President 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 is weighed 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 precedent.

If we tell the President, effectively, “You can act corruptly, you can abuse the powers of your office to coerce a foreign government to help 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 accountable to anyone. Our government is not a forum for disagreement among the 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 purposefully gave 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 call for new witnesses or 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 confront our president with the 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, 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 witnesses and 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 main-spring 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, without witnesses—if that should be true, 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. And as we reached a fair trial, 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 fair verdict.

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 there 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.

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 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. We have 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 it would be arbitrary if you don’t do what the House managers say. And the principles that they assert—the new normal that would emerge going forward because what it does is the fairness in that proceeding in the Senate determines not just precedent for the Senate but, really, precedent for the House in the future as well. And if 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. And if 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 here. It is going to take a long time, that they aren’t going to make up for their errors, they can’t project that onto this body to try to say that you have to make up for your errors,” then that becomes the new normal. 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.

“Also it 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 the House said, that this is arbitrary, 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 invariable, arbitrary 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 would 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, there is no precedent for the Senate. It is going to be unfair, 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 determination will be resolved as the 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 to it, again, as 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 the 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 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.

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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 denigrated due process, that produced a record that was not complete, the record on which the action 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 from the 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. The House 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 in the House. 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. We didn’t have the opportunity to cross-examine her.

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. 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 the witness that has just been produced that you have seen by the House managers.

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—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.
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 says is correct; that under our constitutional design, they are supposed to be investigative, 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 LOFORENZ:

You have heard from a lot of witnesses. The problem with the case, the problem with their position is, even with all of these 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 their wish of an impeachment by witnesses. 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 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—as 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: Thus far, the record does 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 talk about the arguments that you just heard from the Presi-
dent’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 don’t need witnesses. What you will see is the motive for 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? 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 witholding military aid, if he believes soliciting foreign interference in our election, he can do it. He can be from Russia or 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 because he said: When 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. 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 will you see for their complete obstruction of Congress. When you see not the redacted emails, not the fully blacked-out emails that they delined to give in the litigation and Freedom of Information Act, but whether you see when you see one of 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 when Mr. Sekulow tries to use every bit 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, Mr. Sekulow argues for an impeachment in an election year. What do we hear from the witnesses who ran the Office of Management and Budget 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 irrelevancy. That is his 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, 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 didn’t have 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 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 to call 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 was asked to make that decision, they were 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 made the rulings above on 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 a pretty remarkable argument. And since then, every court has said the power to compel compliance with a subpoena is coequal and coextensive with the power to legislate because 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, you can 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 stonewalling. Shame on the House for not fighting harder to overcome our stonewalling. If only they had fought harder to overcome our stonewalling, if they could have gotten those 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, they are under 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.

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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.
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 felt they didn’t know what Mike Pence was talking about, 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 to know, and Bill Taylor says that he spoke with Sondland right after the phone call with the President.

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 it 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 was 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, Presidential power, and neither should you.

Finally, counsel expressed some indignance—indignance—that we should suggest that it is not just the Senate that 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 more than willing to bear difficult responsibilities those currently serving now should shoulder, I believe, as I am sure you do, that not only is the President on trial, but in many ways, so to speak, 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 suppose to 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 to it, 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. 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 result was announced—yeas 49, nays 51, as follows:

(Rollcall Vote No. 27)

YEAS—49
Baldwin
Bennett
Blumenthal
Booker
Braun
Brown
Budow
Burr
Capito
Cassidy
Cromer
Cruz
Daines

NAYS—51
Alexander
Barrasso
Blackburn
Biden
Boozman
CORN

CONGRESSIONAL RECORD — SENATE
January 31, 2020
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 John R. Bolton, and I ask that it be read.

The CHIEF JUSTICE. The clerk will read the amendment.

Mr. SCHUMER. Is the Chief Justice in order by the 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 re-opening 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 a.m. on Monday, February 3, 2020, and not exceed four hours, and be equally divided between the House and the President pro tempore 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 p.m. 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 send a resolution to the desk, and I ask the clerk to report.

The motion agaist the resolution was rejected.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Thereupon, at 5:42 p.m., the Senate, without intervening action or debate, adjourned until 7:13 p.m., whereupon the Senate reassembled when called to order by the CHIEF JUSTICE.

