House of Representatives

The House was not in session today. Its next meeting will be held on Monday, February 15, 2021, at 9:30 a.m.

Senate

FRIDAY, FEBRUARY 12, 2021

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. LEAHY).

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

The PRESIDENT pro tempore. The Senate will convene as a Court of Impeachment.

PRAYER

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

Let us pray.

Mighty God, unsurpassed in both power and understanding, we worship You. Lord, when there is nowhere else to turn, we lift our eyes to You. As, again, this Senate Chamber becomes a court and our Senators become jurors, guide these lawmakers with Your wisdom, mercy, and grace. Lord, infuse them with a spirit of non-partisan patriotism. Unite them in their efforts to do what is best for America. As they depend on Your providence and power, may they make choices that will be for Your greater glory.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

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

THE JOURNAL

The PRESIDENT pro tempore. Senators, will you please be seated.

If there is no objection, the Journal of proceedings of the trial are approved to date.

I would ask the Sergeant at Arms to make the proclamation.

The Acting Sergeant at Arms, Jennifer A. Hemingway, made the proclamation as follows:

Hear ye! Hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the Article of Impeachment exhibited by the House of Representatives against Donald John Trump, former President of the United States.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

ORDER OF BUSINESS

Mr. SCHUMER. Mr. President, for the information of all Senators, we will plan to take short breaks approximately every 2 hours and a longer dinner break around 5 p.m.

The PRESIDENT pro tempore. Pursuant to the provisions of S. Res. 47, the counsel for the former President has 16 hours to make the presentation of their case, and the Senate will hear the counsel now.

We recognize Mr. van der Veen to begin the presentation of the case for the former President.

Go ahead.

COUNSEL'S PRESENTATION

Mr. Counsel VAN DER VEEN. Good afternoon, Senators, Mr. President.

The Article of Impeachment now before the Senate is an unjust and blatantly unconstitutional act of political vengeance. This appalling abuse of the Constitution only further divides our Nation when we should be trying to come together around shared priorities.

Like every other politically motivated witch hunt the left has engaged in over the past 4 years, this impeachment is completely divorced from the facts, the evidence, and the interests of the American people. The Senate should promptly and decisively vote to reject it.

No thinking person could seriously believe that the President’s January 6 speech on the Ellipse was in any way an incitement to violence or insurrection. The suggestion is patently absurd on its face. Nothing in the text could ever be construed as encouraging, condoning, or enticing unlawful activity of any kind.

Far from promoting “insurrection” against the United States, the President’s remarks explicitly encouraged those in attendance to exercise their rights “peacefully and patriotically.” Peaceful and patriotic protest is the very antithesis of a violent assault on the Nation’s Capitol.

The House Impeachment Article slanderously alleges that the President intended for the crowd at the Ellipse to “interfere with the Joint Session’s solemn constitutional duty to certify the results of the 2020 Presidential election.” This is manifestly disproven by the plain text of the remarks.

The President devoted nearly his entire speech to an extended discussion of how legislators should vote on the question at hand. Instead of expressing a desire that the joint session be prevented from conducting its business, the entire premise of his remarks was that the democratic process would and
should play out according to the letter of the law, including both the Constitution and the Electoral Count Act.

In the conclusion of his remarks, he then laid out a series of legislative steps that should be taken to improve democracy, accountability going forward, and the passage of universal voter ID legislation, banning ballot harvesting, requiring proof of citizenship to vote, and turning out strong in the next primaries. Not only President—these are not the words of someone in it, but they want to correct.

Not only President Trump’s speech on January 6 but, indeed, his entire challenge to the election results was squarely focused on how the proper civic process could address any concern through the established legal and constitutional system. The President brought his case before State and Federal courts, the U.S. Supreme Court, the State legislatures, the electoral college, and, ultimately, the U.S. Congress.

In the past, numerous other candidates for President have used many of the same processes to pursue their own election challenges. As recently as 2016, the Clinton campaign brought multi-district election court cases, demanded recounts, and ridiculously declared the election stolen by Russia.

Many Democrats even attempted to persuade the electoral college delegates to overturn the 2016 results. House Speaker Pelosi objected to the certification of President Trump’s victory 4 years ago, along with many of his colleagues.

You will remember, it was Joe Biden who had to gavel him down.

Mr. RASKIN. I have an objection because 10 of the 29 electoral votes cast by Florida were cast by electors not lawfully certified. Ms. JACKSON LEE. I object to the votes from the State of Wisconsin, which would not—should not—be legally certified. Vice President BIDEN. There is no debate.

There is no debate. Ms. JACKSON LEE. I object to the votes from the State of Georgia on the grounds that the electoral vote was not.

Vice President BIDEN. There is no debate. There is no debate.

Mr. GRIJALVA. I object to the certification from the State of North Carolina.

Ms. JACKSON LEE. I object to the votes from the State of North Carolina.

Mr. MCCOVEN. I object to the certificate from the State of Alabama. The electors were not lawfully certified.

Vice President BIDEN. Is it signed by a Senator?

Mr. RASKIN. Not as of yet, Mr. President. Vice President BIDEN. In that case, the objection cannot be entertained.

The objection cannot be entertained. The objection cannot be entertained. The objection cannot be entertained.

Ms. LEE of California. Even with the—— Vice President BIDEN. There is no debate in order.

Ms. LEE of California. Even with the— Vice President BIDEN. There is no debate.

Ms. LEE of California. 87 voting machines are—— Vice President BIDEN. There is no debate in order. It is signed by a Senator.

There is no debate. There is no debate by the joint session.
VerDate Sep 11 2014 03:27 Feb 13, 2021 Jkt 019060 PO 00000 Frm 00003 Fmt 0637 Sfmt 0634 E:\CR\FM\G12FE6.003 S12FEPT1dlhill on DSK120RN23PROD with SENATE

Stop before Election Day in November, and United States, K AMALA HARRIS, urged forests grow.

That the 2016 election had been hacked years repeating, without any evidence,ational news media spent the last 4 inflammatory rhetoric in recent years.

Joe Biden’s campaign slogan was “Battle for the Soul” of America.

No human being seriously believes that the use of such metaphorical terminology is incitement to political violence. While the President did not engage in any language of incitement, there are numerous officials in Washington who have indeed used profoundly reckless, dangerous, and inflammatory rhetoric in recent years.

The entire Democratic Party and national news media spent the last 4 years repeating, without any evidence, that the 2016 election had been hacked and falsely and absurdly claimed the President of the United States was a Russian spy. Speaker PELOSI herself said that the 2016 election was hijacked and that Congress has a duty to protect our democracy. She also called the President an imposter and a traitor and recently referred to her colleagues in the House as “the enemy within.”

Moreover, many Democrat politicians endorsed and encouraged the riots that destroyed vast swathes of American cities last summer. When violent, leftist anarchists conducted a sustained assault on a Federal courthouse in Portland, OR, Speaker PELOSI did not call it insurrection; instead, she called the Federal law enforcement officers protecting the building “storm troopers.”

When violent mobs destroyed public property, she said: “People will do what they do.” The attorney general of the State of Massachusetts stated:

Yes, America is burning, but that’s how forests grow.

Representative AYANNA PRESSLEY de- clared: There needs to be unrest in the streets for as long as there’s unrest in our lives.

The President of the United States, K AMALA HARRIS, urged supporters to donate to a fund that bailed violent rioters and arsonists out of jail. One of those was released and went out and committed another crime, assault. He beat the bejesus out of someone who was released, and said, of the violent demonstrations: Everyone beware . . . they’re not gonna stop after Election Day in November, and they’re not gonna stop after Election Day. They’re not going to let up—and they should not.

Such rhetoric continued even as hundreds of police officers across the Nation were subjected to violent assaults at the hands of angry mobs of a man claiming to be inspired by the junior Senator from Vermont came down here to Washington, DC, to watch a softball game and kill as many Senators and Congressmen as he could. It cannot be forgotten that President Trump did not blame the junior Senator.

The senior Senator from Maine has had her house surrounded by angry mobs of protesters. When that happened, it unnerved her. One of the House managers—I forget which one—tweeted “cry me a river.”

Under the standards of the House Impeachment Article, each of these individuals should be retroactively censored, expelled, punished, or impeached for inciting violence by their supporters.

Unlike the left, President Trump has been entirely consistent in his opposition to mob violence. He opposes it in all forms, in all places, just as he has been consistent in his opposition to the National Guard should be deployed to protect American communities wherever protection is needed.

For Democrats, they have clearly demonstrated that their opposition to mob violence depends upon the mobs’ political views. Not only is this impeachment case preposterously wrong on the facts, no matter how much heat and emotion is injected by the political opposition, but it is also plainly unconstitutional.

In effect, Congress would be claiming the right to disqualify a private citizen, no longer a government official, from running for public office. This would transform the solemn impeachment process from a commission for asserting congressional control over which private citizens are and are not allowed to run for President. In short, this unprecedented effort is not about Democrats opposing political violence; it is about Democrats trying to disqualify their political opposition. It is constitutional cancel culture.

History will record this shameful effort as a deliberate attempt by the Democratic Party to smear, censor, and cancel not just President Trump but the 75 million Americans who voted for him. Now is not the time for such a campaign of retribution; it is the time for unity and healing and focusing on the interests of the Nation as a whole.

We should all be seeking to cool temperatures, calm passions, rise above such a campaign of retribution; it is the time for unity and healing and focusing on the interests of the Nation as a whole.

On Wednesday of this week, countless news outlets repeated the Democrat talking point about the power of never-never-never-never-young footage. Let me ask you this: Why was this footage never seen before? Shouldn’t the subject of an impeachment trial—this impeachment
Mr. Manager CASTRO of Texas. And there is a lot that we don’t know yet about what happened that day.

Mr. Manager RASKIN. According to those around him at the time, reportedly responded.

Unidentified Speaker. Trump reportedly.

Mr. Manager NEGUSE. Reports across all major media outlets.

Unidentified Speaker. Major news networks, including FOX News reported.

Mr. Manager NEGUSE. Reported.

Mr. Manager LIEU. Reportedly summoned.

Ms. Manager PLASKETT. Reportedly.

Mr. Manager CASTRO of Texas. Reportedly not accidental.

According to reports.

Unidentified Speaker. President Trump was reportedly.

Mr. Manager CASTRO of Texas. Who reportedly spoke to the guard.

Mr. Manager CICILLINE. It was widely reported.

Mr. Manager RASKIN. Media reports.

Mr. Manager CICILLINE. According to reports.

Mr. Manager NEGUSE. Reported.

Mr. Manager CASTRO of Texas. As any trial lawyer will tell you, “reportedly” is a euphemism for “I have no real evidence.” “Reportedly” is not the standard in any American setting in which any semblance of due process is afforded an accused. “Reportedly” isn’t even “here is some circumstantial evidence.” It is exactly as reliable as “I googled this for you.”

And if you are worried you might ever be tried based on this type of evidence, don’t be. You get more due process than this when you fight a parking ticket.

One reason due process is so important with respect to evidence offered against an accused is that it requires an opportunity to test the integrity, the credibility, the reliability of the evidence. Here, of course, former President Trump was completely denied any such opportunity. And it turns out there is significant reason to doubt the evidence the House managers have put before us.

Let me say this clearly. We have reason to believe the House managers manipulated evidence and selectively edited footage. If they did and this were a court of law, they would face sanctions from the judge.

I don’t raise this issue lightly. Rather, it is a product of what we have found in just the limited time we have had since we first saw the evidence here with you this week.

We have reason to believe that the House managers created false representations of tweets, and the lack of due process means there was no opportunity to review or verify the accuracy.

Consider these facts. The House managers, proud of their work on this snap impeachment, staged numerous photos and videos of their preparations. In one of those, Manager RASKIN is seen here at his desk, reviewing two tweets side by side. The image on his screen claims to show that President Trump had retweeted one of those tweets.

(Video presentation.)

Now, Members of the Senate, let’s look closely at the screen because, obviously, Manager RASKIN considered it important enough that he invited the New York Times to watch him watching.

What is wrong with this image? Actually, there are three things very wrong with it. Look at the date on the very bottom of the screen on Manager RASKIN’s computer screen when we zoom into the picture. The date that appears is January 5, 2020, not 2021. Why is that date wrong? Because this is not a real screenshot that he is working with. This is a recreation of a tweet. And you got the date wrong when you manufactured this graphic. You did not disclose that this is a manufactured tweet and not a real screenshot of a tweet.

To be fair, the House managers caught this error before showing the image on the Senate floor. So you never saw it when it was presented to you.

But that is not all. They didn’t fix this one. Look at the blue checkmark next to the ‘Twitter username of the account retweeted by the President.’ It indicates that this is a verified account, given the blue check by Twitter to indicate it is run by a public figure. The problem? The user’s real account is not verified and has no blue checkmark. As you can see, the President’s supporter believed that the President wanted armed supporters at the January 6 speech—paramilitary groups, the cavalry—ready for physical combat.

The problem is, the actual text is exactly the opposite. The tweeter promised to bring the cavalry to protect the Capitol. He quaintly promised to bring the cavalry to protect the Capitol. He quaintly promised to bring the cavalry to protect the Capitol. He quaintly promised to bring the cavalry to protect the Capitol. He quaintly promised to bring the cavalry to protect the Capitol. And if you are worried you might ever be tried based on this type of evidence, don’t be. You get more due process than this when you fight a parking ticket.

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Go to the Capitol, and cheer on some Members of Congress but not others—"they know it doesn't meet the standard for incitement, so they edited it down.

We heard a lot this week about “fight like hell” and bringing down the statue. Before they showed you the President's optimistic, patriotic words that followed immediately after.

(Text of video presentations.)

President TRUMP. We fight like hell. And if you don't fight like hell, you're not going to have a country anymore.

Our exciting adventures and boldest endeavors have not yet begun. My fellow Americans, for our movement, for our children, and for our beloved country—and I say this despite all that has happened—the best is yet to come.

There is that famous quote, like one of the House managers said: A lie will travel halfway around the world before the truth has a chance to put its shoes on.

Well, this lie traveled around the world a few times and made its way into the White House. In full context. Let's watch.

(Text of video presentations.)

President TRUMP. But you also had people that were very fine people—on both sides. You had people in that group—excuse me, I saw the same pictures as you did. You had people in that group that were there to protest the taking down of, to them, a very, very important statue and the renaming of a park from Robert E. Lee to another name.

Unidentified Speaker. George Washington and Robert E. Lee are not the same.

President TRUMP. George Washington was a slave owner. Was George Washington a slave owner? So will George Washington now produce Articles of Impeachment against this President?

Ms. PELOSI. We can impeach him every day of the week for anything he’s done.

Mr. Counsel SCHOFEN. That same hatred and anger has led House managers to ignore their own words and actions and set a dangerous double standard.

Unidentified Speaker. I'm here at an impeachment rally, and we are ready to impeach the President. We can impeach him every day of the week for anything he’s done.

Mr. PELOSI. We can impeach him every day of the week for anything he’s done.

Ms. WARREN. It is time to bring impeachment charges against him.

Bring impeachment charges.

Mr. NADLER. My personal view is that rich people deserve impeachment.

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Unidentified Speaker. I'm here at an impeachment rally, and we are ready to impeach the President. We can impeach him every day of the week for anything he’s done.

Mr. PELOSI. I just don’t even know why there aren't uprisings all over the country. Maybe there will be.

Ms. PRESSLEY. There needs to be unrest in streets for as long as there is unrest in our lives.

Ms. PELOSI. You've got to be ready to throw a punch. We have to be ready to throw a punch.

Mr. TESTER. Donald Trump, I think you need to go back and punch him in the face.

Ms. Wallace. I thought he should have punched him in the face.

Mr. BOOKER. I feel like punching him. Vice President BIDEN. I would like to take him behind the gym if I were in high school. If I were in high school, I would take him behind the gym and beat the hell out of him. You know, I wish we were in high school. I could take him behind the gym.

Ms. WATERS. You push back on them, and they will make up some of their own words.

(Text of video presentations.)

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Ms. WATERS. You push back on them, and they will make up some of their own words.

(Text of video presentations.)
Ms. TLAIB. We’re going to go in there and we’re going to [bleep].

Ms. PRESSLEY. This is just a warning to you Trumpers: Be careful. Walk lightly. And for those of you who are soldiers, make them pay.

Ms. DeGëranes. If you had to be stuck in an elevator with either President Trump, Mike Pence, or Jeff Sessions, who would it be?

Ms. HARRIS. Does one of us have to come out alive?

And there is more.

(Video presentation.)

Mr. McDonough. I promise to fight every single day.

One. I’m a fighter and I’m relentless. But I’m a fighter and I’m relentless. A fighter and I’m relentless. I will fight like hell.

Ms. WARREN. The way I see it now is that we pick ourselves up and we fight back; that is what it is all about. We stand up and we fight back. We do not back down, we do not compromise, not today, not tomorrow, not ever. You can lie down, you can whimper, you can pull up in a bail, you can decide to move to Canada, or you can stand your ground and fight back, and that is what it is about. We do fight back, but we are going to fight back. We are not turning this country over to what Donald Trump has sold. We are just not. Look, people are upset, and they’re right to be upset.

Now, we can whimper, we can whine, or we can fight back. We’re up here to fight back. Me. I’m here to fight back. I’m here to fight back because we will not forget. We do not want to forget. We will use that vision to make sure that we fight harder, we fight tougher, and we fight more passionately more than ever.

We still have a fight on our hands. Fight hard for the changes Americans are demanding. Get in the fight.

To win the fight.

Fighting.

Fighting.

We’ll use every tool possible to fight for this change. We’ll fight. We’ll fight.

Fighting hard.

Serious about fighting.

And fight.

We’ve got to (inaudible) and fight back. Problems—we call them out and we fight back.

I’m in this fight.

I am fighting.

Mr. McDonough. I promise to fight every single day.

Get in this fight. Get in this fight. Get in this fight.

And fighting.

We all need to be in the fight. We all need to stay in the fight. We stay in this fight.

We fought back. We fought back. I am not afraid of a fight. I am in this fight all the way. You don’t get what you don’t fight for.

Our fight.

Our fight.

We are in this fight for our lives. This is the fight of our lives.

Mr. WARNER. But we are going to make sure this fight doesn’t end tonight.

Mr. MENENDEZ. This is a fight for our lives, the lives of our friends and family members and neighbors. It is a fight.

Fighting.

And it is a fight that we’re going to work to make sure continues.

It is a fight.

It is a fight.

It is a fight.

And that is what this fight is for.

Mr. TRUS, you’re damn right I approve this message.

Ms. ROSEN. And I’ll have lots of fights ahead of us, and I’m ready to stand up and keep fighting.

We’re going to fight.

We’re going to fight.

And we need to fight.

Fight.

We need to fight.

We got a few more fights. I’m going to take the privilege of a few more fights.

And we have the biggest fight of all. I will never stop fighting. I will fight like hell to fight back against anyone.

Mrs. SHAHEEN. We need to say loud and clear that we are ready to fight.

Mr. DURBIN. It’s a bare knuckles fight.

Mr. WYDEN. Now they’re going to actually have to fight back against people.

Mr. SCHATZ. The fight has to be conducted.

Ms. CANTWELL. It is so important that we need to fight.

Ms. MURRAY. Fight that fight.

Mr. KING. We have been fighting.

Mr. COONS. I was fighting very hard.

Mr. VAN HOLLEN. Time is of the essence both in terms of the fight.

Mr. BENNET. I think we should be fighting.

Mr. MERRKLEY. I really believe we need to fight.

Mr. HEINRICH. We’re simply not going to take this lying down. We’re going to keep fighting.

Mr. Kaine. I’m not fighting.

Mr. HIRONO. We will fight back. We’re not going to take this lying down.

Mr. MURPHY. I’m just going to keep the fight up.

Ms. GILLIBRAND. What we have to do right now is fight as hard as we can.

Ms. STABENOW. We have to rise up and fight.

Mr. BLUMENTHAL. I am going to be fighting—fight like hell.

Mr. SCHUMER. Keep fighting, fighting, fighting.

And we kept fighting and we did, so we’re going to keep fighting.

Ms. HIRONO. We will fight back. We’re not going to take this lying down.

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Mr. SCHUMER. Keep fighting, fighting, fighting.

And we kept fighting and we did, so we’re going to keep fighting.

Mr. PETERS. We have to be fighting every single day.

Mr. WHITEHOUSE. We have to fight back, and we have no choice but to do that. I think we’re doing the right thing to do that.

Mr. LUJAN. Fighting.

Mr. MANCHIN. And I’m fighting.

Mr. SANDERS. Our job right now is to fight.

Ms. HASSAN. It is really important, I’m going to keep fighting.

Mr. OSSOFF. I’m asking for the support of the people across the country to fight back.

Mr. PADILLA. And you’ve got to be fierce in fighting.

Mr. WARNOCK. Fighting.

Ms. SMITH. Proud to have been fighting.

Mr. LEAHY. I told President Biden I will fight like mad.

Ms. CORTEZ MASTO. I will tell you what. Now more than ever, we have to fight like hell.

Mr. MARKEY. We’re in this fight.

Mr. CASTRO. We will fight him and challenge him every way we can, in the Congress, in the courts, and in the streets.

Ms. HARRIS. To continue fighting, we each have an important role to play in fighting in this fight like so many before it. It has been a fight. The American people are going to have to fight.

And about the importance of fighting, I will always fight.

Fighting.

We know we must fight.

Mr. RISKEN. There’s the fight.

There’s the fight.

There’s the fight.

And then there’s the fight to defend.

Back in the fight.

Ms. PELOSI. Our mission is to fight. That is the guiding purpose of House Democrats.

Fighting.

He has never forgotten who he is fighting for.

March and fought.

And we just have to fight.

But this is a fight for our country.

Mr. SCHUMER. Fighting the health crisis of COVID.

Vice President BIDEN. I led the fight.

And continue to fight.

Never, never, give up this fight. I am a citizen fighting for it.

It means not only fighting.

A leader who fought for progressive change.

As a lawyer who fought for people’s whole life.

As well as other fights he’s in. I’m proud to have Tim in this fight with me.

And above all, it is time for America to get back up and once again fight.

Mr. Buttigieg. We will fight when we must fight.

Mr. CASTRO. Of Texas. What kind of America are we fighting for?

We’ve been fighting.

We need to fight.

But we also need to fight.

Fighting.

Mr. CLINTON. I am going to wake up every day and fight hard.

I have been fighting.
We're going to fight. We're going to fight. We're going to fight. We're going to fight. And I will fight. Mr. BUTTIGIEG. We're in the fight of our lives right now.

Mr. O'ROURKE. We fight like hell. Mr. WYDEN. We're in the fight. Ms. ROSEN. To fight.

Mr. CICILLINE. Fight against the Trump administration: Democrats are standing up to fight. We're in this fight in a serious way. Mr. LIEU. To fight. Ms. DUJETTE. We're eager to take on this fight. Get in this fight. Ms. GILLIBRAND. I have taken on the fights.

Mr. NEGEUSE. As representatives for the people and legislators here in the Halls of Congress, our job is to fight. Ms. PLASKETT. Who has led us in this fight. Mr. SWALWELL. To fight for this. And as the next Governor of Georgia, I will fight. This fight.

Mr. WARNOCK. Every day I am in the United States Senate, I will fight. Mr. BROWN. One of the things we do is fight—should fight. Ms. CASIO-CORTÉZ. Because my constituents send me here each and every day to fight. Ms. Abrams. We have been fighting this fight. And we need to be side by side to succeed. So I hope that you will all join us in our fight. And if we fight. And as the next Governor of Georgia, I will never stop fighting. We can show the old guard something new, and we can fight. Ms. DEAN. My fight. Those fights. And to fight. To fight an administration. Ms. HARRIS. Requiring us to fight and fight we will.

Their fight. In their fight. In their fight. The fight is a fight. And so when we fight the fight that we are in. When we are fighting this fight. We fight this fight. The strength of who we are is we will fight. And we will fight. We will fight the fight. We are in a fight. The fight. Fight. Fight. It is a fight. It is a fight. And it is a fight born out of patriotism. This is a fight. Fighting. I say fight on. Fight on. Fight on. Fight on.

Ms. WARNEN. I am here to say one more time in public, this is not a fight I wanted to take on, but this is the fight in front of us now. Every single one of you and everyone one of you—that is OK. You didn’t do anything wrong. It is a word people use. But please stop the hypocrisy. Did you tone down the rhetoric last summer when all of this was happening? Did you condemn the rioters, or did you stand with NANCY PELOSI, who said: People are going to do what they are going to do.

(Text of video presentations.)

Ms. HARRIS. This is a movement. I’m telling you, they’re not going to stop. And everyone knows because they’re not going to stop. They’re not going to stop before election day in November, and they’re not going to stop after Mr. Cuomo. Please, show me where it says a protest is supposed to be polite and peaceful.

Ms. PELOSI. I just don’t even know why there aren’t uprisings all over the country. Maybe there will be. Unidentified Speaker. It was a violent night in St. Louis. They shot and killed David in cold blood. Ms. Hannah-Jones. Destroying property, which can be violence. Unidentified Speaker. This is an apartment complex on fire. It just collapsed. Unidentified Speaker. The building just collapsed. Unidentified Speaker. I don’t know where to go now. These people did this for no reason.

Unidentified Speaker. This is just a snapshot of some of the damage people will be waking up to. Mr. SCHUMER. I am proud of New York, and I am proud of the protests. Unidentified Speaker. There is damage everywhere you look. Honestly, it looks like a war zone.

Ms. PELOSI. Heartwarming to see so many people turn out peacefully. Mr. SCHUMER. They keep doing it day after day after day. In fact, our country is a nation of protests. The patriots were protesters. Unidentified Speaker. St. John’s Church is on fire.

Unidentified Speaker. Can you disavow that was antifa? Mr. NADLER. That is a myth. Unidentified Speaker. I hope someone burns down your whole precinct with all y’all inside.

Mr. VELSHI. It is not, generally speaking, unruly.

Ms. WATERS. You push back on them, and you tell them they’re not welcome anymore, anywhere. Ms. WATERS. You push back on them, and you tell them you’re not welcome anymore, anywhere.

Ms. HARRIS. They are not going to let up, and they should not.

Mr. Counsel SCHOEN. You claim that it is wrong to object to the certification of election results. You, along with your allies in the media, attempted to cancel and censor Members of this Chamber who voiced concerns and objected to certification. Manager RASKIN, you had been in Congress only 3 days when you objected in 2017. It is one of the first things you did when you got here.

(Text of video presentations of 1-6-2017.) Mr. RASKIN. I have an objection because 10 of the 29 electoral votes cast by Florida were cast by elected not lawfully certified. Vice President BIDEN. Is the objection in writing and signed not only by a Member of the House of Representatives but also by a Senator Mr. RASKIN. It is in writing. Mr. President. Vice President BIDEN. Is it signed by a Senator? Mr. RASKIN. Not as of yet, Mr. President. Vice President BIDEN. In that case, an objection cannot be entertained.

Ms. JAAYAPAL. Mr. President, I object to the certificate from the State of Georgia on the grounds that the electoral votes do not——
Mr. SANDERS. I agree with tens of millions of Americans who are very worried that when they cast a ballot on an electronic voting machine that there is no paper trail to record that vote.

Ms. PELOSI. But constantly shifting vote tallies in Ohio and malfunctioning electronic machines which may not have paper receipts cast doubt on the presidential election confidence by the public. This is their only opportunity to have this debate while the country is listening, and it is appropriate to do so.

Mr. Counsel SCHÖEN, House Manager CASTRO of Texas. But can you imagine telling your supporters that the only way you can possibly lose is if an American election was rigged and stolen from you? And ask yourself whether you have ever seen anyone at any level of government make the same claim about their own election.

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Madonna. I have thought an awful lot about blowing up the White House.

Mr. BOOKER. Please, get up in the face of some Congresspeople.

Ms. PELOSI. I will do what they do.

Mr. SCHUMER. I want to tell you, Gorsuch, I want you to tell, Kavanaugh: You have released the whirlwind, and you will pay the price.

Ms. TLAIB. We are going to go in there, we are going to impeach the [bleep].

Ms. Johnson. This is just a warning to you Trumpers: Be careful. Walk lightly. And for those of you who are soldiers, make them pay.

Ms. DeGettes. If you had to be stuck in an elevator with Mr. Trump, Mick Pence, or Jeff Sessions, who would it be?

Ms. Harris. Does one of us have to come out alive?

Mr. Counsel VAN DER VEEN. Again, I did not show you their robust speech to excuse or balance out the speech of my client, for I need not. I showed you the video because in this political forum, all robust speech should be protected, and it should be protected evenly for all of us. As a bystander, we should all reflect and acknowledge the rhetoric has gotten to be too much and over the top. It is grating on the collective well-being of the body public, the citizens. Most would like it to stop. But the point is, when you see speech such as this, you have to apply the First Amendment evenly, blindly. She is blind, Lady Justice.

Question No. 1: Does the First Amendment apply to this Chamber in these proceedings?

The House managers' position, as stated in their trial brief, is "The First Amendment does not apply at all to an impeachment proceeding." That is their position. This is plainly wrong. The text of the First Amendment expressly restricts Congress from regulating speech.

It says: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

To ignore the Constitution would be contrary to the oath of office of a United States Senator:

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same—

Well, you all know the rest.

No, the Senate cannot ignore the First Amendment. The Constitution itself limits the ability of the House to impeach to limited items, such as "high crimes and misdemeanors."

The position advanced by the House managers is essentially an unlimited impeachment standard without constitutional guardrails, unmoored to any specific legal test other than the unbridled discretion of Congress.

This is distinctly not the intent of the framers. The framers were aware of the danger of any impeachment process that would make the president "the mere creature of the Legislature," a quote directly from the Framers while debating the impeachment process on the floor of the Constitutional Convention of 1787. The Framers were fearful that any impeachment process that the framers on the standard for impeachment would constitute nothing less than a violation—an "abuse of the fundamental principle of good Government."

One Founding Father, James Wilson, wrote extensively on the impeachment process. Mr. Wilson was a renowned legal scholar at the time, a law professor at the University of Pennsylvania in Philadelphia. He was a major force in drafting and adopting the Constitution in 1787. He served as one of the first Supreme—of the first six Supreme Court Justices from 1789 to 1798. He was appointed by President George Washington. In fact, Wilson taught the first course on the new Constitution to President Washington and his Cabinet—the first in the nation's history—in Philadelphia at the University of Pennsylvania in 1789.

