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Senate

The Senate met at 1:05 p.m. and was called to order by the Chief Justice of the United States.

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

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

The Chaplain will please lead us in prayer.

PRAYER

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

Let us pray.

Almighty God, as we resume this impeachment trial, let Your will be done. Enlighten our Senators as You show them Your will. Lord, guide them with Your wisdom, supporting them with Your power. In spite of disagreements, may they strive for civility and respect. May they respect the right of the opposing side to differ regarding convictions and conclusions. Give them the wisdom to distinguish between facts and opinions without lambasting the messengers.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

THE JOURNAL

The CHIEF JUSTICE. Will Senators please be seated.

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

Hearing no objection, it is so ordered.

The Sergeant at Arms will make the proclamation.

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

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

The CHIEF JUSTICE. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. Chief Justice, for all of our colleagues' information about scheduling, today we will plan to take short breaks every 2 to 3 hours and will accommodate a 30-minute recess for dinner, assuming it is needed, until the House managers have finished their opening presentation.

For scheduling purposes, we have organized tomorrow's session to convene at 10 a.m. and run for several hours as the President's counsel begin their presentation.

The CHIEF JUSTICE. Pursuant to the provisions of S. Res. 483, the managers for the House of Representatives have 7 hours 53 minutes remaining to make the presentation of their case.

The Senate will now hear you.

OPENING STATEMENT—CONTINUED

Mr. Manager SCHIFF. Mr. Chief Justice, Senators, distinguished counsel of the President, I keep wanting to say ''good morning,'' but good afternoon. I just wanted to give a very brief orientation to the argument you will hear today.

We will begin with JASON CROW, who was talking about the conditionality of the military assistance. This is the latter part, although not the end, of the argumentation on the application of the constitutional law as it respects article I, the abuse of power. I will have a presentation after Mr. CROW, and soon thereafter we will conclude the presentation on article I. We will then begin the presentation on article II, once again applying the constitutional law to the facts on the President's obstruction of Congress. We will then have some concluding thoughts and then turn it over to the President's counsel.

That is what you should expect for the day, and with that, I will now yield to Mr. CROW of Colorado.

Mr. Manager CROW. Mr. Chief Justice, good afternoon. I woke up this morning and walked to my local coffee shop, where, unlike my esteemed colleague Mr. JEFFRIES from New York, nobody complained to me about Colorado baseball. So I could only conclude that this is only a New York Yankees problem.

As Mr. SCHIFF mentioned, we talked last night about the July 25 call and the multiple officials who had confirmed the intent of the President in withholding the aid, so now I would like to turn to what happened around the time the aid was lifted.

We know that the aid was lifted ultimately on September 11, but it wasn't lifted for any legitimate reason. It was only lifted because President Trump had gotten caught. Let's go through how we know that.

On August 26, the whistleblower complaint had been sent to the Director of National Intelligence, and public reports indicate that President Trump was told about the complaint by White House Counsel Pat Cipollone.

On September 5, though, the scheme became public. An editorial in the Washington Post on that day, for the first time publicly, explicitly linked the military aid hold and the investigations that President Trump wanted.

Keep in mind that public scrutiny of the President's hold increased exponentially after this became public. And this is where things start moving really fast.

A few days later, on September 9, the House investigative committees publicly announced their investigation of the President's conduct in Ukraine. Lieutenant Colonel Vindman testified to the National Security Council, and others at the White House learned about the investigation when it was announced. And a colleague of his said that it might have the effect of releasing the aid. On that same day, the

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

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House Intelligence Committee learns that the administration had withheld the whistleblower complaint from Congress. The scheme was unravelling. What happens 2 days later? President Trump released the military aid.

He only released it after he got caught. But there is another reason we know the President lifted the aid only because he got caught: because there is no other explanation. The testimony of all of the witnesses confirmed it. Both Lieutenant Colonel Vindman and Ms. Williams testified that they were not provided any reason for lifting the hold. Vindman testified that nothing on the ground had changed in the 2 months of the hold, and Mark Sandy of the OMB also confirmed that. Ambassador Taylor, too, testified that ''I was not told the reason why the hold had been lifted.''

Let me take a moment to address another defense I expect you will hear: that the aid was released and the investigations were never announced; so therefore no harm, no foul, right? Well, this defense would be laughable if this issue wasn't so serious.

First, I have spoken over the past 3 days about the real consequences of inserting politics into matters of war. Real people, real lives are at stake. Every day, every hour matters. So, no, the delay wasn't meaningless. Just ask the Ukrainians sitting in trenches right now. And to this day, they are still waiting on $18 million of the aid that hasn't reached them.

Jennifer Williams, who attended the Warsaw meeting with Vice President PENCE, described President Zelensky's focus during this time.

(Text of Videotape presentation:)

Mr. GOLDMAN. And you testified in your deposition that in that conversation President Zelensky emphasized that the military assistance, the security assistance, was not just important to assist Ukraine in fighting a war against Russia but that it was also symbolic in nature. What did you understand him to mean by that?

Ms. WILLIAMS. President Zelensky explained that more than—or just equally with—the financial and physical value of the assistance, that it was the symbolic nature of that assistance that really was the show of U.S. support for Ukraine and for Ukraine's sovereignty and territorial integrity. And I think he was stressing that to the Vice President to really underscore the need for the security assistance to be released.

Mr. GOLDMAN. And, then, if the United States was holding the security assistance, is it also true then that Russia could see that as a sign of weakening U.S. support for Ukraine and take advantage of that?

Ms. WILLIAMS. I believe that is what President Zelensky was indicating, that any signal or sign that U.S. support was wavering would be construed by Russia as potentially an opportunity for them to strengthen their own hand in Ukraine.

Mr. Manager CROW. This is an important point, particularly when the President and his attorneys tried to argue: no harm, no foul.

The financial assistance itself was really important to Ukraine, no question about it. But the aid was equally important as a signal to Russia of our support for Ukraine. And regardless of whether the aid was ultimately released, the fact that the hold became public sent a very clear signal to Russia that our support for Ukraine was wavering, and Russia was watching very closely for any sign of weakness. The damage was done.

Now, any possible doubt about whether the aid was linked to the investigations has been erased by the President's own Chief of Staff. We have seen this video before during the trial, but there is a really good reason for this. It is a complete admission on national TV that the military aid was conditioned on Ukraine helping the President's political campaign.

Here, once again, is what Mulvaney said.

(Text of Videotape presentation:)

Mr. MULVANEY. Did he also mention to me in the past the corruption related to the DNC server? Absolutely. No question about that. But that is it. And that's why we held up the money.

Mr. Manager CROW. When pressed that he just confessed to the very quid pro quo that President Trump had been denying, Mulvaney doubled down.

(Text of Videotape presentation:)

QUESTION. To be clear, what you just described is a quid pro quo. Funding will not flow unless the investigation into the Democratic server happened as well.

Mr. MULVANEY. We do that all the time with foreign policy. If you read the news reports and you believe them, what did McKinney say yesterday? Well, McKinney said yesterday that he was really upset with the political influence in foreign policy. That was one of the reasons he was so upset about this. And I have news for everybody: Get over it. There is going to be political influence in foreign policy.

Mr. Manager CROW. Remember, at the time he made these statements, Mulvaney was both the head of OMB and the Acting Chief of Staff at the White House. He knew about all of the legal concerns. He also knew about the President's so-called drug deal, as Ambassador Bolton called it. He knew exactly what was going on in the Oval Office and how OMB implemented the President's illegal order to hold the aid.

Mulvaney confirmed why the President ordered the hold. It was not to develop further policy to counter aggression. It was not to convince the Ukrainians to implement additional anti-corruption reforms. And it was not to pressure our allies to give more to Ukraine.

Since we won't have an opportunity to respond to the President's presentation, I am going to take a minute to respond to some of the arguments that I expect them to make.

You will notice, I am sure, that they will ignore significant portions of the evidence, while trying to cherry-pick individual statements here and there to manufacture defenses. But don't be fooled.

One defense you may hear is that the aid was held up to allow for a policy review. This is what the administration told the GAO at one point. But the evidence shows the opposite. The evidence shows that the administration didn't conduct a review at any time after the President ordered the hold.

Laura Cooper was not aware of any review of the funding conducted by DOD in July, August, or September, and, similarly, George Kent testified that the State Department did not conduct and was never asked to conduct a review of funding administrated by the State Department. In fact, on May 23, the anti-corruption review was complete and DOD certified to Congress that Ukraine had complied with all of the conditions and that the remaining half of the aid should be released. This was confirmed by the June 18 press release announcing the funding.

Do you remember the fictitious ''interagency review process''? That was made up too. No review is necessary because it had already been done.

Next, the President's counsel keeps saying this was about corruption in Ukraine. President Trump was not concerned with fighting corruption. It is difficult to even say that with a straight face. The President never mentioned corruption on either call with President Zelensky. But let's go through the evidence.

As we just discussed, DOD had already completed a review and concluded that Ukraine had ''made sufficient progress in meeting defense reform and anti-corruption goals consistent with the National Defense Authorization Act in order to receive the funds.''

In fact, Mark Sandy, who was not at that meeting but who was initially responsible for approving the hold, said he had never heard corruption as a reason for the hold in all of the discussions he had about it.

Similar to the anti-corruption argument, there is simply no evidence to support the President's after-the-fact argument that he was concerned about burden-sharing; that is, other countries also contributing to Ukraine.

I imagine the President may cite the emails in June about what other countries provided to Ukraine, the reference to other countries' contributions in the July 25 call, and testimony from Sandy about a request for information about what other European countries give to Ukraine. But there is simply no evidence that ties the concern to his decision to hold the funding.

First, let's actually look at the contributions of European countries to Ukraine. There is a slide in front of you. It shows that other European countries have significantly contributed to Ukraine since 2014, and the European Union, in total, has given far more than the United States. The EU is the single largest donor to Ukraine, having provided over $16 billion in grants and loans.

The President's assertion that other countries did not support Ukraine is meritless. There are other reasons too.

After DOD and OMB responded to the President's request, presumably with some of the information we just provided you, showing Europe gives a lot to Ukraine, nobody in the Trump administration mentioned burden-sharing as a reason for the hold to any of the 17 witnesses that we have been talking about.

Sondland, whose actual portfolio is the EU—not Ukraine—testified that he was never asked to speak to the EU or EU member countries about providing more aid to Ukraine. If President Trump were truly concerned about that, he would have been the perfect guy to handle it because he was our Ambassador to the EU. But it never happened. How could it? Sondland himself knew the aid was linked to the investigations because that is what the President himself had told him.

It wasn't until the President's scheme began to unravel, after the White House learned of the whistleblower complaint and after POLITICO publicly revealed the existence of the hold, that the issue of burden-sharing came up again.

If the President's concern were genuinely about burden-sharing, he never made any public statements about it, never ordered a review of burden-sharing, and never ordered his officials to push Europe to increase their contributions. And then he released the aid without any changes in Europe's contributions.

This last point is important. You know the President's purported concern about burden-sharing rings hollow because the aid was released after the President got caught, not because the EU or any European country made any new contributions. As Lieutenant Colonel Vindman testified, the facts on the ground had not changed.

Finally, you may hear the President's counsel say that Ukraine didn't know about the hold until August 28, long after the hold was implemented. Therefore, they could not have felt pressure. But this makes no sense.

First, they found out about it long before August 28. Multiple witnesses testified that the Ukrainians showed ''impressive diplomatic tradecraft'' in learning quickly about the hold, and, of course, they would know. The DOD release was announced in June. U.S. agencies knew about it in July. It should be no surprise that the first inquiries about the aid were on July 25, the same day as the call.

You see, it doesn't matter if extortion lasts 2 weeks or 2 months. It is still extortion, and Ukraine certainly felt the pressure. Other Ukrainian officials also expressed concerns that the Ukrainian government was being singled out and penalized for some reason. And they were, by President Trump.

Do you know how else you know they felt the pressure from the hold? President Zelensky finally relented and was planning to do the CNN interview. Ultimately, right around the time of President Zelensky's conversation with President Trump, which is the subject of the classified document that I urge all Senators to look at, President Zelensky canceled the CNN interview. But the damage was already done.

The evidence is clear. The question for you is whether it is OK for the President to withhold taxpayer money, aid for our ally—our friend at war—for a personal political benefit; whether it was OK for the President to sacrifice our national security for his own election. It is not OK to me, it is certainly not OK with the American people, and it should not be OK to any of you.

Mr. Manager JEFFRIES. Mr. Chief Justice, distinguished Members of the Senate, President's counsel, the American people, once again, we are gathered here, not as Democrats or Republicans, not as the left or the right, not as progressives or conservatives, but as Americans doing our constitutional duty during this moment of Presidential accountability. As House managers, we thank you for your courtesy, your attentiveness, and your hospitality.

At the heart of article II, obstruction of Congress, is a simple, troubling reality. President Trump tried to cheat, he got caught, and then he worked hard to cover it up. The President tried to cheat, he got caught, and then he worked hard to cover it up.

Patrick Henry, one the Nation's great patriots, once said that ''the liberties of a people never were, nor ever will be secure, when the transactions of their rulers may be concealed from them.''

Let's now address the effort by President Trump and his team to cover up his wrongdoing. By July of 2019, White House officials were aware of serious allegations of misconduct by President Trump regarding Ukraine, but instead of halting the President's corrupt scheme, they worked overtime to conceal it from the American people.

As additional evidence of the President's wrongdoing mounted, White House lawyers redoubled their efforts to prevent Congress and the American people from learning of the President's misconduct.

At the same time, top administration officials—including Secretary of State Pompeo, Secretary of Defense Esper, and National Security Advisor John Bolton—tried to convince President Trump to lift the hold on the security assistance. They failed. President Trump was determined to carry out his corrupt scheme.

The military and security aid was only released on September 11 after the hold became public, after the House launched an investigation, and after Congress learned about the existence of a whistleblower complaint. The $391 million in security aid was only released because President Trump was caught redhanded.

The actions of President Trump and high-level White House officials allowed his abuse of power to continue beyond the watchful eye of Congress and, most importantly, the American people.

As we have discussed at length, on July 10, Ambassador Sondland told the Ukrainians and other U.S. officials that he had a deal with Acting Chief of Staff Mick Mulvaney to schedule the White House meeting President Zelensky wanted, if the new Ukrainian leader committed to the phony investigations that President Trump sought.

As you have seen in testimony shown during this trial, following that meeting, National Security Council officials, Dr. Fiona Hill and LTC Alexander Vindman immediately reported this information to John Eisenberg, the Legal Advisor for the National Security Council and a Deputy Counsel to the President. According to Dr. Hill, Mr. Eisenberg told her that he was also concerned about that July 10 meeting. On the screen is Dr. Hill's deposition testimony where she explains Mr. Eisenberg's reaction, saying:

> I mean, he wasn't aware that Sondland, Ambassador Sondland was . . . kind of running around doing a lot of these . . . meetings and independently. We talked about the fact that . . . Ambassador Sondland said he'd been meeting with Giuliani and he was very concerned about that. And he said he would follow up on this.

Mr. Eisenberg was very concerned about that and said that he would follow up on this.

Dr. Hill further testified that Mr. Eisenberg told her that he followed up with his boss, the distinguished White House Counsel, Pat Cipollone. However, because the President blocked Mr. Eisenberg from testifying in the House, we do not know what, if anything, he or Mr. Cipollone did in response to this deeply troubling information. What we do know is that President Trump's effort to cheat continued with reckless abandon. By failing to put the brakes on the wrongdoing after that July 10 meeting—even after they were notified by concerned national security officials—the White House attorneys allowed it to continue unchecked.

Right around the same time that the July 10 meetings at the White House took place, the Office of Management and Budget began executing President Trump's illegal order to withhold all security assistance from Ukraine.

On July 10, Robert Blair, an assistant to the President, communicated the hold to the Acting Director of the Office of Management and Budget, Russell Vought. On July 18, an Office of Management and Budget official communicated the hold to other executive branch agencies, including the Department of State and the Department of Defense. And a week later, on July 25, President Trump had his imperfect telephone call with President Zelensky and directly pressured the Ukrainian leader to commence phony political investigations as part of his effort to cheat and solicit foreign interference in the 2020 election.

The July 25 call marked an important turning point. If there was any

question among senior White House officials and attorneys about whether President Trump was directly involved in the Ukraine scheme, as opposed to just a rogue operation being led by Rudolph Giuliani or some other underlings, after July 25, there can be no mistake that the President of the United States was undoubtedly calling the shots.

Thereafter, the complicity of White House officials with respect to the coverup of the President's misconduct intensified. Immediately after the July 25 call, both Lieutenant Colonel Vindman and his direct supervisor, Tim Morrison, reported their concerns about the call to Mr. Eisenberg and his Deputy, Michael Ellis. In fact, within an hour after the July 25 call, Lieutenant Colonel Vindman returned again a second time to Mr. Eisenberg and reported his concerns.

(Text of Videotape presentation:)

Lt. Col. VINDMAN. I was concerned by the call. What I heard was inappropriate and I reported my concerns to Mr. Eisenberg. It is improper for the President of the United States to demand that a foreign government investigate a U.S. citizen and a political opponent.

I was also clear that if Ukraine pursued an investigation, it was also clear that if Ukraine pursued investigation into the 2016 elections, the Bidens and Burisma, it would be interpreted as a partisan play. This would undoubtedly result in Ukraine losing bipartisan support, undermining U.S. national security and advancing Russia's strategic objectives in the region.