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

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

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

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

Mr. VAN HOLLEN. 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 result was announced—yeas 51, nays 49, as follows: [Roll Call Vote No. 30]

YEAS—51

Baldwin        Hassan        Rosen
Benningen      Heinrich      Sanders
Blumenstiel    Hirono        Schatz
Boozman       Jackson        Schumer
Brown          Kaine         Shaheen
Cantwell       King          Smith
Cashe          Leach         Smith
Carter         Leahy         Udall
Cordta Mastro   Merkley       Van Hollen
Duckworth      Murphy        Warner
Durbin         Murray        Warren
Feinstein      Peterson      Whitehouse
Gillibrand     Reed          Wyden
Harris         Romney

NAYS—49

Alexander      Alexander      Baldwin
Bassano        Blackburn      Bennet
Blanco         Braun         Bingaman
Burr           Byrd          Blunt
Cappo          Cassidy       Blake
Coats          Cantwell      Blumenthal
Collins        Carper        Blunt
Corzine        Cantwell      Boozman
Cassidy        Carper        Boozman
Carter         Carter        Burr
Coons          Casey         Burns
Cortez Manto   Casey         Burr
Cotton         Carper        Burns
Crage          Coons         Burton
Cruz           Cooper        Burr
Daines         Dewhurst      Byrne
Duckworth      Durbin        Cantwell
Feinstein      Durbin        Cantwell
Gillibrand     Durbin        Cantwell
Harris         Hatch         Himes

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. 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 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, it is 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 PROCEEDINGS 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:

Resolved, That the record in this case shall be closed, and no motion with respect to opening 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 Senate resolutions were read, and agreed to.

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.

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. 2. 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—
(i) 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 Brien;
(II) John Michael “Mick” Mulvaney;
(III) Michael P. Duffey; and
(IV) Robert B. Blair;
(c) 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—
(1) 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;
(2) 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”); and
(IV) interference or involvement by Ukraine in the 2016 United States election;
(V) the Democratic National Committee; or
(VI) CrowdStrike;
(d) the actual or potential suspension, withholding, delaying, freezing, or releasing...
of United States foreign assistance, military assistance, or security assistance of any kind to Ukraine, including but not limited to the Ukraine Security Assistance Initiative (USAID) and Foreign Military Financing (FMF);
(iv) all documents, communications, notes, and other records created or received by Acting Assistant Secretary of Defense Danylyuk and United States Government officials Andriy Yermak and Oleksander DiGenova; and
(v) meetings at or involving the White House that relate to Ukraine, including but not limited to:
(I) President Zelensky’s inauguration on May 20, 2019, in Kiev, Ukraine, including but not limited to President Trump’s decision not to invite Vice President Pence to lead the delegation, directing Vice President Pence not to attend, and the subsequent decision about the composition of the delegation to be limited to officials;
(II) a meeting at the White House on or around May 23, 2019, involving, among others, President Trump, then-Special Representative for Ukraine Negotiations Ambassadors Kurt Volker, then-Energy Secretary Rick Perry, and United States Ambassador to the European Union Gordon Sondland, as well as any private meetings or conversations with those individuals or before or after the larger meeting;
(III) a meeting at the White House on or around July 10, 2019, involving Ukrainian officials Andriy Yermak and Oleksander Danylyuk and United States Government officials, including, but not limited to, then-National Security Advisor John Bolton, Secretary Perry, Ambassador Volker, and Ambassador Sondland, to include at least a meeting in Ambassador Bolton’s office and a subsequent meeting in the Ward Room;
(IV) a meeting at the White House on or around August 30, 2019, involving President Trump, then-Special Representative for Ukraine Negotiations Ambassador Victoria Toensing, then-State, Michael Pompeo, and Secretary of Defense Mark Esper;
(V) a planned meeting, later cancelled, in Warsaw on or around September 1, 2019 between President Trump and President Zelensky, and subsequently attended by Vice President Pence and;
(VI) all meetings at the White House on or around September 11, 2019, involving President Trump, Vice President Pence, and Mr. Mulvany concerning the lifting of the hold on security assistance for Ukraine;
(vi) meetings, telephone calls or conversations related to any occasions in which National Security Council officials reported concerns to National Security Council Pesa-
(A) officials at the Department of Defense, including but not limited to Undersecretary of Defense Janet Wolfers, and
(bb) Associate Director Michael Duffy, Deputy Associate Director Mark Sandy, or any other Office of Management and Budget employee;
(II) communications related to requests by President Trump for Administration information about Ukraine security or military assistance and responses to those requests;
(III) communications related to concerns raised by the Office of Management and Budget employee related to the legality of any hold on foreign assistance, military assistance, or security assistance to Ukraine;
(IV) all communications sent to the Department of State regarding a hold or block on congressional notifications regarding the release of FMF funds to Ukraine;
(V) communications with the White House, Department of Defense, and the Office of Management and Budget employee;
(VI) all draft and final versions of the August 7, 2019, memorandum prepared by the National Security Division, International Affairs Division, and Office of General Counsel of the Department of State and the Department of Defense regarding potential or actual suspensions, holds, or delays in United States assistance to Ukraine;
(vii) the complaint submitted by a whistleblower within the Intelligence Community;
(viii) the complaint submitted by a whistleblower within the Intelligence Community;
(ix) communications, opinions, advice, communications, and other records related to the scheduling of, preparation for, and follow-up from the President’s April 21 and July 25, 2019, direction of the Department of State concerning the Ukraine security assistance;
(x) former United States Ambassador to Ukraine Marie “Masha” Yovanovitch, including but not limited to the decision to end her tour or recall her from the United States;
(xi) all meetings or calls, including readouts from those meetings;
(xii) the decision and action on or about September 11, 2019, to release appropriated foreign assistance, military assistance, or security assistance to Ukraine, including but not limited to any no
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, tele-
phone calls, as well as the President’s Sep-
tember 25, 2019, meeting with the President of Ukraine in New York;
(xiii) to the Secretary of State commanding him to produce, for the time period from January 1, 2019, to the present, all docu-
ments, communications, and other records related to the scheduling of, preparation for, and follow-up from the President’s April 21 and July 25, 2019, tele-
phone calls, as well as the President’s Sep-
tember 25, 2019, meeting with the President of Ukraine in New York;
(xiv) the decision and action on or about September 11, 2019, to release appropriated foreign assistance, military assistance, or security assistance to Ukraine, including but not limited to the decision and action on or about September 11, 2019, to release appropriated foreign assistance, military assistance, or security assistance to Ukraine, including but not limited to any notes, memoranda, docu-
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ments, 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;
(iii) a September 15, 2019 memorandum to file written by Deputy Assistant Secretary Kent;