Wilson, in his law lectures, the first of their kind under the Constitution, plainly states that the Senate may not ignore the Constitution in impeachment proceedings. He states that lawful and constitutional conduct may not be used as an impeachable offense. Let me say that again. He states that lawful and constitutional conduct may not be used as an impeachable offense.

Read along with me:

The doctrine of impeachments is of high importance in the constitutions of free states. On one hand, the most powerful magistrates should be amenable to the law: on the other hand, elevated characters should not be sacrificed merely on account of their elevation.

No one should be secure while he violates the Constitution and the laws: everyone should be secure while he observes them.

To be clear, James Wilson is saying that the Constitution does indeed apply when judging whether to convict an official by impeachment. If the complained-of conduct is constitutional, it cannot be impeachable. Are we to ignore the words and teachings of James Wilson? The House managers surely want you to.

The House managers have made several references to this letter signed by 140 partisan "law professors" calling Mr. Trump's First Amendment defense "legally frivolous." This is really an outrageous attempt to intimidate Mr. Trump's lawyers.

Whenever a lawyer advances a truly "frivolous" argument, they may violate professional, ethical rules and could be subject to discipline.

This letter is a direct threat to my law license, my career, and my family's financial well-being. These "law professors" should be ashamed of themselves, and so should the House managers.

Let me tell you, Mr. Trump, I really hate Donald Trump so much that you are willing to destroy good, hard-working people's lives, people that are only
doing their jobs, and, frankly, as counsel for an accused fulfilling a constitutional role? It is astounding, really. I am a citizen, not a politician.

I know these First Amendment arguments are not anywhere close to frivolous, I repeat, completely meritorious.

Interestingly, the law professors’ letter was issued on February 5—3 days before we even filed our legal brief in this matter—and they ignored landmark, bedrock Supreme Court cases directly addressing this issue.

In our brief, we have a direct quote from James Wilson, the Founding Father, supporting our position. The direct quote was documented in the Founding Father’s original legal papers on the subject. He was the primary draftsman of the Constitution who taught the new Constitution to President Washington. He says so long as acts of elected officials like Mr. Trump are constitutionally protected, he should not be impeached.

We refer you back to U.S. Supreme Court decisions—Wood and Bonds, which I will explain in detail—supporting our position.

All of this the House managers and the partisan law professors completely and more importantly ignore.

Frivolous? Hardly. The letter is a bully tactic, and I think evidence is the House managers know they have a problem with the First Amendment defense on the merits, so they are resorting to such tactics.

The House managers’ suggestion that the First Amendment does not apply to this impeachment process is completely untenable.

Ignoring the First Amendment would conflict with the Senators’ oath of office. It would also conflict with well-settled Supreme Court precedent and ignore the intent of the Framers of the Constitution, such as James Wilson. Above all else, ignoring the Constitution is the new Raskin “commonsense” doctrine we heard yester-

day, eroding hundreds of years of First Amendment protections.

We are here under the Constitution. It is illogical what the House managers said. The Constitution does apply to this constitutional impeachment process. It is double talk. Nonsense. Illogical.

If the House managers had their way, they would ignore all of the Constitution. This would include the Sixth Amendment? The right to counsel? They would have Mr. Trump sitting here without lawyers. And who would be next? It could be anyone—one of you or one of you.

You must reject this invitation to ignore the First Amendment. It is anti-American and would set dangerous precedent forever.

The law has developed over the years to clearly establish elected officials have the right to engage in protected speech, Mr. Trump is not just a guy on the street or a guy at a bar or a fire chief or a police officer—there were a few of them in there—all analogies given by the House managers. These sideways analogies are wrong. Mr. Trump was an elected official, and there is an entire body of law, Supreme Court landmark cases, supporting the conclusion that Mr. Trump actually has the—

interests be cause he is an elected official. These cases are ignored by the House managers and the law professors, and that, too, is total intellectual dishonesty.

The Supreme Court has long held that the First Amendment’s right to freedom of speech protects elected officials.

Two important, on-point decisions from the Supreme Court—Wood v. Georgia and Bond v. Floyd—expressly contradict the House managers’ position. The House managers do not even cite those cases in their brief. They barely acknowledge them in their reply, and they were mumm on them yester-

day.

In Wood v. Georgia, the Supreme Court addressed the case involving a sitting sheriff whose reelection was being investigated by a grand jury impaneled by a judge based on allegations of irresistible black bloc voting. “It was in the sixties. The sheriff spoke publicly in multiple press releases calling the grand jury investigations ’racist,’” “illicit," and an attempt to "intimidate” voters. He even urged the grand jurors on how to decide the issues and "not let its high office be a party to any political attempt to intimidate" voters. The sheriff viewed the grand jury’s challenging the legitimacy of his election.

The sheriff even sent a letter to the grand jurors with these allegations, which is an extraordinary step since laws in most States, including Georgia, prohibit attempts to influence or intimidate jurors. The sheriff was charged and convicted of contempt of court and obstruction of the grand jury. But the Supreme Court, in a deci-

sion written by Justice Brennan, reversed. The Court held that the First Amendment protects selected public official’s speech because the voting controversy directly affected the sheriff’s political career:

“The petitioner was an elected official and had the—Read with me, please, everybody.

The petitioner was an elected official and had the right to enter the field of political controversy, particularly where his political life was at stake. The role that elected officials play in our society makes it all the more imperative that they be allowed freely to express themselves on matters of current public importance.

Wood therefore stands for the proposition that a difference of political opinion, expressed in speech on an issue of voting irregularity, cannot be punishable where all that was done was to encourage investigation and peaceful political speech—just like Mr. Trump has done here. A host of scholars call that directly on point.

A second case, Bond v. Floyd involved a State legislature punishing an elected official for protected political speech. Bond is particularly instructive here, too. In Bond, the Supreme Court squarely addressed a question of an elected official’s punishment by a legis-

lature for statements alleged to have incited public violation of law—the burning of draft cards. The Court unequivocally rejected the idea—ad-

vanced here by the House managers—that an elected official is entitled to no protection under the First Amend-

ment. The Supreme Court held that the Georgia House of Representatives was in fact forbidden by the First Amend-

ment from punishing Bond, by not seating him, for advocating against the policy of the United States.

There are three fundamental hold-

ings in Bond.

No. 1: The manifest function of the First Amend-

ment in a representative government re-

quires that legislators be given the widest latitude to express their views on issues of policy.

No. 2: Just as erroneous statements must be pro-

tected to give freedom of expression the breathing space it needs to survive, so state-

ments criticizing public policy and the im-

plementation of it must be similarly pro-

tected.

Third holding: Legislators have an obligation to take pos-

itions on controversial political questions so that their constituents can be fully in-

formed by them, and be better able to assess their qualifications—

Please, read along with me—

their qualifications for office; also so they may be represented in governmental debates by the person they have elected to represent them.

Mr. Trump enjoys this same First Amendment protection from Congress. The First Amendment’s protections guarantee free speech addressing the electoral integrity issues essential to his career that Mr. Trump has consist-

ently advocated.

The House managers argue that “the First Amendment”—and I quote—“does not shield public officials who occupy sensitive policymaking positions from adverse actions when their speech undermines important government[]al interests.” That is flat wrong. They are in essence attempting to treat Mr. Trump as their employee.

This is not the law under Wood and Bond. Mr. Trump was elected by the people. He is an elected official. The Supreme Court says elected officials must have the right to freely engage in public speech.

Indeed, the Supreme Court expressly rejected the House managers’ argument in Wood v. Georgia, holding that the sheriff was “not a civil servant,” but an elected official who had “core” First Amendment rights which could not be restricted. That is Wood v. Geor-


The House managers do not mention Wood or Bond in the trial brief or any-

where else. Why? Why not? Because it does not fit their narrative or their
story. They want to punish Mr. Trump for engaging in constitutionally protected free speech and they do not want you to consider the issue. But you must.

Question 2: Does Mr. Trump's speech deserve protection under the First Amendment?

There is no doubt Mr. Trump engaged in constitutionally protected political speech that the House has, improperly, characterized as “incitement of insurrection.” The fatally false of the House’s arguments is that it seeks to mete out governmental punishment—impeachment—based on First Amendment political speech.

Speech, for political purposes is the kind of activity to which the First Amendment offers its strongest protection. These are bedrock principles recognized by our Supreme Court for decades. The Court has stated in no uncertain terms the importance of these principles to our democratic principles:

The general proposition that freedom of expression upon public questions is secured by the First Amendment has long been settled by our decisions. The constitutional safeguard, we have said, “was fashioned to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people.”


Our First Amendment decisions have created a rough hierarchy in the constitutional protection of speech. Core political speech occupies the highest, most protected position.

Even political speech that may incite unlawful conduct is protected from the reach of government punishment. The Court has said:

Every idea is an incitement, and if speech may be suppressed whenever it might inspire someone to act unlawfully, then there is no limit to the State’s censorial power.

The government may not prohibit speech merely because the Government dislikes the ideas it expresses. An unlawful act will be committed “at some indefinite time” in the future. The House managers showed you a series of tweets going all the way back to 2015 in an effort to prove “incitement.” All of that evidence is totally irrelevant under the constitutional definition of incitement.

Brandenburg v. Ohio is really the landmark case on the issue of incitement.

Brandenburg v. Ohio, another landmark, the Court held the government may only—the government may only—suppress speech for advocating the use of force or a violation of law if “such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.”

The Brandenburg holding has been interpreted as having three basic prongs to determine if speech meets the definition of “incitement.”

The Brandenburg test precludes speech from being sanctioned as incitement to a riot unless:

Two: the speaker intends that his speech will result in use of violence or lawless action, and—

Three—the imminent use of violence or lawless action is the likely result of the speech.

The House managers cannot get past the first prong of the Brandenburg test. They have not and cannot prove Mr. Trump explicitly or implicitly encouraged use of violence or lawless action.

Brandenburg requires a close examination of the words themselves. The words must not only be such as to create a reasonable likelihood of inciting or producing such action.

The House managers admitted that the incitement issue is not about the words. Why not? Because on the face of it, Mr. Trump’s words are no different than the figurative speech used by every one of the Senators assembled here today. If it is not about the words but about the “Big Lie” of a “stolen election” then why isn’t House Manager RASKIN guilty, since he tried to overturn the 2016 election? The more the House managers speak, the more hypocrisy gets revealed—hypocrisy.

Even though they say it is not about the words, the law under Brandenburg requires a close analysis of the words to determine incitement. So we need to look at those words.

Mr. Trump did the opposite of advocating for lawless action—the opposite. He expressly advocated for peaceful action at the Save America rally. He explicitly stated—these are the words:

I know that everyone here will soon be marching over to the Capitol building to peacefully and patriotically make your voices heard.

—to peacefully and patriotically make your voices heard”—that is how this President has spoken for years when he condemns violence, lawlessness, and rioters.

The House managers have manipulated, selectively edited parts of Mr. Trump’s speech. They focus heavily on the word “fight.” The President said “fight” 30 times in his speech. They picked only two. Why? Why not the other 18? Because they don’t tell the story in the way they want to tell it.

Here are all of them. Listen to the context.

(Transcript of video presentation of 1–6–2021.)

President TRUMP. And, Rudy, you did a great job. He’s got guts. You know what? He’s got guts unlike a lot of people in the Republican Party. He’s got guts. He fights. He fights. I’ll tell you.

Thank you very much, John. Fantastic job. I watched. That is a tough act to follow, those two.

There’s so many weak Republicans. And we have great ones, JIM JORDAN and some of these guys—they’re out there fighting. The House guys are fighting. But it’s—it’s incredible.

Many of the Republicans, I helped them get in. I helped them get elected.

Did you see the other day where Joe Biden said: I want to get rid of the America First policy? What’s that all about? Get rid of. How do you say I want to get rid of America First? Even if you’re going to do it, don’t talk about it, right? Unbelievable what we have to go through. What we have to go through.

And you have to get your people to fight. And if they don’t fight, we have to primary the hell out of the ones that don’t fight. You have to get them. We’re going to let you know who they are. I can already tell you, frankly.

Republicans are constantly fighting like a boxer with his hands tied behind his back. It’s like a boxer. And we want to be so nice. We want to be so respectful of everybody, including bad people. And we’re going to have to fight much harder.

And Mike Pence is going to have to come through for us, and if he doesn’t, that will be a sad day for our country, because you’re sworn to uphold our Constitution.

And the accountability says if we see somebody in there that doesn’t treat our vote well or they steal it, they do things badly, we say: Joe you’re fired. Get out of here.

Before you couldn’t do that. You couldn’t do that before.

So we’ve taken care of things. We’ve done things like nobody’s ever thought possible. And that’s part of the reason why people don’t like us, because we’ve done too much. But we’ve done it quickly.

And we’re going to come in and watch a big victory, and everybody had us down for a victory. It was going to be great and now we’re out here fighting. I said to somebody, I was going to take a few days and relax after our big electoral victory. 10 o’clock it was over.

The American people do not believe the concept, fake news. Anyhow. They have ruined their reputation. But you know, it used to be that they’d argue with me. I’d fight. So I’d fight, they’d fight, I’d fight, they’d fight. Pop pop. You’d believe me, you’d believe them. Somebody comes out. You know, they had their point of view; I had my point of view. But you’d have an argument.

What they did is they go silent. It’s called suppression, and that’s what happens in a Communist country. That’s what they do. They suppress. You don’t fight with them anymore because it’s a bad story. You have a little bad story about me. They make it 10 times worse, and it’s a major headline.

But Hunter Biden, they don’t talk about him. What happened to Hunter? Where’s Hunter?

With your help over the last four years, we built the greatest political movement in the history of our country and nobody even challenges that.

I say that over and over, and I never get challenged by the fakeness, and they challenge almost everything we say.

But our fight against the big donors, big media, big tech, anything is just getting started. This is the greatest in history. There’s never been a movement like that.

Our brightest days are before us. Our greatest achievements are still away.

I think one of our great achievements will be election security. Because nobody until I came along had any idea how corrupt our elections were.

And again, most people would stand there at 9 o’clock in the evening and say I want to thank you very much, and they go off to Bed. You’re wrong here, something is really wrong, can have happened.

And fight. We fight like hell. And if you don’t fight like hell, you’re not going to have a country anymore.

Our exciting adventures and boldest endeavors have now found America, for our movement, for our children, and for our beloved country.
And I say this despite all that’s happened. The best is yet to come. “A boxer fighting with his hand tied behind his back”? “Members of Congress fighting”? “Rudy being Rudy.” These are the metaphorical, rhetorical uses of the word “fight.” We all know that right? Suddenly, the word “fight” is off limits. Spare us the hypocrisy and false indignation. It is a term used over and over and over again by politicians on both sides of the aisle. And, of course, the Democratic House Managers know that the word “fight” has been used figuratively in political speech forever. But don’t take it from me. It is best to listen to them. (Text of video presentations.)

Ms. HARRIS. Our mission is to fight. Our job is to fight. We are in a fight. We are in a fight. We are in a fight. Mr. SCHUMER. Democrats are fighting as hard as we can. Mr. CICILLINE. Democrats are standing up to fight. Ms. HARRIS. We know how to fight. We like a good fight. Mr. SCHUMER. Democrats are going to fight like hell.

Mr. O’ROURKE. We fight like hell. Mr. SWALWELL. We’re going to fight like hell.

Mr. McDonough. I will fight like hell. Mr. BLUMENTHAL. We’re going to fight like hell. I’m going to fight like hell. Fight like hell. Ms. ROSEN. I will fight like hell. Ms. CORTEZ MASTO. We have to fight like hell.

Mr. SANDERS. I know many of the Senators and Members of the House will fight like hell. Mr. LIEU. We’re going to fight like hell. Ms. KLOBUCHAR. We’re going to fight like hell. Vice President BIDEN. Fight like hell.

Ms. PELOSI. And we just have to fight. Mrs. CLINTON. We’re going to fight. We are going to fight. We’re going to fight. We’re going to fight. Mr. LIEU. Because we will have to fight. Ms. ROSEN. To fight.

Mr. SANDERS. Political revolution. That means that millions—Millions. Millions. Have got to stand up—And fight. And fight. And fight.

And fight. Stand up and fight back. Mr. WYDEN. Fight back. Vice President BIDEN. Continue to fight. Once again, fight. Mr. RASKIN. Back the fight.

Mr. SCHUMER. We are fighting back. Ms. DRAN. My fight. To fight an administration.

Ms. WARREN. You don’t get what you don’t fight for. Mr. CASTRO of Texas. We will also fight him and challenge him in every way that we can. Mr. KAIN. Fight him in Congress, fight him in the courts, fight him in the streets. Mr. CASTRO of Texas. In the Congress, in the courts, and in the streets.

Mr. RASKIN. There’s the fight. There’s the fight. And then there’s the fight to defend. Ms. DEGETTE. We’re eager to take on this fight.

Ms. HARRIS. The American people are going to have to fight. Ms. WARREN. Get in this fight. Ms. DEGETTE. Get in this fight.

Mr. BUCH. Around the clock fighting.

We’ve got to keep fighting and keep focused. Mr. Buttigieg. We will fight when we must fight. Mr. CASTRO of Texas. We’ve been fighting. But we need to fight. Vice President BIDEN. Always going to be an uphill fight.

Ms. KLOBUCHAR. This is going to be a fight. Ms. HARRIS. We always must fight. Mr. Buttigieg. We’re in the fight of our lives.

Mr. SCHUMER. We are fighting back. Ms. WARREN. We are in this fight for our lives. Mr. CICILLINE. We’re going to be in for the fight of our lives.

Mr. KAIN. This is the fight of our lives. Vice President BIDEN. Fight of their lives. Ms. WARREN. We are in this fight for our lives.

Ms. HARRIS. We cannot ever give up fighting. Hypocrisy. The reality is, Mr. Trump was not in any way, shape, or form instructing the insurrection or to use physical violence. What he was instructing them to do was to challenge their opponents in primary elections, to push for sweeping election reforms, to hold Big Tech responsible—all customary and legal ways to petition your government for redress of grievances, which, of course, is also protected constitutional speech.

But the House Managers don’t want you to focus on those things because, again, it does not fit their story. In the end, I leave you with this quote from Benjamin Franklin:

Freedom of speech is a principal pillar of a free government; when this support is taken away, the constitution of a free society is dissolved, and tyranny is erected on its ruins.

Thank you.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate recess for a 15-minute break.

There being no objection, at 1:53 p.m., the Senate, sitting as a Court of Impeachment, recessed until 2:34 p.m.: whereupon the Senate reassembled when called to order by the President pro tempore.

Counsel’s Presentation—Continued. The President pro tempore. Who seeks recognition?

Mr. Counsel CASTOR. I do, Mr. President.

The President pro tempore. Mr. Castor is recognized.

Mr. Counsel CASTOR. Mr. President, Members of the Senate, good afternoon.

It has been my great privilege over the past couple of weeks to lead this outstanding team of lawyers and dedicated professional to the defense of the 45th President of the United States. One of the most difficult things in leading such a talented group is deciding who is responsible for what and the strategy and the order in which we will present our evidence.

You have heard from Mr. van der Veen and Mr. Schoen on the importance of the First Amendment and the importance of due process of law, and because I had the unique opportunity to set out the schedule, I decided that I would take the last substantive part of the case for myself. You can take that two ways. The first, perhaps, is the best, and that would be that it is almost over. The second is that perhaps you have to wait another hour for it to be over.

The reason why I chose this section—and believe me, it was a very difficult decision to make because I thought that the other arguments presented by Mr. Schoen and Mr. van der Veen were outstandingly researched, thoroughly vetted, and wonderfully and articulately presented by them. But the critical issue in this case is the very narrow issue that is charged against the 45th President, and that issue is, did the 45th President engage in incitement of—they continue to say “incitement”? Clearly, there was no insurrection.

“Insurrection” is a term of art defined in the law, and it involves taking over a country, a shadow government, taking the TV stations over, and having some plan on what you are going to do when you finally take power. Clearly, this is not that. What our colleagues over there also meant is incitement to violence, to riot. So the word “incitement” is the critical case and the critical issue in the case.

Now, the first time that you heard from us, I told you that you would never hear from our side that what happened on January 6 was anything other than horrific and that the 45th President of the United States and his lawyers and his entire team adamantly denounce that violence by those criminals that occurred in this very Chamber, this very building.

There was a reason why we started our presentation back on Tuesday in that way, because I did not want the Senators to consider that there was any challenge to that particular fact. Yet the House managers, knowing it was not contested at all, chose to spend 14-plus hours showing you pictures of how horrific the attack on the United States Capitol was. They spent no time at all in connecting the attack on the Capitol to the 45th President of the United States, which is the only question that needs to be answered, is, Was Donald Trump responsible for inciting the violence that came to this building on January 6?

Now, by any measure, President Trump is the most pro-police, anti-mob rule President this country has ever seen. His real supporters know this. He made it clear throughout his Presidency. He made it clear during the violent attack on the Capitol that it was about the support of our police and our law enforcement. He made it clear on January 6. But politics changes things. Politics has created and interposed an element that should
not be here. It has interposed the element of hatred. And the political world changes when hatred becomes part of the dynamic.

As we wrote in our answer to the original charging document—and I hope that this is a phrase that lives on long after all departs—Mr. van der Veen pointed out, I hope someday this becomes the mantra by which all of us operate who work for the benefit of the public—that political hatred has no place in the American justice system and most certainly no place in the Congress of the United States.

To illustrate the contrast that I am speaking of, we have a video.

(Video presentation.)

President TRUMP. I am your President of law and order and an ally of all peaceful protesters.

Vice President BIDEN. The vast majority of the protests have been peaceful.

Mr. van der Veen gave you an overview of the Brandenburg case and some of the related cases. You notice that when Mr. Van der Veen listed the elements that he took verbatim or close to verbatim right out of Brandenburg. They hove no reference whatsoever to the elements that flashed up by the Democratic managers the other day repeatedly. He actually used the Supreme Court’s case, he didn’t make it up.

Let’s look at the letter of the law. The Supreme Court of the United States, over 50 years ago, laid out a clear test to determine whether speech is incitement. Under that test, the Brandenburg v. Ohio test, there are three elements that must be proven beyond a reasonable doubt, by a preponderance of evidence—whatever the Senator considers—I suggest beyond a reasonable doubt.

First, the speech in question must explicitly or implicitly encourage the use of violence or lawless action. But here the President’s speech called for peaceful protests.

Second, the speaker must intend that his speech will result in the use of violence. And, again, as Mr. van der Veen pointed out, the President clearly deplores rioters and political violence and did so throughout his term as President and never hesitated to express his admiration for the men and women that protect this country.

Finally, the third element under the Brandenburg test is the imminent use of violence—imminent use of violence—in other words, right then. The imminent use of violence or lawless action must have the likely result of the speech—the likely result of the speech. Well, that argument is completely evaporated by the fact that the violence was preplanned, as confirmed by the FBI, Department of Justice, and even the House managers—not the result of the speech at all.

Several of my colleagues of the House managers got up and spoke about how the prosecution is being like a grand jury proceeding. Well, I have been in grand jury proceedings. I have run grand juries. In grand jury proceedings, you call witnesses; you hear evidence; you make transcripts; you take affidavits; you develop physical evidence; you hear reports from police officers; you hear forensic analysis from scientists; in fact, you invite the target of the grand jury to come in and testify if he or she pleases to be heard by the grand jury.

Which one of those things happened in the House prior to the Impeachment Article? I don’t believe any of them happened. So the suggestion that what happened in the House was anything at all like a grand jury investigating a crime, referring for prosecution is complete nonsense. And if the House managers are trying to fool you about that, you must ask yourself: What else are they trying to fool you about?

Let’s look more closely at the President’s speech. We have mentioned this lie before, but it is so critical, we need to talk about it again. The President asked that the attendees at his rally peacefully make their voices heard.

The managers would have you believe that the President’s supporters usually follow his every word but, in this case, imputing some imaginary meaning to his words ignoring his most clear instructions. President Trump said peacefully and patriotically make your voices heard. He never have wanted such a riot to occur because his longstanding hatred for violent protesters and his love for law and order is on display, worn on his sleeve every single day that he served in the House and the Senate. We would have to apply the facts to the statute, it has to be done systematically. It has to be done with precision, the way a court would expect us to do that.

Let’s look at the facts of the law. President TRUMP. If we want law and order, we have to have law and order. Our police. Together, we will ensure that our lives. For as long as there is unrest in the streets for as long as there are uprisings all over the country.

President TRUMP. We will never defund the police. Our police. Together, we will ensure that there aren’t uprisings all over the country.

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President TRUMP. We will never defund the police. Together, we will ensure that there aren’t uprisings all over the country.
possible that President Trump’s disdain for political violence could be any clearer to the persons listening as he was speaking?

Is it possible his words could have been misunderstood?

I suggest to you that is the possibility.

Now, the House managers said the President told the crowd: “You have to get [out] your people to fight.” The House managers’ claim is that the President of the United States was telling the audience to get each other to physically fight, but that is not what the President said.

The people who should fight, he said, were Members of Congress. If they don’t fight, what the President said is, what should the rally attendees do? If Members of Congress wouldn’t fight for the principles they held dear, what was it that the President specifically told his supporters at that rally he wanted them to do? He wanted them to support primary challenges.

Now, nobody in this Chamber is anxious to have a primary challenge. That is one truism I think I can say with some certainty. But that is the way we operate in this country. When the people of a State want to change their Representatives in the U.S. Senate, they use the electoral process. President Trump told his listeners that if their Members of Congress won’t fight for their views, then go back home and find others that will. That is what President Trump said—the people who should fight were the Members of Congress.

(Text of video presentations.)

Mr. Manager NEGUSE. “You have to get your people to fight,” he told them.

President TRUMP. You have to get your people to fight. And if they don’t fight, we have to primary the hell out of the ones that don’t fight. You primary them. We’re going to let you know who they are. I can already tell you, frankly.

It is pretty stark contrast when you watch that video, isn’t it? When you see the House manager tell you—and I don’t know if we’re under oath here, but when I walked into this room, I was sure that felt as if I was under oath and felt like I was speaking not only to Senators of the United States but before the entire world and with God watching.

And a House manager got up here and told you that the President of the United States, on January 6, 2021, told the crowd that they had to go and fight. And the implication that they wanted you to draw was that he was sending them down to Capitol Hill to go and breach the building and trash the very sacred Halls of Congress.

But we now know that is not at all anything near what the President said. What the President said was: If you can’t get your Members of Congress to do as you would like them to do, you primary them. That is the American way.

The first way that the House managers presented and wanted you to conclude, that is the criminal way. But what the President said was the American way.

Again, the House managers manipulated President Trump’s words. I can’t stand here and pretend to tell you that I know from time from all those videos that the House managers manipulated what the President said, put up evidence that was not with the foundation of correctness and admissibility we expect. I can’t tell you that I picked up everything from engaging Mr. Van der Veen or Mr. Schoen or any of the others who worked with us can tell you that.

But what I can tell you is there were an awful lot of times. And I know at least some of you were judges in previous lives. If one of the lawyers was able to create the impression that one side intentionally presented false or misleading evidence, that judge would give an instruction called falsus in uno, falsus in omnibus: False in one thing, false in everything else. If they are trying to fool you about one thing, not only might they be trying to fool you in something else, but under that maxim of the law, you may conclude they are trying to fool you in everything else.

President Trump was immediate in his calls for calm and respect for law enforcement. The House managers emphasized President Trump’s tweet in the 6 p.m. hour where he told the crowds:

Go home with love & in peace. Remember this day.

What is it they left out? Well, the House starts their recitation of what President Trump said as far as the aftermath of when the Capitol was breached at roughly 6 p.m. What they don’t tell you and didn’t tell you—and which you probably don’t know because I think I am the first one to say it in this forum—is at 2:38, President Trump urged protesters at the U.S. Capitol to stay peaceful.

Please support our Capitol Police and Law Enforcement. They are truly on the side of our Country. Stay peaceful!

Before we run the graphic, I just want to point out to you, President Trump’s speech ended at 1:11 p.m. So at 2:38 p.m., by the time word reaches the President that there is a problem down here, he is out urging people to support the police, stay peaceful, support our Capitol Police and law enforcement. They are on the side of the country. Stay peaceful.

At 3:13 p.m., President Trump urged protesters at the U.S. Capitol to remain peaceful:

No violence. Remember, WE are the Party of Law and Order. Respect the law and our great men and women in blue.

3:13 p.m.

President Trump’s words couldn’t have incited the riot at the Capitol. The day’s events make this clear. Let’s walk through the actual timeline.

At 11:15 a.m. police security camera videos show crowds forming at First Street, near the Capitol Reflecting Pool. This is a full 45 minutes before President Trump even took the stage on January 6. Let me repeat that. Violent criminals were assembling at the Capitol, over a mile away, almost an hour before the President uttered a single word on the Ellipse. You did not hear that fact during the hours and hours of the House managers’ presentation, did you?

When the President spoke, what did he call for? He called for rally attendees to peacefully and patriotically make their voices heard, for them to walk down Pennsylvania Avenue to cheer on Members of Congress.

President Trump went on for more than an hour, ending at 1:11. Now, why is this important? Because of all of the events that I am about to describe, they all occurred before—before President Trump’s remarks concluded.

At 12:49 p.m., the first barriers at the U.S. Capitol Grounds were pushed over, and the crowd entered the restricted area.

At 1:06 p.m., Acting Defense Secretary Christopher Miller received open source reports of demonstrator movements to the U.S. Capitol.

At 1:09 p.m., U.S. Capitol Police Chief Steven Sund called the House and Senate Sergeant at Arms, telling them he wanted an emergency declared, and he wanted the National Guard called.

The point: Given the timeline of events, the criminals at the Capitol were not there at the Ellipse to even hear the President’s words. They were more than a mile away, engaged in their planned assault on the very building. This was a preplanned assault—make no mistake—and that is a critical fact.

Watch this.

(Text of video presentations.)

Mr. Blitzer. It was not some sort of spontaneous decision by a bunch of “protesters” to go up to Capitol Hill and storm Capitol Hill. This was all planned out.

Mr. Tapper. How much of it was planned? How much of this was strategized ahead of time?

Mr. Perez. They are getting indications, some evidence that indicates that there was some level of planning.

Ma. Quijano. There appears to be preplanning.

Mr. Muir. An FBI internal report the day before the siege, warning of a violent attack at the Capitol.

Ma. Quijano. The FBI issued a warning of a “war” at the Capitol.