I want to emphasize to the committee that when I reported my concerns on July 10th relating to Ambassador Sondland and then on July 25th relating to the President, I did so out of a sense of duty. I privately reported my concerns in official channels to the proper authority in the chain of command. My intent was to raise these concerns because they had significant national security implications for our country. I never thought that I'd be sitting here testifying in front of this committee and the American public about my actions. When I reported my concerns, my only thought was to act properly and to carry out my duty.

Mr. Manager JEFFRIES. Timothy Morrison, the National Security Council's Senior Director for Europe and Russia, also reported the call to Mr. Eisenberg and asked him to review the call, which he feared would be ''damaging'' if leaked.

(Text of Videotape presentation:)

Mr. GOLDMAN. Now, Mr. Morrison, shortly after you heard the July 25th call, you testified that you alerted the NSC legal advisor, John Eisenberg, pretty much right away. Is that right?

Mr. MORRISON. Correct.

Mr. GOLDMAN. And you indicated in your opening statement, or at least from your deposition, that you went to Mr. Eisenberg out of concern over the potential political fallout if the call record became public and not because you thought it was illegal. Is that right?

Mr. MORRISON. Correct.

Mr. GOLDMAN. But you would agree, right, that asking a foreign government to investigate a domestic political rival is inappropriate. Would you not?

Mr. MORRISON. It's not what we recommended the President discuss.

Mr. Manager JEFFRIES. The July 25 call was at least the second time that National Security Council officials had reported concerns about President Trump's pressure campaign to White House lawyers—the second time—who now clearly understood the gravity of the ongoing misconduct.

But because the President blocked Mr. Eisenberg from testifying without any justification, the record is silent as to what, if any, actions he or the White House Counsel took to address President Trump's brazen misconduct and abuse of power. We do know, however, that instead of trying to halt the scheme, White House lawyers facilitated it by taking affirmative steps to conceal evidence of President Trump's misconduct. For example, after Lieutenant Colonel Vindman and Mr. Morrison reported their concerns related to the July 25 call to the National Security Council lawyers, they tried to bury the call summary. They tried to bury it. Lieutenant Colonel Vindman testified that the National Security Council lawyers believed it was ''appropriate to restrict access'' to the call summary ''for the purpose of the leaks'' and ''to preserv[e] the integrity'' of the transcript.

According to Lieutenant Colonel Vindman, Mr. Eisenberg ''gave the go-ahead'' to restrict access to the call summary. Mr. Morrison testified that he learned in late August, after he raised concerns that the call record might leak and be politically damaging to the President, that the call summary had been placed on a highly classified National Security Council server. The call record was placed on a server that is reserved for America's most sensitive national security secrets and covert operations, not routine calls with foreign leaders.

Apparently, Mr. Eisenberg claimed at the time that burying the call transcript on a highly classified server was a ''mistake.''

(Text of Videotape presentation:)

Mr. GOLDMAN. Now, in a second meeting with Mr. Eisenberg, what did you recommend that he do to prevent the call record from leaking?

Mr. MORRISON. I recommended we restrict access to the package.

Mr. GOLDMAN. Had you ever asked the NSC legal advisor to restrict access before?

Mr. MORRISON. No.

Mr. GOLDMAN. Did you speak to your supervisor, Dr. Kupperman, before you went to speak to John Eisenberg?

Mr. MORRISON. No.

Mr. GOLDMAN. Did you subsequently learn that the call record had been put in a highly classified system?

Mr. MORRISON. I did.

Mr. GOLDMAN. And what reason did Mr. Eisenberg give you for why the call record was put in a highly classified system?

Mr. MORRISON. It was a mistake.

Mr. GOLDMAN. He said it was just a mistake?

Mr. MORRISON. It was an administrative error.

Mr. Manager JEFFRIES. In Mr. Morrison's view, the July 25 call record did not meet the requirements to be placed on a highly classified server.

At his deposition, Mr. Morrison testified that the call record was placed on the server by ''mistake.'' However, even after this alleged ''mistake'' was discovered, the July 25 call summary was not removed from the classified system because someone was trying to hide it. It was not until a launch of the House impeachment inquiry in late September, and after intense public pressure, that the rough transcript of the July 25 call was released.

Again, because Mr. Eisenberg and Mr. Ellis refused to testify in the House, we do not know exactly how the July 25 call record ended up on this highly classified National Security Council server. What we do know is that Mr. Eisenberg ordered access restricted after multiple officials, like Dr. Fiona Hill and Lieutenant Colonel Vindman, advised him of the scheme to condition a White House meeting on phony political investigations. They strongly suggested there was an active attempt to conceal the clear evidence of the President's wrongdoing. Instead of addressing the President's misconduct, Mr. Eisenberg seemingly tried to cover it up.

Why did Mr. Eisenberg place the July 25 call summary on a server for highly classified material? Did anyone senior to Mr. Eisenberg direct him to hide the call record? Why did the call record remain on the classified server even after the so-called error was discovered? Who ordered the coverup of the call record? The American people deserve to know.

Following the July 25 call, the President's scheme to pressure Ukraine for political purposes intensified, apparently unchecked by any effort to stop it from the White House Counsel's Office. After the July 25 call, Ambassadors Sondland and Volker worked with the President's personal lawyer, Rudolph Giuliani, to procure a public statement from President Zelensky to announce phony investigations into Joe Biden and the CrowdStrike conspiracy theory being peddled by President Trump. At the same time, President Trump continued to withhold the White House meeting and security assistance from Ukraine in a manner that broke the law.

As these efforts were ongoing, White House attorneys reportedly received yet another warning sign that the President was abusing his power. According to a published report in the New York Times, the week after the July 25 call, an anonymous whistleblower reported concerns that the President was abusing his office for personal gain. The whistleblower's complaint landed with the CIA's General Counsel's office. Although the concerns related directly to the President's own misconduct, the CIA's General Counsel, Courtney Elwood, alerted Mr. Eisenberg. Over the next week, Ms. Elwood, Mr. Eisenberg, and their deputies reportedly discussed the whistleblower's concerns, and they determined, as required by law, that the allegations had a ''reasonable basis.''

So, by early August, White House lawyers began working, along with the attorneys at the Department of Justice, to cover up the President's wrongdoing. They were determined to prevent Congress and the American people from learning anything about the President's corrupt behavior. Although senior Justice Department officials, including Attorney General Bill Barr, were reportedly made aware of the concerns about corrupt activity, no investigation into President Trump's wrongdoing was even opened by the DOJ.

As White House and Justice Department lawyers were discussing how to deal with the whistleblower's concerns, on August 12—another important date—the whistleblower filed a formal complaint with the inspector general for the intelligence community.

In accordance with Federal law, on August 26, the inspector general transmitted the whistleblower's complaint to the Acting Director of National Intelligence, Joseph Maguire, along with the inspector general's preliminary conclusion that the complaint was both credible and related to a matter of urgent concern. Instead of transmitting the whistleblower's complaint to the House's and Senate's distinguished Intelligence Committees, as required by law, the Acting Director of National Intelligence notified the White House.

(Text of Videotape presentation:)

The CHAIRMAN. I'm just trying to understand the chronology. [So] you first went to the Office of Legal Counsel, and then you went to White House Counsel?

MAGUIRE. We went to the—repeat that, please, sir.

The CHAIRMAN. I'm just trying to understand the chronology. You first went to the Office of Legal Counsel, and then you went to the White House Counsel?

MAGUIRE. No, no, no, sir. We went to the White House first to determine—to ask the question—

The CHAIRMAN. That's all I want to know is the chronology. So you went to the White House first. So you went to the subject of the complaint for advice first about whether you should provide the complaint to Congress?

MAGUIRE. There were issues within this, a couple of things: One, it did appear that it has executive privilege. If it does have executive privilege, it is the White House that determines that. I cannot determine that, as the Director of National Intelligence.

Mr. Manager JEFFRIES. Under Federal law, the Acting Director of National Intelligence was required to share the whistleblower's complaint with Congress—period, full stop. If that had occurred, the President's scheme to withhold security assistance and a White House meeting—being sought by the new Ukrainian leader—in order to pressure Ukraine for his own, personal political gain would have been exposed.

To prevent that from happening, the President's lawyers and top-level advisers adopted a two-pronged coverup strategy: first, block Congress and the American people from learning about the whistleblower's complaint; second, try to convince President Trump to lift the hold on the security assistance before anyone could find out about it and use that evidence against him.

As to the first prong, sometime after the Acting Director of National Intelligence told the White House Counsel's Office about the complaint on August 26, Mr. Cipollone and Mr. Eisenberg reportedly briefed the President. They likely discussed with President Trump whether they were legally required to give the complaint to Congress. They stated that they were consulting with the Office of Legal Counsel at the Department of Justice. The Acting Director of National Intelligence testified that he and the inspector general consulted with the Office of Legal Counsel, which opined without any reasonable basis that he did not have to turn over the complaint to Congress.

On September 3—the day after the statutory deadline for the Director of National Intelligence to provide the complaint to this body and to the House—the Office of Legal Counsel issued a secret opinion, concluding that, contrary to the plain language of the statute, the Acting Director of National Intelligence was not required to turn over the complaint. The coverup was in full swing.

The Office of Legal Counsel opined that the whistleblower's complaint did not qualify as an urgent concern and therefore did not have to be turned over. What could be more urgent than a sitting President's trying to cheat in an American election by soliciting foreign interference? What could be more urgent than that? That is a constitutional crime in progress, but they concluded it was not an urgent matter.

Acting Director of National Intelligence Maguire testified that the Office of Legal Counsel's opinion did not actually prevent him from turning over the complaint to Congress. Instead, based upon his testimony, it is clear that he withheld it on the basis that the complaint might deal with information he believed could be covered by executive privilege, but President Trump never actually invoked executive privilege. He never actually invoked executive privilege, nor did he inform Congress that he was doing so with respect to this complaint. Instead, the White House secretly instructed the Acting Director of National Intelligence to withhold the complaint based on the mere possibility that executive privilege could be invoked. By doing so, the White House was able to keep the explosive complaint from Congress and the American public without ever having to disclose the reason it was withholding this information.

But truth crushed to the ground will rise again. There is a toxic mess at 1600 Pennsylvania Avenue, and I humbly suggest that it is our collective job, on behalf of the American people, to try to clean it up. President Trump tried to cheat. He got caught. Then he worked hard to cover it up.

There have been many great Presidents throughout the history of this Republic—great Republican Presidents and great Democratic Presidents. Perhaps one of the greatest Presidents was Abraham Lincoln. He once said that any man can handle adversity, but if you want to test a man's character, give him some power.

America is a great nation. We can handle adversity better than any other country in the world. Whenever America has found itself in a tough spot, we have always made it to the other side. We were in a tough spot during the Civil War, when America was at risk of tearing itself apart, but we made it to the other side. We were in a tough spot in October of 1929, when the stock market collapsed, plunging us into the Great Depression, but we made it to the other side. We were in a tough spot in December of 1941, when a foreign power struck, plunging us into a great conflict with the evil empire of Nazi Germany, but America made it to the other side. We were in a tough spot in the 1960s when dealing with the inherent contradictions of Jim Crow, but we made it to the other side. We were in a tough spot on September 11, when the Towers were struck and when young men and women, like JASON CROW, were sent to Afghanistan to fight the terrorists there so we didn't have to fight the terrorists here, and we made it to the other side.

America is a great country. We can handle adversity better than any other nation in the world, but what are we going to do about our character?

President Trump tried to cheat and solicit foreign interference in an American election. That is an attack on our character. President Trump abused his power and corrupted the highest office in the land. That is an attack on our character. President Trump tried to cover it all up and hide it from America and obstruct Congress. That is an extraordinary attack on our character.

America is a great nation. We can handle adversity better than any other country in the world, but what are we going to do about our character?

Mr. Manager CROW. As the crisis around the President's hold deepened throughout our government, the President's own top advisers redoubled their efforts to lift the hold on military aid and stem the fallout in case it went public, and it did go public. On August 28, POLITICO publicly reported that the President was withholding the military aid.

As you have heard, the public disclosure of the President's hold in late August caused deep alarm among Ukrainian officials. It also caused U.S. officials to redouble their efforts once again.

At the end of August, Secretary of State Pompeo, Defense Secretary Esper, and Ambassador Bolton reportedly tried to convince President Trump to release the military aid, but they failed. The President wanted the hold to remain. That prompted Duffey, the political appointee charged with implementing the hold, to send an email on August 30 to the DOD, stating: ''Clear direction from POTUS to hold.'' This is

consistent with Laura Cooper's deposition testimony, when she said that they were ''hopeful this whole time that Secretary Esper and Secretary Pompeo would be able to meet with the President and just explain to him why this was so important and get the funds released,'' but, instead, the President held firm.

Even as the President's own Cabinet officials were trying to convince him to lift the hold, White House lawyers were receiving new reports about the President's abuse.

On September 1, Vice President PENCE met with President Zelensky in Warsaw, and immediately after, Sondland had a side conversation with the top Ukrainian Presidential aide. Morrison was privy to these conversations, and when he returned from Warsaw, he reported to Eisenberg the details.

(Text of Videotape presentation:)

Mr. GOLDMAN. And what did Ambassador Sondland tell you that he told Mr. Yermak?

Mr. MORRISON. That the Ukrainians would have to have the prosecutor general make a statement with respect to the investigations as a condition of having the aid lifted.

Mr. GOLDMAN. And you testified that you were not comfortable with what Ambassador Sondland had told you. Why not?

Mr. MORRISON. Well, I was concerned about what I saw as essentially an additional hurdle to accomplishing what I had been directed to help accomplish, which was giving the President the information that he needed to determine that the security sector assistance could go forward.

Mr. GOLDMAN. So now there's a whole other wrinkle to it, right?

Mr. MORRISON. There was the appearance of one, based on what Ambassador Sondland represented.

Mr. GOLDMAN. And you told Ambassador Taylor about this conversation as well. Is that right?

Mr. MORRISON. I promptly reached out to Ambassador Taylor to schedule a secure phone call.

Mr. GOLDMAN. And in your deposition, you testified that his testimony, other than one small distinction between President Zelensky and the prosecutor general, was accurate as to what you told him. Is that correct?

Mr. MORRISON. About that conversation, yes.

Mr. GOLDMAN. And, generally speaking, you confirmed everything that Ambassador Taylor told you, except for that one thing and a small other ministerial matter relating to the location of the meeting. Is that correct?

Mr. MORRISON. Correct.

Mr. GOLDMAN. Now, did you tell Ambassador Bolton about this conversation as well?

Mr. MORRISON. I have reached out to him as well and requested his availability for a secure phone call.

Mr. GOLDMAN. And what was his response when you explained to him what Ambassador Sondland had said?

Mr. MORRISON. Tell the lawyers.

Mr. GOLDMAN. Did you go tell the lawyers?

Mr. MORRISON. When I returned to the States, yes.

Mr. GOLDMAN. And did he explain to you why he wanted you to tell the lawyers?

Mr. MORRISON. He did not.

Mr. Manager CROW. Now, this wasn't the first time—and it wouldn't be the last—that Ambassador Bolton instructed other government officials to report details of the President's scheme to White House lawyers.

Now, let's be clear. When government employees have concerns about whether something is legal, they often go to their agency's lawyers. And it was happening an awful lot around this time. Recall that Bolton also instructed Dr. Hill to report to the lawyers Sondland's statements about requiring an announcement of the investigations as a condition for a White House meeting—what Bolton called Sondland's ''drug deal'' with the President's top aide, Mick Mulvaney. Ambassador Bolton's testimony would obviously shine further light on these concerns and what or who, if anyone, in the White House or the Cabinet did to try to stop the President at this time.

After the President's hold on military aid became public in late August, there was increasing pressure on the President to lift the hold. On September 3, a bipartisan group of Senators sent a letter to Acting White House Chief of Staff Mick Mulvaney. An excerpt from that letter is in front of you. The Senators expressed ''deep concerns'' that the ''Administration is considering not obligating the Ukraine Security Initiative funds for 2019.'' The Senators' letter also urged that the ''vital'' funds be obligated ''immediately.''

On September 5, the chairman and the ranking member of the House Foreign Affairs Committee sent a joint letter to Mulvaney and OMB Director Russell Vought. That letter also expressed ''deep concern'' about the continuing hold on the military aid.

The same day, Senators MURPHY and JOHNSON visited Kyiv and met with President Zelensky, along with Ambassador Taylor.

(Text of Videotape presentation:)

Ambassador TAYLOR. On September 5th, I accompanied Senators JOHNSON and MURPHY during their visit to Kyiv. When we met with President Zelensky, his first question to the Senators was about the withheld security assistance. My recollection of the meeting is that both Senators stressed that bipartisan support for Ukraine in Washington was Ukraine's most important strategic asset and that President Zelensky should not jeopardize that bipartisan support by getting drawn in to U.S. domestic politics.

I had been making and continue to make this point to all of my official Ukrainian contacts. But the odd push to make President Zelensky publicly commit to investigations of Burisma and alleged interference in the 2016 election showed how the official foreign policy of the United States was undercut by the irregular efforts led by Mr. Giuliani.

Mr. Manager CROW. The Senators sought to reassure President Zelensky that there was bipartisan support in Congress for providing the military aid.

Also on September 5, the Washington Post editorial board reported concerns that President Trump was withholding the aid and a meeting to force President Zelensky to announce investigations to benefit his personal political campaign.