(iv) planned or actual meetings with President Trump related to United States foreign assistance, military assistance, or security assistance to Ukraine, including but not limited to any talking points, notes, summaries, documents, or correspondence related to the decision;

(v) the decision announced on or about September 11, 2019, to release appropriated foreign assistance, military assistance, and security assistance to Ukraine, including but not limited to any talking points, notes, documents, or correspondence related to the decision; and

(vi) all meetings and calls between President Trump and the President of the United States, including but not limited to all requests for or records of 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 23, 2019 meeting with the President of Ukraine in New York; and

(ii) the Ukrainian government’s knowledge prior to August 16, 2019, of any actual or potential suspensions, holds, or delays in United States assistance to Ukraine, including but not limited to the Ukrainian Security Assistance Initiative (USAI) and Foreign Military Financing (FMP), including but not limited to—

(iii) communications among or between officials at the Department of Defense, the White House, Office of Management and Budget, Department of State, or Office of the Vice President; and

(iv) all communications, including but not limited to WhatsApp or text messages on personal or work-related devices, between or among—

(iii) hold and then release military and other security assistance to Ukraine; and

(ii) offer, schedule, cancel, or withhold a White House meeting for Ukraine’s president or

(i) President Zelensky’s invitation on Monday, August 19, 2019, to the President of the United States, through the Secretary of the Senate, to issue a subpoena for the taking of 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 section.

SA 1297. 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:

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 in 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.

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At the appropriate place in 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 in Impeachment Trials, 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 in Impeachment Trials, if the Chief Justice shall have authority to rule, as an initial matter, upon any question arising out of

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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 accompanied 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. 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.

SA 1298. Mr. VAN HOLLEN 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:

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.