Mr. Colbert. The FBI warned law enforcement agencies about this specific attack.

(Text of video presentations.)

Be ready to fight. Congress needs to hear glass breaking, doors being kicked in.

(Text of video presentations.)

Mr. D’Antuono. We developed some intelligence that a number of individuals were planning to travel to the DC area with intentions to cause violence. We immediately shared that information.
Ms. Herridge. And they pushed out that information through this JTTP structure.

Mr. D’Antuono. It was immediately disseminated through a written product and briefed to commanders and post operation to all levels of law enforcement.

Unidentified Speaker. The FBI says two pipe bombs discovered near the Capitol on January 6 came from the same batch.

Unidentified Speaker. New video appears to show a person suspected of planting pipe bombs near the U.S. Capitol the night before.

Mr. Muir. They were planted the day before.

Ms. Herridge. It all goes to the idea of premeditation and coordination among individuals.

Mr. Comey. This was a planned assault of people going after a castle.

Mr. Counsel CASTOR. So, to answer the question of the House manager. “Does anybody believe that this would have occurred but for the speech of Donald Trump?”

All of these facts make clear that the January 6 speech did not cause the riots. The President did not cause the riots. He neither explicitly nor implicitly encouraged the use of violence or lawlessness. In fact, called for the peaceful exercise of every American’s First Amendment right to peacefully assemble and petition their government for redress of grievances. In other words, the Brandenburg standard is not made out.

The House managers admitted many facts are unknown. Even Speaker PELOSI admitted not knowing the real cause of the violence when she called for a 9/11-style Commission to examine the facts and causes that led to the violence. (Text of audio presentation.)

On the screen is Speaker PELOSI’s call for the 9/11 Commission.

Let’s touch now on the second absurd and unproven allegation in the House managers’ single Article.

President Trump’s phone call to Georgia Secretary of State Brad Raffensperger—surreptitiously recorded, by the way—included multiple attorneys and others on the call. Let me point out the very obvious fact that the House managers ignored. The private call that was made public by others cannot really be the basis to claim that the President intended to incite a riot, because he did not publicly disclose the call.

How could he have hoped to use this call to invite his followers if he had no intent to make the conversation public and, indeed, had nothing to do with its being secretly recorded?

The House managers told you that the President demanded that the Georgia secretary of state “find” just over 11,000 votes. The word “find,” like so many others the House managers highlighted, is taken completely out of context. The word “find” did not come out of the fact that he was discussing and a call to act on verified crimes of forgery. The majority party promised to eliminate a political opponent, to substitute their judgment for the will of the voters.

Another example:

We think that, if you check the signatures—a real check of the signatures—going back in Fulton County, you will find at least a couple hundred thousand of forged signatures of people who have been forged, and we are quite sure that’s going to happen.

Moreover, there was nothing untoward with President Trump or any other candidate, for that matter, speaking with the lead elections officer of the State. That is why the Georgia secretary of state took a call, along with members of his team, one of whom decided to record it and release it to the press. The only reason this conversation is being discussed in this Chamber is because, once again, the media and their Democratic allies distorting the true conversation to mislead you and the American public.

So why are we here?

Politics. Their goal is to eliminate a political opponent, to substitute their judgment for the will of the voters.

Mr. Capehart. Why bother with a Senate trial of Donald Trump? He’s no longer President.

Mr. Pelley. He will be out of office anyway. Ms. Wallace. Is it to keep him from running again?

Ms. VAN HOLLEN. To disqualify him from running for office again.

We think that, if you check the signatures, numbers are so wrong. But why wouldn’t you want to find the right answer, Brad? Instead of keep saying that the numbers are right, because those numbers are so wrong.

But why wouldn’t you want to find the right answer? The only reason this conversation is being discussed was because of the context that he will be out of office anyway. Mr. Muir. They will be out of office anyway. Mr. SCHIFF. To disqualify him from running for office again.

Mr. CASTRO of Texas. To keep him from running for office again.

Mr. Kaine. Don’t disqualify him, he will be out of office anyway.

Mr. SCHUMER. To remove him from ever running for office again.

Ms. CLARK of Massachusetts. To disqualify him from ever running for office again.

Mr. FOCAN. To never be able to run for office again.

Ms. KLOBUCHAR. To ban former President Trump from running again.

Mr. GREEN of Texas. To never be able to run for office again.

Mr. POCAN. To never be able to run for office again.

Ms. BALDWIN. Barring him from running for office again.

Mr. VAN HOLLEN. To disqualify him from running for office.

Mr. SCHIFF. To disqualify him from running for office again.

Ms. Emanuel. It’s about focusing so that he can never run again.

Mr. SCHUMER. To remove him from ever running for office again.

Mr. FOCA. To never be able to run for office again.

Ms. KLOBUCHAR. To ban former President Trump from running again.

Mr. GREEN of Texas. If we don’t impeach this President, he will be out of office again.

Mr. CASTRO of Texas. To keep him from running for office again.

Mr. Kaine. Donald Trump will not be able to run for office again.

Mr. FOCA. To never be able to run for office again.

Ms. WALLACE. Is it to keep him from ever running for office again?

Mr. FOCA. To never be able to run for office again.

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Mr. FOCA. To never be able to run for office again.

Ms. WALLACE. Is it to keep him from ever running for office again?

Mr. FOCA. To never be able to run for office again.
silencing and banning the speech the majority does not agree with. It is about canceling 75 million Trump voters and criminalizing political viewpoints.

That is what this trial is really about. It is the only existential issue before us. It asks for constitutional cancel culture to take over in the United States Senate.

Are we going to allow canceling and banning and silencing to be sanctioned in this body?

To the Democrats, who view this as a moment of opportunity, I urge you instead to look to the principles of free expression and free speech. I hope, truly, that the next time you are in the minority, you don’t find yourself in this position.

To the Republicans in this Chamber, I ask when you are next in the majority, please resist what will be an overwhelming temptation to do this very same thing to the opposing party.

Members of the Senate, this includes the formal defense of the 45th President of the United States to the Impeachment Article filed by the House of Representatives.

I understand that there is a procedure in place for questions, and we await them; thereafter, we will close on behalf of President Trump.

Mr. President, we yield the balance of our time.

RECESS

Mr. SCHUMER. Mr. President, I ask unanimous consent that we take a 15-minute recess.

There being no objection, at 3:16 p.m., the Senate, sitting as a Court of Impeachment, recessed until 3:54 p.m.; whereupon the Senate reassembled when called to order by the President pro tempore.

SENATORS’ QUESTIONS

The PRESIDENT pro tempore. The Senate will come to order.

Pursuant to the provisions of S. Res. 47, the Senate has provided 4 hours during which Senators may submit questions in writing directed either to the House of Representatives or counsel for the former President.

The majority leader.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the answers within the 4-hour question period be limited to 5 minutes each, and if the questions are directed to both parties, the times be equally divided; furthermore, that questions alternate sides proposing questions for as long as both sides wish to question.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. The Senate will submit it.

The question from Senator SCHUMER with Senator FEINSTEIN is directed to the House managers.

The clerk will read it.

The legislative clerk read the question as follows:

Isn’t it the case that the violent attack and siege on the Capitol on January 6 would not have happened if not for the conduct of President Trump?

The evidence we presented in trial makes this absolutely clear. This attack, as we said, didn’t come from one random speech, and it didn’t happen by accident, and that mob didn’t come out of thin air.

Before the election, Donald Trump spread lie after lie about potential fraud—an election, remember, that hadn’t even happened yet. Months before the election, he was saying it was rigged and that it was going to be stolen. All of his supporters believed that the only way he was going to lose is if the election was stolen, if the election was rigged.

And when he did lose, he spent week after week inciting his supporters to believe that their votes had been stolen and that the election was fraudulent and it was their patriotic duty to fight like hell to stop the steal and take their country back.

And, remember, this is in the United States, where our vote is our voice. You tell somebody that an election victory is being stolen from them, that is a combustible situation when people are armed and they have been saying that they are mad as hell and they are not going to take it anymore.

He looked out to a sea of thousands, some wearing body armor, helmets, holding sticks and flag poles, some of which they would later use to beat Capitol Police; and he told them that they could play by different rules—play by different rules. He even, at one point, quite literally, pointed to the Capitol as he told them to “fight like hell.”

After the attack, you know, we have shown clearly, well, that once the attack began, insurgent after insurgent clearly knew that they were following the President’s orders. You saw us present that evidence of the insurgents who were there that day who said: I came because the President asked me to come. I was here at his invitation. You saw that the folks that were in the Capitol that day.

The President pro tempore. The time has expired. Are there further questions?

Mr. GRAHAM. Mr. President.

The PRESIDENT pro tempore. Does the Senator from South Carolina have a question?

Mr. GRAHAM. Thank you very much, Mr. President.

I send a question to the desk on behalf myself, Senators CRUZ, MARSHALL, and Cramer to counsel.

The President pro tempore. Senator GRAHAM, for himself, Senator CRUZ, Senator MARSHALL, and Senator CRAMER, submits a question to the counsel for Donald Trump. The clerk will read the question.

The legislative clerk read as follows:

Does a politician raising bail for rioters encourage more rioting?

The President pro tempore. Counsel has 5 minutes.
Then it went up to Judge Stephanos Bibas, who is a Trump appointee, who is part of the appeals court panel. He said:

"The Campaign’s claims have no merit. The number of ballots it specifically challenges is far smaller than [the 61,000-vote] margin of victory. And it never claims fraud or that any votes were cast by illegal voters. Plus, tossing out millions of mail-in ballots would be a drastic and unprecedented disenfranchising a huge swath of the electorate and upsetting all down-ballot races too.

Which, incidentally, they weren’t being challenged, even though it was the exact same ballot that had been brought."

So the problem was when the President went from his traditional combat, which was fine, to intimidating and bullying State election officials and State legislators, and then finally, as Representative Cheney said, summoning a mob, assembling a mob, and then lighting the match for an insurrection against the Republic.

When he crossed over from non-violent means to how ridiculous or absurd—that is fine. He is exercising his rights—to inciting violence, that is what this trial is about. We heard very little of that from the presentation of the President’s lawyers. They really didn’t address the facts of the case at all. There were a couple of propaganda reels about Democratic politicians that would be excluded in any court in the land. They talked about the Rules of Evidence. All of that was totally irrelevant to the case before us. Whatever you think about it, it is irrelevant, and we will be happy, of course, to address the First Amendment argument too.

Ms. COLLINS. Mr. President.

The legislative clerk read as follows:

"At least one witness has testified that the President’s actions were specifically designed to generate fear and violence among his followers. He had encouraged his followers to engage in violence by embracing and exploiting their anger and fear, and by using inflammatory rhetoric to incite them to act. He had also demonstrated that he was capable of inciting violence, as he had done in the Million MAGA March, when it erupted in violence and burned churches, he had refused, as you saw in the September debate—that interview—to condemn extremists and White supremacist groups, like the Proud Boys, and that every opportunity, encouraged and cultivated actual violence by these groups.

Yes, he has encouraged actual violence, not just the word “fight.” He told groups like the Proud Boys, who had beaten people with baseball bats, to stand by.

When his supporters in the 50-car caravan tried to drive a bus of Biden campaign workers off the road, he tweeted a video of that incident with flight music attached to it and wrote: I LOVE TEXAS.”"

When his supporters sent death threats to the Republican Secretary of State Raffensperger in Georgia, he responded by calling Mr. Raffensperger an enemy of the state, after he knew of those death threats.

And in the morning of the second Million MAGA March, when it erupted in violence and burned churches, he began that day with the tweet: “We have just begun to fight.”

I want to be clear that Donald Trump is not on trial for those prior statements—however as hateful and violent and inappropriate as they may be. But
Given that more than 200 people have been charged for their conduct at the Capitol on January 6, the whole justice system is working to hold the appropriate persons accountable, and that President Trump is no longer in office, isn’t this simply a political show trial aimed at discrediting President Trump and his policies and shame the 74 million Americans who voted for him?

Mr. Counsel CASTOR. Mr. President. The PRESIDENT pro tempore. Counsel is recognized.

Mr. Counsel CASTOR. Thank you, Senators, for that question. That is precisely what the 45th President believes are the facts as he sees them. We believe in law and order and trust that the Federal authorities that are conducting investigations and prosecutions against the criminals that invaded this building will continue their work and be as aggressive and thorough as we know them to always be and that they will continue to identify those that entered the inner sanctum of our government and desecrated it.

The 45th President no longer holds office, and there is no sanction available under the Constitution in our view, for him to be removed from the office that he no longer holds. The only logical conclusion is that the purpose of this gathering is to embarrass the 45th President of the United States and in some way try to create an opportunity for Senators to suggest that he should not be permitted to hold office in the future or, at the very least, publicize this throughout the land to try to damage his ability to run for office in the future.

At the same time, tell the 74 million people who voted for him that their choice was the wrong choice.

I believe that this is a divisive way of going about handling impeachment, and I believe that it is an idea that should be rejected.

The legislative clerk read as follows:

The question is for counsel for the House managers to the desk because the President’s counsel did not answer the question which was posed to them.

The PRESIDENT pro tempore. The Senator will send the question. Debate is not allowed.

The question is from Senator MARKEY, with Senator DUCKWORTH, to the managers on the part of the House of Representatives. The clerk will read the question.

The legislative clerk read as follows: Exactly when did the President learn of the breach at the Capitol, and what steps did he take to address the violence? Please be as detailed as possible.

The PRESIDENT pro tempore. Do the House managers wish to respond? Ms. Manager PLASKEETT. Yes. Mr. President, Senators, this attack was on live TV, on all major networks, in real time. The President, as President, has access to intelligence information, including reports from inside the Capitol.

He knew the violence that was underway. He knew the severity of the threats. And, most importantly, he knew that Capitol Police were overwhelmingly outnumbered and in a fight for their lives against thousands of insurgents with weapons. We know he knew that. We know that he did not send any individuals. We did not hear any tweets. We did not hear him tell those individuals: Stop. This is wrong. You must go back. We did not hear that.

So what else did the President do? What is unclear. But what we believe it was a dereliction of his duty, and that was because he was the one who had caused them to come to the Capitol, and they were doing what he asked them to do. So there was no need for him to stop them from what they were engaged in. It was not one of the things I would like to ask is we still have not heard and pose to you all the questions that were raised by Mr. RASKIN, Manager RASKIN, in his closing argument: Why did President Trump not tell the protesters to stop as soon as he learned about it? Why did President Trump do nothing to stop the attack for 2 hours after the attack began? Why did President Trump do nothing to help protect the Capitol and law enforcement battling the insurgents?

You saw the body cam of a Capitol Police officer at 4:29, still fighting—4:29 after since what time?—1, 2 in the afternoon. Why did he not condemn the violent insurrection on January 6?

Those are the questions that we have, as well, and the reason this question keeps coming up is because the answer is nothing.

The PRESIDENT pro tempore. Any further questions? Mr. ROMNEY. Mr. President.

The PRESIDENT pro tempore. The Senator from Utah.

Mr. ROMNEY. I send a question to the desk.

The PRESIDENT pro tempore. The Senator from Utah, Mr. ROMNEY, on behalf of himself and Senator COLLINS, submits a question.

The clerk will read the question.

Oh, I apologize. The question is for the House managers. And time will be evenly divided.

The legislative clerk read as follows:

When President Trump sent the disparaging tweet at 2:24 p.m. regarding Vice President Pence, was he aware that the Vice President had been removed from the Senate by the Secret Service for his safety?

The PRESIDENT pro tempore. The House managers. And time will be evenly divided.

Mr. Manager RASKIN. I’m sorry. Could the question be read again, Mr. President?

The PRESIDENT pro tempore. Of course.

Could the clerk read the question again?

The legislative clerk read as follows:

When President Trump sent the disparaging tweet at 2:24 p.m. regarding Vice President Pence, was he aware that the Vice President had been removed from the Senate by the Secret Service for his safety?

The PRESIDENT pro tempore. The House managers are recognized for 2½ minutes.

Mr. Manager CASTRO of Texas. Thank you. Well, let me tell you what he said at 2:24 p.m. He said:
Mike Pence didn’t have the courage to do what should have been done to protect our Country and our Constitution... USA demands the truth!

And you know by now what was all over the media. You couldn’t turn on the television, you couldn’t turn on the radio, you couldn’t consume any media or probably take any phone calls or anything else without hearing about this and also hearing about the Vice President.

And there is what Donald Trump had to know at that time because the whole world knew it. All of us knew it. Live television had, by this point, shown that the insurgents were already inside the building and that they had weapons and that the police were outnumbered.

And here are the facts that are not in dispute. Donald Trump had not taken any measures to send help to the overwhelmed Capitol Police.

As President, at that point, when you see all this going on and the people all around you are imploring you to do something and your Vice President is there, why wouldn’t you do it? Donald Trump had not publicly condemned the attack. He or his aides told the Secret Service to stand down despite multiple pleas to do so, and Donald Trump hadn’t even acknowledged the attack.

And, after Wednesday’s trial portion concluded, Senator Tuberville spoke to reporters and confirmed the call that he had with the President and did not dispute Manager Cicilline’s description in any way that there was a call between he and the President around the time that Mike Pence was being ushered out of the Chamber, and that was shortly after 2 p.m.

And Senator Tuberville specifically said that he told the President: Mr. President, they just took the Vice President out; I have got to go.

That was shortly after 2 p.m. There were hours of chaos and carnage and mayhem, and the Vice President and his family were still in danger at that point. Our Commander-in-Chief did nothing.

The President pro tempore, Counsel for the former President:

Mr. Counsel Van der Veen. The answer is no. At no point was the President informed the Vice President was in any danger. Because the House rushed through this impeachment in 7 days, of course, there is nothing at all in the record on this point because the House failed to do even a minimum amount of due diligence.

What the President did know is that there was a violent—there was a violent riot happening at the Capitol. That is why he repeatedly called via tweet and via video for the riots to stop, to be peaceful, to respect Capitol Police and law enforcement, and to commit no violence and to go home.

But to be clear, this is an Article of Impeachment, and that, of course, this is not an Article of Impeachment for anything else. It is one count. They could have charged anything they wanted.

They chose to charge incitement. So that the question—although answered directly no, it is not really relevant to the charges for the impeachment in this case.

And I just wanted to clear up one more thing. Mr. Cicilline, in his first answer, may have misspoke, but what he said was Mr. Trump had said “fight to the death.” That is false. I am hoping he misspoke.

Thank you.

Ms. Klobuchar, Mr. President.

The President pro tempore. The Senator from Minnesota.

Ms. Klobuchar, Mr. President, on behalf of myself and Senators Casey and Brown, I send a question to the desk.

The President pro tempore. This is a question from Senator Klobuchar, Senator Casey, and Senator Brown to the House managers.

The clerk will read the question.

The legislative clerk reads as follows:

In presenting your case, you relied on past precedents from impeachment trials, such as William Belknap’s impeachment. Would you have presented in the course of this trial, if we do not convict former President Trump, what message will we be sending to future Presidents and Congresses?

Ms. Manager Plaskett. As we have shown, President Trump engaged in a course of conduct that incited an armed attack on the Capitol. He did so while seeking to overturn the results of the election and thwart the transfer of power. And once the attack began, he further incited violence aimed to his own Vice President, even demonstrating his state of mind by failing to defend us and the law enforcement officials who protect us.

The consequences of his conduct were devastating on every level. Police officers were left overwhelmed, unprotected. Congress had to be evacuated; our staff barricaded in this building, calling their families to say goodbye. Some of us, like Mr. Raskin, had children here.

And these people in this building, some of whom were on the FBI’s watch list, took photos, stole laptops, destroyed precious statues, including one of John Lewis, desecrated the statue of a recently deceased Member of Congress who stood for nonviolence.

This was devastating. And the world watched us, and the world is still watching us to see what we will do this day and what we did this day 100 years from now.

Those are the immediate consequences, and our actions will reverberate as to what are the future consequences. The extremists who attacked the Capitol at the President’s provocation will be emboldened. All our intelligence agencies have confirmed this; it is not House managers saying that. They are quite literally standing by and standing ready. Donald Trump told them: This is only the beginning. They are waiting and watching to see if Donald Trump is right that everyone said this was totally appropriate.

Let me also bring something else up. I will briefly say that defense counsel put a lot of videos out in their defense, playing clip after clip of Black women talking about fighting for a cause or an issue or a policy. It was not lost on me, and many of them were people of color and women and Black women, Black women like myself, who are sick and tired of being sick and tired for our children—your children, our children.

This summer, things happened that were violent, but there were also things that gave some of us Black women great comfort: seeing Amish people from Pennsylvania standing up with us, Members of Congress fighting up with us, and so I thought we were past that. I think maybe we are not.

There are longstanding consequences, decisions like this that will define who we are as a people, who America is. We have in this room made monumental decisions. You all have made monumental decisions. We have declared wars, passed civil rights acts, ensured that no one in this country is a slave. Every American has the right to vote, unless you live in a territory. At this time, some of these decisions are even being challenged but history has shown that they define us as a country and as a people. Today is one of those moments, and history will wait for our decision.

Mr. Lee, Mr. President.

The President pro tempore. The Senator from Utah.

Mr. Lee. I send a question to the desk.

The President pro tempore. The Senator from Utah. Mr. Lee, sends a question on behalf of himself, Senator Hawley, Senator Crapo, Senator Blackburn, and Senator Portman, and the question is for the counsel for the former President.

The clerk will read the question.

The legislative clerk reads as follows:

Multiple State constitutions enacted prior to 1787—namely, the constitutions of Delaware, Virginia, Pennsylvania, and Vermont—specifically provided for the impeachment of a former officer. Given that the Framers of the U.S. Constitution would have been aware of these provisions, does their decision to omit language specifically authorizing the impeachment of former officials indicate that they did not intend for our Constitution to allow for the impeachment of former officials?

Mr. Counsel Van der Veen. Good question, and the answer is yes, of course they left it out. The Framers were very smart men, and they went over draft after draft after draft on that document, and they reviewed all the other drafts of all of the State constitutions, all of them. They picked and chose what they wanted, and they discarded what they did not. What they included was the decision to preclud. I hope that is answering your question.

Thank you.

Mr. Padilla, Mr. President.

The President pro tempore. The Senator from California.

Mr. Padilla. Mr. President, I send a question to the desk.
Mr. Manager CASTRO. Senators, Donald Trump spent months inciting his base to believe that their election had been stolen and that the election was rigged. To be clear, when he says the election is stolen, what he is saying is that the victory— and he even says one time, the election victory—has been stolen from them. Think about how significant that is to Americans. Again, you are right, over 70 million— I think 74 million people voted for Donald Trump. And this wasn’t a one-off comment. It wasn’t one time. It was over and over and over and over and over and over and over and over.

We are not having this impeachment trial here because Donald Trump contested the election. As I said during the presentation, nobody here wants to lose an election. We all run our races to win our elections. But what President Trump did was different. What our Commander in Chief did was the polar opposite of what we are supposed to do. We let the people decide the elections, except President Trump. He directed all of it. He had insulted to January 6, the last chance—again, to him, this was his last chance. This was certifying the election results. He needed to whip up that mob, amp them up enough to get out there and try to stop the election results, the certification of the election. And, you all, they took over the Senate Chamber to do that. They almost took over the House Chamber. There were 50 or so or more House Members who were literally scared for their lives up in the Gallery. A woman who bought into that big lie died because she believed the President’s big lie. This resulted in a loss of one of his supporter’s lives. A Capitol Police officer died that day. Neither of President Trump’s supporters. Two Capitol Police officers ended up taking their own lives.

Defense counsel—their defense is basically everything President Donald Trump did is OK, and he could do it again. Is that what we believe? That there is no problem with that, that it is perfectly fine if he does the same thing all over again?

This is dangerous. He is inciting his base. He was using the claim of a rigged election. We have never seen somebody do that over and over and over again—tell a lie, say 6 months ahead of time that it is a rigged election.

There is a dangerous consequence to that when you have millions of followers on Twitter and millions of followers on Facebook and you have that huge bully pulpit of the White House and you are the President of the United States, believe that, people are listening to you in a way that, quite honestly, they are not listening to me and they are not listening to all of us in this room.

I just want to clear up—the defense counsel made a point about something that I read earlier. The defense counsel suggested I misspoke. I just want to clarify for the record that the tweet I referenced—let me read you the tweet directly:

If a Democrat Presidential Candidate had an election Rigged & Stolen, with proof of such acts at a level never seen before, the Democrat Senators would consider it an act of war, for the Democrats & the Republicans do NOTHING, just want to let it pass. NO FIGHT!

So Donald Trump was equating what Democrats would do if their election was stolen. He said they’d fight to the death. Why do you think he sent that tweet? Because he is trying to say: Hey, the other side would fight to the death; so you should fight to the death. I mean, do we read that any other way?

The President pro tempore. The Senator from Missouri.

Mr. HAWLEY. Mr. President, on my behalf and the behalf of Senator CRAMER, I send a question to the desk.

The PRESIDENT pro tempore. The SENATE assistant counsel for the former President.

Mr. Counsel VAN DER VEEN, would you read that question again, if you would please?

The legislative clerk read as follows:

If the Senate’s power to disqualify is not derivative of the power to remove a convicted President from office, could the Senate disqualify a sitting President but not remove him or her?

Mr. Counsel VAN DER VEEN. No. But I can’t let this rest. Mr. CASTRO attributed a statement the time before last that he was up here that Donald Trump had told his people to fight to the death. I am not from here. I am not like you guys. I was being very polite in giving an opportunity to correct the record, and I thought that was exactly what he would do.

But instead, what he did is he came up and illustrated the problem with the presentation of the House case. It has been smoke and mirrors, and, worse, it was dishonest. He tried and tried to cover when he got caught, as they were caught earlier today with all of the evidence, checking tweets, switching dates—everything they did. I still bear in mind. I had 2 days to look at their evidence. And when I say 2 days, I mean they started putting in their evidence. So I started being able to get looking at it. That is not the way this should be done.

But what we discovered was, he knew what he was doing. He knew that the President didn’t say that to his people. What he said was, if it happened to the Democrats, this is what they would do. In his speech that day, you know what he said? He said, if this happened to the Democrats, if the election were stolen from the Democrats, all hell would break loose. But he said to his supporters: We are smarter. We are stronger. And we are not going to do what they did all summer long.

So what he did was he misrepresented a tweet to you to put forth the narrative that is wrong. It is wrong. It is dishonest, and the American people don’t deserve this any longer. You must acquit.

The President pro tempore. The Representative from the House of Representatives has 2½ minutes.

Mr. Manager RASKIN. Thank you, Mr. President.

That was profoundly inaccurate and irrelevant to what the question is. So I am going to get back to the question.

So under article II, section 4, a President who is in office must be convicted before removal and then must be removed before disqualification.

But if the President is already out of office, then he can be separately disqualified, as this President is. But these powers have always been treated as separate issues, which is why I think there have been eight people who have been convicted, and, and, just three of them disqualified.

And, as you know, there is a totally separate process within the Senate for doing this. The Constitution requires a two-thirds vote for conviction. But for disqualification, it is a majority vote. It is a separate thing. So people could vote to convict and then vote not to disqualify. If they felt that the evidence demonstrated the President was guilty of incitement to insurrection, they could vote to convict. If they felt they didn’t want to exercise the further power established by the Constitution to disqualify, they wouldn’t even have to do that. And that could be something that is handled separately by the Senate and by a majority vote.

The President pro tempore. The Senator from Massachusetts.

Ms. WARREN. Mr. President, I send a question to the desk.

The President pro tempore. The Senator from Massachusetts has a question for the House managers.
The clerk will read the question. The legislative clerk read as follows:

The defense’s presentation highlighted the fact that Democratic Members of Congress raised objections to the counting of electoral votes in past joint sessions of Congress. To your knowledge, were any of those Democratic objections raised after insurrectionists stormed the Capitol in order to prevent the certification of electoral votes and was the President’s personal lawyer asked Senators to make these objections specifically to delay the certification?

Mr. Manager RASKIN. Thank you very much, Mr. President, for the opportunity to respond to that.

The answer is no, we are not aware that any other objections were raised in the counting of electoral college votes, either by Democrats or Republicans. This has been kind of a proud bipartisan tradition under the electoral college because the electoral college is so arcane and has so many rules to it.

I think that my cocounsel on the other side had some fun because I was one of the people who took, I think, about 30 seconds in 2016 to point out that the electors from Florida were not actually conforming to the letter of the law because they have a rule in Florida that you can’t be a dual-officeholder. Other words, you can’t be a State legislator and also be an elector. That was improper form.

I think then-Vice President Biden properly gave me down and said: Look, we are going to try to make the electoral college work, and we are going to vindicate the will of the people.

And that is pretty much what happened.

Nobody has stormed the Capitol before or, as Representative CHENEY, the secretary of the Republican conference said, gone out and summoned a mob, assembled a mob, incited a mob, and lit a match. As Representative CHENEY said, all of this goes to the doorstep of former or, as Representative CHENEY, the President, and all 50 States across the country had done—agreed that the votes were counted. The people had spoken, and it was time for the peaceful transfer of power as our Constitution and the rule of law demands. Sixty-one courts—61 courts—the President went to. That is fine, appropriate. He lost. He lost. He lost the election.

He lost the court case. As Leader MCCONNELL recognized the day after the electors certified the votes on December 14, he said:

Many millions of us had hoped that the President’s election would yield a different result, but our system of government has processes to determine who will be sworn in on January 20. The electoral college has spoken.

Patriotism. Sometimes, there is a reason to dispute an election. Sometimes, the count is close. Sometimes, we ask for a recount, go to courts. All of that is appropriate. I lost my first election. I stayed in bed for 3 days. We do what we need to do, and we move on. That was not that, because, when all of these people confirmed that Donald Trump had lost, when the courts, his—his—Department of Justice, State officials, Congress, his Vice President were ready to commit to the peaceful transfer of power—the peaceful transfer of power—Donald Trump was not ready, and we are all here because he was not ready.

Day after day, he told his supporters false, outlandish claims of why this election was rigged. Now, let’s be clear: President Trump had absolutely no support of these claims, but that wasn’t the point of what he was doing.

He did it to make his supporters frustrated, to make them angry.

The President pro tempore. Time has expired.

Counsel for the former President is recognized for 2½ minutes.

Mr. Counsel VAN DER VEEN. Thank you, Mr. President.

May I have the question read again and not have it count against my time? The President pro tempore. Of course.

The clerk will read the question again.