The editors wrote:

''[W]e are reliably told that the President has a second and more venal agenda: He is attempting to force Mr. Zelensky to intervene in the 2020 U.S. Presidential election by launching an investigation of the leading Democratic candidate, Joe Biden. Mr. Trump is not just soliciting Ukraine's help with his Presidential campaign; he is using U.S. military aid the country desperately needs in an attempt to extort it.

Despite these efforts to get the President to lift the hold and the now-public discussion about the President's abuse of power, the scheme continued. Two days later, on September 7, Morrison went back to the White House lawyers to report additional details he had learned from Ambassador Sondland about the President's scheme—again, at the direction of Ambassador Bolton.

(Text of Videotape presentation:)

Mr. GOLDMAN. Now, a few days later, on September 7th, you spoke again to Ambassador Sondland, who told you that he had just gotten off the phone with President Trump. Isn't that right?

Mr. MORRISON. That sounds correct, yes.

Mr. GOLDMAN. What did Ambassador Sondland tell you that President Trump said to him?

Mr. MORRISON. If I recall this conversation correctly, this was where Ambassador Sondland related that there was no quid pro quo, but President Zelensky had to make the statement and that he had to want to do it.

Mr. GOLDMAN. And by that point, did you understand that the statement related to the Biden and 2016 investigations?

Mr. MORRISON. I think I did, yes.

Mr. GOLDMAN. And that that was essentially a condition for the security assistance to be released?

Mr. MORRISON. I understood that that's what Ambassador Sondland believed.

Mr. GOLDMAN. After speaking with President Trump?

Mr. MORRISON. That's what he represented.

Mr. GOLDMAN. Now, you testified that hearing this information gave you a sinking feeling. Why was that?

Mr. MORRISON. Well, I believe if we're on September 7th, the end of the fiscal year is September 30th, these are 1 year dollars, the DOD and the Department of State funds, so we only had so much time. And, in fact, because Congress imposed a 15 day notification requirement on the State Department funds, September 7th, September 30th, that really means September 15th in order to secure a decision from the President to allow the funds to go forward.

Mr. GOLDMAN. Did you tell Ambassador Bolton about this conversation as well?

Mr. MORRISON. I did. I did, yes.

Mr. GOLDMAN. And what did he say to you?

Mr. MORRISON. He said to tell the lawyers.

Mr. GOLDMAN. And why did he say to tell the lawyers?

Mr. MORRISON. He did not explain his direction.

Mr. Manager CROW. Again, ''tell the lawyers.''

Ambassador Sondland's call with President Trump on September 7 also prompted deep concern by Ambassador Taylor, which you have already heard about.

On September 8 and 9, Ambassador Taylor exchanged WhatsApp messages with Ambassadors Sondland and Volker, describing his ''nightmare'' scenario that ''they give the interview and don't get the security assistance.'' He then goes on to say: ''The Russians love it. (And I quit.)''

After the hold on the military aid became public, the White House took two actions in early September.

First, the White House and the Justice Department ensured that the Acting DNI continued to withhold the whistleblower complaint from Congress, in clear violation of the law.

And second, the White House attempted to create a cover story for the President's withholding of the assistance.

Approximately 2 months after President Trump had ordered the freeze, Mark Sandy received an email from his boss, Michael Duffey that, for the first time, gave a reason for the hold. Sandy testified that in early September he received an email from Duffey ''that attributed the hold to the President's concern about other countries not contributing more to Ukraine.''

Again, after months of scrambling, this was the first time any reason had been provided for the hold.

And according to Sandy, it was also only in early September—again, after the White House learned of the whistleblower complaint and the hold became public—that the White House requested data from OMB on other countries' assistance to Ukraine.

So let's recap why we know the concern about burden-sharing was bogus. First, for months, no reason was given to the very people executing the military aid who had been actively searching for answers about why the aid was being held.

Second, remember the supposed interagency process performed by OMB? Well, it was fake.

And third, after the hold went public and the White House became aware of the whistleblower, they started scrambling to develop another excuse. Public reports confirm this.

A November 24 news report, for instance, revealed that in September, Mr. Cipollone's lawyers conducted an internal records review. The review reportedly ''turned up hundreds of documents that reveal extensive efforts to generate an after-the-fact justification for the decision and a debate over whether the delay was legal.''

The President's top aides were trying to convince the President to lift the hold in late August and early September, and White House officials were actively working to develop an excuse for the President's scheme and devise a cover story in the event it was exposed, and soon it would be.

On September 9, the chairs of the House Intelligence Committee, the Committee on Foreign Affairs, and the Committee on Oversight and Reform publicly announced a joint investigation of President Trump and Mr. Giuliani's scheme. And this is when the music stops and everyone starts running to find a chair.

Word of the committees' investigation spread quickly through the White House to the NSC. Morrison recalled seeing and discussing the letter with NSC staff. Lieutenant Colonel Vindman also recalled discussions among NSC staff members, including Morrison's deputy, John Erath, about the investigation.

The same day, there were efforts at OMB to create a paper trail to try to shift the blame for the President's hold on security assistance away from the White House. Duffey sent an email to Elaine McCusker that contradicted months of email exchanges and stated falsely that OMB had in fact ''authoriz[ed] DOD to proceed with all processes necessary to obligate funds.'' Duffey was attempting to shift all the responsibility for the delay onto the Pentagon. McCusker replied: ''You can't be serious. I am speechless.''

Now, all of this—including OMB's efforts to shift blame to the Pentagon, the White House's effort to create a cover story for the hold on security assistance—was a continuation of the coverup.

It started with the White House lawyers' failure to stop the scheme after the July 10 meeting was reported to them, continued with attempts to hide the July 25 call summary, and escalated with the White House's illegal concealment of the whistleblower complaint from Congress.

On September 10, the House Intelligence Committee requested that the DNI provide a copy of the whistleblower complaint as the law requires. But DNI continued to withhold the complaint for weeks.

The same day, it was announced that Ambassador Bolton was resigning or had been fired. It is unclear whether Ambassador Bolton's departure from the White House had anything to do with his opposition to the hold on military aid, but, of course, Ambassador Bolton could shed light on that himself if he were to testify.

The next day, on September 11, President Trump met with Vice President PENCE, Mulvaney, and Senator PORTMAN to discuss the hold. Later that day, the President relented and lifted the hold after his scheme had been exposed.

The President's decision to release the aid, like his decision to impose the hold, was never explained. Cooper testified that President Trump's lifting of the hold ''really came out of the blue. . . . It was quite abrupt.''

The only logical conclusion, based upon all of this evidence, is that the President lifted the hold on September 11 because he got caught.

The President's decision to lift the hold without any explanation is also very telling. If the hold was put in place for legitimate policy reasons, why lift it arbitrarily with no explanation?

By lifting the hold only after Congress had launched an investigation—when, as Lieutenant Colonel Vindman testified, none of the ''facts on the ground'' had changed since the hold had been put in place—the President was conceding that there was never a legitimate purpose.

Since the hold was lifted, the President has paid lip service to purported concerns about corruption and burden-sharing. But the administration has taken no concrete steps before or since those statements were made to show that it really cares.

The record is clear. Before he got caught, the President had no interest in anti-corruption reforms in Ukraine. And, as you have already learned, those people who really were concerned about these issues—like Congress, this Senate, the DOD, and the State Department—had already gone through the process to address them.

As Ambassador Sondland testified, at no point did the President ask him to discuss additional contributions to Ukraine from the EU countries, nor did President Trump push Ukraine to undertake any specific anti-corruption reforms.

Now, the President's counsel will likely say that his lifting of the hold shows his good faith. They will say that because Ukraine ultimately received the aid without President Zelensky having to announce the sham investigations, then there was no abuse of power. As a legal matter, the fact that the President's corrupt scheme was not fully successful makes no difference. Trump's abuse occurred at the moment he used the power of the Presidency to assist his reelection campaign, undermining our free and fair elections and our national security.

But, importantly, President Trump almost did get away with it. As discussed earlier, President Zelensky agreed during his September phone call with Ambassador Sondland to do a CNN interview during which he would announce the investigations. On September 12, Ambassador Taylor personally informed President Zelensky and the Ukrainian Foreign Minister that President Trump's hold on military assistance had been lifted. On September 13, Ambassador Taylor and David Holmes met with President Zelensky and his advisers and urged them not to go forward with the CNN interview.

It was not until September 18 and 19—around the time that President Zelensky spoke with Vice President PENCE—that the Ukrainians finally canceled the CNN interview.

The President has also repeatedly pointed to President Zelensky's public statements that he did not feel pressured by Trump. Not only unsurprising, it is also irrelevant. The question is whether President Trump used the power of the Presidency to coerce President Zelensky into helping him win a political campaign.

But we know that President Zelensky was pressured. He kept delaying and delaying because he did not

want to be a pawn in U.S. domestic politics.

In fact, President Zelensky remains under pressure to this day. As Holmes testified, there are still things the Ukrainians want and need from the United States, including a meeting with the President in the Oval Office, which has still not been scheduled. And yes, Ukraine remains at war and needs U.S. military aid, including aid that is still delayed from last year. For these reasons, Mr. Holmes explained:

> I think [the Ukrainians are] being very careful. They still need us now going forward. In fact, right now President Zelensky is trying to arrange a summit meeting with President Putin in the coming weeks, his first face-to-face meeting with him to try to advance the peace process.
>
> He needs our support. He needs—he needs President Putin to understand that America supports Zelensky at the highest levels. So this doesn't end with the lifting of security assistance hold. Ukraine still needs us, and as I said, still fighting this war this very day.

When President Trump, for his own personal political gain, asked for a favor from President Zelensky, he did exactly what the Framers feared most: He invited the influence of a foreign power into our elections. He used the power of his office to secure that advantage and jeopardized our national security.

Yet President Trump maintains that he was always in the right and that his July 25 call with President Zelensky was ''perfect.'' President Trump has made it clear that he believes he is free to use his powers the same way, to the same ends, whenever and wherever he pleases. Even more troubling, he is even doubling down on his abuse, inviting other countries to interfere in our elections.

What does all of this tell you? It tells you that Ambassador Sondland was correct when he told Holmes after hanging up with President Trump on July 26 that the President doesn't care about Ukraine. He only cares about the ''big stuff,'' meaning stuff that helps him personally.

The bottom line is that the President used the powers of his office for personal political gain. He did so knowingly, deliberately, and repeatedly, and his misconduct continues to this day.

Mr. Manager SCHIFF. Senators, just for your orientation, this will be the last presentation on article I, and, Mr. Leader, I think at the conclusion of this presentation would be a logical point to take a break.

This last section on article I deals with the injury to our national interests and our national security.

When President Trump used Ukraine's leader for a political favor and withheld critical military aid to an ally in exchange for that favor, he did exactly what our Framers feared most: He invited foreign interference in our elections and sold out our country's security for his personal benefit and betrayed the Nation's trust to a foreign power.

The President's scheme to pressure Ukraine to do his political dirty work harmed our national security, undermined our free and fair elections, and even today—even today—threatens the very foundation of our democracy.

When the President argues that his call was ''perfect,'' that he did nothing wrong, what he is really saying is that there is nothing wrong with a President asking a foreign government to do a personal favor, that there is nothing wrong with the President pressuring that foreign country to interfere in our elections for his personal benefit, that there is nothing wrong with withholding congressionally appropriated taxpayer-funded military assistance to that foreign country to extort that country to help the President cheat to win an election.

But there are a great many things wrong with that. Most significant for the purposes that bring us here today, the Constitution does not permit it. The Constitution does not permit it because that conduct is the quintessential abuse of power—the use of official power for personal gain, putting personal interests over the national interests, and placing personal benefits over our Nation's security.

The President's conduct that we outlined yesterday harmed our national security. That is without a doubt. It endangered our elections and it has sent our country on a dangerous path that if left unchecked will cause irrevocable damage to the balance of power contemplated in our Constitution. If someone sacrifices the national interest in favor of his own and is not removed from office, our democracy is in jeopardy. It is just that simple.

The grave consequences of President Trump's misconduct demand our attention. Let me take these issues in turn, beginning with this harm to national security.

First, the President's abuse of power had immediate consequences to our security. Ukraine is a burgeoning democracy entangled in a hot war with Russia. By withholding military aid, President Trump not only denied Ukraine much-needed military equipment but also weakened Ukraine's position in negotiations over the end of the war with Russia. Because of President Trump's corrupt actions, Vladimir Putin was emboldened at a pivotal moment ahead of those sensitive negotiations to attempt to end the war. An emboldened Russia is a threat to the United States and global security around the world.

The President's willingness to put himself over country undercut our European allies' confidence in America's commitment to deterring Russian aggression, and it signaled to adversaries and friends alike that the President of the United States, the most powerful man in the world, our Commander in Chief, could be influenced by manipulating his perception of what was best for his personal interests.

Now, I have no doubt that the Russians, and probably every other nation that has the capacity, does a psychological profile of the President of the United States, as we profile other leaders. If a President can be so easily manipulated to disbelieve his own intelligence agencies, to accept the propaganda of the Kremlin, that is a threat to our national security. That is just what has happened here, but that is not all.

President Trump's willingness to entangle our foreign allies in a corrupt political errand also undermined the credibility of Americans to promote the rule of law and fight corruption abroad.

This is ''Trump first,'' not ''America first,'' not American ideals first. And the result has and will continue to be great harm to our Nation if this Chamber does not stand up and say it is wrong, if you do not stand up and say this is not only wrong, not only unacceptable but conduct incompatible with the Office of the Presidency. If it really is incompatible with the Office of the Presidency, if you cannot faithfully execute that responsibility, if you cannot bring yourself to put your Nation's interests ahead of your own, it must be impeachable, for the Nation remains at risk.

Let's consider the big picture, and probably a question many people around the country are asking: Why does Ukraine matter to the United States? Why does Ukraine matter to the United States? Because we are talking about a small country that many people know very little about.

Well, this small country, this ally of ours, is a country hungry for reform and eager for a stronger relation with its most powerful, important ally, the United States. We are talking about ourselves and what it means to the strength of our own democracy and democracies around the world when countries like Ukraine are fighting our fight against authoritarianism. It used to be our fight, and God help us if it is not our fight still.

Russian President Putin declared the collapse of the Soviet Union to be the greatest geopolitical catastrophe of the 20th century. Ukraine's vote for independence in December 1991 was the final nail in the Soviet Union's coffin. That made Ukraine's greatest moment Putin's greatest tragedy.

When it declared independence from Soviet domination, Ukraine inherited roughly 1,900 Soviet nuclear warheads, enough firepower to level every major American city several times over—1,900 Soviet nuclear warheads. In exchange for Ukraine's surrendering this arsenal, the United States, Russia, and the United Kingdom reached an understanding called the Budapest Memorandum of 1994. They committed in this memorandum to respecting the borders of an independent Ukraine and also to refrain from using the threat or use of force against Ukraine. This was an early success of the post-Cold War period.

Despite its commitment to respect Ukraine's independence, of course, Russia continued to meddle in Ukraine's affairs. Ambassador Taylor recounted how events took an even more sinister turn in 2013:

(Text of Videotape presentation:)

Ambassador TAYLOR. In 2013, Vladimir Putin was so threatened by the prospect of Ukraine joining the European Union that he tried to bribe the Ukrainian President. This triggered mass protests in the winter of 2013 that drove that President to flee to Russia in February of 2014, but not before his forces killed 100 Ukrainian protesters in central Kyiv.

Mr. Manager SCHIFF. Angered by the fall of the Kremlin-backed leader in Kyiv, President Putin ordered the invasion of Ukraine—specifically, a region known as Crimea. Russia's aggression was met with global condemnation.

(Videotape presentation.)

Mr. Manager SCHIFF. We don't have the sound there, but you can see the images of that conflict on the screens before you.

Deputy Assistant Secretary of Defense Laura Cooper testified as to the stakes for U.S. national security:

(Text of Videotape presentation:)

Ms. COOPER. Russia violated the sovereignty of Ukraine's territory. Russia illegally annexed territory that belonged to Ukraine. They also denied Ukraine access to its naval fleet at the time. And to this day, Russia is building a capability on Crimea designed to expand Russian military power projection far beyond the immediate region.

Ms. CARSON. In 2014, were there concerns in Washington, here in Washington, and European capitals that Russia might not stop in Ukraine?

Ms. COOPER. I was not in my current position in 2014, but it is my understanding that there was significant fear about where Russian aggression would stop.

Mr. Manager SCHIFF. One American—a war hero and statesman who was no stranger to this body—recognized the threat posed by Russia's invasion of Crimea: Senator John McCain.

In an interview, he declared: ''We are all Ukrainians.'' Senator McCain advised that this is a chess match reminiscent of the Cold War, and we need to realize that and act accordingly. He was, of course, absolutely right.

Consistent with the commitments made to Ukraine in 1994, the United States and Europe responded to Russia's invasion by imposing significant sanctions on Russia. We joined Europe in providing Ukraine billions of dollars in economic support to help it resist Russian influence, and the Senate approved, by an overwhelming bipartisan majority, vital security assistance to help rebuild Ukraine's military, which the former Russian-backed leader of Ukraine had starved of resources.