ORDERS FOR MONDAY, FEBRUARY 3, 2020; TUESDAY, FEBRUARY 4, 2020; AND WEDNESDAY, FEBRUARY 5, 2020

Mr. McCONNELL. Mr. Chief Justice, I further ask unanimous consent that when the Senate resumes legislative session on Monday, February 3; Tuesday, February 4; and Wednesday, February 5; the Senate be in a period of morning business with Senators permitted to speak for up to 10 minutes each for debate only.

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

ADJOURNMENT UNTIL MONDAY, FEBRUARY 3, 2020, AT 11 A.M.

Mr. McCONNELL. Mr. Chief Justice, finally, I ask unanimous consent that the trial adjourn until 11 a.m., February 3, and that this order also constitute the adjournment of the Senate. There being no objection, at 7:58 p.m., the Senate, sitting as a Court of Impeachment, adjourned until Monday, February 3, 2020, at 11 a.m.
HIGHLIGHTS

Senate agreed to S. Res. 488, to provide for related procedures concerning the articles of impeachment against Donald John Trump, President of the United States.

Senate

Chamber Action
Routine Proceedings, pages S753–S772

Measures Introduced: One resolution was introduced, as follows: S. Res. 488. Pages S767, S769

Measures Passed:

Organizing Resolution: By 53 yeas to 47 nays (Vote No. 32), Senate agreed to S. Res. 488, to provide for related procedures concerning the articles of impeachment against Donald John Trump, President of the United States, after taking action on the following motions and amendments proposed thereto:

Pages S767–69

Rejected:

Schumer Amendment No. 1295, to subpoena certain relevant witnesses and documents. (By 53 yeas to 47 nays (Vote No. 28), Senate tabled the amendment.)

Page S767

Schumer Amendment No. 1296, to subpoena John Robert Bolton. (By 51 yeas to 49 nays (Vote No. 29), Senate tabled the amendment.)

Pages S767–68

Schumer Amendment No. 1297, to subpoena John Robert Bolton. (By 51 yeas to 49 nays (Vote No. 30), Senate tabled the amendment.)

Page S768

Van Hollen Amendment No. 1298, to help ensure impartial justice by requiring the Chief Justice of the United States to rule on motions to subpoena witnesses and documents and issues of privilege. (By 53 yeas to 47 nays (Vote No. 31), Senate tabled the amendment.)

Pages S768–69

Measures Considered:

Impeachment of President Trump: Senate, sitting as a Court of Impeachment, continued consideration of the articles of impeachment against Donald John Trump, President of the United States, taking the following action:

Pages S753–67, S767–69

By yeas 49 yeas to 51 nays (Vote No. 27), Senate rejected that it be in order to consider and debate under the impeachment rules any motion to subpoena witnesses or documents. Pages S766–67

Senate will continue consideration of the articles of impeachment against President Trump, on Monday, February 3, 2020. Page S772

Statements for the Record—Agreement: A unanimous-consent agreement was reached providing 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, 2020; Tuesday, February 4, 2020; and Wednesday, February 5, 2020; 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.

Page S769

Legislative Session—Agreement: A unanimous-consent agreement was reached providing that when the Senate resumes legislative session on Monday, February 3, 2020; Tuesday, February 4, 2020; and Wednesday, February 5, 2020; Senate be in a period of morning business with Senators permitted to speak for up to ten minutes each for debate only.

Page S772

Amendments Submitted:

Pages S769–72

Record Votes: Six record votes were taken today. (Total—32) Pages S766–69

Adjournment: Senate convened at 1:17 p.m. and adjourned at 7:58 p.m., until 11 a.m. on Monday, February 3, 2020. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S772.)
Committee Meetings

(Committees not listed did not meet)

No committee meetings were held.

House of Representatives

The House was not in session today. The House is scheduled to meet in Pro Forma session at 1:30 p.m. on Monday, February 3, 2020.

Committee Meetings

No hearings were held.

Joint Meetings

No joint committee meetings were held.
Next Meeting of the SENATE
11 a.m., Monday, February 3

Senate Chamber

Program for Monday: Senate will continue to sit as a Court of Impeachment to consider the articles of impeachment against President Trump.

Next Meeting of the HOUSE OF REPRESENTATIVES
1:30 p.m., Monday, February 3

House Chamber

Program for Monday: House will meet in Pro Forma session at 1:30 p.m.