The legislative clerk read as follows:

The House prosecutors have stated over and over again that President Trump was perpetrating a big lie when he repeatedly claimed that the election was stolen from him and that he actually won the election by a landslide.

Are the prosecutors right when they claim that Trump was telling a big lie or, in your judgment, did Trump actually win the election?

The President pro tempore. Counsel for the former President has 2½ minutes.

Mr. Counsel VAN DER VEEN. Who asked what?

Mr. SANDERS. I did.

Mr. Counsel VAN DER VEEN. My judgment is irrelevant in this proceeding. It absolutely is. What is supposed to happen here is the Article of Impeachment—

The President pro tempore. The State will be in order.

Senators, under the rules, cannot challenge the content of the response. Counsel will continue.

Mr. Counsel VAN DER VEEN. May I have the question read again, please?

The legislative clerk read as follows:

The House prosecutors have stated over and over again that President Trump was perpetrating a big lie when he repeatedly claimed that the election was stolen from him and that he actually won the election by a landslide.

Are the prosecutors right when they claim that Trump was telling a big lie or, in your judgment, did Trump actually win the election?
Mr. Counsel VAN DER VEEN. In my judgment, it is irrelevant to the question before this body. What is relevant in this Impeachment Article is, were Mr. Trump’s words inciteful to the point of violence and riot? That is the charge. That is the question; and the answer would not be speculation that was inciteful to violence or riot.

Now, what is important to understand here is the House managers have completely, from the beginning of this case right now, done everything except answer that question—the question they brought before you, the question they want my client to be punished by. That is the question that should be getting asked.

The answer is he advocated for peaceful, patriotic protest. Those are his words. The House managers have shown zero—evidence that his words did anything else. Remember, all of the evidence is this was premeditated; the attack on the Capitol was preplanned. He did not have anything to do with Mr. Trump in any way, what he said on that day on January 6 at that Eclipse, and that is the issue before this Senate.

Now, on the issue of contesting elections and the results, the Democrats have a long, long history of just doing that. I hope everybody was able to see the video earlier today. Over and over again, it has been contested. When Mr. Trump was elected President, we were told that he did not win.

The PRESIDENT pro tempore. The former President’s counsel’s 2 1/2 minutes has expired.

The Senator from Wisconsin.

Mr. JOHNSON. Mr. President, I send a question to the desk for both parties.

The PRESIDENT pro tempore. The Senator from Wisconsin sends a question for both counsel for the former President and the House managers.

Mr. Counsel VAN DER VEEN. Holy cow. That is a really good question.

Had the House managers done their investigation, maybe somebody would have an answer to that, but they didn’t. They did zero investigation. They did nothing. They looked into nothing. They read newspaper articles. They talked to their friends—you know, a TV reporter or something or something else.

But, Jiminy Cricket, there is no due process in this proceeding at all, and that question highlights the problem. When you have no due process, you have no cut-and-dry answers, but we do know that there was, I think, a certain level of foreseeability. It looks like, from the information they were presenting, some law enforcement knew that something could be happening.

In my presentation, we knew that the mayor, 2 days before—before—had been offered to have Federal troops or National Guard deployed, beef up security here, and Capitol Police. It was offered. So somebody had to have an inkling of something. Who ignored it and why? If an investigation were done, we would know the answer to that too.

Thank you.

The PRESIDENT pro tempore. The House managers have 2 1/2 minutes.

Ms. Manager PLASKETT. First, if defense counsel has exculpatory evidence, you are welcome to give it to us. We would love to see it. You have had an opportunity to give us evidence that would exonerate the President. Haven’t seen it yet.

Everyone—the defense counsel wants to blame everyone else except the person who was most responsible for what happened on January 6, and that is President Trump, Donald Trump. He is the person who foresaw this the most because he had the reports; he had access to the information. He, as well, had—we all know how he is an avid cable news watcher. He knew what was going on. He cultivated these individuals. These are the undisputed facts.

The National Guard was not deployed until over 2 hours after the attack. I heard reference to Mayor Bowser in the defense’s presentation. Mayor Bowser does not have authority over the Capitol or Federal buildings. She could not deploy the National Guard to the Capitol. That is outside of the jurisdiction of the Mayor of the District of Columbia.

At no point in that entire day did the President of the United States, our Commander in Chief, tell anyone—law enforcement struggling for their lives, insurgents who felt empowered by the sheer quantity of them, any of us in this building, or the American people—that he was sending help.

He did not defend the Capitol. The President of the United States did not defend the Capitol of this country. It is indefensible.

The PRESIDENT pro tempore. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. Senator MERKLEY submits a question for the House managers.

The clerk will read the question.

The legislative clerk read as follows:

If a President spins a big lie to anger Americans and stokes insurrection, is the lie at event after event and invites violent groups to DC the day and hour necessary, but is it necessary to have the police and then expresses pleasure and delight that the Capitol was under attack, is the President innocent of inciting an insurrection because in a speech he says “be peaceful”?

The PRESIDENT pro tempore. The House managers have 5 minutes.

Mr. Manager CASTRO of Texas. You all ask a very important question, which is, given everything that the President did leading up to the election, after the election, and leading up to January 6, all of the incitement of his supporters, whom he convinced with a big lie over and over that the election was rigged, and then once the mob had stormed the Capitol, the Vice President was in danger, the Speaker was in danger, the Members of the House and the Senate and all the staff here—the janitorial staff, the cafeteria workers, everybody—and all of the hot rhetoric that he spoke with and then simply a few times said “stay peaceful”—remember, he said “stay peaceful” when they had already brought weapons, when they had already hurt people. What he never said was: Stop the attack. Leave the Capitol. Leave immediately.

Let me be clear. The President’s message in that January 6 speech was incendiary. So in the entire speech, which was roughly 1,100 words, he used the word “peaceful” once, and using the word “peaceful” was the only suggestion of nonviolence. President Trump used the word “fight” or “fighting” 20 times.

Now, again, consider the context. He had been telling the mob that they were “winning” and over, getting them amped up, getting them angry because an election had been stolen from them. There are thousands of people in front of him. Some of them are carrying weapons and arms. They are angry. He is telling them to fight.

President Trump’s words in that speech, just like the mob’s actions, were carefully chosen. His words incited their actions. Now, how do we know this? For months, the President had told his supporters his big lie that the election was rigged, and he used the lie to urge his supporters not to conceed and to stop the steal.

Manager RASKIN. If you rob a bank and on the way out the door, you yell “respect private property,” that is not a defense to robbing the bank.

The PRESIDENT pro tempore. The Senator from Texas.

Mr. CRUZ. Mr. President, I send a question to the desk directed at both sides.
The PRESIDENT pro tempore. The Senator from Texas has a question for both sides.

The clerk will read the question, and the House managers will go first for 2½ minutes.

The legislative clerk read as follows:

Out of their 16 hours, the House managers devoted all of 15 minutes to articulating a newly created legal standard for incitement: 1, was violence foreseeable; 2, did he encourage violence and do so willfully? Is this new standard derived from the Criminal Code or any Supreme Court case?

While violent riots were raging, KAMALA HARRIS was on national TV:

They're not gonna let up—and they should not. And she also raised money to bail out violent rioters.

Using the managers' proposed standard, is there any coherent way for Donald Trump's mob, he incited that mob, he lit the match. That is being referred to with respect to Donald Trump's words not to be incitement?

I am not familiar with the statement that is being referred to with respect to the Vice President, but I find it absolutely unimaginable that Vice President HARRIS would ever incite violence or encourage violence. Obviously, it is completely irrelevant to the proceeding at hand, and I will allow her to defend herself.

The President's lawyers are pointing out that we have never had any situation like this before in the history of the United States, and it is true. There has never been a President who has encouraged a violent insurrection against our own government. So we really have nothing to compare it to. So what we do in this trial will establish a standard going forward for all time.

Now, there are two theories that have been put before you, and I think we have got to get past all of the pica-yune, little critiques that have been offered this or that. Let's focus on what is really at stake here.

The President's lawyers say, echoing the President, his conduct was totally appropriate; in other words, he would do it again. Exactly what he did is the new standard for what is allowable for him or any other President who gets into office.

Our point is that his incitement so overwhelmingly overcame any possible legal standard we have that we have got the opportunity now to declare that Presidential incitement to violent insurrection against the Capitol and the Congress is completely forbidden to the President of the United States under the impeachment clauses.

So we set forth for you the elements of essential violence, and we saw it overwhelmingly. We know that he picked the date of that rally. In fact, there was another group that was going to have a rally at another date, and he got it moved to January 1. He synchronized exactly with the time that the House managers had the joint session, and as Representative CHENey said:

He summoned that mob, he assembled that mob, he incited that mob, he lit the match. Come on, get real. We know that this is what happened.

The second thing is the foreseeability of it. Was it foreseeable? Remember Lanzing, MI, and everything we showed you. They didn’t mention that, of course. Remember MAGA 2 march, the MAGA 2 rally. They didn’t mention that. The violence all over the rally, the President cheering it on, delighting in it, reveling in it, exalting in it.

Come on. How gullible do you think we are? We saw this happen. We just spent 11 or 12 hours looking at all that.

The PRESIDENT pro tempore. The managers' time has expired.

Counsel for the former President has 2½ minutes.

Mr. Counsel VAN DER VEEN. Senator CRUZ, I believe the first part of your question refers to the newly created Raskin doctrine on the First Amendment, and he just—he’s answer actually gave you a new one: appropriateness.

The standard that this body needs to follow for law is Brandenburg v. Ohio, and the test really—the three-part test really comes out of Bible Believers v. Wayne County, to be specific. The speech has to be explicitely or implicitly encouraging, the use of violence. In other words, it has to be in the words itself, which is—clearly, it is not in the words itself. That is step one. They don’t get past it.

The speaker intends that his speech will be in use in violence or lawless action. There is no evidence of that, and it is ludicrous to believe that that would be true.

Third, the imminent use of violence or lawless action is likely to result from speech.

Also, they fail on all three points of the law as we know it and needs to be applied here.

I don’t know why he said he never heard KAMALA HARRIS say about that riot on the Capitol anything and running our businesses and our streets that they are not going to let up and they should not because we played it three times today. We gave it to you in audio, I read it to you, and you got it in video. That is what she said. But it is protected speech. Her speech is protected also, Senator. That is the point.

You all have protections as elected officials, the highest protections under the First Amendment, and that First Amendment applies here in this Chamber to this proceeding. And that is what you need to keep focused on. You need to keep focused on what is the law and how do we apply it to this set of facts. It is your duty. You can’t get caught up in all of the rhetoric and the faces that are irrelevant. You need to keep focused on what is the issue before you decided based on the law—Brandenburg and Bible Believers—and apply it to the facts, and that requires you to look at the words, and there were no words of incitement of any kind.

The PRESIDENT pro tempore. The counsels’ time has expired.

The Senator from Washington.

Mrs. MURRAY. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. The Senator from Washington, Senator MURRAY, has a question for the House managers.

The clerk will read the question. The legislative clerk read as follows:

At 6:01 p.m. eastern time on January 6, President Trump tweeted:

These are the things that happen when a sacred landslide election victory is so unceremoniously and viciously stripped away from great patriots who have been badly and unfairly treated for so long.

Adding for rioters to “go home with love and in peace.”

What is the relevance of this tweet to President Trump’s guilt?

The PRESIDENT pro tempore. The House managers are recognized for up to 5 minutes.

Mr. Manager CASTRO of Texas. Senators, this was a key quote and a key statement by the President that day—that horrific day.

Remember, the Capitol had been stormed. It had been attacked. People had yelled, “Hang Mike Pence.” People had gone after Speaker PELOSI. People brought baseball bats and other weapons. Many Members of Congress in the Senate and the House were fearful for their own lives.

The President didn’t call the National Guard. His own administration didn’t list him as somebody who they had spoken with to activate the Guard. And he said:

Remember this day forever.

So if he was not guilty of inciting insurrection, if this is not what he wanted, if it wasn’t what he desired, by that time the carnage had been on television for hours. He saw what was going on. Everybody saw what was going on.

If it wasn’t what he wanted, why would he have said, “Remember this day forever”? Why commemorate a day like that, an attack on the U.S. Capitol, for God’s sake? Why would you do that, unless you agreed that it was something to praise, not condemn; something to hold up and commemorate?

No consoling the Nation, no reassuring that the Government was secure, not a single word that entire day condemning the attack or the attackers or the violent insurrection against Congress.

This tweet is important because it shows two key points about Donald Trump’s state of mind. First, this was entirely and completely foreseeable, and he foresaw it, and he helped incite it over many months.

He’s saying: I told you this was going to happen if you certified the election for anyone else besides me, and you got what you deserve for trying to take it away from me.

And we know this because that statement was entirely consistent with everything he said leading up to the attack.
Second, this shows that Donald Trump intended and reveled in this. Senators, he reveled in this. He delighted in it. This is what he wanted. “Remember this day forever,” he said—not as a day of disgrace, as it is to all of us. It’s a day of celebration and commemoration, and if we let it, if we don’t hold him accountable and set a strong precedent, possibly a continuation later on.

We will, of course, all of us, remember this day but not in the same way that Donald Trump suggested. We will remember the bravery of our Capitol and Metro police forces. We will remember the officer who lost his life and sadly the others who did as well, and the devastation that was done to this country because of Donald Trump.

The PRESIDENT pro tempore. The Senator from Louisiana.

Mr. CASSIDY. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. The Senator from Louisiana, Mr. Cassidy, has a question for both counsel for the former President and counsel for the House.

The clerk will read it, and counsel for the former President will go first, for 2 1/2 minutes, and then the House of Representatives will have 2 1/2 minutes.

The legislative clerk read as follows:

Senator TURKELLE reports that he spoke to President Trump at 2:15 p.m. He told the President that the Vice President had just evacuated. He said that he then understood that rioters had entered the Capitol and threatened the safety of Senators and the Vice President. Even after hearing of this, at 2:24 p.m. President Trump tweeted that Mike Pence “lacked courage,” and he did not call for law enforcement backup until then.

This tweet and lack of response suggests President Trump did not care that Vice President Pence was endangered, or that law enforcement was overwhelmed. Does this show how Trump was true to the intimidation of Vice President Pence?

The PRESIDENT pro tempore. Counsel has 2 1/2 minutes.

Mr. Counsel VAN DER VEEN. Directly, no. But I dispute the premise of your facts. I dispute the facts that are laid out in that question and, unfortunately, we are not going to know the answer to the facts in this proceeding because the House did nothing to investigate what went on.

We are trying to get hearsay from Mr. LEE—I think it was two nights ago—and we ended where Mr. LEE was accused of making a statement that he never made. But it was a report from a reporter from a friend of someone who had some hearsay that they heard the night before at a bar somewhere. I mean, that is really the kind of evidence that the House has brought before us. And so I have a problem with the facts in the question because I have no idea, and nobody from the House has given us any opportunity to have any idea.

But Mr. Trump and Mr. Pence have had a very good relationship for a long time, and I am sure Mr. Trump very much is concerned and was concerned for the safety and well-being of Mr. Pence and everybody else who was over here.

Thank you. The PRESIDENT pro tempore. The manager on the part of the House of Representatives has 2 1/2 minutes.

Mr. Manager RASKIN. Thank you, Mr. President.

Counsel said before: This has been my day in Washington. For that, I guess we are sorry, but, man, you should have been here on January 6.

The counsel for the President keeps blaming the House for not having the evidence that is within the sole possession of their client, who we invited to come and testify last week.

We sent a letter on February 4. I sent it directly to President Trump, inviting him to come and to explain and fill in the gaps of what we know about what happened there. And they sent back a contemptuous response just a few hours later. I think they, maybe, even responded more quickly to my letter than President Trump did as Commander in Chief to the invasion and storming of the Capitol of the United States.

But in that letter I said: You know, if you decline this invitation, we reserve all rights, including the right to establish at trial that refusal to testify supports a strong adverse inference. What’s that? Well, Justice Scalia was the great champion of it. If you don’t testify in a criminal case, it can’t be used against you. Everybody knows that. That is the Fifth Amendment privilege against self-incrimination.

But if it is a civil case and you plead the Fifth or you don’t show up, then, according to Justice Scalia and the rest of the Supreme Court, you can interpret every disputed fact against the defendant. That is totally available to us.

So, for example, if we say the President was missing in action for several hours and he was derelict in his duty and he deserted his duty as Commander in Chief, and we say that, as inciter-in-chief, he didn’t call this off and they say: Oh, no, he was really doing whatever he can. If you are puzzled about that, you can resolve that dispute—that factual dispute—against the defendant in a civil proceeding. He will not spend one day in jail if you convict him. This is not a criminal proceeding. This is about preserving the Republic, dear Senate. That is what this is about—setting standards of conduct for the President of the United States so this never happens to us again.

So rather than yelling at us and screaming about how “we didn’t have time” to get all of the facts about what your client did, bring your client up here. You may have an oath, under oath, about why he was sending out tweets denouncing the Vice President of the United States while the Vice President was being hunted down by a mob that wanted to hang him and was chanting in this building: “Hang Mike Pence. Hang Mike Pence.” “Traitor. Traitor. Traitor.”

The PRESIDENT pro tempore. The time for the answer is up.

New question? The Senator from West Virginia.

Mr. MANCHIN. Mr. President, I send a question to the desk directed to the House managers.

The PRESIDENT pro tempore. The Senator from West Virginia has a question for the House managers.

The clerk will read the question.

The legislative clerk read as follows:

Would the President be made aware of the FBI and intelligence information of a possible attack and would the President be responsible for not preparing to protect the Capitol and all elected officials of government with National Guard and law enforcement as he did when he appeared in front of the Saint John’s Episcopal Church?

Ms. Manager PLASKETT. It is the responsibility of the President to know.

The President of the United States, our Commander in Chief, gets daily briefings on what is happening in the country that he has a duty to protect. Additionally, the President would have known, just like the rest of us know, all of the reports that were out there and publicly available.

How many of you received calls saying to be careful on January 6, to be careful that day?

I’m not—I’m seeing reports. It doesn’t seem safe. How much more would the President of the United States attack?

Donald Trump, as our Commander in Chief, absolutely had a duty and a sworn oath to preserve, protect, and defend us and to do the same for the officers under his command. And he was derelict in our Commander in Chief. He incited the attack. The insurgents were following his commands, as we saw when we read aloud his tweets attacking the Vice President.

And with regard to the Vice President, I’m sure they did have a good relationship, but we all know what can happen to one who has a good relationship with the President when you decide to do something that he doesn’t like. I am sure some of you have experienced that when he turns against you and how you don’t feel loved.

You heard from my colleagues that, when planning this attack, the insurgents predicted that Donald Trump would command the National Guard to help them. Well, he didn’t do much better. He may not have commanded the Guard to help them, but it took way, way too long for him to command the Guard to help us.

This is all connected. We’re talking about free speech? This was a pattern and practice of months of activity. This is the incitement—the activity he was engaged in for months before January 6, not just the speech on January 6. All of
It puts us into a position where we are the kind of judicial system and governing body that we are all very, very afraid of. From what we left hundreds of years ago, and when regimes all around this world that endanger us—that they act; that is how they conduct themselves: without giving the accused due process, taking their liberty, without giving them just a basic fundamental right, under the 5th to the 14th applied to the States, due process. If you take away due process in this case accused, if you take that away, there will be no justice and nobody, will be safe. But it is patently unfair for the House managers to bring an impeachment proceeding without any—again, without any investigation at all and then stand up here and say: One, they had a chance to bring us evidence; and, two, let’s, let’s, let’s see what we can do about flipping around somebody’s other constitutional rights to having a lawyer. We have no evidence at all. It just gets brought in, without anybody, as it was here, without anybody having an opportunity to review it beforehand. They actually sent it to us on the 9th, the day after we started this. So it is a really big problem. The due process clause applies to this impeachment hearing, and it has been severely and extremely violated. This process is so unconstitutional because it violates due process. I am not even going to get into the jurisdiction part. The due process part should be enough to give anybody who loves our Constitution and loves our country great pause to do anything but acquit Donald Trump.

Thank you.

The PRESIDENT pro tempore. The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, I send a question to the desk for the House managers.

The PRESIDENT pro tempore. The Senator from Connecticut. Senator BLUMENTHAL, has a question for the House managers.

The clerk will read the question.

The legislative clerk read as follows:

The House managers said yesterday that due process is “discretionary,” meaning the House is not required to provide, and indeed did not provide in this snap impeachment any constitutional protection to a defendant in the House impeachment proceedings. What are the implications for our constitutional order of this new House precedent combined with the Senate’s power to disqualify from public office a private citizen in an impeachment trial?

The PRESIDENT pro tempore. Counsel has 5 minutes.

Mr. Counsel VAN DER VEEN. Mr. President, that is a complicated question. Could I have that read again?

The legislative clerk read as follows:

The House managers said yesterday that due process is “discretionary,” meaning the House is not required to provide, and indeed did not provide in this snap impeachment any constitutional protections to a defendant in House impeachment proceedings. What are the implications for our constitutional order of this new House precedent combined with the Senate’s power to disqualify from public office a private citizen in an impeachment trial?

Mr. Counsel VAN DER VEEN. Mr. President, first of all, due process is never discretionary. Good Lord, the Constitution requires that the accused have the right to due process because the power that a prosecutor has to take somebody's liberty when they are prosecuting them is the ultimate thing that we try to save.

In this case, just now, in the last 2 hours, we have had prosecutorial misconduct. What they just tried to do was say that it is our burden to bring them evidence in their case, and it is not. It is not our burden to bring any evidence forward at all.

What is the danger? Well, the danger is pretty obvious. If the majority party doesn’t like somebody in the minority party, they can say they may lose the election or if it is somebody in the majority party and there is a private citizen who wants to run against somebody in the majority party, well, they can simply bring impeachment proceedings. And, of course, without due process, they are not entitled to a lawyer. They are not going to be entitled to have notice of the charges against them.
In Brandenburg, through—again, Bible Believers require you to look at the words of the speech. You actually can’t go outside the words of the speech. You are not allowed to in the analysis.

So all the time they are trying to spend on tweets going back to 2015 or everything they want to focus on that was said in the hours and the days afterward are not applicable or relevant to the scholastic inquiry as to how the First Amendment is applied in this Chamber in this proceeding. So, again, we need to be focused on what is the law and then how do we apply it to this set of facts.

So it is important to have that understanding that elected officials and fire chiefs are treated differently under First Amendment law, and that is to the benefit of you all, which is to the benefit of us all because we do want you to be able to speak freely without fear that the majority party is going to impeach you or come in and prosecute you to try to take away your seat where you sit now. That is not what the Constitution says should be done.

But, yes, they do. They do contradict themselves, of course.

Thank you.

The PRESIDENT pro tempore. The Senator from Maryland.

Mr. VAN HOLLEN. Mr. President, I send a question to the desk for the House manager.

The PRESIDENT pro tempore. The Senator from Maryland, Senator Van Hollen, has a question for the managers.

The clerk will read the question.

The legislative clerk read as follows:

The House Managers’ single Article of Impeachment will be brought up on the assumption that President Trump singularly incited a crowd into a riot. Didn’t the House managers’ contradict their own charge by outlining the premeditated nature and planning of this event and by also showing the crowd was gathered at the Capitol even before the speech started and barriers were pushed over some 20 minutes before the conclusion of President Trump’s speech?

Mr. Counsel Van der Veen. Yes. The House managers contradicted their own charge by outlining the premeditated nature and planning of this event and showing the crowd gathered at the Capitol even before the speech started, and barriers were pushed over some 20 minutes before the conclusion of President Trump’s speech. The answer is yes.

And I want to take the rest of my time to go back to the last question because it was completely missed by the House managers.

Brandenburg v. Ohio is an incitement case, is not a non-elected official case. That is Wood and Bond. And the whole problem that the House managers have in understanding the First Amendment argument here is that elected officials are different than anybody else. He is talking about fire chiefs. Fire chiefs are not elected officials. Police officers aren’t elected officials.

Elected officials have a different, a higher standard on the holdings that I gave you of the highest protections you should say. It is a higher standard. It is a higher protection to your speech because of the importance of political dialogue. Because of what you all say in your public debate about policy, about the things that affect all of our lives. So let me quickly just dispense with the counsel’s invocation again of Bond v. Floyd. This is a case I know well, and I thank him raising it.

Julian Bond was a friend of mine. He was a colleague of mine at American University. He was a great civil rights hero. In his case, he got elected to the Georgia legislature and was a member of SNCC, the Student Nonviolent Coordinating Committee, the great committee headed up by the great Bob Moses for a long time. He got elected to the Georgia Legislature, and they didn’t want to allow him to be sworn in. They wouldn’t allow him to take his oath of office because SNCC had taken a position against the Vietnam war. So the Supreme Court said that was a violation of his First Amendment rights not to allow him to be sworn in.

That is the complete opposite of Donald Trump. Not only was he sworn in on January 20, 2017, he was President for almost 4 years before he incited this violent insurrection against us, and he violated his oath of office. That is what this impeachment trial is about—his violation of his oath of office and his refusal to uphold the law and take care that the laws are faithfully executed.

Please don’t desecrate the name of Julian Bond, a great American, by linking him with this terrible plot against America that just took place in the storming of the U.S. Capitol.

I am going to turn it over to my colleague Ms. Plaskett.

Ms. Manager PLASKETT. Thank you.

Let’s just be clear. President Trump summoned the mob, assembled the mob, lit the flame. Everything that followed was his doing. Although he could have immediately and forcefully intervened to stop the violence, he didn’t. In other words, this attack would not have happened without him.

This attack is not about one speech. Most of you men would not have your wives with one attempt of talking to her.

(Laughter.) It’s not about one rally. It’s not about one rally. It’s not about one rally. You had to build it up. That is what the President did as well. He put together the group that would do what he wanted, and that was to stop the certification of the election so that he could retain power to be President of the United States, in contravention of an American election.

The PRESIDENT pro tempore. The Senator from Florida.

Mr. RUBIO. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. The question is from the Senator from Florida, and it is to both sides.

The clerk will read the question. The House managers will go first for the first 2 minutes.

The legislative clerk read as follows:

Voting to convict the former President would create a new precedent that a former officer can be convicted and disqualified by this Senate. Therefore, is it not true that under this new precedent, a future House, facing partisan pressure to “Lock her up,” could impeach a former Secretary of State and a future Senate be forced to put her on trial and potentially disqualify from any future office?

The PRESIDENT pro tempore. The House managers go first.

Mr. Manager RASKIN. Mr. President, Senator, three quick points here.

First of all, I don’t know how many times I can say it. The jurisdictional issue is over. It is gone. The Senate settled it. The Senate entertained jurisdiction exactly the way it has done since the very beginning of the Republic in the Blount case, in the Belknap case, and you will remember, both of them, former officials.

In this case, we have a President who committed his crimes against the Republic while he was in office. He was impeached by the House of Representatives while he was in office. So the hypothetical suggested by the gentleman...
from Florida has no bearing on this case because I don’t think you are talking about an official who was impeached while they were in office for conduct that they committed while they were in office.

The PRESIDENT pro tempore. The counsel for the former President has 2½ minutes.

Mr. Counsel VAN DER VEEN. Thank you.

Could I have the question read again to make sure I have it right and can answer it directly?

The legislative clerk read as follows:

Voting to convict the former President would create a new precedent that a former official can be convicted and disqualified by the Senate. Therefore, is it not true that under this new precedent, a future House, facing partisan pressure to “Lock her up,” could impeach a former Secretary of State and a future Senate be forced to put her on trial and potentially disqualify from any future office?

Mr. Counsel VAN DER VEEN. If you see it their way, yes. If you do this the way they want it done, that could happen to, the example there, a former Secretary of State. But it could happen to a lot of people, and that is not the way this is supposed to work. Not only could it happen to a lot of people, it would become much more regular too.

But I want to address that, and I want you to be clear on this. Mr. RASKIN can’t tell you on what grounds you acquit. If you believe—even though there was a vote that there is jurisdiction, if you believe jurisdiction is unconstitutional, you can still believe that. If you believe that the House did not give appropriate due process in this, that can be your reason to acquit. If you don’t think they met their burden in proving incitement, that these words incited the violence, you can acquit. Mr. RASKIN doesn’t get to give you under what grounds you can acquit. So you have to look at what they have put on in its totality and come to your own understanding as to whether you think they have met their burden to impeach.

But the original question is an absolutely slippery slope that I don’t really think anybody here wants to send this country down.

Thank you.

Mr. BENNET. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. The Senator from Colorado sends a question for both counsel for the former President and the House managers.

The clerk will read the question, and the question for the former President.

Mr. CORNYN. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. The Senator from Texas.

Mr. CASTOR. The Senator from Texas’s question raises a very, very important point. There is no such thing as a January exception to impeachment. There is only the text of the Constitution, which makes very clear that a former President is subject to criminal sanction after his Presidency for any illegal acts he commits.

There is no January exception to impeachment. There is simply a way we treat high crimes and misdemeanors allegedly committed by a President when he is in office—impeachment and how we treat criminal behavior by a private citizen when they are not in office.

 other public officials withstood enormous pressure to uphold the lawful election of President Biden and the rule of law. What would have happened if these officials had bowed to the President or the mob that attacked the Capitol?

The PRESIDENT pro tempore. The House managers have 5 minutes.

Mr. Manager CASTRO of Texas. I want to take a minute and remind everybody about the incredible pressure that Donald Trump was putting on election officials in different States in this country and the intimidation that he was issuing, and I want to remind everyone of the background of Donald Trump’s call to one secretary of state, the secretary of state from Georgia, Mr. Raffensperger.

Donald Trump tried to overturn the election by any means necessary. He tried again and again to pressure and threaten election officials to overturn the election results. He pressured Michigan officials, calling them late at night and hosting them at the White House.

He did the same thing with officials in Pennsylvania. He called into a local Pennsylvania Leetonia of Pennsylvania Legislature, and he also hosted them at the White House, where he pressured them.

In Georgia, it was even worse. He sent tweet after tweet attacking the secretary of state until Mr. Raffensperger got death threats to him and his family. His wife got a text that said:

Your husband deserves facing a firing squad.

A firing squad for doing his job.

Mr. Raffensperger stood up to him. He told the world that elections are the bedrock of this society and the votes were accurately counted for Donald Trump’s opponent.

Officials like Mr. Sterling warned Trump that if this continued, someone is going to get killed but Donald Trump didn’t stop. He escalated it even further. He made a personal call.