This strong bipartisan support for Ukraine reflected what Senator McCain said was an opportunity for the United States to undermine Russian leverage in Eastern Europe by building a ''success'' in Ukraine. Senator McCain outlined this vision:

(Text of Videotape presentation:)

JOHN McCAIN. . . . Putin also sees—here's this beautiful and large and magnificent country called Ukraine. And suppose Ukraine, finally, after failing in 2004, gets it right, democracy, gets rid of corruption, economy is really improving and it's right there on the border of Russia. And so I think it makes him very nervous if there were a success in Ukraine in bringing about a free and open society and economic success, which is not the case in Russia, as you know, which is propped up by energy.

Mr. Manager SCHIFF. Achieving the Ukrainian success that Senator McCain and many of us hoped for proved to be a daunting task, but several witnesses who testified before the House said Volodymyr Zelensky's landslide election in April 2019 was a game changer. Here is how U.S. diplomat David Holmes explained the ''historic opportunity'' created by his election:

(Text of Videotape presentation:)

DAVID HOLMES. Despite the Russian aggression, over the past 5 years, Ukrainians have rebuilt a shattered economy, adhered to a peace process, and moved economically and socially closer to the West, toward our way of life.

Earlier this year, large majorities of Ukrainians again chose a fresh start by voting for a political newcomer as President, replacing 80 percent of their parliament, endorsing a platform consistent with our democratic values, our reform priorities, and our strategic interests.

This year's revolution at the ballot box underscores that, despite its imperfections, Ukraine is a genuine and vibrant democracy and an example to other post-Soviet countries and beyond, from Moscow to Hong Kong.

Mr. Manager SCHIFF. So American support for Ukraine's security and reform is critical not only to our own national security but to other allies and emerging democracies around the world. The widely accepted fact of Ukraine's importance to our national security makes President Trump's abuse of power and withholding of vital diplomatic and military support all the more disturbing.

First, witnesses assessed that withholding the military aid likely helped to prolong the war against Russia. When wars drag on, more people die. Ambassador Taylor testified to this sober reality.

(Text of Videotape presentation:)

The CHAIRMAN. I take it, if the provision of the U.S. military assistance would save Ukrainian lives, that any delay in that assistance may also cost Ukrainian lives. Is that true?

Ambassador TAYLOR. Chairman, of course it's hard to draw any direct lines between any particular element of security assistance and any particular death on the battlefield. But it is certainly true that that assistance had enabled Ukrainian Armed Forces to be effective and deter and to be able to take countermeasures to the attacks that the Russians had—

The CHAIRMAN. I think you said that a Ukrainian soldier lost their life while you were visiting Donbas.

Ambassador TAYLOR. We keep very careful track of the casualties. And I noticed, on the next day, the information that we got, that one was killed, four soldiers were wounded on that day.

The CHAIRMAN. And, indeed, Ukrainians lose their lives every week.

Ambassador TAYLOR. Every week.

Mr. Manager SCHIFF. David Holmes also testified that prolonging the war in Ukraine resulted in additional casualties.

(Text of Videotape presentation:)

DAVID HOLMES. As we sit here today, Ukrainians are fighting a hot war on Ukrainian territory against Russian aggression. This week alone, since I have been here in Washington, two Ukrainian soldiers were killed and two injured by Russian-led forces in eastern Ukraine despite a declared ceasefire. I learned overnight that seven more were injured yesterday.

Mr. Manager SCHIFF. Withholding the aid has real consequences to real soldiers with real families. Bear in mind that U.S. aid is fully 10 percent of Ukraine's defense budget—10 percent. That is not an extra bonus. That is necessary aid for Ukraine to defend itself on the frontline.

Now, a second consequence of President Trump's withholding of military assistance was that it emboldened Russia, our adversary. Here is Laura Cooper, a Pentagon official, who oversaw the military aid.

(Text of Videotape presentation:)

Mr. CARSON. So what about today? If the U.S. were to withdraw its military support of Ukraine, what would effectively happen?

Ms. COOPER. It is my belief that, if we were to withdraw our support, it would embolden Russia. It would also validate Russia's violation of international law.

Mr. CARSON. And which country stands to benefit the most—would stand to benefit the most from such a withdrawal?

Ms. COOPER. Russia.

Mr. Manager SCHIFF. Russia was not only emboldened on the battlefield. Ambassador Taylor testified that President Trump's corrupt withholding of military assistance and his failure to host President Zelensky in the Oval Office was a ''sign of weakness'' to Moscow. It harmed Ukraine's negotiating position, even as recently as December 9 when Zelensky and Putin met to discuss the conflict in the east shown in this photo.

Ambassador Taylor explained:

(Text of Videotape presentation:)

The CHAIRMAN. I think you also testified that Russia was watching closely to gauge the level of American support for the Ukrainian government. Why is that significant?

Ambassador TAYLOR. This is significant, Mr. Chairman, because the Ukrainians, in particular under this new administration, are eager to end this war, and they were eager to end it in a way that the Russians leave their territory. These negotiations, like all negotiations, are difficult. Ukrainians would like to be able to negotiate from a position of strength or at least more strength than they now have. Part of that strength, part of the ability of the Ukrainians to negotiate against the Russians with the Russians for an end to the war in Donbas, depends on United States and other international support. If we withdraw or suspend or threaten to withdraw our security assistance, that's a message to the Ukrainians, but it's at least as important, as your question indicates, Mr. Chairman, to the Russians, who are looking for any sign of

weakness or any sign that we are withdrawing our support for Ukraine.

The CHAIRMAN. And so, when the Ukrainians learned of the suspension of the military aid, either privately or when others learned publicly, the Russians would be learning also, and they would take that as a lack of robust U.S. support for Ukraine. Is that right?

Ambassador TAYLOR. That's correct, sir.

The CHAIRMAN. And that would weaken Ukraine in negotiating an end to the war in Donbas.

Ambassador TAYLOR. It would.

Mr. Manager SCHIFF. Indeed, the aid doesn't just supply much needed weapons to Ukraine. It is a symbol of support, a signal of strength, a signal of the backing of the United States. Withholding that aid, even for a period of time, undermined all of those things.

President Trump's actions toward Ukraine also undercut worldwide confidence in the United States as a reliable security partner. Maintaining that confidence is crucial to the strength of our alliances in Europe to deterring Russia and ultimately protecting and projecting democracy around the world.

The United States has roughly 68,000 troops stationed in Europe. They serve alongside troops from 28 other countries that comprise the North Atlantic Treaty Organization, or NATO. They are holding the line against further Russian aggression. It was U.S. leadership that led to the creation of NATO 70 years ago as the Iron Curtain was descending across the heart of Europe, and it is American leadership that makes NATO work today.

NATO is also affected because other countries, friends and foes alike, know that we are committed to our collective defense; that an attack against one nation is an attack against all of us. That principle deterred a Russian invasion of Europe during the Cold War. It has only been invoked once by NATO in the aftermath of the September 11 terrorist attacks. New York is a long way from the frontlines with Russia, but our European allies stood with us after that dark day.

They deployed tens of thousands of troops to Afghanistan and joined us in fighting the al-Qaida terrorists who attacked the Twin Towers and the Pentagon.

Now, Ukraine is not a member of NATO, but Russia's invasion of Ukraine was a threat to the peace and security of Europe. Moscow's aggression threatened the rules of the road that have kept the peace in Europe since World War II, the sacrosanct idea that borders cannot be changed by military force.

If we had not supported Ukraine in 2014, if Members of this body had not voted overwhelmingly on a bipartisan basis for military assistance to rebuild Ukraine's military, there is no question it would have invited further Russian adventurism in Ukraine and perhaps elsewhere in the heart of Europe. It would have weakened our allies and exposed U.S. troops stationed in Europe to greater danger.

Deterring Russia requires persistence—not just one military aid package or one Oval Office meeting but a sustained policy of support for our partners. We only deter Russia by consistently demonstrating support for our friends—friends like Ukraine.

George Shultz, who served as Ronald Reagan's Secretary of State, understood this. He compared diplomacy and alliance management to gardening. He said:

If you plant a garden and go away for six months, what have you got when you come back? Weeds. Diplomacy is kind of like that. You go around, talk to people, you develop a relationship of trust and confidence, and then if something comes up, you have that base to work from.

President Trump's decision to transform the military aid and Oval Office meeting into leverage was the equivalent of trampling all over George Shultz's garden, crushing Ukraine's confidence in the United States as a partner. He also caused our NATO allies to question whether we would stand with them against Russia. Leaders in European capitals now wonder whether personal political favors and not treaty obligations guide our foreign policy.

Colleagues, this is how alliances wither and die and how Russia wins. Ambassador Taylor made clear that is why it is so important to our security that we stand with Ukraine.

(Text of Videotape presentation:)

Ambassador TAYLOR. Mr. Chairman, as my colleague, Deputy Assistant Secretary George Kent, described, we have a national security policy, a national defense policy that identifies Russia and China as adversaries. The Russians are violating all of the rules, treaties, understandings that they committed to that actually kept the peace in Europe for nearly 70 years. Until they invaded Ukraine in 2014, they had abided by sovereignty of nations, of inviolability of borders. That rule of law, that order that kept the peace in Europe and allowed for prosperity as well as peace in Europe was violated by the Russians. And if we don't push back on that, on those violations, then that will continue. And that, Mr. Chairman, affects us. It affects the world that we live in, that our children will grow up in, and our grandchildren. This affects the kind of world that we want to see abroad. So that affects our national interest very directly. Ukraine is on the front line of that conflict.

We understood that in 2017, the first year of the Trump administration, and it appeared the Trump administration understood it as well. We understood it in 2018, and the Trump administration understood that as well. We understood that in 2019, and the Trump administration appeared to as well—at least it did until it didn't. It did until something of greater importance and significance came along. That event of greater significance to the Oval Office was the emergence of Joe Biden as a candidate for President, and then that military support, which had increased during the Trump administration, was suddenly put on hold for inexplicable reasons.

Ukraine got the message. It wasn't very inexplicable to Ukraine. What is more, Russia got the message. It wasn't very inexplicable to Russia, which had pushed out the whole propaganda theory that it was Ukraine that had interfered in our election and not Russia.

So that consensus among the Congress and the administration, among the right and the left and the center, that, as Ambassador Taylor explained, this is not only vital to Ukraine's security and the post-World War II order that has kept the peace in Europe for 70 years, but it is vital to us and our security as well, that all broke down. That all broke down over an effort led by the President and his agent Rudy Giuliani and his agents Parnas and Fruman to overturn all of that—overturn a decades-long commitment to standing up to Russian aggression.

We have so tremendously benefited. No country has benefited more from the international rules of the road, the international order, than the United States. It gave us the peace and stability to prosper like no other nation has before, and we are throwing it away. We are throwing it away. We are undermining the rule of law. We are undermining the principle that you don't invade your neighbor. We are undermining the key to our own success. And for what? For help with a political campaign. To quote Bill Taylor, that is crazy. That is crazy.

If our allies can't trust us to stand behind them in a time of need, we will soon not have a single ally left. I know it is painful to see some of our allies and how they talk about this President because when they talk about this President, they are also talking about the United States. It is painful to see our allies distance themselves from the United States. It is more than painful; it is dangerous. It is dangerous to us. I think it was Churchill who once said there is nothing worse than allies except having no allies.

If we are going to condition our support for our allies on their willingness to be dragged kicking and screaming into our politics, if we are going to condition the strength of our alliance on whether they will help us cheat in an election, we are not going to have a single ally left, and not a single one of us in this Chamber is ever going to be able to say to one of our counterparts to respect the rule of law without it being thrown in our face.

Promoting the rule of law and fighting corruption is central to our foreign policy. It distinguishes U.S. global leadership from the transactional approach favored by authoritarian adversaries.

The inherently corrupt nature of the President's demand that Ukraine investigate his political opponent undermined the credibility of efforts to promote the rule of law and combat corruption in Ukraine and around the world. Indeed, the President engaging in the very conduct at home that our policy fights abroad sabotages longstanding bipartisan pillars of American diplomacy.

This was a problem, not least because the pervasive corruption within Ukraine leaves its politics and economy susceptible to Russian influence and subterfuge.

Ambassador Yovanovitch emphasized that U.S. policy in Ukraine has long recognized that the struggle against corruption and defending against Russia are, in fact, two sides of the very same coin.

(Text of Videotape presentation:)

Ambassador YOVANOVITCH. Corruption makes Ukraine's leaders ever vulnerable to Russia, and Ukraine people understand that. That's why they launched the Revolution of Dignity in 2014, demanding to be a part of Europe, demanding transformation of the system, demanding to live under the rule of law.

Ukrainians wanted the law to apply equally to all people, whether the individual in question is the President or any other citizen. It was a question of fairness, of dignity.

Here, again, there is a coincidence of interests. Corrupt leaders are inherently less trustworthy while an honest and accountable Ukrainian leadership makes a U.S.-Ukrainian partnership more reliable and more valuable to the United States.

A level playing field in this strategically located country, bordering four NATO allies, creates an environment in which U.S. business can more easily trade, invest, and profit.

Corruption is also a security issue, because corrupt officials are vulnerable to Moscow.

Mr. Manager SCHIFF. During that conversation that we related in the past, when Ambassador Volker urged his Ukrainian counterpart, Andriy Yermak, not to investigate the past President of Ukraine and Yermak threw it back in his face—you remember the conversation: Oh, you mean like the investigation you want us to do of the Clintons and the Bidens. They taught us something in that conversation. They taught us that we had forgotten, for that moment, our own values.

Just listening to the Ambassador right now, I was thinking how interesting it is that Ukrainians chose to describe their revolution as a Revolution of Dignity. Maybe that is what we need here—a revolution of dignity at home, a revolution of civility here at home. Maybe we can learn a lot more from our Ukrainian ally.

In short, it is in America's national security interest to help Ukraine transform into a country where the rule of law governs and corruption is held in check.

As we heard yesterday, anti-corruption policy was a central part of the talking points provided to President Trump before his phone calls with President Zelensky on April 21 and July 25. President Trump, of course, didn't mention corruption, but, importantly, those same foreign policy goals remained intact following the call, as Tim Morrison testified. Anti-corruption reforms—institutional reforms—remain a top priority to help Ukraine fight corruption.

President Zelensky was swept into office on an anti-corruption platform. Immediately, he kept his promise and introduced numerous bills in Ukraine's Parliament. In a sign that he intended to hold himself accountable, Zelensky even introduced a draft law on Presidential impeachment. He also introduced a bill to restore punishment of top officials found guilty of ''illicit enrichment.''

President Trump's self-serving scheme threatened to undermine Zelensky's anti-corruption work. Zelensky's successful anti-corruption reforms would have advanced U.S. security. Instead, President Trump's demands undermined that effort to bring about reform to Ukraine.

Here is George Kent, a rule of law and corruption expert at the State Department.

(Text of Videotape presentation:)

Mr. KENT. U.S. efforts to counter corruption in Ukraine focus on building institutional capacity so that the Ukrainian Government has the ability to go after corruption and effectively investigate, prosecute, and judge alleged criminal activities using appropriate institutional mechanisms, that is, to create and follow the rule of law. That means that if there are criminal nexuses for activity in the United States, U.S. law enforcement should pursue the case. If we think there's been a criminal act overseas that violates U.S. law, we have the institutional mechanisms to address that. It could be through the Justice Department and FBI agents assigned overseas, or through treaty mechanisms, such as a mutual legal assistance treaty.

As a general principle, I do not believe the United States should ask other countries to engage in selective politically associated investigations or prosecutions against opponents of those in power because such selective actions undermine the rule of law, regardless of the country.

Mr. Manager SCHIFF. So it is clear: What President Trump did when abusing his office and demanding Ukraine open an investigation into Joe Biden was not fighting corruption. It was not part of established U.S. anti-corruption policy. That corrupt pressure campaign for his own, personal political benefit in fact subverted U.S. anti-corruption efforts in Ukraine and undercut our national security.

President Trump is not fighting to end corruption in Ukraine, as my colleague in the House, Mr. HIMES, pointed out during one of our hearings. He was trying to aim corruption in Ukraine at Vice President Biden and our 2020 election.

Selective, politically motivated prosecutions of political opponents undercut governance in Ukraine. President Trump's demand that Zelensky help him do precisely what U.S. diplomats for decades advised Ukrainian officials not to do completely undercut the credibility of efforts to promote the rule of law there. The demand also undercut the U.S. moral standing and authority in the eyes of a global audience.

Once again, here is George Kent.

(Text of Videotape presentation:)

Mr. GOLDMAN. Mr. Kent, is pressuring Ukraine to conduct what I believe you have called ''political investigations'' a part of U.S. foreign policy to promote the rule of law in Ukraine and around the world?

Mr. KENT. It is not.

Mr. GOLDMAN. Is it in the national interests of the United States?

Mr. KENT. In my opinion, it is not.

Mr. GOLDMAN. Why not?

Mr. KENT. Because our policies, particularly in promoting the rule of law, are designed to help countries. And in Eastern Europe and Central Europe, that is overcoming the legacy of communism. In the communist system in particular, the Prosecutor General Office was used to suppress and persecute citizens, not promote the rule of law. So, in helping these countries reach their own aspirations to join the Western community of nations and live lives of dignity, helping them have the rule of law, with strong institutions, is the purpose of our policy.

Mr. GOLDMAN. So, in other words, it is a purpose of our foreign policy to encourage foreign nations to refrain from conducting political investigations. Is that right?

Mr. KENT. Correct. And, in fact, as a matter of policy, not of programming, we oftentimes raise our concerns, usually in private, with countries that we feel are engaged in selective political prosecution and persecution of their opponents.

Mr. Manager SCHIFF. Ambassador Yovanovitch aptly summarized the global consequences and harm to U.S. national security resulting from President Trump's demand that Ukraine investigate his political opponent.

(Text of Videotape presentation:)

Ambassador YOVANOVITCH. Such conduct undermines the U.S., exposes our friends, and widens the playing field for autocrats like President Putin. Our leadership depends on the power of our example and the consistency of our purpose. Both have now been opened to question.

Mr. Manager SCHIFF. The issues I just covered are not a matter of policy disagreement over foreign policy and national security. Article I asserts that the President was engaged in no such policy at all but, instead, sold out our policies and our national interests for his own personal gain and to help him corrupt the next election. That is the core conduct of an impeachable offense.

The President's abuse of power also affected our election integrity.

The Framers of our Constitution were particularly fearful that a President might misuse or abuse the power of his office to undermine the free and fair elections at the heart of our democracy. Sadly, that moment has arrived. President Trump's repeated solicitation of a Ukrainian investigation was a clear effort to leverage foreign interference and bolster his prospects in the 2020 election; in other words, to cheat in his election.

In our democracy, power flows from the will of the people as manifested in free and fair elections. One person, one vote is fundamental in our democracy.

President Trump's invitation of foreign interference in the 2020 election—for the purposes of helping him win an election—undercut the Constitution's commitment to popular sovereignty. Americans are now left to wonder if their vote matters or if they are simply pawns in a system being manipulated

by shadowy foreign forces working on behalf of the corrupt interests of a lawless President. Over the long term, this weakens our democratic system's capacity for self-governance by encouraging apathy and nonparticipation.

Cynicism makes it easier for enemies to influence our politics and undermine the national good. Indeed, this is precisely what Vladimir Putin intended when he meddled in the 2016 election: for us to become more cynical; for us to lose faith in the notion that the American system of government is superior to the corrupt, autocratic model of government that he has erected in Russia and sought to export to places like Ukraine.

These are not the free and fair elections Americans expect or demand if foreign powers are interfering. How can we know that our elections are free from foreign interference, whether by disinformation or hacking or fake investigations? We must not become numb to foreign interference in our elections.

Our elections are sacred. If we do not act to put an end to the solicitation of foreign interference in our election by the President of the United States, the effect would be corrosive to our elections and our values. Future Presidents may believe that they, too, can use the substantial power conferred on them by the Constitution in order to undermine our system of free and fair elections, that they, too, can cheat to obtain power or keep it. That way lies disaster for the great American experiment in self-governance.

As you have seen, there is powerful evidence that President Trump will continue to betray the national interest to a foreign power and further undermine both our security and democracy. This creates an urgent need to remove him from office before the next election.

To explain the nature of that continuing threat, let me describe Russia's ongoing efforts to harm our elections, the President's corrupt refusal to condemn or defend against those attacks, his statements confirming that he welcomes foreign interference in our elections so long as this is meant to help him and his conduct, proving that he will persist in seeking to corrupt elections at the expense of our security and at the expense of those elections.

Let's start with Russia's ongoing attacks on our democracy. At the heart of the President's Ukraine scheme is his decision to subscribe to that dangerous conspiracy theory that Ukraine, not Russia, was responsible for interfering in 2016. President Trump and his men pressured Ukraine into investigating this bogus piece of Russian propaganda, and in doing so, they aided Putin's concerted plot to undermine our security and democracy.

Special Counsel Mueller warned that Putin's plot was ongoing:

(Text of Videotape presentation:)

HURD. Is this—in your investigation, did you think this was a single attempt by Russia to get involved in our election, or do you find evidence to suggest they'll try to do this again?

MUELLER. Oh, it wasn't a single attempt. They're doing it as we sit here, and they expect to do it during the next campaign.

Mr. Manager SCHIFF. Not a single attempt. They're doing it as we sit here, and they expect to do it in the next campaign.

That was Special Counsel Mueller's stark warning. And we now know that Director Mueller was right. Just the other week, we saw public reporting that Russian hackers may be using phishing emails to attack Ukrainian gas company Burisma, presumably in search of dirt on Joe Biden. Those are the same tactics deployed by the same adversary, Russia, that the special counsel warned about in the last election. It may be Russia once again attempting to sway our election for one candidate, this time through Ukraine.

Indeed, President Trump, to this very day, refuses to accept the unanimous assessment of our intelligence community and law enforcement professionals that Russia interfered in the 2016 campaign and poses a threat to the 2020 Presidential election. Instead, he views it from his own personal lens—whether it is an attack on the legitimacy of his 2016 electoral victory.

Special Counsel Mueller's testimony on July 24, 2019, the day before the President's call with President Zelensky, contradicted President Trump's claim that his was ''a clean campaign.'' Mueller found that individuals associated with the 2016 campaign of the President welcomed Russia's offers of assistance and adjusted their political strategy so that then-Candidate Donald Trump might benefit from Russia's assistance.

When they were subsequently asked by U.S. law enforcement about their activities, President Trump's advisers repeatedly lied. In Helsinki in July of 2018, however, President Trump refused to acknowledge the Russian threat to our elections. When a reporter explicitly asked whether he believed Putin or the U.S. intelligence agencies on the issue of foreign interference in the 2016 election, President Trump said: ''I don't see any reason why it would be''—Russia—and talked about the DNC server.

(Text of Videotape presentation:)

President TRUMP. So let me just say that we have two thoughts. You have groups that are wondering why the FBI never took the server. Why haven't they taken the server? Why was the FBI told to leave the office of the Democratic National Committee? I've been wondering that. I've been asking that for months and months, and I've been tweeting it out and calling it out on social media. Where is the server? I want to know, where is the server? And what is the server saying?

With that being said, all I can do is ask the question. My people came to me—Dan Coats came to me and some others—they said they think it's Russia. I have President Putin; he just said it's not Russia.

I will say this: I don't see any reason why it would be, but I really do want to see the server. But I have—I have confidence in both parties. I really believe that this will probably go on for a while, but I don't think it can go on without finding out what happened to the server. What happened to the servers of the Pakistani gentleman that worked on the DNC? Where are those servers? They're missing. Where are they? What happened to Hillary Clinton's emails? Thirty-three thousand emails gone—just gone. I think, in Russia, they wouldn't be gone so easily. I think it's a disgrace that we can't get Hillary Clinton's 33,000 emails.

Mr. Manager SCHIFF. I am sure you remember this. It was, I think, unforgettable for every American. But I am sure it was equally unforgettable for Vladimir Putin. I mean, there he is, the President of Russia, standing next to the President of the United States and hearing his own Kremlin propaganda talking points coming from the President of the United States. Now, if that is not a propaganda coup, I don't know what is.

It is the most extraordinary thing. It is the most extraordinary thing: the President of the United States standing next to the President of Russia, our adversary, saying he doesn't believe his own intelligence agencies. He doesn't believe them. He is promoting this kooky, crazy server theory cooked up by the Kremlin, right next to the guy who cooked it up. It is a breathtaking success of Russian intelligence. I don't know if there has ever been a greater success of Russian intelligence. Whatever profile Russia did of our President, boy, did they have him spot-on. Flattery and propaganda. Flattery and propaganda is all Russia needed.

As to Ukraine, well, they needed to deliver a political investigation to get help from the United States. I mean, this is just the most incredible propaganda coup. As I said yesterday, it is not just that the President of the United States, standing next to Vladimir Putin, is reading Kremlin talking points; he will not read his own national security staff talking points, but he will read the Kremlin ones. It is not just that he adopts the Kremlin talking points. That would be bad enough. It is not bad enough, it is not damaging enough, it is not dangerous enough to our national security that he is undermining our own intelligence agencies. It is not bad enough that he undermines those very agencies that he needs later, that we need later to have credibility.

We just had a vigorous debate over the strikes against General Soleimani, and the President has made his argument about what the intelligence says and supports. How do you make those arguments when you say the U.S. intelligence community can't be believed?

Now, we have had a vigorous debate about what that intelligence has to say. That is not the issue here. The issue here is you undermine the credibility of your own intelligence agency—you weaken the country—for when you need to rely on them, for when you need to persuade your friends and your allies that ''you can trust us when we

tell you this is what the intelligence shows.'' How do you make that argument, as the President of the United States, when you have just told the world you trust the Russians more than your own people? You trust Rudy Giuliani more than Christopher Wray. How do you make that case? And if you can't make that case, what does that mean to our security?

But that is not the end of it. It is not just the propaganda coup. It is not just the undermining of our agencies. It is also that the buy-in to that propaganda meant that Ukraine wasn't going to get money to fight the Russians.

I mean, that is one hell of a Russian intelligence coup. They got the President of the United States to provide cover for their own interference with our election. They got the President of the United States to discredit his own intelligence agencies. They got the President of the United States to drive a wedge between the United States and Ukraine. They got the President of the United States to withhold aid from Ukraine in a war with Russia, in a war that is claiming Ukrainian lives every week.

Has there ever been such a coup? I would submit to you, in the entire length of the Cold War, the Soviet Union had no such success—no such success. And why? Because a former mayor of New York persuaded a President of the United States to sacrifice all of that for a cheap shot at his political opponent, for a smear against his political opponent. Was it worth it? I hope it was worth it. I hope it was worth it for the President because it certainly wasn't worth it for the United States.

Now, you can see President Trump did not blame Vladimir Putin and the Russian intelligence agencies who interfered in our election for the questions surrounding his victory. He did not blame the people who worked for his campaign and were subsequently convicted of lying to our law enforcement agencies. No. He blamed the investigators—Special Counsel Mueller, the man in charge of getting to the bottom of Russia's interference in 2016. And he chose to believe Vladimir Putin, a former Russian intelligence officer, rather than his own intelligence agencies.

We can see a pattern here. President Trump solicited interference from Russia as a candidate in 2016, and then his campaign welcomed Russian interference in the election.

In Helsinki, President Trump chose to believe Putin over his own agencies: ''I don't see any reason why it would be''—referring to Russia. Instead of denouncing Russia's interference, he denounced those investigating Russia's interference, and he raised that now-familiar DNC CrowdStrike server thing: ''I really do want to see the server. I don't think it can go on without finding out what happened to the server.''

That is the exact same server that President Trump demanded Ukraine investigate during his July 25 call with President Zelensky.

When the President talked about the DNC server in Helsinki, with Vladimir Putin standing by his side, he was referencing the same discredited conspiracy theory about the Ukraine interference in 2016 that Putin repeatedly promoted.

Let's look at this Washington Post article from July 2018.

> In the end, Trump's performance alongside Putin in the Finnish capital seemed like a tour through his most controversial conspiracy theories, tweets and off-the-cuff musings on Russia—except he did it all while abroad, standing just feet from Putin, the leader of one of America's greatest geopolitical foes.
>
> The spectacle in Helsinki also underscored Trump's eagerness to disregard his own advisers, his willingness to flout the conclusions of his own intelligence community—that Russia interfered in the 2016 elections—and his apparent fear that pressing Putin on the subject might cast doubt on his electoral victory.

White House officials told the Washington Post that President Trump's remarks in Helsinki were ''very much counter to the plan.''

That is another understatement of the century. If that sounds familiar, it is because the witnesses who testified before the House as part of the impeachment inquiry all said the same thing about the July 25th phone call. The President ignored vital national security issues he was supposed to raise and instead raised disproven conspiracies about 2016 and the DNC server—the very same Russian propaganda he publicly endorsed in Helsinki.

Do you think it is going to stop now? Do you think if we do nothing it is going to stop now? All of the evidence is to the contrary. You know it is not going to stop.

The President just told one of the Members of this body he still wants Biden investigated. It is not going to stop unless the Congress does something about it.

President Trump's betrayal began in 2016, when he first solicited Russian interference in our election.

(Text of Videotape presentation:)

> Candidate TRUMP. Russia, if you're listening, I hope you're able to find the 30,000 emails that are missing.

Mr. Manager SCHIFF. That betrayal continued in Helsinki in 2018, when, as we saw, he rejected the intelligence community's assessment about Russian interference in that same election—when he criticized U.S. officials investigating the Russian interference and instead promoted Putin's conspiracy theory about Ukraine.

The betrayal continued in 2019 when he carried out a scheme to cheat in the 2020 election by demanding that the leader of Ukraine—a U.S. partner under military attack by Russia—announced an investigation into the same baseless conspiracy theory about a DNC server and the bogus allegations about Vice President Biden.

The abuse of power continues. He is still trying to cheat in the next election, even after the scheme came to light. Even after it became the subject of an impeachment inquiry, it continued, and the false statements about it continued.

President Trump repeatedly asserted that he had a prerogative to urge foreign nations to investigate U.S. citizens who dare to challenge him politically.

Just for a minute, we should try to step into the shoes of someone else. My father used to say, you don't understand a person until you step in their shoes. I also thought he invented that wisdom himself until I watched ''To Kill a Mockingbird'' and found out that Atticus Finch said it first.

Let's try to step into someone else's shoes for a moment. Let's imagine it wasn't Joe Biden. Let's imagine it was any one of us. Let's imagine the most powerful person in the world was asking a foreign nation to conduct a sham investigation into one of us. What would we think about it then? Would we think that is good U.S. policy? Would we think he has every right to do it? Would we think that is a perfect call?

Let's step, for a minute, into Ambassador Yovanovitch's shoes, and we are the subject of a vicious smear campaign that no one in the Department we work for, up to the Secretary of State, thinks has a shred of credibility. Let's step into her shoes for a minute. We spent our whole life devoted to public service, served in dangerous places around the world, and we are hounded out of our post. And one day someone releases a transcript of a call between the President of the United States and a foreign leader, and the President says there is going to be some things happening to you, or to you, or to you, or to you, or to you. How would you feel about the President of the United States? Would you think he was abusing the power of his office? If you would, it shouldn't matter that it wasn't you. It shouldn't matter that it was Marie Yovanovitch. It shouldn't matter that it was Joe Biden. I will tell you something. The next time it just may be you. It just may be you.

Do you think for a moment that any of you, no matter what your relationship with this President, no matter how close you are to this President—do you think for a moment that if he felt it was in his best interest he wouldn't ask you to be investigated? Do you think for a moment that he wouldn't?

If somewhere deep down below you realize that he would, you cannot leave a man like that in office when he has violated the Constitution. It shouldn't matter that it was Joe Biden. It could have been any of us. It may be any of us. It shouldn't matter that it was Marie Yovanovitch. It will be some other diplomat tomorrow, for some other pernicious reason.

It goes to what Mr. JEFFRIES said. It goes to character. You don't realize how important character is in the highest office in the land until you

don't have it, until you have a President willing to use his power to coerce an ally to help him cheat, to investigate one of our fellow citizens—one of our fellow citizens.

Yes, he is running for President. He is still a U.S. citizen. He is still a U.S. citizen, and he deserves better than that.

Of course, it wasn't just Ukraine. It wasn't just Russia. There is the invitation to China to investigate the Bidens. It is not going to stop.

On September 19, Rudy Giuliani was interviewed by Chris Cuomo on CNN. You have probably all seen the clip. When asked specifically if he had urged Ukraine to look into Vice President Biden, Mr. Giuliani replied immediately: ''Of course I did.'' ''Of course I did.''

It shouldn't matter that it was Joe Biden. It wasn't Hunter Biden there. It was Joe Biden. It wasn't Hunter Biden on that call. It was Joe Biden. It shouldn't matter whether it was Hunter Biden or Joe Biden. We are talking about American citizens. It shouldn't matter to any of us which American citizens.

He hasn't stopped urging Ukraine to conduct these investigations. Mr. Giuliani hasn't. Donald Trump hasn't. To the contrary and consistent with everything we know about the President, he has done nothing but double down.

During the first week of December, Mr. Giuliani traveled to Ukraine and Hungary to interview the corrupt former Ukrainian prosecutors, who had been pushing these false narratives about Vice President Biden and this kooky conspiracy about 2016. Mr. Giuliani met with current members of the Ukraine Parliament who have advocated for that same fraudulent investigation.

In June of last year, President Trump told ABC News that he would take political dirt from a foreign country if it was offered again.

If he has learned anything from the tumult of the last 3 years, it is that he can get away with anything, can do it again. He can't be indicted. He can't be impeached—can't, if you believe our Attorney General, even be investigated.

Our Founders worried about a situation just like this. James Madison put it simply: The President ''might betray his trust to foreign powers.'' In his farewell address, George Washington warned Americans ''to be constantly awake, since history and experience prove that foreign influence is one of the most baneful foes of republican government.''

John Adams, in a letter to Thomas Jefferson wrote:

> You are apprehensive of foreign Interference, Intrigue, Influence. So am I. But as often as Elections happen, the danger of foreign influence recurs.

Or to quote the President's Chief of Staff:

> Get over it. There is going to be politics in foreign policy.

Well, I don't think that was John Adams' point, and I don't think that was James Madison's point, and I don't think that was George Washington's point. If it was, they would have said: ''Get over it.'' But they recognized, as I know we recognize, what a profound danger that would be for that to become the new normal.

Another election is upon us. In 10 months, voters will undertake their most important duty as citizens by going to the polls and voting for their leader. And so we must ask: What role will foreign powers play in trying to influence the outcome? And if they take the President's side, who will protect our franchise if the President will not?

As charged in the first Article of Impeachment, President Trump has demonstrated that he will remain a threat to national security and the Constitution if allowed to remain in office and has acted in a manner grossly incompatible with self-governance and the rule of law.