He made a personal call. You heard that call because it was recorded. The President of the United States told the secretary of state that if he does not find votes, he will face criminal penalties.

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He made a personal call. You heard that call because it was recorded. The President of the United States told the secretary of state that if he does not find votes, he will face criminal penalties.

Please, Senators, consider that for a second, the President putting all of this public and private pressure on Secretary of State Raffensperger to find votes for him and his family.

And not just any number of votes that he was looking for—Donald Trump was asking the secretary of state to somehow find the exact number of votes Donald Trump lost the State by.

Remember, President Biden won Georgia by 11,779 votes. In his own words, President Trump said:

All I want to do is this. I just want to find 11,780 votes.

He wanted the secretary of state to somehow find the precise number, plus one, of votes that he needed to win.

As a Congress and as a nation, we cannot be numb to this conduct. If we are and if we don’t set a precedent against it, more Presidents will do this in the future. This will be a green light for them to engage in that kind of pressure and that kind of conduct.

This could have gone a very different way. These election officials bowed to the intimidation and the pressure of the President of the United States. It would have meant that, instead of the American people deciding this election, President Trump alone would have decided this American election. That is exactly what was at stake, and that is exactly what he was trying to do. He intended, wanted to, and tried to overturn the election by any means necessary. He tried everything else that he could do to win. He started inciting the crowd; issuing commands to stop the count, stop the steal. He worked up the crowd, sent a “save the date.”

So it wasn’t just one speech or one thing; he was trying everything. He was pursuing elected officials. He was riling up his base, telling them the election had been stolen from them, that it had been stolen from him. It was a combination of things that only Donald Trump could have done. For us to believe otherwise is to think that somehow a rabbit came out of a hat and this mob just showed up here on their own, all by themselves.

This is dangerous, Senators, and the future of our democracy truly rests in your hands.

The President of the United States. It is not okay if those elected officials had bowed to the force President Trump exerted or the mob that attacked the Capitol.
Mr. Manager RASKIN. Mr. President, Senators, thank you for this excellent question.

Wouldn't a President who decides to commit his crimes in the last few weeks in office, like President Trump by inciting the insurrection against the counting of electoral college votes, be subject to criminal prosecution by the U.S. attorney for the District of Columbia, for example, the Department of Justice?

Well, of course he would be, but that is true of the President regardless of when his offense in law took place. In other words, that is an argument for prosecuting him if he tried to stage an insurrection against the Union in his third year in office or his second year in office. You could say, well, he could be prosecuted.

The reason that the Framers gave Congress—the House the power to impeach; the Senate the power to try, convict, remove, and disqualify, was to protect the Republic. It is not a vindictive power.

I know a lot of people are very angry with Donald Trump about these terrible events that took place. We don't come here in anger, contrary to what you heard today. We come here in the spirit of protecting our Republic, and that is what it is all about. But their January exception would essentially invite Presidents and other civil officers to run rampant in the last few weeks in office.

In the weeks after the attack on January 6, the world learned about the incredible, incredible bravery of Officer Goodman on that fateful day. Here in this trial, we saw new video, powerful video showing calmness under pressure, his courage in the line of duty, his foresight in the midst of chaos, and his willingness to make himself a target of the mob's rage so that others might reach safety. Officer Goodman is in the Chamber tonight.

Mr. SCHUMER. I ask unanimous consent that the time for questions and answers be considered expired.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHUMER. Now, Mr. President, I ask unanimous consent that it be in order for me to make a unanimous consent request as if in legislative session.

The PRESIDENT pro tempore. Without objection, it is so ordered.

OFFICER EUGENE GOODMAN CONGRESSIONAL GOLD MEDAL ACT

Mr. SCHUMER. Mr. President, in a moment, if we would, I want to pass legislation that would award Capitol Police Officer Eugene Goodman the Congressional Gold Medal.

In the weeks after the attack on January 6, the world learned about the incredible, incredible bravery of Officer Goodman on that fateful day. Here in this trial, we saw new video, powerful video showing calmness under pressure, his courage in the line of duty, his foresight in the midst of chaos, and his willingness to make himself a target of the mob's rage so that others might reach safety.

Officer Goodman is in the Chamber tonight.

Mr. SCHUMER. I ask unanimous consent that the Van Hollen substitute amendment which is at the desk be considered and agreed to; that the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 890) in the nature of a substitute was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Officer Eugene Goodman Congressional Gold Medal Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) On January 6, 2021, the United States Capitol Building was attacked by armed insurrectionists.

(2) Members of the United States Capitol Police force were overrun and insurrectionists breached the Capitol at multiple points.

(3) Around 2:14 in the afternoon, United States Capitol Police Officer Eugene Goodman confronted an angry group of insurrectionists who unlawfully entered the Capitol, according to video footage taken by Igor Bobic, a reporter with the Huffington Post.

Office Goodman's actions reflect a deep personal commitment to duty and brought even greater distinction upon all of the brave brothers and sisters in uniform. So I am proud the Senate has taken this step forward, recognizing his heroism with the highest honor we can bestow.

(Applause, Senators rising.)

Mr. SCHUMER. Mr. President, as if in legislative session, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be discharged from further consideration of S. 35 and that the Senate proceed to its immediate consideration.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the bill by title. The legislative clerk read as follows: A bill (S. 33) to award a Congressional Gold Medal to Officer Eugene Goodman.

There being no objection, the committee was discharged and the Senate proceeded to consider the bill.

Mr. SCHUMER. I ask unanimous consent that the Van Hollen substitute amendment which is at the desk be considered and agreed to; that the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

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This Act may be cited as the "Officer Eugene Goodman Congressional Gold Medal Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) On January 6, 2021, the United States Capitol Building was attacked by armed insurrectionists.

(2) Members of the United States Capitol Police force were overrun and insurrectionists breached the Capitol at multiple points.

(3) Around 2:14 in the afternoon, United States Capitol Police Officer Eugene Goodman confronted an angry group of insurrectionists who unlawfully entered the Capitol, according to video footage taken by Igor Bobic, a reporter with the Huffington Post.

Office Goodman's actions reflect a deep personal commitment to duty and brought even greater distinction upon all of the brave brothers and sisters in uniform. So I am proud the Senate has taken this step forward, recognizing his heroism with the highest honor we can bestow.

(Applause, Senators rising.)

Mr. SCHUMER. Mr. President, as if in legislative session, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be discharged from further consideration of S. 35 and that the Senate proceed to its immediate consideration.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the bill by title. The legislative clerk read as follows: A bill (S. 33) to award a Congressional Gold Medal to Officer Eugene Goodman.

There being no objection, the committee was discharged and the Senate proceeded to consider the bill.

Mr. SCHUMER. I ask unanimous consent that the Van Hollen substitute amendment which is at the desk be considered and agreed to; that the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 890) in the nature of a substitute was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Officer Eugene Goodman Congressional Gold Medal Act".
There being no objection, the material was ordered to be printed in the Record, as follows:

**SENATE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS**

**PATTY MURRAY, CHAIR**

**RULES OF PROCEDURE (AS AGREED TO)**

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**SEC. 5. STATUS OF MEDALS.**

(a) In general.—For the purposes of the Standing Rules of the Senate, regular meetings of the committee shall be held on the second and fourth Wednesdays of each month, at 10 a.m., in room SD-430, Dirksen Senate Office Building. The chair may, upon proper notice, call such additional meetings as he may deem necessary.

(b) Design and striking.—The design shall bear an image of, and inscription of the name of, Officer Eugene Goodman. The Secretary of the Treasury (referred to in this Act as the “Secretary”) shall strike the gold medal of appropriate design to Officer Eugene Goodman, consistent with the provisions of rule XXVI, paragraph 5, of the Standing Rules of the Senate.

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**RECORD.**

**TUESDAY, FEBRUARY 12, 2021**

**CONGRESSIONAL RECORD — SENATE**

**S695**

**MORNING BUSINESS**

**SENATE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS RULES OF PROCEDURE**

Mrs. MURRAY. Mr. President, I ask unanimous consent that the following committee rules be printed in the Record.

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**SEC. 4. DUPLICATE MEDALS.**

(a) National medals.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) Numismatic items.—For purposes of section 5134 of title 31, United States Code, all medals struck pursuant to this Act shall be considered to be numismatic items.

Rule 1.—Subject to the provisions of rule XXVI, paragraph 5, of the Standing Rules of the Senate, regular meetings of the committee shall be held on the second and fourth Wednesdays of each month, at 10 a.m., in room SD-430, Dirksen Senate Office Building. The chair may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2.—The chair of the committee or of a subcommittee, or if the chair is not present, the ranking member present, shall preside at all meetings. The chair may designate the ranking minority member to preside at hearings of the committee or subcommittee.

Rule 3.—Meetings of the committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate.

Rule 4.—(a) Subject to paragraph (b), one-third of the membership of the committee, or of any subcommittee thereof, may designate a quorum for the purpose of transacting business. Any quorum of the committee which is composed of less than a majority of the members of the committee shall include at least one member of the majority and one member of the minority.

(b) A majority of the members of a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business: provided, no measure or matter shall be ordered reported unless such majority shall include at least one member of the minority who is a member of the subcommittee. If, at any subcommittee meeting, a measure or matter cannot be ordered reported because of the absence of such a majority member, the measure or matter shall lay over for a day. If the presence of a majority of the minority is not obtained, a majority of the members of the subcommittee, actually present, may order such measure or matter reported.

(c) No measure or matter shall be ordered reported from the committee or a subcommittee unless a majority of the committee or subcommittee is physically present.

Rule 5.—With the approval of the chair of the committee or subcommittee, one member thereof may conduct public hearings other than testimony.

Rule 6.—Proxy voting shall be allowed on all measures and matters before the committee or a subcommittee if the absent member has been notified of the matter on which he is being recorded and (1) has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure, if a subcommittee of the committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

The committee may poll any matters of committee business as a matter of unanimous consent; provided that every member personally present shall cast a ballot and each ballot consists of the following two questions:

(1) Do you agree or disagree to poll the proposal?

(2) Do you favor or oppose the proposal.

Rule 7.—There shall be prepared and kept a complete transcript or electronic recording adequate to fully record the proceedings of each committee or subcommittee meeting or conference whether or not such meetings or any part thereof is closed pursuant to the provisions of title 5, chapters 51 and 53, of title 31, United States Code.

Rule 8.—The committee or a subcommittee shall undertake, consistent with the provisions of rule XXVI, paragraph 5, of the Standing Rules of the Senate, to issue public announcement of any hearing or executive session intended to hold at least one week prior to the commencement of such hearing or executive session. In the case of any executive session, a bill or joint resolution to be considered must be provided to the chair for prompt electronic distribution to the members of the committee.

Rule 9.—The committee or a subcommittee shall require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours in advance of a hearing, unless the chair and the ranking minority member determine that there is good cause for failure to so file, and to limit their oral presentation to a summary of their arguments. Testimony may be filed electronically. The presiding officer at any hearing is authorized to limit the time of witness appearance before the committee or any subcommittee. The committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and resolutions similar to those before it for consideration.

Rule 10.—Should a subcommittee fail to report back to the full committee on any measure within a reasonable time, the chair may withdraw the measure from the subcommittee and report that fact to the full committee for further disposition.

Rule 11.—No subcommittee may schedule a meeting or hearing at a time and place other than the time and place set by the full committee. No more than one subcommittee executive session may be held at the same time.

Rule 12.—It shall be the duty of the chair in accordance with section 33(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13.—Whenever a meeting of the committee or subcommittee is closed pursuant to the provisions of subsection (b) or (d) of rule 26.5 of the Standing Rules of the Senate, no measure other than the measure under consideration by the committee, members of the staff of the committee, and designated assistants to members of the committee shall be permitted to attend such closed session, except by special dispensation of the committee or subcommittee or the chair thereof.

Rule 14.—The chair of the committee or a subcommittee shall be empowered to adjourn any meeting of the committee or a subcommittee if a quorum is not present within fifteen minutes of the time scheduled for such meeting.

Rule 15.—Whenever a bill or joint resolution shall be before the committee or a subcommittee for final consideration, the clerk
shall distribute to each member of the committee or subcommittee a document, prepared by the sponsor of the bill or joint resolution. If the bill or joint resolution has no title or language, the document shall consist of a detailed summary of the purpose and impact of each section. If the bill or joint resolution repeals or amends any other law or language, the document shall consist of a detailed summary of the underlying statute and the proposed changes in each section of the underlying law and either a reprint of the statute or the part or section thereof to be amended or replaced showing by strikethrough type, the part or parts to be amended. The latter proposed to be added, along with a summary of the proposed changes; or a side-by-side document showing a comparison of current and proposed legislative language, and a detailed description of the proposed changes.

Rule 16.—An appropriate opportunity shall be given the minority to examine the proposed text of committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views or an appropriate opportunity shall be given the majority to examine the proposed text prior to filing or publication. Unless the chair and ranking minority member agree on a shorter waiting period, the minority shall have no fewer than three business days to prepare supplemental, minority or additional views for inclusion in a committee report. In all cases, the majority shall be provided with the proposed text of the committee report available to the minority.

Rule 17.—The committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by majority vote of the committee.

(b) For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the committee or subcommittee shall constitute a quorum, provided, with the concurrence of the chair and ranking minority member of the committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

(c) The committee may, by a majority vote, delegate authority to issue subpoenas to the chair of the committee or a subcommittee, or to any member designated by such chairman. Prior to the issuance of each hearing, to any ranking minority member of the committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the chair of the committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information, pursuant to such investigative activity shall be made available as promptly as possible to each member of the committee requesting same, or to any assistant to a member of the committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the rules of the Senate. Such restrictions shall not apply to any information relating to employment, financial interests, including the financial interests of their spouse and children living in their household, or the development of hearings.

Rule 18.—Presidential nominees shall submit a statement of their background and financial interests, including the financial interests of their spouse and children living in their household, to the committee which shall be sworn to as to its completeness and accuracy. The committee form shall be in two parts: (I) information relating to employment, education and background of the nominee relating to the position to which the individual is nominated, and which is to be made public; and (II) information relating to financial and other background of the nominee, to be made public the committee determines when such information bears directly on the nominee’s qualifications to hold the position to which the individual is nominated.

Information relating to background and financial interests (parts I and II) shall not be required of nominees for less than full-time appointments to councils, commissions or boards. Information to be required of some or all of the information is not relevant to the nature of the position. Information relating to other background and financial interests of the nominee is required of any nominee when the committee determines that it is not relevant to the nature of the position.

Committee action on a nomination, including hearings or meetings to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the chair, with the concurrence of the ranking minority member, waives this waiting period.

Rule 19.—Subject to statutory requirements imposed on the committee with respect to procedure, the rules of the committee may be changed, modified, amended, or suspended at any time, not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 20.—When the ratio of members on the committee is even, the term “majority” as used in the committee’s rules and guidelines shall refer to the party of the chair for purposes of party identification. Numerical requirements for quorums, votes and the like shall be unaffected.

Rule 21.—First degree amendments must be filed with the chair at least 24 hours before an executive session. The chair shall promptly distribute the amendments to all other members of the committee. The chair may modify the filing requirements to meet special circumstances with the concurrence of the ranking minority member.

Rule 22.—In addition to the foregoing, the proceedings of the committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

Guidelines of the Senate Committee on Health, Education, Labor, and Pensions With Respect to Hearings, Markup Sessions, and Executive Sessions

Hearings

Section 133A(a) of the Legislative Reorganization Act requires each committee of the Senate to publicly announce the date, place, and subject matter of any hearing at least one week prior to the commencement of such hearing.

The spirit of this requirement is to assure adequate notice to the public and other Members of the Senate as to the time and subject matter of proposed hearings. In the interest of efficiency and to assure that members of the committee are themselves fully informed and involved in the development of hearings.

1. Public notice of the date, place, and subject matter of each committee or subcommittee hearing shall be inserted in the Congressional Record seven days prior to the commencement of such hearing.

2. At least seven days prior to public notice of each committee or subcommittee hearing, the majority should provide notice to the committee requesting same, the time, place and specific subject matter of such hearing.

3. At least three days prior to the date of such hearing, the committee or subcommittee shall make a list of witnesses who have been or are proposed to be invited to appear.

4. The committee and its subcommittee shall enforce the provisions of rule 9 of the committee rules as it relates to the submission of written statements of witnesses twenty-four hours in advance of hearings.

Witnesses will be urged to submit testimony even earlier whenever possible. When statements are received in advance of a hearing, the committee or its subcommittee (as appropriate) should distribute copies of such statements to each of its members. Witness testimony may be submitted and distributed electronically.

Executive Sessions for the Purpose of Markup Up Bills

In order to expedite the process of markup up bills and to assist each member of the committee so that there may be full and fair consideration of each bill which the committee or a subcommittee is marking up the following procedures should be followed:

1. Seventeen days prior to the enactment for an executive session for the purpose of marking up bills the committee or subcommittee (as appropriate) should provide written notice of the time, place, and specific subject matter of such session, including an agenda listing each bill or other matters to be considered and including:

   (a) a copy of each bill, joint resolution, or other legislative matter (or committee print thereof) to be considered at such executive session; and

   (b) a copy of a summary of the provisions of each bill, joint resolution, or other legislative matter to be considered at such executive session including, where possible, an explanation of changes to existing law proposed to be made.

2. Insofar as practical, prior to the scheduling for an executive session for the purpose of markup up bills, the committee or a subcommittee (as appropriate) should provide each member with a copy of the printed record or a summary of any hearings conducted by the committee or a subcommittee with respect to each bill, joint resolution, or other legislative matter to be considered at such executive session.
and Forestry has adopted rules governing its procedures for the 117th Congress. Pursuant to rule XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator BOOZMAN, I ask unanimous consent that all of the Committee rules be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

RULES OF THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY—117TH CONGRESS AND LATER

1. Regular Meetings.—Regular meetings shall be held on the first and third Wednesday of each month when Congress is in session.

1.1 Notice.—In the case of any meeting of the committee, other than a regularly scheduled meeting, the clerk of the committee shall notify every member of the committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held outside Washington, DC, and at least 48 hours in the case of any meeting held outside Washington, DC.

1.2 Additional Meetings.—The Chairman, in consultation with the ranking minority member, may call such additional meetings as he deems necessary.

1.3 Notification.—In the case of any meeting of the committee, other than a regularly scheduled meeting, the clerk of the committee shall notify every member of the committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held outside Washington, DC, and at least 48 hours in the case of any meeting held outside Washington, DC.

1.4 Called Meeting.—If three members of the committee have made a request in writing to the Chairman to call a meeting of the committee, and the Chairman fails to call such a meeting within 7 calendar days thereafter, including the day on which the written notice is submitted, a majority of the members may call a meeting by filing a written notice with the clerk of the committee. The committee shall notify each member of the committee in writing of the time and date of the meeting.

1.5 Adjournment of Meetings.—The Chairman of the committee or a subcommittee shall be empowered to adjourn any meeting of the committee or a subcommittee if a quorum is not present within 15 minutes of the time scheduled for such meeting.

RULE 2—MEETINGS AND HEARINGS IN GENERAL

2.1 Open Sessions.—Business meetings and hearings held by the committee or any subcommittee shall be open to the public except as provided for in Senate Rule XXVI, paragraph 5.

2.2 Transcripts.—A transcript shall be kept of each business meeting and hearing of the committee or any subcommittee unless a majority of the committee or the subcommittee agrees that such a meeting or hearing shall be kept confidential.

2.3 Reports.—An appropriate opportunity shall be given the Minority to examine the proposed text of committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the Majority to examine the proposed text prior to filing or publication.

2.4 Attendance.—(a) Meetings. Official attendance of all markups and executive sessions of the committee shall be kept by the committee. Official attendance of all subcommittee markups and executive sessions shall be kept by the subcommittee clerk.

(b) Hearings. Official attendance of all hearings shall be kept, provided that, Senators are notified by the committee Chairman and ranking minority member, in the case of hearings, and by the committee Chairman and ranking minority member, in the case of subcommittee hearings, 48 hours in advance of the hearing that attendance will be taken. Otherwise, no attendance will be taken. Attendance at all hearings is encouraged.

RULE 3—HEARING PROCEDURES

3.1 Notice.—Public notice shall be given of the date, place, and subject matter of any hearing to be held by the committee or any subcommittee. A majority of the members of the committee or the subcommittee determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the committee or the subcommittee involved concurs. In no case shall a hearing be conducted with less than 24 hours notice.

3.2 Witness Statements.—Each witness who is to appear before the committee or any subcommittee shall file with the committee or subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony and as many copies as the Chairman of the committee or subcommittee prescribes.

3.3 Minority Witnesses.—In any hearing conducted by the committee, or any subcommittee thereof, the minority members of the committee or subcommittee shall be entitled, upon request to the Chairman by the ranking minority member of the committee or subcommittee to call witnesses of their choosing during at least 1 day of such hearing or pertaining to the matter or matters heard by the committee.

3.4 Swearing in of Witnesses.—Witnesses in committee or subcommittee hearings may be required to swear or affirm within 1 day of their attendance. The Chairman or ranking minority member of the committee or subcommittee shall determine such requirements.

3.5 Limitations.—Each member shall be limited to 5 minutes in the questioning of any witness until such time as all members who so desire have had an opportunity to question. The Chairman and ranking minority member shall rotate from majority to minority members in order of seniority or in order of arrival at the hearing.

RULE 4—NOMINATIONS

4.1 Assignment.—All nominations shall be considered by the full committee.

4.2 Standards.—In considering nominations, the committee shall evaluate the nominee's qualifications, experience, suitability, and integrity to serve in the position to which he or she has been nominated.

4.3 Information.—Each nominee shall submit in response to questions prepared by the committee the following information:

(a) A detailed resume which contains information relating to education, employment, and achievements;

(b) Financial information, including a financial statement which lists assets and liabilities of the nominee; and

(c) Copies of other relevant documents requested by the committee. Information received pursuant to this subsection shall be available for public inspection except as specifically designated confidential by the committee.

4.4 Hearings.—The committee shall conduct a public hearing during which the nominee shall be present to testify under oath on all matters relating to his or her suitability for office. No hearing shall be held until at least 48 hours after the nominee has responded to a questionnaire submitted by the committee.

4.5 Action on Confirmation.—A business meeting to consider nominations shall not occur on the same day that the hearing of the nominee is held. The Chairman with the agreement of the ranking minority member, may waive this requirement.

RULE 5—QUORUMS

5.1 Testimony.—For the purpose of receiving evidence, the swearing of witnesses, and the taking of sworn or unsworn testimony at any duly scheduled hearing, a quorum of the committee and the subcommittee thereof shall consist of one member.

5.2 Business.—A quorum is necessary for the transaction of committee or subcommittee business, other than for reporting a measure or recommendation to the Senate or the taking up of business. A quorum shall be comprised of one-third of the members of the committee or subcommittee, including at least one member from each party.

5.3 Reporting.—A majority of the membership of the committee shall constitute a quorum for reporting bills, nominations, matters, or recommendations to the Senate. If a quorum has not been ordered from the committee unless a majority of the committee members are physically present. The vote of the committee to report a measure or matter shall require the concurrence of a majority of those members who are physically present at the time the vote is taken.

RULE 6—VOTING

6.1 Roll calls.—A roll call vote of the members shall be taken upon the request of any member.

6.2 Proxies.—Voting by proxy as authorized by Senate rules for specific bills or subjects shall be allowed whenever a quorum of the committee is actually present.

6.3 Proxy.—The committee may allow any matters of committee business, other than a vote on reporting to the Senate any measures, matters or recommendations or a vote on any business not specifically mentioned in the rules, to be heard and disposed of by proxy, provided that every member is polled and every poll consists of the following two questions:

(a) Do you agree or disagree to poll the proposal; and

(b) Do you favor or oppose the proposal.

If any member requests, any matter to be heard shall be held for a quorum rather than being polled. The chief clerk of the committee shall keep a record of all polls.

RULE 7—SUBCOMMITTEES

7.1 Assignments.—To assure the equitable assignment of measures to subcommittees, no member of the committee will receive assignment to a second subcommittee until, in order of seniority, all members of the committee have chosen assignments to a subcommittee, and no member shall receive assignment to a third subcommittee until, in order of seniority, all members have chosen assignments to two subcommittees.

7.2 Attendance.—Any member of the committee may sit with any subcommittee during a hearing or meeting but shall not have the authority to vote on any matter before the subcommittee unless he or she is a member of such subcommittee.

7.3 Ex Officio Members.—The Chairman and ranking minority member shall serve as nonvoting ex officio members of the subcommittees on which they do not serve as voting members. The Chairman and ranking minority member may not be counted toward a quorum.

7.4 Scheduling.—No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full committee. No more than one subcommittee business meeting may be held at the same time.

7.5 Discharge.—Should a subcommittee fail to report back to the full committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full committee for further disposition. The full committee may at any time, by major-
Transportation has adopted rules governing its procedures for the 117th Congress. Pursuant to rule XXVI, paragraph 2, of the Standing Rules of the Senate, I ask unanimous consent that the accompanying rules for the Committee on Commerce, Science, and Transportation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

**RULE I—MEETINGS OF THE COMMITTEE**

1. IN GENERAL.—The regular meeting dates of the Committee shall be the first and third Wednesdays of each month. Additional meetings may be called by the Chair as the Chair may deem necessary, or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. OPEN MEETINGS.—Meetings of the Committee, or any subcommittee, including meetings to conduct hearings, shall be open to the public unless the Committee, or any subcommittee, on the same subject for a period of no more than 14 calendar days may be closed to the public, or a closed session shall be required under any of paragraphs (A) through (F) of subparagraph (D) of subparagraph 1 of rule II being present. When a majority of the members of the Committee, or any subcommittee, when it is determined that the matter to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of commerce or the confidential conduct of the foreign relations of the United States;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or will discriminate clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement officer or witness to testify in response to questions applicable, may permit the witness to testify in camera, or otherwise to expose an individual to public contempt or obloquy, or will represent a crime or misconduct, to disgrace or injure the professional standing of an individual, or will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigatory or prosecutorial functions that is required to be kept secret in the interest of effective law enforcement;

(E) will disclose matters required to be kept confidential under other provisions of law or Government regulations;

(F) will disclose the trade secrets of, or financial or commercial information pertaining specifically to, a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(C) may disclose matters required to be kept confidential under other provisions of law or Government regulations.

3. S TATEMENTS.—Each witness who is to testify, or deny the witness the privilege of testifying before the Committee, or permit the witness to testify in camera, or otherwise to expose an individual to public contempt or obloquy, or will represent a crime or misconduct, to disgrace or injure the professional standing of an individual, or will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigatory or prosecutorial functions that is required to be kept secret in the interest of effective law enforcement;

4. F IELD HEARINGS.—Field hearings of the Committee shall be scheduled only when authorized by the Chair and ranking minority member of the Committee when reporting a bill, resolution, or nomination. Proxies may not be counted in making a quorum for purposes of this paragraph.

5. TAKING TESTIMONY.—For the purpose of taking testimony or for official actions of the Committee or any subcommittee, now or hereafter appointed, the Chair and minority member shall convene a meeting of the Committee and each subcommittee thereof.

**RULE II—QUORUMS**

1. BILLS, RESOLUTIONS, AND NOMINATIONS.—

A majority of the members, which includes at least 1 minority member, shall constitute a quorum for official actions of the Committee when reporting a bill, resolution, or nomination. Proxies may not be counted in making a quorum for purposes of this paragraph.

2. OTHER BUSINESS.—One-third of the entire membership of the Committee shall constitute a quorum for the transaction of all business as may be considered by the Committee, except for the reporting of a bill, resolution, or nomination or authorizing a subpoena. Proxies may not be counted in making a quorum for purposes of this paragraph.

**RULE III—PROXIES**

When arecord vote is taken in the Committee on any bill, resolution, amendment, or any other question, the required quorum being present, a member who is unable to attend the meeting may submit his or her vote by proxy, in writing or through personal instructions.

**RULE IV—CONSIDERATION OF BILLS AND RESOLUTIONS**

It shall not be in order during a meeting of the Committee to move to proceed to the consideration of any bill or resolution unless the bill or resolution has been filed with the Clerk of the Committee more than 48 hours in advance of the Committee meeting, in as many copies as the Chair of the Committee prescribes. This rule may be waived when two-thirds of the Committee and each subcommittee thereof, now or hereafter appointed, are present.

**RULE V—S UPOENAS; C S C E L L; R E C O R D**

1. S UPOENAS.—The Chair, with the approval of the ranking minority member of the Committee, may subpoena the attendance or production of witnesses or the production of memoranda, documents, records, or any other material that is required to be taken at a hearing of the committee or a subcommittee or in connection with the conduct of an investigation authorized in accordance with paragraph 8.1. The Chair may subpoena the attendance or production without the approval of the ranking minority member when the Chair has not received notification from the ranking minority member of disapproval of the subpoena within 72 hours, excluding Saturdays, of being notified of the subpoena. If a subpoena is disapproved by the ranking minority member as provided in this paragraph the subpoena may be authorized by the Chair or any other member of the committee designated by the Chair.

8.3 Procedure for Taking Depositions.—Notices for the taking of depositions, in an investigation authorized by the committee, shall be authorized and be issued by the Committee or by a staff officer designated by him. Such notices shall specify a time and place for examination, and the name of the Senator, staff officer or witness who will be present or any other matter of the Committee staff personnel or internal staff management.

8.4 Procedure for Taking Depositions.—Witneess shall be examined upon oath administered by a local law to administer oaths. The Chairman will rule, by telephone or otherwise, on any objection by a witness. The transcript of a deposition shall be filed with the committee clerk.

**RULE VIII—AMENDING THE RULES**

These rules shall become effective upon publication in the Congressional Record. These rules may be modified, amended, or repealed by the Committee, provided that all members of the Committee vote, including any member designated as the chair and any other member designated by a majority of the members of the committee voting for approval to conduct such investigation. The changes shall be kept confidential under other provisions of law or Government regulations.
of the Chair or any other Member of the Committee designated by the Chair. At the direction of the Chair, with notification to the ranking minority member of not less than 24 hours prior, the Chair is authorized to require depositions from witnesses. The ranking minority member, or a member of the Committee staff designated by the ranking minority member, shall be given the opportunity to attend and participate in the taking of any deposition. Witnesses at depositions shall be examined upon oath administered by an individual authorized by the Committee or an administrative official or, administrated by any member of the Committee if one is present.