Based on the abuse of power for which he was impeached and his ongoing powers to solicit foreign influence, both directly and through Mr. Giuliani, there can be little doubt that President Trump will continue to invite foreign interference in our elections again and again. That poses an imminent threat to the integrity of our democracy.

Our Founders understood that a President like Donald Trump might one day grasp the reins of power: an unremorseful, overreaching executive, faithful to himself only, and willing to sacrifice our democracy and national security for his own personal advantage. His pattern of conduct—repeatedly soliciting foreign interference in our elections for his own benefit—confirms that he will stop at nothing to retain his power. He willfully chose to place his own personal interests above the country's and the integrity of our elections.

There is every reason to believe that will continue. He has stonewalled Congress and ordered executive branch agencies—organizations that work for the American people, not for the President—to join in his obstruction. He deployed Mr. Giuliani to Ukraine to continue advancing a scheme that serves no other purpose than advancing his 2020 reelection prospects. He attacked witnesses, public servants, patriots, who stayed true to their oath and leveled with the American people about the grave national injury that resulted from the President's misconduct. And he continued to urge foreign nations to investigate American citizens that he views as a threat. The threat that he will continue to abuse his power and cause grave harm to the Nation over the course of the next year, until a new President is sworn in or until he would be reelected is not a hypothetical. Merely exposing the President's scheme has not stopped him from continuing this destructive pattern of behavior that has brought us to this somber moment. He is who he is. That will not change, nor will the danger associated with him. Every piece of evidence supports the terrible conclusion that the President of the United States will abuse his power again, that he will continue to solicit foreign interference to help corruptly secure his reelection. He has shown neither remorse nor acknowledgement of wrongdoing. If you can believe that July 25 was a perfect call, that asking for investigations of your political opponents and using the power of your office to make it so is perfectly fine, then, there is nothing that would stop you from doing it again.

President Trump has abused the power of his office and must be removed from that office.

Mr. MCCONNELL, I yield back.

The CHIEF JUSTICE. The majority leader is recognized.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MCCONNELL. Mr. Chief Justice, I suggest a 15-minute recess.

There being no objection, at 3:30 p.m., the Senate, sitting as a Court of Impeachment, recessed until 4:04 p.m.; whereupon the Senate reassembled when called to order by the CHIEF JUSTICE.

The CHIEF JUSTICE. The Senate will come to order.

Mrs. Manager DEMINGS. Mr. Chief Justice and Senators, first of all, I want to join my colleagues in just thanking you for your patience and your indulgence.

What I can tell you today is that we are closer today than we were yesterday because I am prepared to present article II: Obstruction of Congress.

The second Article of Impeachment charges the President with misusing the powers of his high office to obstruct the House impeachment inquiry.

We are here today in response to a blanket order issued by President Trump directing the entire executive branch to withhold all documents and testimony from that inquiry.

President Trump's obstruction of the impeachment inquiry was categorical, indiscriminate, and historically unprecedented. And its purpose was clear: to impede Congress's ability to carry out its duties under the Constitution to hold the President accountable for high crimes and misdemeanors.

As part of his effort to cover up evidence of his scheme to solicit foreign interference in the upcoming election, President Trump did something no President has ever dared to do in the history of our Republic. President Trump directed the entire executive branch not to cooperate with the House's impeachment inquiry. President Trump blocked every person who works in the White House and every person who works in every department, agency, and office of the executive branch from providing information to the House as part of the impeachment inquiry.

This was not about specific, narrowly defined security or privacy issues. Nor was it based on potential privileges

available to the executive branch. Indeed, President Trump has not once asserted executive privilege during this process.

This was a declaration of total defiance of the House's authority to investigate credible allegations of the President's misconduct and a wholesale rejection of Congress's ability to hold the President accountable.

The President's order, executed by his top aids, substantially interfered with the House's constitutionally authorized power to conduct an impeachment inquiry.

At President Trump's direction, the White House itself refused to produce a single document or record in response to a House subpoena that remains in full force and effect, and it continues to withhold those documents from Congress and from the American people.

But it is not just the White House. Following President Trump's order, the Office of the Vice President, the Office of Management and Budget, the Department of State, the Department of Energy, and the Department of Defense all continued to refuse to produce a single document or record in response to 71 specific requests, including 5 subpoenas.

Additionally, following President Trump's order, 12 current or former administration officials continue to refuse to testify as part of the House's impeachment inquiry—not only current administration officials but former administration officials as well. Nine of those witnesses, including senior officials with direct firsthand knowledge of the President's actions, continue to defy subpoenas for testimony because of the President's order. And yet, despite President Trump's obstruction, as you have heard and seen throughout the House managers' presentation of the facts of the President's scheme, the House gathered overwhelming evidence of his misconduct from courageous public servants who were willing to follow the law, comply with subpoenas, and tell the truth.

On the basis of that formidable body of evidence, the House adopted the first Article of Impeachment. These witnesses also testified with great specificity about extensive documents, communications, and records in the possession of the White House and other agencies regarding the President's scheme to coerce Ukraine's leader to help his reelection.

As you have heard over the past few days, the House was, therefore, able to develop an extensive catalog of specific documents and pertinent communications that go to the heart of the President's wrongdoing and which the President has ordered be concealed from Congress and the American people.

Revelations of evidence harmful to the President have only continued since the House compiled its investigative reports. Recent court-ordered releases under the Freedom of Information Act, as well as disclosures to the media, have further demonstrated that the White House, OMB, State Department, and other agencies are actively withholding highly relevant documents that could further implicate the President and his subordinates.

Over time, these documents and this evidence will undoubtedly come to light, and I ask this body to not wait to read about it in the press or in a book. You should be hearing this evidence now—hearing this evidence now.

Now, there is one point that I would like to make very clear. President Trump's wholesale obstruction of Congress strikes at the very heart of our Constitution and our democratic system of government.

The President of the United States could undertake such comprehensive obstruction only because of the exceptional powers entrusted to him by the American people. Only one person in the world has the power to issue an order to the entire executive branch. That person, Senators, as you know, is the President. And President Trump used that power not to faithfully execute the law but to order agencies and employees of the executive branch to conceal evidence of his misconduct.

Now, I know that no other American could seek to obstruct an investigation into his or her wrongdoing in this way. We all know that no other American could use the vast powers of our government to undertake a corrupt scheme to cheat to win an election and then use those same powers to suppress the evidence of his constitutional crime. We would not allow—I am convinced that we would not allow any member of our State or local governments to use the official powers of their office to cover up crimes and misdeeds. As this body is well aware, mayors and Governors have gone to jail for doing so. Sheriffs and police chiefs are certainly not immune. If we allow President Trump to escape accountability, we will inflict lasting damage on the separation of powers among our branches of government—our fundamental system of checks and balances. It would inflict irreversible damage by allowing this Commander in Chief and establishing precedence for future Presidents to act corruptly or abusively and then use the vast powers of their office—the Office of the Presidency—to conceal their own misconduct from Congress and the American people. In other words, we would create a system that allows this President and any future President to really do whatever he or she wants.

It is an attack on congressional oversight, not just on the House but also on the Senate's own ability to oversee and serve as a check on this and future Presidents in both Republican and Democratic administrations. Without meaningful oversight, without the power of impeachment, Americans will have to come to accept a far greater likelihood of misconduct by the Oval Office, and they would not be able to look to other branches of government to hold their President—the people's President—accountable.

Executive power without any sort of restraint, without oversight, and without any checks and balances is absolute power. We know what has been said about absolute power: ''Absolute power corrupts absolutely.''

This is the very opposite of what the Framers intended. The Framers of the Constitution purposefully entrusted the power of impeachment to the legislative branch so that it may protect the American people from a corrupt President. Well, the times, Senators, have found us. If Congress allows President Trump's obstruction to stand, it essentially nullifies the impeachment power.

Senators, we are the keepers, the protectors, the defenders of what the Framers intended. We must hold any unprincipled and undisciplined Executive accountable.

Senators, I know that this is not easy. I don't take this moment lightly. These are tough times. I remember quite a few tough times during my 27 years as a law enforcement officer, but we must stop this President. Today we will explain why.

First, we will review key facts regarding the scope and breadth of President Trump's unprecedented actions to stop the House's impeachment powers. As you well know, we covered many of these facts on Tuesday when we explained in depth what evidence the President had blocked from Congress. We addressed documents we know the White House and other agencies are concealing. We addressed testimony the President's aides would provide if they testified under oath. We will, therefore, review the documents and witnesses briefly.

Second, after surveying relevant history and constitutional law, we will explain why obstruction of Congress in and of itself warrants impeachment and removal from office.

Finally, we will demonstrate that President Trump is without question guilty of obstruction of Congress, that his defenses lack any legal foundation, and that his actions pose a dire and continuing threat to the foundation of our constitutional framework.

This is very simple. It is simple. The President abused the powers entrusted in him by the American people in a scheme to suppress evidence, escape accountability, and orchestrate a massive coverup, and he did so in plain sight. His obstruction remains ongoing.

Ms. Manager GARCIA of Texas. Mr. Chief Justice, Senators, President's counsel:

Before I start, I, too, want to thank all the Senators for being so patient and being such good listeners. It reminds me, quite frankly, of one of the first days that I went to what was affectionately called ''baby judge school.'' When we first got started, those were the first two things they told us—that we needed to be patient and that we needed to listen and that we needed to be fair and always give the opportunity to be heard to each side.

I am going to say that you have certainly been playing a very good role as judges because, although I know the press calls you jurors, I know that you are in the role of judges, and I commend you for being good listeners and for having the patience to listen to us these last 2 days and in our final remarks today. So thank you all.

Ms. DEMINGS has given us an overview of the second Article of Impeachment: Obstruction of Congress.

So let us now turn to the facts of the case because to fully appreciate the scope and the scale of the President's wrongdoing and the size of the coverup he has orchestrated, it requires an understanding of the evidence that he has lawlessly hidden from Congress and the American people.

President Trump categorically, indiscriminately, and in unprecedented fashion obstructed Congress's impeachment inquiry; in other words, he orchestrated a coverup. He did it in plain sight.

First, from the beginning, the Trump administration sought to hide the President's misconduct by refusing to turn over the Intelligence Committee whistleblower complaint. That complaint would sound the first alarm of the President's wrongdoing.

Second, the President issued an order prohibiting the entire executive branch from participating in the impeachment inquiry—no cooperation, no negotiation, nothing—or as we say in Texas, nada.

Following the President's orders, Federal agencies refused to produce documents, and key witnesses refused to testify. In fact, the President sanctioned specific directions to officials, ordering them to defy congressional subpoenas. Third, and perhaps the most reprehensible of all, the President waged a campaign of intimidation against those brave public servants who did come forward to comply with their obligation under the law.

Senators, as I mentioned, I am a lawyer and a former judge. I have never ever seen anything like this from a litigant or a party in any case, not anywhere. But from the very beginning of this scandal, President Trump has sought to hide and cover up key evidence.

The coverup started even before the House began to investigate the President's Ukrainian-related activity. It began when the White House sought to conceal the record of Donald Trump's July 25 call with the President of Ukraine by placing it on a highly classified system. But, as we have said before, there was no legitimate national security reason to do so. The coverup continued. A top OMB official instructed the freeze to be ''closely held.'' In other words, ''Don't say anything to anybody.''

Senators, you know that in order to lock in the hold of the funding, the President was required to notify Congress about the amount of money involved and why he was intending to freeze it. Instead, the White House tried to keep the freeze secret.

Maybe they kept it a secret because a senior White House aide, Rob Blair, accurately predicted to his boss, Mick Mulvaney, to ''expect Congress to become unhinged'' if it learned that bipartisan aid approved for a valuable foreign partner was being frozen for the President's personal gain.

But the coverup reached its peak soon after August 12 because, on August 12, a whistleblower filed a lawful and protected complaint intended for Congress with the inspector general of the intelligence community. The President, who was the subject of the complaint, learned of the filing well before Congress and the American people.

In an effort to conceal the whistleblower's concerns, the White House and the Department of Justice took an unprecedented step. No administration had ever intervened in such a manner before. But President Trump maneuvered to keep the whistleblower's concerns from the congressional Intelligence Committee.

In the history of the Intelligence Committee Whistleblower Protection Act, no credible and urgent complaint had ever, ever been withheld from Congress—not ever before. It was through immense public pressure and vigorous oversight by the House that the Trump administration ultimately produced a complaint to the House and Senate Intelligence Committees. I will add that even when it was produced, it was weeks after the legal deadline.

If the President's efforts to conceal the whistleblower's concerns had succeeded, Congress would never have learned about the existence of the complaint, let alone the allegations that it contained. But this attempt to hide key information from Congress was only the first sign of what was to come.

Following new, deeply troubling revelations about the President's July 25 call, on September 24, the Speaker of the House announced that the House investigations into the President's scheme to pressure Ukraine for personal gain would be folded into the ongoing impeachment inquiry. Just days later, the President began to attack the legitimacy of the House impeachment inquiry.

While standing on the tarmac at Andrews Air Force Base, President Trump argued that the House impeachment inquiry ''shouldn't be allowed.'' He claimed ''There should be a way of stopping it—maybe legally, through the courts.''

Let's watch the President and what he had to say:

(Text of Videotape presentation:)

The PRESIDENT. My call was perfect. The President, yesterday, of Ukraine said there was no pressure put on him whatsoever. None whatsoever. And he said it loud and clear to the press. What these guys are doing—Democrats—are doing to this country is a disgrace and it shouldn't be allowed. There should be a way of stopping it—maybe legally, through the courts.

Ms. Manager GARCIA of Texas. ''There should be a way of stopping it.''

Soon after, President Trump took the matter into his own hands. The President used his authority and his office to wage a relentless and misleading public campaign to attack the impeachment inquiry.

The President spent time at rallies, at press conferences, and on Twitter trying to persuade the American people that the House's inquiry was invalid and fraudulent.

Here are just a few of President Trump's comments about the impeachment inquiry. He called it ''a witch hunt,'' ''a COUP,'' ''an unconstitutional power grab,'' and ''a fraud against the American people.'' He said it is ''the phony Impeachment Scam,'' ''the phony Impeachment Hoax,'' the ''Ukraine Hoax,'' and ''a continuation of the greatest Scam and Witch Hunt in the history of our Country.''

Those are probably some of the ones that I can repeat here. And it didn't stop. The attacks did not end there. President Trump turned from rhetoric to action.

On October 8, the White House sent a letter to Speaker NANCY PELOSI informing her that President Trump would seek to completely obstruct the impeachment inquiry. They sent this letter. White House stationery. I shouldn't say this—I am a lawyer—but it is very lawyerly. It is an eight-page letter. You know, lawyers can't do one thing in one page; we have to do it in seven or eight. This was eight pages, and it is long. No worries, I am not going to read it all. I just want to get to the bottom line. It says: ''President Trump cannot permit his Administration to participate in this partisan inquiry under these circumstances.''

He was just saying: We are not going to cooperate.

The letter is dated, again, October 8, and it is signed by Pat Cipollone, who is here, of course, with us today as the lead counsel for the President.

The President did not make any claim of privilege. The President did not make any attempt to compromise. He had no valid excuse. Although we are all too familiar with President Trump's rhetoric and rants, these words in this letter on White House stationery, signed by his lead counsel here today, have consequences. These words have consequences. They were more than just ink on a page. They were more than just eight pages of words.

In the days that followed, President Trump's agencies and officials followed his order to conceal information from Congress. Over the past few days, you have heard in extensive detail from all of us about some of the specific and incriminating documents that the President has withheld from Congress. But, again, here is the bottom line: The House investigating committees sought a total of 71 specific categories of documents from 6 different agencies and offices. President Trump blocked every single one of these requests—all of them.

Between September 27 and October 10, the investigating committees issued subpoenas to the Department of State, the White House, the Office of Management and Budget, Department of Defense, and the Department of Energy. The committees always remained open to working with the executive branch to discuss and prioritize the subpoenas.

Some agents initially suggested that they might comply. For example, a few days after receiving the subpoena, the Department of State staff reached out to the committee to ''discuss accommodations.''

As you all know, the accommodation process is when Congress and the executive branch discuss priorities and concerns so that the committee gets what it needs most efficiently, while minimizing any burden to the agency.

On October 7, the committee staff met with State Department officials. During that conversation, the committees made a good-faith attempt to engage the Department in negotiations.

To start, the committees requested that the Department prioritize production of a narrow set of nonprivileged documents. The Department's representatives stated that they would take the request back to senior State Department officials, but that was the end. That was the end. Those priority documents were never provided to the committees.

In addition to the State Department, the Department of Defense also showed an initial interest in cooperating. During an October 13 television appearance, Secretary of Defense Mark Esper stated repeatedly that the Department of Defense would seek to comply. He said on air, on TV, that they would seek to comply with the subpoena.

In an exchange on ''Face the Nation,'' he was specifically asked:

Question. Very quickly, are you going to comply with the subpoena that the House provided you and provide documents to them regarding the halt to military aid to Ukraine?

Answer. [From the Secretary] Yeah we will do everything we can to cooperate with the Congress. Just in the last week or two, my general counsel sent out a note as we typically do in these situations to ensure documents are retained.

[But, again, the question is] Is that a yes?

Answer. [By the Secretary] That's a yes.

Question. You will comply with the subpoena?

Answer. [Again, by the Secretary] We will do everything we can to comply.

These are his very own words: We can comply.

But remember that October 8 letter from the White House Counsel sent to the Speaker stating the President's position of total defiance. President Trump—again, I will quote it. It said: ''President Trump cannot permit his Administration to participate in this partisan inquiry under these circumstances.''

So every department and every office, top to bottom, of the executive branch was under these instructions. You know, that is about 2 million public servants, top to bottom. The executive branch was all ordered by President Trump not to provide information to Congress. The President offered no accommodation and no opportunity for negotiation.

Ultimately, each agency and office followed the President's order. In response to each subpoena, the Trump administration produced no documents—nothing, nada—and the agencies and offices made clear that it was due to the President's instructions. They always deferred to that October 8 letter.

For example, despite the Secretary's initial signal of cooperation—I gave you the quote from when he was asked specifically on TV. He said they would try to cooperate. But despite that, the Department of Defense later refused to respond to the committee's subpoena. In a letter to the committees, the Department of Defense echoed many of the White House's unsupported legal arguments and concluded: ''In light of these concerns, and in view of the President's position as expressed in the White House Counsel's October 8 letter, and without waiving any other objections to the subpoena that the Department may have, the Department is unable to comply with your request for documents at this time.''

In a TV interview on ''Face the Nation, they tried to ask him again. When asked by Chris Wallace on FOX News:

Question. And—but do you feel Congress has a right to oversight and to be able to see documents from the Pentagon about a program that was approved by Congress?

Answer. Well, they do, but provided it's done in the right and proper way. And I think that was the issue. Again, I think my reputation is pretty good in terms of being very transparent. I like to communicate with members of Congress. But in this case, they were—my recollection is that there were technical and legal issues that prohibited us from doing exactly what was requested by Congress.

So he said he would try to cooperate, to seek to comply, but now they are back-peddling. But, Senators, there were no valid technical or legal arguments. None were put forth to justify the stonewalling of the impeachment inquiry. The documents President Trump is withholding are highly relevant, responsive, and would further our understanding of the President's scheme.

Here is just a sampling of the documents we know exist that are currently being withheld: National Security Advisor John Bolton's notes, Ambassador Taylor's first-person cable to Secretary Pompeo, emails between OMB and other agencies about the President's directive to place a hold on the Ukraine military aid, and the hundreds of heavily redacted documents that the administration has now turned over to third parties under FOIA court orders.

Certainly the documents released pursuant to the FOIA lawsuits were not subject to any claims of privilege or confidentiality or burden. The administration released them publicly. By contrast, the President turned over nothing in response to the House impeachment investigation.

Senators, there still is another component of the President's obstruction that I want all of us to focus on.

Not only did the President block agencies and offices from producing documents, his administration also blocked current and former officials from identifying, producing, or even reviewing relevant documents.

First, the Trump administration actively discouraged its employees from even identifying documents responsive to the committees' request.

Deputy Assistant Secretary George Kent testified in his deposition that he informed the State Department attorney about additional responsive records that the Department had not collected. According to Kent, the Department attorney ''got very angry'' and ''objected to [Mr. Kent] raising of the additional information.'' He ''made clear that he did not think it was appropriate for [Mr. Kent] to make the suggestion.''

So here is a lawyer telling the witness: Don't say that. I just—frankly, as a lawyer and former judge, I just can't believe something like this would happen. But Kent responded that he was just trying to ''make sure that the Department was being fully responsive.''

Second, the Trump administration refused to permit individual witnesses to produce relevant documents themselves.

After the State Department failed to respond to voluntary requests for documents at the beginning of the investigation, the committee sent document requests to six individual State Department employees. Secretary Pompeo objected to the committee's request to State officials, calling them ''an act of intimidation and invitation to violate federal court laws.'' He also claimed that the House inquiry was ''an attempt to intimidate, bully, and treat improperly the distinguished professionals of the Department of State.''

Now we were the bullies. But let's be clear: His statement has been contradicted by actual State Department professionals from whom the committees sought documents. Kent testified that he ''had not felt bullied, threatened, and intimidated'' by the House. In fact, Kent said that the language in Secretary Pompeo's letter, which had been drafted by a State Department attorney, was without consulting Mr. Kent.

He said: ''It was inaccurate''—''inaccurate.'' Then the State Department ordered witnesses to withhold documents from Congress.

For example, on October 14, the Department sent a letter to Kent's personal attorney warning—warning: ''Your client is not authorized to disclose to Congress any records relating to official duties.''

Certain witnesses defied those orders and produced the substance of key documents, providing critical insight into

the President's scheme. Other witnesses produced documents to the Trump administration so they could be turned over to Congress, but now the administration is also sitting on those documents and is refusing to turn them over. Ambassador Taylor testified that he turned over documents to the Trump administration but, to his knowledge, they had not been produced to the House.

Let's watch.

(Text of Videotape presentation:)

Mr. QUIGLEY. But has any of the documents that you turned over, to your knowledge, been turned over to the committee?

Ambassador TAYLOR. No.

Ms. Manager GARCIA of Texas. Senators, I will confirm. The committees have not seen not one of these documents—none.

Finally, if it could be any worse—well, it is—a Trump administration official, Ambassador Sondland, informed us that he was not even permitted to review his own relevant records in preparation for their testimony. Again, this would be his own records so that he could prepare to testify.

Let's watch.

(Text of Videotape presentation:)

Ambassador SONDLAND. I have not had access to all of my phone records, State Department emails, and many, many other State Department documents. And I was told I could not work with my EU staff to pull together the relevant files and information. Having access to the State Department materials would have been very helpful to me in trying to reconstruct with whom I spoke and met and when and what was said.

My lawyers and I have made multiple requests to the State Department and the White House for these materials. Yet these materials were not provided to me, and they have also refused to share these materials with this committee. These documents are not classified and, in fairness—and, in fairness—should have been made available.

Ms. Manager GARCIA of Texas. Of course, we agree.

At President Trump's order, agencies and offices refused to produce documents in response to the committee's requests, and they refused to allow individual witnesses to do so either.

So let's recap. No documents—zero, goose egg, nada—in response to over 70 requests—70 requests and 5 subpoenas. There was no attempt to negotiate, no genuine attempt to accommodate. There was categorical, indiscriminate, and unprecedented stonewalling.

Again, never in my time as a lawyer or as a judge have I seen this kind of total disrespect in defiance of a lawfully issued subpoena—and all on President Trump's orders. And it could continue because this obstruction of Congress is real, and it is beyond—beyond—comparison. This President should be removed.

Ms. Manager LOFGREN. Mr. Chief Justice and Senators, let's turn to President Trump's efforts to stop witnesses from testifying.

No other President facing impeachment has taken the extreme step to prohibit executive branch witnesses from testifying before Congress. Even President Nixon, who famously attempted to defy a subpoena for tape recordings of his conversations, let his most senior staff testify before Congress.

I remember listening on TV as John Dean testified before the Senate Watergate Committee. He was the President's lawyer. President Nixon didn't block him. Not only did President Nixon allow his staff to testify before Congress; he publicly directed them to testify and without demanding a subpoena.

Actually, with the Senate Watergate investigation, President Nixon said:

All members of the White House staff will appear voluntarily when requested by the committee. They will testify under oath, and they will answer fully all proper questions.

Now compare that to President Trump. He publicly attacked the House's impeachment inquiry, calling it ''constitutionally invalid,'' and he ordered every single person working in the executive branch to defy the House impeachment inquiry.

As just discussed, in the letter to the Speaker of the House, the White House Counsel said that President Trump ''cannot permit his administration to participate.''

No President ever used the official power of his office to prevent witnesses from giving testimony to Congress in such a blanket and indiscriminate manner. There is no telling how many government officials would have come forward if the President hadn't issued this order.

Let's look at some of the witnesses who followed the President's orders.

The House issued subpoenas to compel the testimony of three officials at the Office of Management and Budget: Acting Director Russell Vought, Associate Director Michael Duffey, and Associate Director, Brian McCormack.

According to testimony in the House, which was reinforced by emails recently revealed through the Freedom of Information Act lawsuits, OMB was just central to the President's hold on security assistance to Ukraine. Its officials served as conduits for the White House to implement the hold without directly engaging the agencies that actually supported release of the aid. President Trump directed these three OMB officials to violate their legal obligation by defying lawful subpoenas, and they followed his orders.

This isn't just an argument. It is a fact. In response to House subpoenas, OMB sent a letter to Chairman SCHIFF refusing to comply. This is what the letter said: ''As directed by the White House Counsel's October 8, 2019, letter, OMB will not participate in this partisan and unfair impeachment inquiry.''

In that simple statement, OMB admitted several key points. First, Mr. Cipollone's letter of October 8 was an official directive from the White House.

Second, President Trump's blanket order applied to OMB and the three officials subpoenaed by the House.

Third, President Trump's blanket order not only directed them to refuse to participate voluntarily; it also directed them to defy House subpoenas.

Fourth, President Trump's blanket order directly prevented the three OMB officials from providing testimony to the House.

There is no question about the scope of President Trump's order. It was total. There is no question about the intent of the order. It was clearly understood by administration officials, as shown by OMB. And there is no question the order had an impact. It directly prevented the House from getting testimony from the three senior officials at OMB.

So here we are. The President of the United States issued an official order forbidding every single person who works for the executive branch of our government from giving testimony to the House as part of an impeachment investigation. That order prevented the House from getting testimony from witnesses who knew about the President's conduct.

The matter is simple. It is plain to see. The question we here in Congress must ask is whether we are prepared to turn a blind eye to a President's obstruction—obstruction not only of oversight but also the power to determine whether Congress may gather evidence in an impeachment proceeding.

If the Senate is prepared to accept that, it will mean that not only President Trump but all Presidents after him will have veto power over Congress's ability to conduct oversight and the power of impeachment. The House was not prepared to accept that, and that is why the House approved article II.

As you consider what you think about this, please know that President Trump's blanket order was not the end of his campaign to obstruct the impeachment inquiry. Actually, it was just the beginning.

In addition to his total ban of government witnesses, President Trump also sent specific explicit orders. He directed key witnesses to defy subpoenas and to refuse to testify as part of the House's impeachment inquiry.

As you know, the House subpoenaed Acting White House Chief of Staff Mick Mulvaney. We wanted his testimony.

At a White House press briefing in October—I know you have seen it before—Mr. Mulvaney confirmed what we had suspected. Mr. Mulvaney admitted that President Trump withheld the aid to pressure Ukraine into announcing an investigation into the conspiracy theory that Ukraine interfered in the 2016 elections. Here are his words.

(Text of Videotape presentation:)

Mr. MULVANEY. Did he also mentioned to me in the past the corruption that related to the DNC server? Absolutely, no question about that. But that's it, and that's why we held up the money.

Ms. Manager LOFGREN. After this really stunning admission, the House issued a subpoena to require Mr.

Mulvaney to testify, but on the day of Mr. Mulvaney's scheduled deposition, the White House sent a letter to his personal attorney. It prohibited him from obeying the subpoena. The letter said: ''The President directs Mr. Mulvaney not to appear at the Committee's scheduled deposition.''

When he issued this order, President Trump doubled down on his previous blanket order. He did so after the House voted to approve resolution 660, which in no uncertain terms made clear that Mr. Mulvaney was being subpoenaed to testify in an impeachment investigation.

This order was the first of many. President Trump also ordered another White House official, Robert Blair, not to testify. Mr. Blair is Mr. Mulvaney's senior adviser and his closest aide. He was involved in communications about the hold on Ukraine aid.

The day after his initially scheduled deposition, Mr. Blair's personal attorney sent a letter to the House. It said: ''Mr. Blair has been directed by the White House not to appear and testify.''

The House also wanted testimony from John Eisenberg, the senior attorney on President Trump's National Security Council. As you have heard over the past few days, key witnesses, including Dr. Hill and Lieutenant Colonel Vindman, said they were concerned by President Trump's efforts to pressure Ukraine. They were told to report these concerns to Mr. Eisenberg.

The day before his scheduled deposition, the White House sent a letter to Mr. Eisenberg's personal attorney. It said: ''The President directs Mr. Eisenberg not to appear at the Committee's deposition.'' Now, that language is starting to sound familiar.

Mr. Eisenberg's personal attorney then sent a letter to the House. The letter said this:

> Under these circumstances, Mr. Eisenberg has no other option that is consistent with his legal and ethical obligations except to follow the direction of his client and employer, the President of the United States. Accordingly, Mr. Eisenberg will not be appearing for a deposition at this time.

Now, that language, I think, is important. And it is telling. It shows that President Trump's order left Mr. Eisenberg with ''no other option that is consistent with his legal and ethical obligations.'' By directing him to defy a lawful subpoena, President Trump created a legal and ethical problem for Mr. Eisenberg.

I am sure you know, contempt of Congress can be punished as a criminal offense. It carries the possible sentence of up to 12 months in jail. No President has ever dared, during an impeachment inquiry, to officially and explicitly order government witnesses to defy House subpoenas. You don't have to consider high-minded constitutional principles to understand why this was wrong. It is simple, really. By ordering specific government officials to defy congressional subpoenas, President Trump forced those officials to choose between submitting to the demands of their boss or breaking the law. Nobody should abuse a position of power in that way. But President Trump specifically ordered all three of these senior White House officials—Mulvaney, Blair, and Eisenberg—to defy the House's subpoenas and refuse to testify.

President Trump's efforts to conceal his actions didn't stop there, and they didn't stop at the front door of the White House. No less than 12 other witnesses were specifically ordered not to testify. One of those witnesses, Ulrich Brechbuhl, hasn't been highlighted much over the past few days, but the way he fits into the story is worth noting.

Mr. Brechbuhl is a senior official at the State Department. Like these other senior officials, he was ordered not to testify. In a letter to the House, his attorney said: ''Mr. Brechbuhl has received a letter of instruction from the State Department directing that he not appear.'' Mr. Brechbuhl is still another person who could shed light on President Trump's actions. He was kept updated on Rudy Giuliani's broader efforts in Ukraine. He had firsthand knowledge of Secretary Pompeo's involvement. For one thing, he handled Ambassador Yovanovitch's recall from Ukraine, though he refused to meet with her in the aftermath.

Also, messages by Ambassador Volker show that Mr. Brechbuhl knew about Mr. Giuliani's efforts in Ukraine as they occurred. On July 10, Ambassadors Taylor, Volker, and Sondland discussed Rudy Giuliani's push abroad. While discussing the problems Rudy was creating by meddling in official U.S. foreign policy, Ambassador Taylor noted that he ''briefed Ulrich this afternoon.'' Also on August 11, Ambassador Sondland emailed Mr. Brechbuhl to ask him to brief Secretary Pompeo in the statement he was negotiating with President Zelensky, the aim of ''making the boss happy enough to authorize an invitation.''

Ambassador Sondland wrote to him:

> Kurt and I negotiated a statement from Z to be delivered for our review in a day or two. The contents will hopefully make the boss happy enough to authorize an invitation.

Now, State Department Executive Secretary Lisa Kenna answered Ambassador Sondland several hours later, letting him know that she passed that information on to Secretary Pompeo. Let's pause here and consider why this message to Mr. Brechbuhl, which the State Department continues to conceal, is important. In this exchange, Ambassador Sondland told Brechbuhl that he had negotiated a deal to get President Zelensky to make a statement and that Sondland hoped that the promised statement would ''make the boss happy enough to authorize an invitation.''

It shows that senior State Department leadership, including Secretary Pompeo, was quite aware of the deal to trade an invitation to the White House for a statement from President Zelensky.

Indeed, Ambassador Sondland confirmed that he kept them in the loop. Here is his testimony:

(Text of Videotape presentation:)

> Ambassador SONDLAND. We kept the leadership of the State Department and the NSC informed of our activities, and that included communications with Secretary of State Pompeo; his counselor, Ulrich Brechbuhl; his Executive Secretary, Lisa Kenna; and also communications with Ambassador Bolton, Dr. Hill, Mr. Morrison, and their staff at the NSC. They knew what we were doing and why.

Ms. Manager LOFGREN. Eight other witnesses were also ordered not to testify as part of the House's impeachment inquiry, but those eight witnesses came forward anyway, despite the President's efforts to prevent them from testifying. All of the following witnesses were told not to testify: Ambassador Marie Yovanovitch, Ambassador Gordon Sondland, Deputy Assistant Secretary of State George Kent, Ambassador Bill Taylor, Deputy Assistant Secretary of Defense Laura Cooper, Deputy Associate Director at OMB Mark Sandy, State Department official Catherine Croft, and State Department official Christopher Anderson. Each of these eight witnesses followed the law. They obeyed House subpoenas, and they testified before the House.

In all, we know that by issuing the blanket order and later specific orders, President Trump prevented at least 12 current or former administration officials from testifying during the House's impeachment inquiry. He specifically forced nine of those witnesses to defy duly authorized subpoenas.

The facts are straightforward, and they are not in dispute:

First, in the history of our Republic, no President ever dared to issue an order to prevent even a single government witness from testifying in an impeachment inquiry.

Second, President Trump abused the power of his office by using his official power in an attempt to prevent every single person who works in the executive branch from testifying before the House.

Finally, President Trump's orders, in fact, prevented the House from obtaining key witness testimony from at least 12 current or former government officials.

President Trump's orders were clear; they were categorical; they were indiscriminate; and they were wrong. They prevented key government witnesses from testifying. There is no doubt. That is obstruction, plain and simple.

Mrs. Manager DEMINGS. Mr. Chief Justice, now let us turn to some final sets of facts. In a further effort to silence his administration, President Trump engaged in a brazen effort to publicly attack and intimidate the dedicated public servants who came forward to testify. To be clear, these

witnesses didn't seek the spotlight in this way. For years, they had quietly and effectively performed their duties on behalf of our national interest and on behalf of the American people.