2. Counsel.—Witnesses may be accompanied by personal counsel for executive hearings, or the taking of a deposition, by counsel to advise them of their rights. Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of the witness at any public or executive hearing, or the taking of a deposition, to advise the witness, while the witness is testifying, of the witness’s legal rights. In the case of any witness who is an officer or employee of the government, or of a corporation or association, the Chair may rule that representation by counsel from the government, corporation, or association or by counsel representing other witnesses, creates a conflict of interest. Such counsel may only be represented during testimony before the Committee by personal counsel not from the government, corporation, or association or by personal counsel not representing other witnesses. This paragraph shall not be construed to excuse a witness from testifying in the event the witness’s counsel is ejected for conducting himself or herself in such manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of a hearing or the taking of a deposition. This paragraph may not be used to prevent or authorize excluding counsel to coach the witness or to answer for the witness. The failure of any witness to secure counsel shall not excuse the witness from complying with a subpoena.

3. Record.—An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in executive and public hearings and depositions. If testimony given by deposition is transcribed, the individual administering the oath shall certify that the transcript was done in his or her presence and the transcriber shall certify that the transcript is a true record of the testimony. The transcript with those portions transcribed shall be filed by the chief clerk of the Committee. The record of a witness’s testimony, whether in public or executive session or in a deposition, shall be made available for inspection by the witness or the witness’s counsel under Committee supervision. A copy of any testimony given in public session, or that part of the testimony given in executive session or deposition and subsequently quoted or made part of the record in a public session, shall be provided to that witness at the witness’s expense if so requested. Unless the Chair determines that exigent circumstances exist requiring that the session be held sooner.

Prior notice of first degree amendments.—It shall not be in order for the Committee or a Subcommittee to consider any amendment in the first degree proposed to an amendment under consideration by the Committee or Subcommittee unless fifty written copies of such amendment have been delivered to the office of the Committee at least two business days prior. It shall be in order, without prior notice, for a Senator to offer a motion to strike a single section of any measure under consideration. Such a motion to strike a single section of the measure under consideration by the Committee or Subcommittee shall not be amendable. This section may be waived by a majority of the members of the Committee or Subcommittee voting, or by agreement of the Chair and Ranking Member. This subsection shall apply only when the conditions of subsection (e)(1) have been met.

Cordon rule.—Whenever a bill or joint resolution repealing or amending any statute or part thereof is before the Committee or Subcommittee, from initial consideration in hearings through final consideration, the Clerk shall place before each member of the Committee a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the part or parts to be omitted, and any matter proposed to be added. In addition, whenever a member of the Committee or Subcommittee offers an amendment to a bill or joint resolution under consideration, those amendments shall be presented to the Committee or Subcommittee in a like form, showing by typographical devices the effect of the proposed amendment on existing requirements of this subsection may be waived when, in the opinion of the Committee or Subcommittee Chairman, it is necessary to expedite the business of the Committee or Subcommittee.

RULE 3. COMMITTEES

(a) Authorization for.—A Subcommittee of the Committee may be authorized by the Committee or the full Committee to consider any measure or part thereof or to consider and report on any subject matter not the subject matter of a pending measure or part thereof. Such Subcommittee shall not be amendable.

(b) Membership.—No member may be a member of more than three Subcommittees at any one time, including chairing one Subcommittee. No member will receive assignment to a second Subcommittee until, in order of seniority, all members of the Committee or Subcommittee have been assigned to a Subcommittee, and no member may receive assignment to a third Subcommittee until, in order of seniority, all members have been assigned to two Subcommittees.

(c) Investigations.—No investigation shall be initiated by a Subcommittee until the Senate, the full Committee, or a majority of the members of the Committee or Subcommittee, by a majority vote of the Committee or Subcommittee, determines that exigent circumstances exist requiring that the session be held sooner.

Prior notice of first degree amendments.—It shall not be in order for the Committee or a Subcommittee to consider any amendment in the first degree proposed to an amendment under consideration by the Committee or Subcommittee unless fifty written copies of such amendment have been delivered to the office of the Committee at least two business days prior. It shall be in order, without prior notice, for a Senator to offer a motion to strike a single section of any measure under consideration. Such a motion to strike a single section of the measure under consideration by the Committee or Subcommittee shall not be amendable. This section may be waived by a majority of the members of the Committee or Subcommittee voting, or by agreement of the Chair and Ranking Member. This subsection shall apply only when the conditions of subsection (e)(1) have been met.

RULE VI  BROADCASTING OF HEARINGS

Public hearings of the full Committee, or any subcommittee thereof, shall be televised or broadcast only when authorized by the Chair and the ranking minority member of the full Committee.

RULE VII  SUBCOMMITTEES

1. HEARINGS.—Any member of the Committee may sit with any subcommittee during its hearings.

2. CHANGE OF CHAIR.—Subcommittees shall be considered de novo whenever there is a change in the Chair, and seniority on the particular Subcommittee shall not necessarily apply.

SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS RULES OF PROCEDURE

Mr. Brown. Mr. President, the Committee on Banking, Housing, and Urban Affairs has adopted rules governing its proceedings for the 117th Congress. Pursuant to Rules XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator Toomey, I ask unanimous consent that a copy of the committee rules be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE FOR THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS AMENDED FEBRUARY 11, 2021

RULE 1. REGULAR MEETING DATE FOR COMMITTEE

The regular meeting day for the Committee to transact its business shall be the last Tuesday in each month that the Senate is in Session; except that if the Committee has met at any time prior to the last Tuesday of the month, the regular meeting of the Committee may be canceled at the discretion of the Chairman.

RULE 2. COMMITTEE

(a) Investigation.—No investigation shall be initiated by the Committee unless the Senate, or the full Committee, or the Chairman and Ranking Member have specifically authorized such investigation.

(b) Hearings.—No hearing of the Committee shall be scheduled outside the District of Columbia except by agreement between the Chairman of the Committee and the Ranking Member of the Committee or by a majority vote of the Committee.

(c) Confidential testimony.—No confidential testimony taken or confidential material presented at an executive session of the Committee or any report of the proceedings of such executive session shall be made public or part thereof shall be before the Committee or a Subcommittee to consider any measure or part thereof or to consider and report on any subject matter not the subject matter of a pending measure or part thereof unless specifically authorized by the Chairman of the Committee and the Ranking Member of the Committee or by a majority vote of the Committee.

(d) Interrogation of witnesses.—Committee interrogation of a witness shall be conducted only by members of the Committee or such professional staff as is authorized by the Chair or the Ranking Member of the Committee.

(e) Prior notice of markup sessions.—No session of the Committee or a Subcommittee for marking up any measure shall be held unless [1] each member of the Committee or the Subcommittee, as the case may be, has been notified of the hearing date, time, and place of such session and has been furnished a copy of the measure to be considered, in a readable electronic format, at least 2 business days prior to the commencement of such session, or [2] the Chairman of the Committee or Subcommittee determines that exigent circumstances exist requiring that the session be held sooner.

[f g] Prior notice of first degree amendments.—It shall not be in order for the Committee or a Subcommittee to consider any amendment in the first degree proposed to an amendment under consideration by the Committee or Subcommittee unless fifty written copies of such amendment have been delivered to the office of the Committee at least two business days prior. It shall be in order, without prior notice, for a Senator to offer a motion to strike a single section of any measure under consideration. Such a motion to strike a single section of the measure under consideration by the Committee or Subcommittee shall not be amendable. This section may be waived by a majority of the members of the Committee or Subcommittee voting, or by agreement of the Chair and Ranking Member. This subsection shall apply only when the conditions of subsection (e)(1) have been met.

RULE 1. COMMITTEE
be conducted only by members of the Subcommittee or such professional staff as is authorized by the Chairman or the Ranking Member of the Subcommittee.

(e) If at least three members of a Subcommittee desire that a special meeting of the Subcommittee be called by the Chairman of the Subcommittee, such members may notify the Clerk of the Subcommittee of their request that a special meeting of the Subcommittee be held. If all members of the Committee are not present, the Chairman of the Committee shall request the Chairman of the Subcommittee to call a special meeting of the Subcommittee.

(f) The Chairman of the Committee shall request the Chairman of the Subcommittee to call a special meeting of the Subcommittee in accordance with this rule, the Chairman of the Committee shall notify the Chairman of the Subcommittee of the filing of the request. If, within 3 calendar days after the filing of the request, the Chairman of the Subcommittee does not call the requested special meeting, to be held within 7 calendar days after the filing of the request, a majority of the members of the Subcommittee may file in the offices of the Committee their written request that a special meeting of the Subcommittee be held, specifying the date and hour of that special meeting. The Subcommittee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk of the Committee shall notify all members of the Committee that the special meeting will be held and inform them of its date and hour. If the Chairman of the Subcommittee is not present at any regular or special meeting of the Committee, the Clerk shall notify the Ranking Member of the majority party on the Subcommittee who is present shall preside at the meeting.

(h) Voting.—No measure or matter shall be recommended from a Subcommittee to the Committee unless a majority of the Subcommittee are actually present. The vote of the Subcommittee to recommend a measure or matter to the Committee shall require the concurrency of a majority of the members of the Subcommittee. Any absent member of a Subcommittee may affirmatively request that his or her vote to recommend a measure or matter to the Committee be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the member wishes his or her vote to be recorded thereon. By written notice to the Chairman or the Ranking Member of the majority party on the Subcommittee as to how the member wishes his or her vote to be recorded, any absent member of a Subcommittee may request that his or her vote to be recorded thereon. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his or her vote to be recorded thereon. By written notice to the Chairman any time before the vote on such other matter is taken, the member may withdraw a proxy previously given. All proxies relating to such other matters shall be kept in the files of the Committee.

RULE 6.—QUORUM

No executive session of the Committee or a Subcommittee shall be called to order unless a majority of the Committee or Subcommittee, as the case may be, are actually present. Unless the Committee otherwise provides or is required by the Rules of the Senate, one member shall constitute a quorum for the receipt of evidence, the swearing in of witnesses, and the taking of testimony.

RULE 7.—STAFF PRESENT ON DAI S

Only members of the Clerk of the Committee shall be permitted on the dais during public or executive hearing, except that a member may have one staff person accompany him or her during such public or executive hearing on the dais. If a member desires a second staff person to accompany him or her on the dais, he or she must notify the Chairman or his or her designee within three business days after the date of the hearing.

The brief summary included in the statement of witnesses shall be based upon their filed statements. Written statements may be introduced into the record of the hearing on the dais. If a member desires to introduce a statement into the record of the hearing, he or she must notify the Chairman or his or her designee within three business days after the date of the hearing.

RULE 8.—COINAGE LEGISLATION

At least 67 Senators must cosponsor any gold medal or commemorative coin bill or resolution before consideration by the Committee.
[2] Such committee shall also study and review, on a comprehensive basis, matters relating to international economic policy as it affects United States monetary affairs, credit, and financial conditions; economic growth, urban affairs, and credit, and report thereon from time to time.

COMMITTEE PROCEDURES FOR PRESIDENTIAL NOMINEES

Procedures formally adopted by the U.S. Senate Committee on Banking, Housing, and Urban Affairs, February 11, 2021, establish a uniform questionnaire for all Presidential nominees whose confirmation hearings come before this Committee.

In addition, the procedures establish that:

[1] A confirmation hearing shall normally be held after receipt of the completed questionnaire by the Committee unless waived by a majority vote of the Committee.

[2] The Committee shall vote on the confirmation not less than 24 hours after the Committee has received transcripts of the hearing unless waived by unanimous consent.

[3] All nominees routinely shall testify under oath at their confirmation hearings.

This questionnaire shall be made a part of the record, except for financial and other personal information, which shall be kept confidential as indicated on the questionnaire.

Nominees are requested to answer all questions, and to add additional pages where necessary.

SENATE COMMITTEE ON INDIAN AFFAIRS RULES OF PROCEDURE

Mr. SCHATZ. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs Rules for the 117th Congress be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ON INDIAN AFFAIRS—117TH CONGRESS COMMITTEE RULES

COMMITTEE ON INDIAN AFFAIRS RULES OF PROCEDURE

Rule 1. The Standing Rules of the Senate, Senate Resolution 4, and the provisions of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act Amendments of 1975, are supplemented by these rules, which are adopted as the rules of the Committee to the extent the provisions of such Rules, Resolution, and Acts are applicable to the Committee on Indian Affairs.

MEETING OF THE COMMITTEE

Rule 2. The Committee shall meet on Wednesday while the Congress is in session for the purpose of conducting business, unless for the convenience of the Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he or she may deem necessary.

OPEN HEARINGS AND MEETINGS

Rule 3(a). Hearings and business meetings of the Committee shall be open to the public except when the Chairman by a majority vote orders a closed hearing or meeting.

(b). Except as otherwise provided in the Rules of the Senate, a transcript or electronic recording shall be kept of each hearing and business meeting of the Committee.

Rule 4(a). Public notice, including notice to Members of the Committee, shall be given of the date, place, and subject matter of any hearing to be held by the Committee at least one week in advance of such hearing unless the Chairman of the Committee, with the concurrence of the Vice Chairman, determines that such a hearing would be non-controversial or that special circumstances require expedited procedures and a majority of the Committee Members attending.

In no case shall a hearing be conducted within less than 24 hours’ notice.

(b). Each witness who is to appear before the Committee shall submit his or her testimony by way of electronic mail, at least two (2) business days prior to a hearing, in a format determined by the Committee and sent to the Committee by an electronic address specified by the Committee. In the event a federal witness fails to timely file the written statement in accordance with this rule, the federal witness shall testify as to the reason the testimony is late.

(c). Each Member shall be limited to five (5) minutes of questioning of any witness until such time as all Members attending who so desire have had an opportunity to question the witness unless the Committee shall decide otherwise.

(d). The Chairman, in consultation with the Vice Chairman, may authorize remote hearings via video conference.

HEARING AGENDA

Rule 5(a). A legislative measure or subject shall be included in the agenda of the next following business meeting of the Committee if a written request for consideration of such measure or subject has been filed with the Chairman of the Committee at least one week prior to such meeting. Nothing in the rules shall be construed to limit the authority of the Chairman of the Committee to include legislative measures or subjects on the Committee agenda in the absence of such request.

(b). Any bill, resolution, or other matter to be considered by the Committee at a business meeting shall be filed with the Clerk of the Committee. Notice of, and the agenda for, any business meeting of the Committee, and a copy of any bill, resolution, or other matter to be considered at the meeting, shall be provided to each Member and made available to the public at least three (3) business days prior to such meeting, and no new items may be introduced or published except by the approval of the Chairman with the concurrence of the Vice Chairman or by a majority of the Members of the Committee. Written testimony, and any business meeting may be provided to the Members by electronic mail, provided that a paper copy will be provided to any Member upon request. The witness shall certify to the presence of a quorum. The Chairman may also authorize the staff of the Committee to the Senate shall also authorize the staff of the Committee to make necessary technical amendments in the questionnaires of nominees.

(c). Any amendment(s) to any bill or resolution pursuant to Rule 10. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee hearing tends to defame him or her or otherwise adversely affects his or her reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony of evidence.

CONFIDENTIAL TESTIMONY

Rule 8(a). Witnesses in Committee hearings who are required to give testimony shall be deemed under oath.

(b). Any witness who is to appear before the Committee shall, upon request, provide a uniform questionnaire for all Presidential nominees whose confirmation hearings come before this Committee. Any nominee or person whom the Committee or the Committee report on the measure in accordance with Senate Rule XXVI 10.

(c). A Committee vote to report a measure to the Senate shall also authorize the staff of the Committee to the Senate shall also be under oath. Every nominee shall submit a questionnaire on forms to be provided by the Committee, ethics agreement, and public financial disclosure report, (OGE Form 278 or a successor form) which shall be sworn to by the nominee as to its completeness and accuracy and be accompanied by a letter issued by the nominee within five (5) days immediately preceding the hearing affirming that nothing has changed in their financial status or documents since the documents were originally filed with the Committee. The public financial disclosure report and ethics agreement shall be made available to the public by the Committee unless the Committee, in execution of section 1202 of the Legislative Reorganization Act of 1946, shall determine that circumstances require a full or partial exception to this rule.

CONFIDENTIAL TESTIMONY

Rule 9. No confidential testimony taken by, or confidential material presented to the Committee, or any report of the proceedings of a closed Committee hearing or business meeting shall be made public in whole or in part by way of summary, or by any other means, either printed or otherwise, except when the Chairman shall be open to the public may be provided to the members of the Committee. A Member or staff of the Committee who believes that testimony or other evidence presented at, an open Committee hearing tends to defame him or her or otherwise adversely affects his or her reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony of evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 11. Any meeting or hearing by the Committee which is open to the public may be broadcast in whole or in part by television, Internet, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the sight, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

AUTHORIZING SUBPOENAS

Rule 12. The Chairman may, with the agreement of the Vice Chairman, or the Committee may, by majority vote, authorize the issuance of subpoenas.

AMENDING THE RULES

Rule 13. These rules may be amended only by a vote of a majority of all the Members of the Committee on Indian Affairs.
the Committee in a business meeting of the Committee; Provided, that no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda prior to such meeting at least seven (7) days in advance of such meeting.

**IMPEACHMENT**

Mr. CRUZ. Mr. President, I ask unanimous consent that the following op-ed be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Fox News, Feb. 9, 2021]

**SEN. TED CRUZ:** SHOULD THE SENATE EXERCISE IMPEACHMENT TRIAL? WHY THE ANSWER MATTERS

(By Ted Cruz)

The constitutional question of whether a former president can be impeached or tried after he has left office is a close legal question. On balance, I believe that the better constitutional argument is that a former president can be impeached and tried—that is, that the Senate has jurisdiction to hold a trial.

However, nothing in the text of the Constitution requires the Senate to choose to exercise jurisdiction in these particular circumstances. I believe the Senate should decline to exercise jurisdiction—and so I voted to dismiss this impeachment on jurisdictional grounds.

Article I, Section 2 of the Constitution gives the House “the sole Power of impeachment,” and Section 3 gives the Senate “the sole Power to try all impeachments.” At the time the Constitution was adopted, there was meaningful debate over whether impeachment encompassed so-called “late impeachments.” I.e. after the person had left office.

The British common law, which informed the understanding of the Founders, suggests that the better answer is yes.

In the 18th century, there were two English impeachments of note: Lord Chancellor Macclesfield in 1725 and India’s Governor-General Clive, which occurred from 1787 to 1796. Both were late impeachments (after they had left office). Shortly after the Founding, a third British impeachment occurred. Lord Melville in 1806. His impeachment also occurred after he left office.

The American experience is similar. In 1797, the House impeached Sen. William Blount, who had left office. Mr. Blount had the House impeached Secrectary of War William Belknap. Both had left office by the time articles of impeachment were delivered to the Senate.

With Blount, the Senate voted that it lacked jurisdiction (although principally because he had been a senator and not a member of the executive), and with Belknap, the Senate voted that it had jurisdiction but declined to convict.

To be sure, there is textual ambiguity on the question of whether impeachments of a former president are constitutional.

One can look to other provisions of the Constitution—such as article II, Section 4’s reference to “the President” (not “a President” or “former President”)—and conclude in good faith that late impeachments are permissible.

However, given the historical underpinnings and the Constitution’s broad textual commitment (“sole power”) of the impeachment power to the House, I believe the best reading of the Constitution is that the Senate retains jurisdiction.

Imagine, for example, that evidence were uncovered that a former president had sold nuclear secrets to the Chinese government. In that instance, where the president had committed treason (the Constitution’s most treacherous breach of the Constitution), and bribery (explicit grounds for impeachment in the Constitution), there is little question that both the House and Senate would have the jurisdiction to impeach and try those crimes.

Importantly, there are two types of jurisdiction: mandatory and discretionary. With mandatory jurisdiction, the tribunal must hear the case; with discretionary jurisdiction, the tribunal can decide whether to exercise its legal authority to hear the case. For example, the vast majority of the Supreme Court’s caseload arises on discretionary jurisdiction—it has the authority to hear most cases, but it doesn’t have to do so.

And nothing in the Constitution makes the Senate’s impeachment jurisdiction mandatory. “Sole power” means “sole power”—the Senate can decide whether to hear the case.

The present impeachment is an exercise of partisan retribution, not a legitimate exercise of constitutional authority. The House impeached President Trump in a mere seven days. It conducted no hearings. It examined no evidence. It heard not a single witness.

For four years, congressional Democrats have directed hatred and contempt at Donald J. Trump. They have excoriated him with greater fury at the voters who elected him.

On the merits, President Trump’s conduct does not come close to meeting the legal standard for incitement—the only charge brought against him.

His rhetoric was at times over-heated, and I wish it were not, but he did not urge anyone to commit acts of violence. And if generic exhortations to “fight” or “win” or “take back our country” are now indictable, then political parties and leaders will be regularly under scrutiny, our democratic system will be focused on the ever-changing contours of who’s ever run for office or given a stump speech.

House Democrats argue that these circumstances are different. The situation was politically charged. The protesters were angry. And what started as a peaceful protest on the Ellipse ended up with some of the protesters engaging in a violent terrorist assault on the Capitol that tragically took the life of a police officer.

If that’s the standard—and if strong rhetoric constitutes “High Crimes and Misdeemands”—then Congress better prepare to remove House Speaker Nancy Pelosi, D-Calif., Sen. Kamala Harris, D-Calif., Senate Majority Leader Chuck Schumer, D-N.Y., and former Sen. John McCain, R-Ariz.

Repeatedly over the past four years, multiple Democrats have engaged in incendiary rhetoric and encouraged civil unrest, including Speaker Nancy Pelosi who expressly compared law enforcement to Nazis, Rep. Waters, who emphatically encouraged a campaign of intimidation and harassment of political opponents, Sen. Schumer, who made threats—by name—against the white justices of the Supreme Court, and then-Sen. Harris, who actively campaigned to provide financial support, in the form of bail, for rioters last summer even after hundreds of law enforcement officers were injured and many people, including retired St. Louis police captain David Dorn, were brutally murdered.

There is no evidence to support the claim that renders President Trump’s remarks “incitement,” and somehow exonerates the angry rhetoric of countless Democrats. If Trump’s speech less than a week before the Ellipse was incitement, so too was Schumer’s threat on the steps of the Supreme Court.

The honest answer is both may have been irresponsible, but neither meets the legal standard for incitement.

Accordingly, I voted against the Senate taking jurisdiction in this trial. In different circumstances, the Senate could choose to exercise its constitutional authority to try a former president while he is still in office. But here, when the House has impeached without evidence or due process, and when it is petty and vindictive and it fails to meet the legal standard, then the Senate should have declined to exercise jurisdiction.

President Trump is no longer in office, and nothing is served—other than partisan vengeance—by conducting yet another impeachment trial.

**ADDITIONAL STATEMENTS**

**TRIBUTE TO LESLEY ROBINSON**

Mr. DAINES. Mr. President, this week I have the honor of recognizing Lesley Robinson of Phillips County. Lesley recently made history when she became the first woman elected as the Montana Stockgrowers Association’s second vice president.

Lesley is not afraid to be the first in any venture. Her past experience as a leader in Montana began in 1996 when she became the state’s first woman ever elected to serve on the board of directors for the Montana Stockgrowers. Lesley also ran for office and was elected as a Phillips County commissioner in 2005. During her 12-year tenure as a commissioner, Lesley was a strong advocate for Phillips County and rural Montana. She also had a leadership role on the Executive Committee for the National Association of Counties.

Most recently, Lesley served as former Congressman Greg Gianforte’s State director.

As a fourth-generation rancher, Lesley knows the importance of hard work. She and her husband, Jim, own a commercial cow/calf and yearling operation near Zortman, MT. Her past leadership experiences have led her to be a fierce voice for agriculture and the importance it has as Montana’s No. 1 economic driver.

It is my honor to recognize Lesley for her leadership and service to Montana. I look forward to hearing about her continued success.

**TRIBUTE TO GARY HERBERT**

Mr. ROMNEY. Mr. President, I rise to congratulate my friend Gary Herbert on a career of esteemed public service.

Gary’s steady hand of leadership as the 17th Governor of Utah guided our State closer to fulfilling its promise of safety, security, and prosperity for all Utahns.

A son of Orem, UT, Gary faithfully answered his call to service in his early life and career. From his missionary service for The Church of Jesus Christ of Latter-day Saints, to his military and civil service as a staff sergeant in the Utah Army National Guard, to elected office, Gary’s unwavering early commitment to public service earned him the respect and experience necessary for future success.
Gary Herbert’s unique ability to articulate sound public policy on behalf of his community earned him a seat on the Utah County Commission, where he demonstrated principled leadership for 14 years. Soon after, Herbert was elected to serve as Utah’s Lieutenant Governor, overseeing multiple statewide commissions and the State electoral office. Four years later, Utahns reaffirmed their State’s leadership with a record reelection victory for Governor John Huntsman Jr. and Lieutenant Governor Herbert.

Governor Herbert assumed the mantle of leadership and gubernatorial responsibilities on August 11, 2009, following the resignation of his predecessor. For his next decade, Governor Herbert approached significant challenges with a sharp focus and principled decision making. He surrounded himself with impressive public servants and exemplified a compassionate and thoughtful approach to good governance. Through an early economic crisis and a myriad of complex public policy challenges relating to civil liberties, faith, education, infrastructure, and public health, Governor Herbert’s legacy reflects his impressive commitment to personal character and leadership in difficult circumstances.

Gary’s lifetime of public service is sustained by the devotion he shares with former First Lady Jeanette Herbert and their children and grandchildren. Our great State owes Gary Herbert and his family an abundance of gratitude for years of integrity and virtue as Utah’s chief public servant. Utah will continue to shine as the brightest star on our American flag.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–409. A communication from the General Counsel, Occupational Safety and Health Administration, transmitting, pursuant to law, the report of a rule entitled “Rules of Practice and Procedure; Civil Money Penalty Inflation Adjustment” (RIN2060–AC14) received in the Office of the President of the Senate on February 2, 2021; to the Committee on Banking, Housing, and Urban Affairs.

EC–410. A communication from the Director of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled “Collection of Liens - Penalties” (RIN0564–AP25) received in the Office of the President of the Senate on February 2, 2021; to the Committee on Banking, Housing, and Urban Affairs.

EC–411. A communication from the Chief of the Domestic Listing Branch, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled “Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Northern Spotted Owl” (RIN1018–BF01) received in the Office of the President of the Senate on February 3, 2021; to the Committee on Environment and Public Works.

EC–412. A communication from the Vice President of External Affairs, Tennessee Valley Authority, transmitting, pursuant to law, a report relative to a vacancy for the position of Inspector General, Tennessee Valley Authority, received in the office of the President of the Senate on February 2, 2021; to the Committee on Environment and Public Works.

EC–413. A communication from the Regulations Coordinator, Department of Labor, transmitting, pursuant to law, the report of a rule entitled “Medicare: Medicare Coverage of Innovative Technology (MCIT) and Definition of ‘Reasonable and Necessary’” (RIN0993–AT88) received in the Office of the President of the Senate on February 2, 2021; to the Committee on Finance.

EC–414. A communication from the Legal Counsel, Department of Labor, transmitting, pursuant to law, the report of a rule entitled “Official Time in Federal Sector Cases Before the Commission” (RIN3046–AB90) received in the Office of the President of the Senate on February 2, 2021; to the Committee on Health, Education, Labor, and Pensions.

EC–415. A communication from the Regulations Coordinator, Office of the Secretary, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “National Vaccine Injury Compensation Program: Revisions to the Vaccine Injury Table” (RIN0808–AB24) received in the Office of the President of the Senate on February 3, 2021; to the Committee on Health, Education, Labor, and Pensions.

EC–416. A communication from the Federal Register Liaison Officer, Alcohol and Tobacco Tax and Trade Bureau, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled “Addition of New Standards of Fill for Wine and Distilled Spirits; Amendment of Distilled Spirits and Malt Beverage Net Contents Labeling Regulations” (RIN1513–AB56) received in the Office of the President of the Senate on February 3, 2021; to the Committee on the Judiciary.

EC–417. A communication from the Supervisory Workforce Analyst, Employment and Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled “Strengthening Wage Protections for the Temporary and Permanently Employed in the United States” (RIN2050–AC00) received in the Office of the President of the Senate on February 3, 2021; to the Committee on Banking, Housing, Labor, and Pensions.


EC–419. A communication from the Acting Assistant General Counsel for Regulatory Affairs, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled “Uniformity of Class E Airspace; Paris, Idaho” (RIN2120–AA66) (Docket No. FAA–2020–0751) received in the Office of the President of the Senate on February 5, 2021; to the Committee on Commerce, Science, and Transportation.

EC–420. A communication from the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; ATR–GIE Avions de Transport Regional Airplanes” (RIN2120–AA46) (Docket No. FAA–2020–1133) received in the Office of the President of the Senate on February 9, 2021; to the Committee on Commerce, Science, and Transportation.

EC–421. A communication from the Department of Labor, transmitting, pursuant to law, the report of a rule entitled “Securing Updated and Necessary Statutory Evaluations Timely” (RIN0664–AF35) received in the Office of the President of the Senate on February 9, 2021; to the Committee on Finance.

EC–422. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the fulfillment of a Proclamation that declares the national emergency first declared in Proclamation 9844 of February 15, 2019, with respect to declaring a National Emergency Concerning the Southern Border of the United States, received in the office of the President of the Senate on February 9, 2021; to the Committee on Armed Services.

EC–423. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report relative to the Department of Commerce’s request to extend the compliance date for specified requirements of the E-Verify Program; Medicare Coverage of Innovative Technology (MCIT) and Definition of ‘Reasonable and Necessary’” (RIN0808–AB24) received in the Office of the President of the Senate on February 9, 2021; to the Committee on Health, Education, Labor, and Pensions.

EC–424. A communication from the Director of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, a report entitled “Removal of Transferred Office of Thrift Supervision (OTS) Regulations Regarding Non-discrimination Requirements” (RIN0664–AF35) received in the Office of the President of the Senate on February 9, 2021; to the Committee on Banking, Housing, and Urban Affairs.

EC–425. A communication from the Congressional Assistant, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report entitled “Amendments to Capital Planning and Stress Testing Requirements for Large Bank Holding Companies,Intermediate Holding Companies, and Savings and Loan Holding Companies” (RIN100–AF95) received in the Office of the President of the Senate on February 9, 2021; to the Committee on Banking, Housing, and Urban Affairs.

EC–426. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for Years 2022 to 2024; Section 1332 Waiver Implementing Regulations” (RIN0858–AU18) received in the Office of the President of the Senate on February 9, 2021; to the Committee on Banking, Housing, and Urban Affairs.

EC–427. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; ATR–GIE Avions de Transport Regional Airplanes” (RIN2120–AA46) (Docket No. FAA–2020–1133) received in the Office of the President of the Senate on February 9, 2021; to the Committee on Commerce, Science, and Transportation.

EC–428. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; ATR–GIE Avions de Transport Regional Airplanes” (RIN2120–AA46) (Docket No. FAA–2020–1133) received in the Office of the President of the Senate on February 9, 2021; to the Committee on Commerce, Science, and Transportation.
Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Texton Aviation Inc. (Type Certificate Previously Held by Comair Aircraft Company) Airplanes; Amendment 39-21360” (RIN2120-AA64) (Docket No. FAA–2020–1030) received in the Office of the President of the Senate on February 9, 2021, to the Committee on Commerce, Science, and Transportation.

EC–439. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; The Boeing Company Airplanes; Amendment 39-21389” (RIN2120-AA64) (Docket No. FAA–2020–9573) received in the Office of the President of the Senate on February 9, 2021, to the Committee on Commerce, Science, and Transportation.

EC–440. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Pratt and Whitney Division Turbofan Engines; Amendment 39-21360” (RIN2120-AA64) (Docket No. FAA–2020–6542) received in the Office of the President of the Senate on February 9, 2021, to the Committee on Commerce, Science, and Transportation.

EC–441. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Pratt and Whitney Division Turbofan Engines; Amendment 39-21361” (RIN2120-AA64) (Docket No. FAA–2020–6542) received in the Office of the President of the Senate on February 9, 2021, to the Committee on Commerce, Science, and Transportation.

EC–442. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Texton Aviation Inc. (Type Certificate Previously Held by Beech Corporation) Airplanes; Amendment 39-21343” (RIN2120-AA64) (Docket No. FAA–2020–718) received in the Office of the President of the Senate on February 9, 2021, to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PETERS, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. Res. 48. An original resolution authorizing expenditures by the Committee on Homeland Security and Governmental Affairs.

By Mr. CARPER, from the Committee on Environment and Public Works, without amendment:

S. Res. 49. An original resolution authorizing expenditures by the Committee on Environment and Public Works.

E. C. REED, from the Committee on Armed Services, without amendment:

S. Res. 50. An original resolution authorizing expenditures by the Committee on Armed Services.

By Mr. BROWN, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 51. An original resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry.

By Ms. STABENOW, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 52. An original resolution authorizing expenditures by the Select Committee on Intelligence.

By Mr. WARNER, from the Select Committee on Intelligence, without amendment:

S. Res. 53. An original resolution authorizing expenditures by the Select Committee on Intelligence.
EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. MURRAY for the Committee on Health, Education, Labor, and Pensions.

*Nigel A. Cardona, of Connecticut, to be Secretary of Education.

*Martin Joseph Walsh, of Massachusetts, to be Secretary of Labor.

*Nomination was reported with recommendation that it be confirmed subject to the nominee’s commitment to respond to requests to appear and testify before an equally constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DURBIN (for himself and Mr. CASSIDY):

S. 308. A bill to establish a pilot program to address shortages of testing equipment and personal protective equipment through enhanced domestic production, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN (for himself, Mr. LEE, and Mr. COONS):

S. 309. A bill to give Federal courts additional discretion to determine whether pretrial detention is appropriate for defendants charged with nonviolent drug offenses in Federal criminal cases; to the Committee on the Judiciary.

By Mr. WICKER (for himself and Ms. SMITH):

S. 310. A bill to amend the Small Business Act to include hospitals serving rural areas or areas of persistent poverty in the paycheck protection program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mrs. FEINSTEIN (for herself and Mr. CORNYN):

S. 311. A bill to amend the Higher Education Act of 1965 to include certain employment as a health care practitioner as eligible for public service loan forgiveness, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. WHITEHOUSE, Mr. TOYAMA, Mr. COONS, Mr. CRAMER, Mr. BOOKER, and Mr. WICKER):

S. 312. A bill to expand eligibility for and provide judicial review for the Elderly Home Detention Pilot Program, provide for passion release based on COVID-19 vulnerability, shorten the waiting period for judicial review during the COVID-19 pandemic, and make other technical corrections; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Ms. DUCKWORTH, Mr. SMITH, Ms. BALDWIN, Mr. SANDERS, Mrs. GILLIBRAND, Mrs. SHAHEEN, Ms. ROSEN, Ms. HIRONO, Mr. MERKLEY, and Mr. WYDEN):

S. 313. A bill to amend the Food and Nutrition Act of 2008 to expand online benefit redemption options under the supplemental nutrition assistance program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MERKLEY (for himself and Mr. WYDEN):

S. 314. A bill to repeal the Klamath Tribe Judgment Fund Act; to the Committee on Indian Affairs.

By Mr. BLUMENTHAL (for himself and Mr. BOOKER):

S. 315. A bill to amend titles XVIII and XIX of the Social Security Act to ensure quality care for residents of skilled nursing facilities and nursing facilities, and for other purposes; to the Committee on Finance.

By Ms. WASHINGTON (for herself and Mr. SCOTT of Florida):

S. 316. A bill to establish a temperature checks pilot program for air transportation, and to the Committee on Commerce, Science, and Transportation.

By Mr. BOOKER (for himself and Mr. BLUMENTHAL):

S. 317. A bill to amend titles XVIII and XIX of the Social Security Act to improve the quality of care for residents of and workers in skilled nursing facilities and nursing facilities during the emergency period, and for other purposes; to the Committee on Finance.

By Mr. MERKLEY (for himself, Mr. WYDEN, Ms. HIRONO, and Mr. BLUMENTHAL):

S. 318. A bill to require the publication of the name of any person pardoned by the President, and for other purposes; to the Committee on the Judiciary.

By Mr. WICKER:

S. 319. A bill to amend the Foreign Agents Registration Act of 1938, as amended, to strengthen the conspicuous statement required on certain informational materials, and for other purposes; to the Committee on Foreign Relations.

By Mr. CASSIDY (for himself and Mr. SCHATZ):

S. 320. A bill to amend the Public Health Service Act to provide that the authority of the Director of the National Institute on Minority Health and Health Disparities to make certain research endowments applies with respect to both current and former centers of excellence, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MORAN (for himself and Ms. ROSEN):

S. 321. A bill to award a Congressional Gold Medal to the members of the Women’s Army Corps who were assigned to the 8888th Central Postal Directory Battalion, known as the “Six Triple Eight”; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. TILLIS (for himself, Ms. ERNST, Mr. PORTMAN, Mr. CORNYN, Mrs. HYDE-SMITH, Mr. CAPTO, Mr. JOHNSON, Mr. MARSHALL, Mr. BUIR, and Mr. YOUNG):

S. 322. A bill to amend the Health Insurance Portability and Accountability Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. PAUL:

S. 323. A bill to terminate the Department of Education; to the Committee on Homeland Security and Governmental Affairs.

By Ms. WARREN (for herself, Mrs. MURRAY, Mr. BOOKER, Mr. MARKEY, Mr. BLUMENTHAL, Ms. BALDWIN, Mr. CASEY, Mr. WYDEN, Mr. VAN HOLLEN, Mr. MURKOWSKI, Ms. HIRONO, and Ms. DUCKWORTH):

S. 324. A bill to report data on COVID-19 in Federal, State, and local correctional facilities, and for other purposes; to the Committee on the Judiciary.

By Ms. MURKOWSKI:

S. 325. A bill to amend the Alyce Spotted Bear and Walter Soboleff Commission on Native Children Act to extend the deadline for a report by the Alyce Spotted Bear and Walter Soboleff Commission on Native Children, and for other purposes; to the Committee on Indian Affairs.

By Ms. KLOBUCHAR (for herself, Mrs. CAPITO, Mr. CORNYN, Mr. BLUMENTHAL, and Mr. BROWNER):

S. 326. A bill to require the Secretary of Commerce to conduct an assessment and analysis of the effects of broadband deployment and adoption on the economy of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KELLY (for himself and Mr. CORNYN):

S. 327. A bill to direct the Administrator of the Small Business Administration to establish a border closure recovery loan program for small businesses located near the United States border, and for other purposes; to the Committee on Finance.

By Ms. WARREN (for herself, Mr. BOOKER, and Mr. BLUMENTHAL):

S. 328. A bill to establish procedures relating to the coronavirus disease 2019 (COVID-19) in correctional facilities; to the Committee on the Judiciary.

By Ms. KLOBUCHAR (for herself, Mrs. SCOTT of South Carolina, Ms. SINEMA, and Mr. YOUNG):

S. 329. A bill to require the Secretary of Commerce to conduct an assessment and analysis relating to the decline in the business formation rate in the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. WICKER:

S. 330. A bill to appropriate amounts to the Department of Veterans Affairs to fund State small construction projects that have been approved before the date of the enactment of this Act; to the Committee on Veterans’ Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. PETERS:

S. Res. 48. An original resolution authorizing expenditures by the Committee on Homeland Security and Governmental Affairs; the Committee on Homeland Security and Governmental Affairs; and the Committee on Rules and Administration.

S. Res. 49. An original resolution authorizing expenditures by the Committee on Environment and Public Works; from the Committee on Environment and Public Works; to the Committee on Rules and Administration.

By Mr. REED:

S. Res. 50. An original resolution authorizing expenditures by the Committee on Armed Services; from the Committee on Armed Services; to the Committee on Rules and Administration.

By Mr. CARPER:

S. Res. 51. An original resolution authorizing expenditures by the Committee on
Banking, Housing, and Urban Affairs; from the Committee on Banking, Housing, and Urban Affairs; to the Committee on Rules and Administration.

By Mr. S. UNDERWOOD:

S. Res. 52. An original resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry; from the Committee on Agriculture, Nutrition, and Forestry; to the Committee on Rules and Administration.

By Mr. SCHATZ:

S. Res. 54. An original resolution authorizing expenditures by the Select Committee on Intelligence; from the Select Committee on Intelligence; to the Committee on Rules and Administration.

By Mr. WARNER:

S. Res. 55. An original resolution authorizing expenditures by the Select Committee on Indian Affairs; from the Committee on Indian Affairs; to the Committee on Rules and Administration.

By Mrs. MURRAY:

S. Res. 57. A resolution expressing support for the recognition of the week of February 13 through February 20, 2021, as “National Entrepreneurship Week” to recognize the importance and contributions of entrepreneurs and startups to the economic prosperity of the United States and the well-being of every community across the United States; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 13

At the request of Mr. SCOTT of South Carolina, the name of the Senator from Tennessee (Mr. HAGERTY) was added as a cosponsor of S. 98, a bill to amend section 1321 of the Internal Revenue Code of 1986 to allow a credit against tax for neighborhood revitalization, and for other purposes.

S. 35

At the request of Mr. PORTMAN, the name of the Senator from California (Ms. Feinstein) was added as a cosponsor of S. 26, a bill to provide the Administrator of the Drug-Free Communities Support Program the authority to waive the Federal fund limitation for the Drug-Free Communities Support Program.

S. 32

At the request of Mrs. GILLIBRAND, the name of the Senator from New Mexico (Mr. Lujan) was added as a cosponsor of S. 32, a bill to provide for the establishment of a standing Health Force and a Resilience Force to respond to public health emergencies and meet public health needs.

S. 54

At the request of Mr. VANN HOLLEN, the names of the Senator from Ohio (Mr. PORTMAN) and the Senator from Colorado (Mr. HICKENLOOPER) were added as cosponsors of S. 35, a bill to award a Congressional Gold Medal to Officer Eugene Goodman.

At the request of Mr. MCCONNELL, his name was added as a cosponsor of S. 35, supra.

S. 40

At the request of Mr. BOOKER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 40, a bill to address the fundamental injustice, cruelty, brutality, and inhumanity of slavery in the United States and the 13 American colonies between 1619 and 1865 and to establish a commission to study and consider a national apology and proposal for reparations for the institution of slavery, its subsequent de jure and de facto racial and economic discrimination against African Americans, and the impact of these forces on living African Americans, to make recommendations to the Congress on appropriate remedies, and for other purposes.

S. 59

At the request of Mr. TILLIS, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 59, a bill to provide a civil remedy for individuals harmed by sanctuary jurisdiction policies, and for other purposes.

S. 60

At the request of Mr. TILLIS, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 60, a bill to provide for the effective use of immigration detainers to enhance public safety.

S. 74

At the request of Mr. RUBIO, the name of the Senator from West Virginia (Mr. MANCHIN) was added as a cosponsor of S. 65, a bill to ensure that goods made with forced labor in the Xinjiang Uighur Autonomous Region of the People’s Republic of China do not enter the United States market, and for other purposes.

S. 80

At the request of Mr. RUBIO, the name of the Senator from South Carolina (Ms. KLOBUCHAR) was added as a cosponsor of S. 74, a bill to expand opportunity through greater choice in education, and for other purposes.

S. 98

At the request of Ms. ERNST, the name of the Senator from Tennessee (Mr. HAGERTY) was added as a cosponsor of S. 80, a bill to require U.S. Immigration and Customs Enforcement to take into custody certain aliens who have been charged in the United States with a crime that resulted in the death or serious bodily injury of another person, and for other purposes.

S. 121

At the request of Mr. CARUSO, the name of the Senator from West Virginia (Ms. CAPITO) and the Senator from Alabama (Ms. WARNER) were added as cosponsors of S. 121, a bill to amend the Workforce Innovation and Opportunity Act to establish demonstration and pilot projects to facilitate education and training programs in the field of advanced manufacturing.

S. 171

At the request of Mr. DAINES, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 145, a bill to amend title 5, United States Code, to repeal the requirement that the United States Postal Service prepay future retirement benefits, and for other purposes.

S. 211

At the request of Mr. DAINES, the name of the Senator from Mississippi (Mrs. HYDE-SMITH) was added as a cosponsor of S. 171, a bill to authorize the Keystone XL Pipeline.

S. 212

At the request of Mr. CARUSO, the name of the Senator from New Hampshire (Mrs. Sasse), the Senator from Pennsylvania (Mr. Casey), the Senator from West Virginia (Mrs. Capito) and the Senator from Alaska (Ms. Murkowski) were added as cosponsors of S. 212, a bill to amend the Internal Revenue Code of 1986 to allow a refundable tax credit against income tax for the purchase of qualified access technology for the blind.

S. 225

At the request of Mr. SCOTT of South Carolina (Ms. KLOBUCHAR) and the names of the Senator from Virginia (Mr. WARNER) and the Senator from Michigan (Ms. STabenow), the Senator from Minnesota (Ms. Klobuchar) were added as cosponsors of S. 225, a bill to reform the antitrust laws to better protect competition in the American economy, to amend the Clayton Act to modify the standard for an unlawful acquisition, to deter anticompetitive exclusionary conduct by competitors and consumers, to enhance the ability of the Department of Justice and the Federal Trade Commission to
enforce the antitrust laws, and for other purposes.

S. 248

At the request of Mrs. GILLIBRAND, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 248, a bill to provide paid family and medical leave benefits to certain individuals, and for other purposes.

S. 255

At the request of Mr. WICKER, the names of the Senator from North Carolina (Mr. TILLIS), the Senator from Oregon (Mrs. MARKEY), the Senator from Nevada (Ms. CORTZ MASTO) and the Senator from Illinois (Ms. DUCKWORTH) were added as cosponsors of S. 255, a bill to establish a $120,000,000,000 Restaurant Revitalization Fund to provide structured relief to food service or drinking establishments, and for other purposes.

S. 278

At the request of Mr. WARNOCK, the names of the Senator from Ohio (Mr. BROWN) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. 278, a bill to require the Secretary of Agriculture to provide assistance for socially disadvantaged farmers and ranchers and socially disadvantaged groups, and for other purposes.

S. J. Res. 3

At the request of Mr. SCOTT, the name of the Senator from Wyoming (Ms. LUMMIS) was added as a cosponsor of S. J. Res. 3, a joint resolution proposing an amendment to the Constitution of the United States to require that the Supreme Court of the United States be composed of not more than 9 justices.

S. Res. 3

At the request of Mr. LANKFORD, the name of the Senator from Georgia (Mr. WARNOCK) was added as a cosponsor of S. Res. 3, a resolution recognizing the 100th anniversary of the independence of Greece and celebrating democracy in Greece and the United States.

S. Res. 4

At the request of Mr. Rubio, the name of the Senator from Nebraska (Mrs. FISCHER) was added as a cosponsor of S. Res. 4, a joint resolution proposing an amendment to the Constitution of the United States relating to the number of terms that a Member of Congress may serve.

S. J. Res. 4

At the request of Mr. HAGERTY, the name of the Senator from Tennessee (Mr. YOUNG), the Secretary from Oklahoma (Ms. LANKFORD), the Senator from Indiana (Mr. BRUNSON), the Senator from South Carolina (Mr. GRAHAM), the Senator from Indiana (Mr. YOUNG), the Senator from New Mexico (Mr. LUMIN), the Senator from Mississippi (Mrs. WYDEN-SMITH), and the Senator from North Dakota (Mr. ROUND) were added as cosponsors of S. Res. 45, a resolution celebrating Black History Month.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. DURBIN (for himself and Mr. CASSIDY):

S. 308. A bill to establish a pilot program to address shortages of testing equipment and personal protective equipment through enhanced domestic production, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting Providers Everywhere in America Act” or the “PPE in America Act”.

SEC. 2. DOMESTIC PPE PROCUREMENT PILOT PROGRAM.

(a) In General.—Section 319F-2(a) of the Public Health Service Act (42 U.S.C. 247d-6(a)) is amended by adding at the end the following:

(6) DOMESTIC PROCUREMENT PILOT PROGRAM.—

(A) In general.—

(I) REQUIREMENT TO PURCHASE DOMESTIC END PRODUCTS.—For the period of fiscal years 2022 through 2026, subject to clause (ii), the Secretary shall ensure—

(I) that not less than 40 percent of amounts made available under this section for purposes of procuring covered testing equipment and personal protective equipment for the stockpile under paragraph (1) are allocated to procurement of such equipment that is a domestic end product, as defined in part 25.083 of the Federal Acquisition Regulations maintained under section 1303(a)(1) of title 41, United States Code (or any successor regulations) manufactured by an entity or entities that enter into a contract with the Secretary to sell such equipment to the Secretary for such purposes; and

(ii) that additional amounts made available under this section for the purposes described in subclause (I), up to 100 percent of such amounts, are allocated to procurement of domestic end products as described in subclause (I), provided that, with respect to any such procurement of domestic end products in excess of the amount required under subclause (I), domestic supply exists and the costs of procuring equipment that is a domestic end product is unreasonably high compared to other equipment that is not a domestic end product.

(B) SALE OR TRANSFER OF PPE.—

(i) IN GENERAL.—With respect to any covered testing equipment and personal protective equipment in the stockpile under paragraph (1), the Secretary—

(I) shall assess the stockpile; and

(bb) monthly, during any period in which the Secretary determines it likely that such equipment will be deployed, such as during a public health emergency;

(ii) EXCEPTION.—In the event that there is insufficient domestic supply of such equipment, the Secretary may transact with group purchasing organizations and medical product distributors to facilitate timeliness, logistical assistance, and appropriate pricing, and to determine appropriate amounts of such equipment for procurement to meet the needs for certain covered testing equipment and personal protective equipment for the stockpile under paragraph (1) while satisfying the requirement of clause (ii)(I), or that the cost of procuring equipment that is a domestic end product in quantities required under clause (ii) would be unreasonably high compared to other equipment only to the extent that such equipment is a domestic end product and is available to the extent that the cost is not unreasonable, as applicable.

(CASE Sale or transfer to other agencies or operations divisions within the Department of Health and Human Services, or to the Department of Defense, the Department of Homeland Security, the Department of Veterans Affairs, or any other Federal agency or department, in accordance with the needs of such agencies, divisions, or departments; or

(bb) sell such equipment to health care facilities at a competitive price, as determined by the Secretary, taking into account the costs of domestic and international equipment and the operational budget for the stockpile; and

(iv) may enter into a contract or cooperative agreement with an entity that has expertise in supply chain logistics and management to carry out the activities described in this subparagraph.

A. GROUP PURCHASING ORGANIZATIONS AND MEDICAL PRODUCT DISTRIBUTORS.—In making sales under clause (ii)(I)(bb), the Secretary may transact with group purchasing organizations and medical product distributors to facilitate timeliness, logistical assistance, and appropriate pricing, and to determine appropriate amounts of covered testing equipment and personal protective equipment for applicable health care facilities.

(iii) COMPENSATION TO HHS.—
By Mr. DURBIN (for himself, Mr. LEE, and Mr. COONS):

S. 309. A bill to give Federal courts additional discretion to determine whether pretrial detention is appropriate for defendants charged with non-violent drug offenses in Federal criminal cases; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Smarter Pretrial Detention for Drug Charges Act of 2021.”

SEC. 2. RELEASE CONDITIONS AND DETENTION IN FEDERAL CRIMINAL CASES.

Section 3142 of title 18, United States Code, is amended—

(1) by striking subsection (c)(1); and

(2) in subsection (e)—

(A) by striking paragraph (B)(i)(II).

(B) and health care facilities pursuant to sub-

paragraph (1), implications of the pro-

gram has impacted the continuity of

paragraph (1), an amount equal to the sum

of the amount received in the previous fiscal

year from sales described in clause (i)(II)(bb). The

amount received in the previous fiscal

year from sales described in clause (i)(II)(aa) shall transfer to the Secretary's requirements for inclusion in the domestic end products to establish and uti-

lize revolving stockpiles of covered testing equipment and personal protective equip-

ment managed and operated by such manu-

facturer. Under such an arrangement—

(i) the manufacturer (or a subcontractor or agent of the manufacturer)—

(i) shall—

(aa) produce or procure covered testing equipment or personal protective equipment for the stockpile under paragraph (1);

(bb) maintain constant supply, possess-

sion, and dispensing capacity of such equip-

ment in such quantities as the Secretary re-

quires for purposes of the stockpile under paragraph (1); and

(cc) fulfill or support the deployment, dis-

tribution, or dispensing functions of the stockpile at the State and local levels, con-

sistent with paragraph (1); and

(ii) the Secretary—

(i) conduct an evaluation of the program in such quantities as the Secretary

requires for purposes of the manufacturer's exist-

ing inventory and commercial contracts; and

(ii) the Secretary shall—

(i) compensate the manufacturer for the covered testing equipment or personal pro-

tective equipment; and

(ii) pay a management fee, as appropriate.

(ii) EVALUATION AND REPORT.—

(i) In general.—The Secretary shall—

(I) conduct an evaluation of the program under subsection (i)(II)

(ii) not later than 2 years after the date of enactment of this paragraph, submit an interim report to Congress on such program; and

(iii) not later than 5 years after the date of enactment of this paragraph, complete such evaluation and submit to Congress a final report on the program.

(ii) CONSIDERATIONS.—The evaluation and reports under clause (i) shall consider how the program has impacted the continuity of stockpiling and readiness for the stockpile under this paragraph, and the implications of the pro-

gram on the domestic supply chain, cost effec-
tiveness of the program, and access to covered testing equipment and personal pro-

tective equipment for the Federal agencies and health care facilities pursuant to sub-

paragraph (B)(i)(II).

(E) COVERED TESTING EQUIPMENT AND PER-

SONAL, PROTECTIVE EQUIPMENT.—For purposes of this paragraph, the term ‘covered testing equipment and personal protective equipment’ means diagnostic supplies (which may include test kits, reagents, and swabs), respirators, masks, gloves, eye and face protec-
tion, gowns, and any other appropriate ancil-

latory medical equipment or supplies related to testing and protection that meet the Secretary’s requirements for inclusion in the stockpile under paragraph (1)."

By Mr. DURBIN (for himself, Mr. GRIASSLEY, Mr. WHITEHOUSE, Mr. TILLIS, Mr. COONS, Mr. CRAMER, Mr. BOOKER, and Mr. WICKER):

S. 311. A bill to amend the Higher Education Act of 1965 to include cer-

tain employment as a health care prac-
titioner as eligible for public service loan forgiveness, and for other pur-

poses; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself and Mr. CORNYN):

S. 312. A bill to expand eligibility for the Public Service Loan Forgiveness Program in 2007 to encourage doctors to pro-
cure covered testing equipment and personal pro-

tective equipment for the stockpile under paragraph (1); and

''(aa) produce or procure covered testing equipment or personal protective equipment for the stockpile under paragraph (1);''

''(I) shall—''

''(i) the manufacturer (or a subcontractor or agent of the manufacturer)—''

''(1) shall—''

''(i) In general.—The Secretary shall—''

''(i) conduct an evaluation of the program under subsection (i)(II),''

''(ii) not later than 2 years after the date of enactment of this paragraph, submit an interim report to Congress on such program;''

''(ii) the Secretary—''

''(i) conduct an evaluation of the program in such quantities as the Secretary

requires for purposes of the manufacturer's exist-

ing inventory and commercial contracts; and''

''(ii) the Secretary shall—''

''(i) compensate the manufacturer for the covered testing equipment or personal pro-

tective equipment; and''

''(ii) pay a management fee, as appropriate.''
There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 312
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “COVID-19 Safer Detention Act of 2021”;

SEC. 2. DEFINITION OF COVERED EMERGENCY PERIOD.
Section 12003(a)(3)(C) of the CARES Act (18 U.S.C. 6054(c)(3)(C)) is amended—

SEC. 3. HOME DETENTION FOR CERTAIN ELDERLY NONVIOLENT OFFENDERS.
Section 231(g) of the Second Chance Act of 2007 (34 U.S.C. 6054(g)(g)) is amended—

SEC. 4. COMPASSIONATE RELEASE TECHNICAL CORRECTION.
Section 382 of title 18, United States Code, is amended—

SEC. 2. ONLINE PORTAL FOR SNAP BENEFIT REDEMPTION.
Section 7(b)(14) of the Food and Nutrition Act of 2008 (7 U.S.C. 1526(h)(14)) is amended—

By Mr. DURBIN (for himself, Ms. DUCKWORTH, Mr. BOOHER, Ms. SMITH, Ms. BALDWIN, Mr. SANDERS, Mrs. GILLIBRAND, Mrs. SHAHEEN, Ms. ROSEN, Ms. HIRONO, Mr. MERKLEY, and Mr. HARRIS)

S. 313. A bill to amend the Food and Nutrition Act of 2008 to expand online benefit redemption options under the supplemental nutrition assistance program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry,

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 313 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

SECTION 1. SHORT TITLE.
This Act may be cited as the “Expanding SNAP Options Act of 2021”;

SEC. 2. ONLINE PORTAL FOR SNAP BENEFIT REDEMPTION.
Section 7(b)(14) of the Food and Nutrition Act of 2008 (7 U.S.C. 1526(h)(14)) is amended—

(1) in subparagraph (A), by striking “Subject to subparagraph (B), the,” and inserting “The”; and

(2) by striking subparagraph (B) and inserting the following:

“(B) EBT online redemption portal.—

(i) Purpose.—The purpose of this subparagraph is to expand options for and access to food for eligible household members by making the online redemption of program benefits, including the acceptance of EBT cards, more widely available to grocery stores, small retailers, and farmers who face barriers in implementing their own online payment portals.

(ii) Contract.—Not later than 180 days after the date of enactment of the Expanding SNAP Options Act of 2021, the Secretary shall award a contract on a competitive basis 1 or more contracts to 1 or more eligible entities described in clause (iii) to develop an online portal, to be known as the ‘EBT Online Redemption Portal’:

(I) to allow program participants to use online or mobile electronic benefits transactions, including through the acceptance of EBT cards, to purchase food from, and make online payments to, authorized program retailers under the supplemental nutrition assistance program; and

(II) to facilitate food purchase delivery for program participants using the transactions described in clause (i).

(iii) Eligible entity.—An eligible entity referred to in clause (i) shall be a non-profit or nonprofit entity with demonstrable expertise in the development, operation, or maintenance of electronic payment systems (including systems with advanced security protocols), which may include expertise in benefits management or administration of State food assistance programs, as determined by the Secretary.

(iv) Application; portal features.—

(I) Application.—An eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(aa) a description of how the eligible entity plans to implement the requirements described in clause (v); and

(bb) a beta plan that has been user-tested.

(II) Portal features.—In awarding a contract to an eligible entity under clause (i), the Secretary shall give preference to an eligible entity that demonstrates an ability to implement the following features of an EBT Online Redemption Portal:

(aa) Client-facing technology with a primary preference for mobile device or smartphone application.

(bb) Pull-safe systems to maintain privacy and online security of data.

(cc) Ability to redirect a consumer to an existing online platform of a vendor, if applicable.

(dd) Ability to update as technologies evolve.

(ee) Ease of operation for program participants, including multilingual functionality.

(ff) Interoperability with delivery technologies and interfaces.

(gg) Identification of participating retailers within geographic proximity to the user.

(hh) Ability to perform single transactions using mixed tender, including a single transaction for eligible food items using an EBT card and noneligible items using another form of payment.

(ii) Adherence to a comprehensive business continuity and disaster recovery plan—

(AA) to allow the portal to recover from any interruption of service; and
Resolved.

SECTION 1. GENERAL AUTHORITY.

In carrying out its powers, duties, and functions under the Standing Rules of the Senate in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate and S. Res. 445 (108th Congress), the Senate shall, on notice, hold hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate on Homeland Security and Governmental Affairs (in this resolution referred to as the ‘‘committee’’) be authorized from March 1, 2021 through February 28, 2022, in its discretion, to—

(1) make expenditures from the contingent fund of the Senate;
(2) employ personnel; and
(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. EXPENSES.

(a) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2021.—The expenses of the committee for the period March 1, 2021 through September 30, 2021 shall not exceed $6,430,401, of which amount—

(1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(1))); and
(2) not to exceed $20,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(b) EXPENSES FOR FISCAL YEAR 2022 PERIOD.—The expenses of the committee for the period October 1, 2021 through September 30, 2022 under this resolution shall not exceed $11,023,545, of which amount—

(1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(1))); and
(2) not to exceed $20,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR PERIOD ENDING FEBRUARY 26, 2023.—The expenses of the committee for the period October 1, 2022 through February 26, 2023 under this resolution shall not exceed $4,583,144, of which amount—

(1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(1))); and
(2) not to exceed $20,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

SEC. 3. EXPENSES AND AGENCY CONTRIBUTIONS.

(a) EXPENSES OF THE COMMITTEE.—

(1) IN GENERAL.—Except as provided in paragraph (2), expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

(b) NO FUNDING NOT REQUIRED.—Vouchers shall not be required for—

(A) the disbursement of salaries of employees paid at an annual rate;
(B) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper;
(C) the payment of stationery supplies purchased through the Keeper of the Stationery;  
(D) payments to the Postmaster of the Senate;  
(E) the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper;  
(F) the payment of Senate Recording and Photographic Services or such sums as may be necessary for agency contributions related to the compensation of employees of the committee;  
(G) the payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper.  

(6) AGENCY CONTRIBUTIONS.—There are authorized to be paid from the appropriations account for “Expenses of Inquiries and Investigations” such sums as may be necessary for agency contributions related to the compensation of employees of the committee:  
(1) for the period March 1, 2021 through September 30, 2021;  
(2) for the period October 1, 2021 through September 30, 2022; and  
(3) for the period October 1, 2022 through February 28, 2023.  

SEC. 4. INVESTIGATIONS.  
(a) In General.—The committee, or any duly authorized subcommittee of the committee, is authorized to study or investigate—  
(1) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, conflict of interest, creation of unauthorized legal or regulatory acts, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions involving loans, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporate entities, companies, or persons affiliated therewith, doing business with the Government, and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;  
(2) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations, or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes should be made in the labor laws of the United States in order to protect such interests against the occurrence of such practices or activities;  
(b) Organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner in which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate such groups or organizations of persons engaged in organized criminal activity which persons engaged in organized criminal activity have infiltrated lawful business enterprises, and to study the adequacy of Federal laws, the operations of organized crime in interstate or international commerce, and to determine whether any changes are required in the laws of the United States to protect the public against such practices or activities;  
(c) all other aspects of crime and lawlessness within the United States which have an impact upon the national health, welfare, and safety, including but not limited to investment fraud schemes, commodity and security fraud, computer crime, and theft of offshore banking and corporate facilities to carry out criminal objectives;  
(d) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—  
(A) the effectiveness of present national security operations;  
(B) the implementation of present national security staffing, methods, and processes to make full use of the Nation’s resources of knowledge and talent;  
(C) the adequacy of present intergovernmental relations between the United States and international organizations that have an impact upon or affect the national health, welfare, and safety, including but not limited to their exercise of veto power;  
(D) the implementation of effective energy conservation measures;  
(E) the pricing of energy in all forms;  
(F) the coordination of energy programs with State and local governmental authorities;  
(G) the control of imports of scarce fuels;  
(H) the management of energy supplies by public and private entities;  
(I) the implementation of effective energy conservation measures;  
(J) the pricing of energy in all forms;  
(K) the monitoring of compliance by governmental, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies;  
(L) research into the discovery and development of alternative energy supplies; and  
(M) the efficiency and economy of all branches and functions of Government with particular reference to the operations and management of Federal regulatory policies and programs.  

(b) Extent of Inquiries.—In carrying out the duties provided in subsection (a), the committee or any subcommittee of the committee shall not be construed to be limited to the records, functions, and operations of any particular branch of the Government and may extend to the records and activities of any persons, corporation, or other entity.  

(c) Special Committee Authority.—For the purposes of this section the committee, or any duly authorized subcommittee of the committee, or its chairman, or any other member of the committee or subcommittee designated by the chairman is authorized, in its, his, her, or their discretion—  
(1) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents;  
(2) to hold hearings;  
(3) to sit and act at any time or place during the session of the Senate;  
(4) to administer oaths; and  
(5) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee, by deposition in accordance with the Committee Rules of Procedure.  

(d) Authority of Other Committees.—Nothing contained in this section shall affect the exercise by any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946.  

(e) Subpoena Authority.—All subpoenas and related legal processes of the committee and any duly authorized subcommittee of the committee authorized under S. Res. 70 (116th Congress), agreed to February 27, 2019, are authorized to continue.  

SENATE RESOLUTION 49—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
Mr. CARPER submitted the following resolution; from the Committee on Environment and Public Works; which was referred to the Committee on Rules and Administration:  

S. RES. 49  
Resolved.  
SEC. 1. GENERAL AUTHORITY.  
In carrying out its powers, duties, and functions under the Standing Rules of the Senate and the Rules of the Senate, in accordance with section 202(j) of the Legislative Reorganization Act of 1946, the committee authorized under S. Res. 49 is authorized under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works (in this resolution referred to as “the Committee”) is authorized from March 1, 2021 through February 28, 2023, in its discretion, to—  
(1) make expenditures from the contingent fund of the Senate;  
(2) employ personnel; and  
(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.  

SEC. 2. EXPENSES.  
(a) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2021.—The expenses of the committee for the period March 1, 2021 through September 30, 2021 shall not exceed $3,109,821, of which amount—  
(1) not to exceed $4,665 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(1))); and  
(2) not to exceed $1,166 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(7) of that Act).  
(b) EXPENSES FOR FISCAL YEAR 2022 PERIOD.—The expenses of the committee for the period October 1, 2021 through September 30, 2022 under this resolution shall not exceed $5,675,895, of which amount—  
(1) not to exceed $8,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(1))); and  
(2) not to exceed $2,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(7) of that Act).  
(c) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2023.—The expenses of the committee for
the period October 1, 2022 through February 28, 2023 under this resolution shall not exceed $2,964,874, of which amount—

(1) not to exceed $3,334 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and

(2) not to exceed $384 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

SEC. 3. EXPENSES AND AGENCY CONTRIBUTIONS.

(a) EXPENSES OF THE COMMITTEE.—

(1) IN GENERAL.—Except as provided in paragraph (2), expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

(2) VOUCHERS NOT REQUIRED.—Vouchers shall not be required for—

(A) the disbursement of salaries of employees paid at an annual rate;

(B) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper;

(C) the payment of stationery supplies purchased through the Keeper of the Stationery;

(D) payments to the Postmaster of the Senate;

(E) the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper;

(F) the payment of Senate Recording and Photographic Services; or

(G) the payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper.

(b) AGENCY CONTRIBUTIONS.—There are authorized to be paid from the appropriations account for “Expenses of Inquiries and Investigations” of the Senate such sums as may be necessary for agency contributions related to the compensation of employees of the committee—

(1) for the period March 1, 2021 through September 30, 2021;

(2) for the period October 1, 2021 through September 30, 2022; and

(3) for the period October 1, 2022 through February 28, 2023.

SENATE RESOLUTION 50—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

Mr. REED submitted the following resolution; from the Committee on Armed Services; which was referred to the Committee on Rules and Administration:

Resolved, SECTION 1. GENERAL AUTHORITY.

In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs (in this resolution referred to as the “committee”) is authorized from March 1, 2021 through February 28, 2023, in its discretion, to—

(1) make expenditures from the contingent fund of the Senate;

(2) employ personnel; and

(3) exercise the powers of a department or agency as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i)); and

(b) AGENCY CONTRIBUTIONS.—There are authorized to be paid from the appropriations account for “Expenses of Inquiries and Investigations” of the Senate such sums as may be necessary for agency contributions related to the compensation of employees of the committee—

(1) for the period March 1, 2021 through September 30, 2021;

(2) for the period October 1, 2021 through September 30, 2022; and

(3) for the period October 1, 2022 through February 28, 2023.

SENATE RESOLUTION 51—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BROWN submitted the following resolution; from the Committee on Banking, Housing, and Urban Affairs; which was referred to the Committee on Rules and Administration:

Resolved, SECTION 1. GENERAL AUTHORITY.

In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs (in this resolution referred to as the “committee”) is authorized from March 1, 2021 through February 28, 2023, in its discretion, to—

(1) make expenditures from the contingent fund of the Senate;

(2) employ personnel; and

(3) exercise the powers of a department or agency as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i)); and

(b) AGENCY CONTRIBUTIONS.—There are authorized to be paid from the appropriations account for “Expenses of Inquiries and Investigations” of the Senate such sums as may be necessary for agency contributions related to the compensation of employees of the committee—

(1) for the period March 1, 2021 through September 30, 2021;

(2) for the period October 1, 2021 through September 30, 2022; and

(3) for the period October 1, 2022 through February 28, 2023.
SEC. 3. EXPENSES AND AGENCY CONTRIBUTIONS.  
(a) EXPENSES OF THE COMMITTEE.—  
(1) IN GENERAL.—Except as provided in paragraph (2), expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.  
(2) VOUCHERS NOT REQUIRED.—Vouchers shall not be required for—  
(A) the disbursement of salaries of employees paid at an annual rate;  
(B) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper;  
(C) the payment of stationery supplies purchased through the Keeper of the Stationery;  
(D) payments to the Postmaster of the Senate;  
(E) the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper;  
(F) the payment of Senate Recording and Photographic Services; or  
(G) the payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper.  
(b) AGENCY CONTRIBUTIONS.—There are authorized to be paid from the appropriations accounted for by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i)); and  
(1) not to exceed $2,000,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and  
(2) not to exceed $40,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(i) of that Act).  
(c) EXPENSES FOR FISCAL YEAR 2022.—The expenses of the committee for the period October 1, 2021 through September 30, 2022 under this resolution shall not exceed $6,991,188, of which amount—  
(A) the disbursement of salaries of employees paid at an annual rate;  
(B) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper;  
(C) the payment of stationery supplies purchased through the Keeper of the Stationery;  
(D) payments to the Postmaster of the Senate;  
(E) the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper;  
(F) the payment of Senate Recording and Photographic Services; or  
(G) the payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper.  

SENATE RESOLUTION 52—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY  
Ms. STABENOW submitted the following resolution: from the Committee on Agriculture, Nutrition, and Forestry; which was referred to the Committee on Rules and Administration:  
Resolved,  
SECTION 1. GENERAL AUTHORITY.  
In carrying out its powers, duties, and functions under section 4301(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i)), and under section 5 of such S. Res. 400, the Select Committee on Intelligence (in this resolution referred to as the “committee”) is authorized by section 202(i) of that Act, from March 1, 2021 through February 28, 2023, in its discretion, to—  
(1) make expenditures from the contingent fund of the Senate;  
(2) employ personnel; and  
(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.  
SEC. 2. EXPENSES.—The expenses of the committee for the period October 1, 2021 through September 30, 2022 under this resolution shall not exceed $7,144,187, of which amount not to exceed $17,144 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))): Provided, That such authority shall be available to pay the disbursement of salaries of employees paid at an annual rate; and there are authorized to be paid from the appropriations accounted for by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i)); and  
(1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and  
(2) not to exceed $40,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(i) of that Act).  
(c) EXPENSES FOR FISCAL YEAR 2022.—The expenses of the committee for the period October 1, 2021 through September 30, 2022 under this resolution shall not exceed $6,991,188, of which amount not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))): Provided, That such authority shall be available to pay the disbursement of salaries of employees paid at an annual rate; and there are authorized to be paid from the appropriations accounted for by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i)); and  
(1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and  
(2) not to exceed $40,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(i) of that Act).  
(c) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2023.—The expenses of the committee for the period October 1, 2022 through February 28, 2023 under this resolution shall not exceed $2,265,035, of which amount—  
(A) the disbursement of salaries of employees paid at an annual rate;  
(B) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper;  
(C) the payment of stationery supplies purchased through the Keeper of the Stationery;  
(D) payments to the Postmaster of the Senate;  
(E) the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper;  
(F) the payment of Senate Recording and Photographic Services; or  
(G) the payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper.  

SENATE RESOLUTION 53—AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE  
Mr. WARNER submitted the following resolution: from the Select Committee on Intelligence; which was referred to the Committee on Rules and Administration:  
Resolved,
be necessary for agency contributions related to the compensation of employees of the committee—
(1) for the period March 1, 2021 through September 30, 2021;
(2) for the period October 1, 2021 through September 30, 2022; and
(3) for the period October 1, 2022 through February 28, 2023.

SENATE RESOLUTION 54—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON INDIAN AFFAIRS

Mr. SCHATZ submitted the following resolution; from the Committee on Indian Affairs; which was referred to the Committee on Rules and Administration:

S. Res. 54

Resolved,

SECTION 1. GENERAL AUTHORITY.

In carrying out its powers, duties, and functions imposed by section 105 of S. Res. 104, agreed to February 4, 1977 (95th Congress), and in exercising the authority conferred by that section on the Committee on Indian Affairs (in this resolution referred to as the ‘‘committee’’) is authorized from March 1, 2021 through February 28, 2023, in its discretion, to—

(1) make expenditures from the contingent fund of the Senate;
(2) employ personnel; and
(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. EXPENSES.

(a) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2021.—The expenses of the committee for the period March 1, 2021 through September 30, 2021 under this resolution shall not exceed $1,416,443, of which amount—
(1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and
(2) not to exceed $25,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(b) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2022.—The expenses of the committee for the period October 1, 2021 through September 30, 2022 under this resolution shall not exceed $1,053,681, of which amount—
(1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and
(2) not to exceed $25,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2023.—The expenses of the committee for the period October 1, 2022 through February 28, 2023 under this resolution shall not exceed $931,416, of which amount—
(1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and
(2) not to exceed $25,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

SEC. 3. EXPENSES AND AGENCY CONTRIBUTIONS.

(a) EXPENSES OF THE COMMITTEE.

(1) EXPENSES AS AUTHORIZED—In general.—Except as provided in paragraph (2), expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

(2) VOUCHERS NOT REQUIRED.—Vouchers shall not be required for—
(A) the disbursement of salaries of employees paid at an annual rate;
(B) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper;
(C) the payment of such funds as may be necessary for agency contributions related to the compensation of employees of the committee—
(1) for the period March 1, 2021 through September 30, 2021;
(2) for the period October 1, 2021 through September 30, 2022; and
(3) for the period October 1, 2022 through February 28, 2023.

(b) AGENCY CONTRIBUTIONS.—There are authorized to be paid from the appropriations account for ‘‘Expenditures of Inquiries and Investigations’’ of the Senate such sums as may be necessary for agency contributions related to the compensation of employees of the committee—
(1) for the period March 1, 2021 through September 30, 2021;
(2) for the period October 1, 2021 through September 30, 2022; and
(3) for the period October 1, 2022 through February 28, 2023.

SEC. 4. EXPENSES OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. MURRAY submitted the following resolution; from the Committee on Health, Education, Labor, and Pensions:

S. Res. 55

Resolved,

SECTION 1. GENERAL AUTHORITY.

In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Health, Education, Labor, and Pensions (in this resolution referred to as the ‘‘committee’’) is authorized from March 1, 2021 through February 28, 2023, in its discretion, to—

(1) make expenditures from the contingent fund of the Senate;
(2) employ personnel; and
(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. EXPENSES.

(a) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2021.—The expenses of the committee for the period March 1, 2021 through September 30, 2021 under this resolution shall be paid from the funds of the Senate;

(b) EXPENSES FOR FISCAL YEAR 2022 PERIOD.—The expenses of the committee for the period October 1, 2021 through September 30, 2022 under this resolution shall not exceed $1,053,681, of which amount—
(1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and
(2) not to exceed $25,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2022 PERIOD.—The expenses of the committee for the period October 1, 2022 through February 28, 2023 under this resolution shall not exceed $931,416, of which amount—
(1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and
(2) not to exceed $25,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

SEC. 3. EXPENSES AND AGENCY CONTRIBUTIONS.

(a) EXPENSES OF THE COMMITTEE.

(1) EXPENSES AS AUTHORIZED—In general.—Except as provided in paragraph (2), expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

(2) VOUCHERS NOT REQUIRED.—Vouchers shall not be required for—
(A) the disbursement of salaries of employees paid at an annual rate;
(B) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper;
(C) the payment of such funds as may be necessary for agency contributions related to the compensation of employees of the committee—
(1) for the period March 1, 2021 through September 30, 2021;
(2) for the period October 1, 2021 through September 30, 2022; and
(3) for the period October 1, 2022 through February 28, 2023.

(b) AGENCY CONTRIBUTIONS.—There are authorized to be paid from the appropriations account for ‘‘Expenditures of Inquiries and Investigations’’ of the Senate such sums as may be necessary for agency contributions related to the compensation of employees of the committee—
(1) for the period March 1, 2021 through September 30, 2021;
(2) for the period October 1, 2021 through September 30, 2022; and
(3) for the period October 1, 2022 through February 28, 2023.
SECTION 1. GENERAL AUTHORITY.

In carrying out its powers, duties, and functions, the Senate shall make investigations and, making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, including holding hearings, reporting such investigations, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation (in this resolution referred to as the “committee”) is authorized from March 1, 2021 through February 28, 2023, in its discretion, to—

(A) make expenditures from the contingent fund of the Senate;

(B) employ personnel; and

(C) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. EXPENSES.

(a) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2021.—The expenses of the committee for the period March 1, 2021 through September 30, 2021 under this resolution shall not exceed $4,561,289, of which amount—

(1) not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and

(2) not to exceed $50,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(b) EXPENSES FOR FISCAL YEAR 2022 PERIOD.—The expenses of the committee for the period October 1, 2021 through September 30, 2022 under this resolution shall not exceed $7,969,484, of which amount—

(1) not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and

(2) not to exceed $50,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2023.—The expenses of the committee for the period October 1, 2021 through February 28, 2023 under this resolution shall not exceed $3,278,947, of which amount—

(1) not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and

(2) not to exceed $50,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

SEC. 3. EXPENSES AND AGENCY CONTRIBUTIONS.

(a) EXPENSES OF THE COMMITTEE.—

(1) IN GENERAL.—Except as provided in paragraph (2), expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

(B) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper;

(C) the payment of stationery supplies purchased through the Keeper of the Stationery;

(D) payments to the Postmaster of the Senate;

(E) the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper;

(F) the payment of Senate Recording and Photographic Services; and

(G) the payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper.

(b) AGENCY CONTRIBUTIONS.—There are authorized to be paid from the appropriations account for “Expenses of Inquiries and Investigations” of the Senate such sums as may be necessary for agency contributions related to the compensation of employees of the committee—

(1) for the period March 1, 2021 through September 30, 2021;

(2) for the period October 1, 2021 through September 30, 2022; and

(3) for the period October 1, 2022 through February 28, 2023.

SIXTEEN HUNDRED AND THIRTY-NINE (1639) proposed an amendment to the bill S. 35, to award a Congressional Gold Medal to Officer Eugene Goodman; as follows:

TEXT OF AMENDMENTS

SA 890. Mr. SCHUMER (for Mr. VAN HOLLEN) proposed an amendment to the bill S. 35, to award a Congressional Gold Medal to Officer Eugene Goodman; as follows:

Strike all after the enacting clause and insert the following:

Whereas research has demonstrated that startups—

(1) are disproportionately responsible for the innovations that drive gains in productivity, which, in turn, propel economic growth; and

(2) account for an outsized portion of net new job creation in the United States; and

Whereas the Partnership for 21st Century Education has shown that entrepreneurial learning, training, and workforce development programs as individuals and across a broad range of industries.

AMENDMENTS SUBMITTED AND PROPOSED

SA 890. Mr. SCHUMER (for Mr. VAN HOLLEN) proposed an amendment to the bill S. 35, to award a Congressional Gold Medal to Officer Eugene Goodman; as follows:

TEXT OF AMENDMENTS

SA 890. Mr. SCHUMER (for Mr. VAN HOLLEN) proposed an amendment to the bill S. 35, to award a Congressional Gold Medal to Officer Eugene Goodman; as follows:

Whereas the Partnership for 21st Century Education has shown that entrepreneurial learning, training, and workforce development programs as individuals and across a broad range of industries.

Whereas research has demonstrated that startups—

(1) are disproportionately responsible for the innovations that drive gains in productivity, which, in turn, propel economic growth; and

(2) account for an outsized portion of net new job creation in the United States; and

Whereas the Partnership for 21st Century Education has shown that entrepreneurial learning, training, and workforce development programs as individuals and across a broad range of industries.

Whereas research has demonstrated that startups—

(1) are disproportionately responsible for the innovations that drive gains in productivity, which, in turn, propel economic growth; and

(2) account for an outsized portion of net new job creation in the United States; and

Whereas the Partnership for 21st Century Education has shown that entrepreneurial learning, training, and workforce development programs as individuals and across a broad range of industries.
CONGRESSIONAL RECORD — SENATE

February 12, 2021

SECTION 1. SHORT TITLE.
This Act may be cited as the “Officer Eugene Goodman Congressional Gold Medal Act”.

SEC. 2. FINDINGS.
The Congress finds the following:
(1) On January 6, 2021, the United States Capitol Building was attacked by armed insurrectionists.
(2) Members of the United States Capitol Police force were overrun and insurrectionists breached the Capitol at multiple points.
(3) Around 2:14 in the afternoon, United States Capitol Police Officer Eugene Goodman confronted an angry group of insurrectionists who unlawfully entered the Capitol, according to video footage taken by Igor Bobic, a reporter with the Huffington Post.
(4) Officer Goodman, alone, delayed the mob’s advance towards the United States Senate Chamber and alerted his fellow officers to the location of the insurrectionists.
(5) Upon reaching a second floor corridor, Officer Goodman noticed the entrance to the Senate Chamber was unguarded.
(6) As the mob approached, Officer Goodman intentionally diverted attention away from the Senate entrance and led the mob to an alternate location and additional awaiting officers.
(7) At 2:15 in the afternoon, a Washington Post reporter from inside the Senate Chamber noted “Senate sealed” with Senators, staff, and members of the press inside.
(8) Officer Eugene Goodman’s selfless and quick-thinking actions doubtlessly saved lives and bought security personnel precious time to secure and ultimately evacuate the Senate before the armed mob breached the Chamber.
(9) Amidst a shocking, unpatriotic attack on the Capitol, Officer Goodman’s heroism is recognized not only by Members of Congress and staff but also by the people of the United States they represent.
(10) By putting his own life on the line and successfully, single-handedly leading insurrectionists away from the floor of the Senate Chamber, Officer Eugene Goodman performed his duty to protect the Congress with distinction, and by his actions, Officer Goodman left an indelible mark on American history.
(11) Officer Goodman’s actions exemplify the heroism of the many men and women who risked their lives to defend the Capitol on January 6, 2021.

SEC. 3. CONGRESSIONAL GOLD MEDAL.
(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President pro tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design to Officer Eugene Goodman.
(b) DESIGN AND STRIKING.—
(1) IN GENERAL.—For the purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (referred to in this Act as the “Secretary”) shall strike the gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.
(2) IMAGE AND NAME.—The design shall bear an image of, and inscription of the name of, Officer Eugene Goodman.

SEC. 4. DUPLICATE MEDALS.
The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 3 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses.

SEC. 5. STATUS OF MEDALS.
(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.
(b) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

ADJOURNMENT UNTIL 10 A.M. TOMORROW
Mr. SCHUMER. Mr. President, I ask unanimous consent that the trial adjourn until 10 a.m. tomorrow, Saturday, February 13, and that this also constitute the adjournment of the Senate.
There being no objection, at 6:29 p.m., the Senate, sitting as a Court of Impeachment, adjourned until Saturday, February 13, 2021, at 10 a.m.
Chamber Action

Routine Proceedings, pages S667–S716

Measures Introduced: Twenty-three bills and ten resolutions were introduced, as follows: S. 308–330, and S. Res. 48–57.

Measures Reported:

- S. Res. 48, authorizing expenditures by the Committee on Homeland Security and Governmental Affairs.
- S. Res. 49, authorizing expenditures by the Committee on Environment and Public Works.
- S. Res. 50, authorizing expenditures by the Committee on Armed Services.
- S. Res. 51, authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs.
- S. Res. 52, authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry.
- S. Res. 53, authorizing expenditures by the Select Committee on Intelligence.
- S. Res. 54, authorizing expenditures by the Committee on Indian Affairs.
- S. Res. 55, authorizing expenditures by the Committee on Health, Education, Labor, and Pensions.
- S. Res. 56, authorizing expenditures by the Committee on Commerce, Science, and Transportation.

Measures Passed:

- Officer Eugene Goodman Congressional Gold Medal Act: Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of S. 35, to award a Congressional Gold Medal to Officer Eugene Goodman, and the bill was then passed, after agreeing to the following amendment proposed thereto:

  Schumers (for Van Hollen) Amendment No. 890, in the nature of a substitute.

- Impeachment of Former President Trump—Agreement: Senate continued consideration of the Article of Impeachment against Donald John Trump, former President of the United States, at approximately 10 a.m., on Saturday, February 13, 2021.

Executive Communications: Pages S703–04

Executive Reports of Committees: Page S705

Additional Cosponsors: Pages S706–07

Statements on Introduced Bills/Resolutions: Pages S707–15

Additional Statements: Pages S702–03

Amendments Submitted: Pages S715–16

Adjournment: Senate convened at 12 noon and adjourned at 6:29 p.m., until 10 a.m. on Saturday, February 13, 2021. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S716.)

Committee Meetings

(Business not listed did not meet)

BUSINESS MEETING

Committee on Appropriations: Committee announced the following subcommittee assignments for the 117th Congress:

- Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies: Senators Baldwin (Chair), Merkley, Feinstein, Tester, Leahy, Schatz, Heinrich, Hoeven, McConnell, Collins, Blunt, Moran, Hyde-Smith, and Braun.
- Subcommittee on Commerce, Justice, Science, and Related Agencies: Senators Shaheen (Chair), Leahy, Feinstein, Reed, Coons, Schatz, Manchin, Van Hollen, Merkley, Moran, Murkowski, Collins, Graham, Boozman, Capito, Kennedy, Hagerty, and Braun.
- Subcommittee on Department of Defense: Senators Tester (Chair), Durbin, Leahy, Feinstein, Murray, Reed, Slatz, Baldwin, Shaheen, Shelby, McConnell, Collins, Murkowski, Graham, Blunt, Moran, Hoeven, and Boozman.
- Subcommittee on Energy and Water Development: Senators Feinstein (Chair), Murray, Tester, Durbin, Shaheen, Merkley, Coons, Baldwin, Heinrich, Kennedy,
McConnell, Shelby, Collins, Murkowski, Graham, Hoeven, Hyde-Smith, and Hagerty.

Subcommittee on Financial Services and General Government: Senators Van Hollen (Chair), Coons, Durbin, Manchin, Hyde-Smith, Moran, Boozman, and Kennedy.

Subcommittee on Department of Homeland Security: Senators Murphy (Chair), Tester, Shaheen, Leahy, Murray, Baldwin, Capito, Shelby, Murkowski, Hoeven, Kennedy, and Hyde-Smith.

Subcommittee on Department of the Interior, Environment, and Related Agencies: Senators Merkley (Chair), Feinstein, Leahy, Reed, Tester, Van Hollen, Heinrich, Merkley, Blunt, McConnell, Capito, Hyde-Smith, Hagerty, and Rubio.

Subcommittee on Departments of Labor, Health and Human Services, and Education, and Related Agencies: Senators Murray (Chair), Durbin, Reed, Shaheen, Merkley, Schatz, Baldwin, Murphy, Manchin, Blunt, Shelby, Graham, Moran, Capito, Kennedy, Hyde-Smith, Braun, and Rubio.

Subcommittee on Legislative Branch: Senators Reed (Chair), Murphy, Heinrich, Braun, Shelby, and Rubio.

Subcommittee on Military Construction, Veterans Affairs, and Related Agencies: Senators Heinrich (Chair), Schatz, Tester, Murray, Reed, Baldwin, Coons, Manchin, Boozman, McConnell, Murkowski, Hoeven, Collins, Capito, Rubio, and Hagerty.

Subcommittee on State, Foreign Operations, and Related Programs: Senators Coons (Chair), Leahy, Durbin, Shaheen, Merkley, Murphy, Van Hollen, Graham, McConnell, Blunt, Boozman, Moran, Rubio, and Hagerty.

Subcommittee on Transportation, Housing and Urban Development, and Related Agencies: Senators Schatz (Chair), Reed, Murray, Durbin, Feinstein, Coons, Murphy, Manchin, Van Hollen, Collins, Shelby, Blunt, Boozman, Capito, Graham, Hoeven, Kennedy, and Braun.

Senators Leahy and Shelby are ex officio members of each subcommittee.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee ordered favorably reported an original resolution authorizing expenditures by the committee for the 117th Congress.

Chamber Action

The House was not in session today. The House is scheduled to meet in Pro Forma session at 9:30 a.m. on Monday, February 15, 2021.

Committee Meetings

MISCELLANEOUS MEASURE

Committee on Energy and Commerce: Full Committee concluded a markup on legislative recommendations to comply with the reconciliation directive included in section 2001 of the Concurrent Resolution on the Budget for Fiscal Year 2021, S. Con. Res. 5. Legislation to comply with the reconciliation directive was adopted, as amended, and ordered reported to the House Committee on the Budget.

MISCELLANEOUS MEASURES

Committee on Oversight and Reform: Full Committee held a markup on legislation providing for reconciliation pursuant to S. Con. Res. 5; H.R. 813, to designate the facility of the United States Postal Service located at 1101 Charlotte Street in Georgetown, South Carolina, as the “Joseph Hayne Rainey Memorial Post Office Building”; H.R. 772, to designate the facility of the United States Postal Service located at 229 Minnetonka Avenue South in Wayzata, Minnesota, as the “Jim Ramstad Post Office”. Legislation to comply with the reconciliation directive was adopted, as amended, and ordered reported to the House Committee on the Budget. H.R. 813, H.R. 208, H.R. 264, and H.R. 772 were ordered reported, without amendment.

Joint Meetings

No joint committee meetings were held.
COMMITTEE MEETINGS FOR SATURDAY, FEBRUARY 13, 2021

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Finance: business meeting to consider an original resolution authorizing expenditures by the committee for the 117th Congress, 11:30 a.m., S–207, Capitol.

Committee on Small Business and Entrepreneurship: organizational business meeting to consider committee rules, and an original resolution authorizing expenditures by the committee for the 117th Congress, 9:15 a.m., S–110, Capitol.

House

No hearings are scheduled.
Next Meeting of the SENATE
10 a.m., Saturday, February 13

Senate Chamber
Program for Saturday: Senate will continue consideration of the Article of Impeachment against Donald John Trump, former President of the United States.

Next Meeting of the HOUSE OF REPRESENTATIVES
9:30 a.m., Monday, February 15

House Chamber
Program for Monday: House will meet in Pro Forma session at 9:30 a.m.