Why would they seek the spotlight in this way, knowing that the President of the United States would lead the chorus of attacks against them. And he did. In response, the President issued threats, openly discussed possible retaliation, attacked their character and patriotism, and subjected them to mockery and other insults—the President. The President's attacks were broadcast to millions of Americans, including the witnesses, their families, their friends, and their coworkers. This campaign of intimidation risked discouraging witnesses from coming forward voluntarily or complying with mandatory subpoenas for documents and testimony. And, as we all know, witness intimidation is a Federal crime.

There is simply not enough time today to walk through each of the President's attacks on the House's witnesses, but let's talk about a few. As I am sure my colleagues recall, the House subpoenaed Ambassador Marie Yovanovitch for public testimony. Ambassador Yovanovitch's first tour was in Somalia, an increasingly dangerous place as that country's civil war progressed. During a different tour, Ambassador Yovanovitch helped to open a U.S. Embassy, during which time the Embassy was attacked by a gunman who sprayed the Embassy building with gunfire. Ambassador Yovanovitch has also served as an ambassador to Armenia and served the U.S. Embassy in Moscow. As Chairman SCHIFF said earlier, she has served in some dangerous places around the world on behalf of our interests and the interests of the American people.

President Trump's Under Secretary of State for Political Affairs described Ambassador Yovanovitch as ''an exceptional officer, doing exceptional work at a critical embassy in Kyiv.'' But during Ambassador Yovanovitch's public testimony, President Trump tweeted:

Everywhere Marie Yovanovitch went turned bad. She started off in Somalia, how did that go? Then fast forward to Ukraine, where the new Ukrainian President spoke unfavorably about her in my second phone call with him. It is a U.S. President's absolute right to appoint ambassadors.

In that same hearing, Chairman SCHIFF asked Ambassador Yovanovitch for her reactions to the President's attacks during her testimony before the House. Let's listen to that exchange.

(Text of Videotape presentation:)

Mr. SCHIFF. Ambassador, you've shown the courage to come forward today and testify, notwithstanding the fact you were urged by the White House or the State Department not to, notwithstanding the fact that, as you testified earlier, the President implicitly threatened you in that call record. And now the President, in real-time, is attacking you. What effect do you think that has on other witnesses' willingness to come forward and expose wrongdoing?

Ambassador YOVANOVITCH. It is very intimidating.

Mr. SCHIFF. It is designed to intimidate, is it not?

Ambassador YOVANOVITCH. I mean, I can't speak to what the President was trying to do, but I think the effect is to be intimidating.

Mr. SCHIFF. Well, I want to let you know, Ambassador, that some of us here take witness intimidation very, very seriously.

Mrs. Manager DEMINGS. The House also subpoenaed the public testimony of Ambassador William B. Taylor, another career public servant, who graduated at the top of his class from West Point, served as an infantry commander in Vietnam, and earned a Bronze Star and an Air Medal with the ''V'' device for Valor.

Yet, shortly after Ambassador Taylor came forward to Congress, President Trump publicly referred to him as a Never Trumper without any basis. Then, when a reporter noted that Secretary of State Mike Pompeo had hired Ambassador Taylor, President Trump responded: ''Hey, everybody makes mistakes.'' He then had the following exchange about Ambassador Taylor. Let's listen.

(Text of Videotape presentation:)

President TRUMP. He's a Never Trumper. His lawyer is the head of the Never Trumpers. They're a dying breed, but they are still there.

Mrs. Manager DEMINGS. Ambassador Taylor has since stepped down from his position as our chief diplomat in Ukraine.

In addition to his relentless attack on witnesses who testified in connection to the House's impeachment inquiry, the President also repeatedly threatened and attacked the member of the intelligence community who filed the anonymous whistleblower complaint. In more than 100 statements about the whistleblower over a period of just 2 months, the President publicly questioned the whistleblower's motives and disputed the accuracy of the whistleblower's account.

But most disturbing, President Trump issued a threat against the whistleblower and those who provided information to the whistleblower. Let's listen.

(Text of Videotape presentation:)

President TRUMP. I want to know who's the person, who's the person who gave the whistleblower the information. Because that's close to a spy. You know what we used to do in the old days when we were smart? Right? The spies and treason, we used to handle it a little differently than we do now.

Mrs. Manager DEMINGS. The President's need to conceal his actions was so extreme that he even attacked the credibility of those witnesses who served our country in combat. This included Active Duty military personnel and veterans who earned the Purple Heart and Bronze Star, among other battlefield recognition. But President Trump showed utter disregard for such patriotism. For example, President Trump attacked Lieutenant Colonel Vindman during his testimony on November 19, seeking to question his loyalty to the United States. The President retweeted that Lieutenant Colonel Vindman was offered the position of Defense Minister for the Ukrainian Government three times. Lieutenant Colonel Vindman, the national security director for Ukraine, has been an Activity Duty Army officer for more than 20 years. Lieutenant Colonel Vindman earned a Purple Heart for wounds he sustained in an improvised explosive attack or device in Iraq.

President Trump's campaign of intimidation is reprehensible, debases the Presidency, and was part of his effort to obstruct the impeachment inquiry. The fact that it is the President of the United States making these threats tells us something. It tells us that the President desperately wanted to keep witnesses from testifying and thus further obstruct Congress's inquiry.

Senators, we cannot, and we must not, condone President Trump's attacks on whistleblowers and witnesses—people who truly have the ability to put our country first.

Mr. Manager NADLER. Now that we have carefully reviewed the facts and have described the President's categorical obstruction of Congress, we address questions of law. This discussion need not be abstract. The President's obstruction impacts the Senate directly. It impacts the constituents you represent. It impacts you because your job as a Member of Congress is to hold the executive branch in check. This is true no matter who occupies the White House or which party controls the House or Senate. And the further the President—any President—departs from the law in the Constitution, the more important it is for you to do your job.

I suspect that there is common ground here. We all know that in order for Congress to do its work, we must have information. What is reasonable policy? What is the administration doing? Do we support it? Should we oppose it? Should we enact legislation to correct the problem? Asking questions, gathering information, making decisions based on the answers—this is one of the fundamental functions of Congress.

I suspect that we agree on this as well: Our ability to do that work depends on gathering information. It depends on the power of the congressional subpoena. Even when you make a polite request for information from a friendly administration, that request is backed by the threat of a subpoena.

And although the power of the congressional subpoena has been affirmed repeatedly by the courts, enshrined in the rules of the House and Senate, and respected by executive branch agencies for centuries, if the President chooses to ignore our subpoenas, our powers as a branch of government—our ability to do our jobs, our ability to keep an administration in check, our ability to make sure that the American people

are represented by a Congress, not just by a President—are diminished.

Please know that we are not talking about a disagreement over the last few documents at the end of a long production schedule. We are talking about a direct order from the President of the United States to completely disregard all our subpoenas, to deny us all information the President wants to keep secret. This is in order to deprive Congress of our ability to hold an administration accountable. It is a bid to neuter Congress, to render the President all powerful since Congress could not have any information the President didn't want us to have. Without information, we cannot act.

We must ask: Is there a consequence for a President who defies our subpoenas absolutely; who says to all branches of the administration ''Do not obey a single congressional subpoena''—categorically, without knowing the subject of the subpoena—just ''Never answer a congressional subpoena''; who denies Congress the right to any information necessary to challenge his power?

Would Madison, Hamilton, and Washington support removing a President who declares that the Constitution lets him do whatever he wants and who brazenly adds that he can ignore any effort to investigate, even when backed by subpoenas that the law requires him to obey? The answer to all these questions is a resounding yes.

Before diving in, I would like to set the historical scene. The Framers were wise. And so they worried that Presidents would abuse their power for personal gain. They feared that someday a President might mistake himself for a King—whose decisions cannot be questioned, whose conduct cannot be investigated, whose power transcends the rule of law. Such a would-be King would certainly think things like ''I have the right to do whatever I want as president.'' He might believe that it is ''illegitimate'' for anyone to investigate him. Of course, not even the Framers could have imagined a President would say these things out loud.

A President with this view of raw power would attack anyone who tried to hold him to account, branding them ''human scum'' and ''the Enemy of the People.'' He would argue that courts had no power to enforce subpoenas against him.

He would conscript his allies to ridicule Congress. He would harass witnesses who testified against him, declaring it was disloyal to question his conduct. He would use the powers of his high office to sabotage our system of checks and balances. All of this we have seen in the last few years—indeed, in the last few months.

The Framers wrote the impeachment clause to protect the American people from such a President. The impeachment clause exists to protect our freedom and our democracy in between elections. It exists to remind Presidents that they serve the public, not the other way around. It is a reminder to Presidents that they answer to something greater than themselves. It confirms that nobody in America is above the law, not even the President.

As we have discussed, the impeachment power does not magically protect us when a President commits high crimes and misdemeanors. In Benjamin Franklin's words, the Framers left us a Republic—if we can keep it.

One way we can uphold that promise is to do our duty as elected Members of Congress to hold the executive branch in check. That responsibility is part of the constitutional design. The burden is ours, regardless of our political party, no matter who sits in the Oval Office.

In the ordinary course, when we do our jobs, we do our Nation a service by holding the executive branch—both its political leadership and its professional core—accountable to the people for its actions.

When the President's conduct exceeds the usual constitutional safeguards, it falls on the House to investigate Presidential wrongdoing and, if necessary, to approve Articles of Impeachment. It then falls on the Senate to judge, convict, and remove Presidents who threaten the Constitution.

This entire framework depends on Congress's ability to discover and then to thoroughly investigate Presidential malfeasance. If Presidents could abuse their power and then conceal all the evidence from Congress, the impeachment clause would be a nullity. We the people would lose a vital protection.

That is why officials throughout history have repeatedly recognized that subpoenas served in an impeachment inquiry must be obeyed, including by the President. It is why, before President Trump, only a single official in American history has ever defied an impeachment subpoena. And that is why that official, Richard Nixon, faced Articles of Impeachment for doing so.

As the House Judiciary Committee reasoned in its analysis of Nixon's obstruction: ''[U]nless the defiance of the [House] subpoenas . . . is considered grounds for impeachment, it is difficult to conceive of any President acknowledging that he is obligated to supply the relevant evidence necessary for Congress to exercise its constitutional responsibility in an impeachment proceeding.''

Representative Robert McClory, a Republican from Illinois, explained the importance of this Article of Impeachment for our separation of powers. He said:

> . . . if we refuse to recommend that the President should be impeached because of his defiance of the Congress with respect to the subpoenas that we have issued, the future respondents will be in the position where they can determine themselves what they are going to provide in an impeachment inquiry and what they are not going to provide, and this would be particularly so in the case of an inquiry directed toward the President of the United States. So, it not only affects this President but future Presidents.

That is where we find ourselves now but with even greater force.

President Nixon authorized other executive branch officials and agencies to honor their legal obligations. He also turned over many of his own documents. President Trump, in contrast, directed his entire administration—every agency, every office, and every official—not to cooperate with the impeachment inquiry. As in Nixon's case, President Trump's obstruction is merely an extension of his coverup.

As in Nixon's case, President Trump's obstruction reveals consciousness of guilt. Innocent people do not act this way. They do not hide all the evidence. And like Nixon, President Trump has offered an assortment of arguments to excuse his obstruction. But as was true in Nixon's case, none of these excuses can succeed.

At bottom, these arguments amount to a claim that the President can dictate the terms of his own impeachment inquiry. President Trump's lawyers may insist his grounds for defying Congress are unique and limited; that they only apply here, just this one time; that it was the House, not the President, that broke from precedent; that he would gladly comply with subpoenas if only the House would do as he insists.

That is pure fantasy. The President's arguments are not a one-ride ticket. They are not unique to these facts. Unless they are firmly and finally rejected here, these bogus excuses will reappear every time Congress investigates any President for serious abuses of power—every single time. They will constitute a playbook for ignoring oversight, available to all future Presidents—Democratic and Republican.

These arguments are not consistent with the Constitution. They are lawyerly window dressing for an unprecedented, dangerous power grab.

Plenty of Presidents and judges have complained about impeachment inquiries, declaring their own innocence, attacking the House's motives, and insisting that due process entitled them to all sorts of things. But no President or judge—except Richard Nixon—has ever defied subpoenas on that basis. And no President or judge—none—has ever directed others to defy subpoenas categorically across the board. They have all eventually recognized their obligations under the law. President Trump stands alone.

If President Trump is permitted to defy our subpoenas here in an impeachment inquiry, when the courts have said the congressional power of inquiry is at its highest, imagine what future Presidents will do when we attempt to conduct routine oversight.

President Trump is the first leader of this Nation to declare that nobody can investigate him for official misconduct, except on his own terms. In word and in deed, President Trump has declared himself above the law. He has done so because he is guilty and wishes

to conceal as much of the evidence from the American people and from this body as he can. In that, he must not succeed. If President Trump is allowed to remain in office after this conduct, historians will mark the date that this Senate allowed this President to break one of our mightiest defenses against tyranny. They will wonder why Congress so readily surrendered one of its core constitutional powers. They will wonder why Congress admitted that a President can get away with anything, can violate any constitutional rule, any liberty, any request for information, and get away with it simply by saying: I don't have to answer your questions. Congress has no power to make me answer questions about my conduct.

That is what is at stake. In the future, people will despair that future Presidents will abuse their power without fear of consequences or constraint.

Let's begin with a legal premise of the second Article of Impeachment.

Congress has the power to investigate Presidents for official misconduct. This premise is indisputable. In article I of the Constitution:

> All legislative powers herein granted shall be vested in the Congress of the United States, which shall consist of a Senate and House of Representatives.
>
> Each House may determine the rules of its own proceedings.

Our investigations are grounded in article I of the Constitution, which grants Congress all legislative powers and authorizes each House to determine its own rules. As the Supreme Court has explained, the Constitution thus vests the House and the Senate with the power of inquiry, that it is ''penetrating and far-reaching.''

Moreover, Congress can effectuate that power of inquiry by issuing subpoenas commanding the recipient to provide documents or to testify under oath. Compliance with subpoenas is mandatory. It is not at the option of the executive or the President. As the Supreme Court has explained:

> [I]t is unquestionably the duty of all citizens to cooperate with the Congress in its efforts to obtain the facts needed for intelligent legislative action. It is their unremitting obligation to respond to subpoenas, to respect the dignity of the Congress and its committees, and to testify fully with respect to matters within the province of proper investigation.

More recently, U.S. District Judge Ketanji Brown Jackson has elaborated:

> [B]latant defiance of Congress' centuries-old power to compel the performance of witnesses is not an abstract injury, nor is it a mere banal insult to our democracy. It is an affront to the mechanism for curbing abusers of powers that the Framers carefully crafted for our protection, and, thereby, recalcitrant witnesses actually undermine the broader interests of the people of the United States.

In recognition of the important role that congressional inquiries play in protecting our democracy and in guarding the American people, it is unlawful to obstruct them.

Of course, while Congress investigates many issues, one of the most important is misconduct in the executive branch.

There is a long history of congressional investigations into the executive branch. To name a few especially famous cases, Congress has investigated claims that President Lincoln mishandled Civil War military strategy; the infamous Teapot Dome scandal under President Harding; President Nixon's involvement in the Watergate scandal; President Reagan's involvement in the Iran-Contra affair; President Clinton's real estate dealings and the Monica Lewinsky scandal; warrantless wiretapping under President George W. Bush; and attacks on personnel in Benghazi under President Obama.

Since the dawn of the Republic, Presidents have recognized Congress's power to investigate the executive branch. Even in sensitive investigations involving national security and foreign policy, Presidents have provided Congress with access to senior officials and important documents.

For example, in the Iran-Contra inquiry, President Reagan's former National Security Advisor, Oliver North, and the former Assistant to the President for National Security Affairs, John Poindexter, testified before Congress. President Reagan also produced ''relevant excerpts of his personal diaries to Congress.''

During the Clinton administration, Congress obtained testimony from top advisers, including the President's Chief of Staff Mack McLarty, his Chief of Staff Erskine Bowles, White House Counsel Bernie Nussbaum, and White House Counsel Jack Quinn.

In the Benghazi investigation, President Obama made many of his top aides available for transcribed interviews, including National Security Advisor Susan Rice and Deputy National Security Advisor for Strategic Communications Benjamin Rhodes. The Obama administration, in that case, also produced more than 75,000 pages of documents, including 1,450 pages of White House emails, with communications of senior officials on the National Security Council.

To be sure, certain House Republicans complained loudly that the Obama administration's response to the Benghazi investigation was insufficient. Just imagine how they would have reacted if Obama had ordered total defiance of all subpoenas. They would have been outraged. Why? Because Congress unquestionably has the authority to investigate Presidential conduct.

Not only does Congress have the power to investigate the Executive, but, as we have discussed, article I of the Constitution gives the House the sole power of impeachment. The Framers intended this power to be the central check on out-of-control Presidents. But it does not work automatically. The House must investigate, question witnesses, and review documents. Only then can it decide whether to approve or not approve Articles of Impeachment. Therefore, when the House determines that the President may have committed high crimes and misdemeanors, it has the constitutional duty to investigate his conduct.

In such cases, the House acts not only pursuant to its ordinary legislative authority but also serves as a ''grand inquest of the Nation'' because an impeachment inquiry wields one of the greatest powers of the Constitution—a power that exists specifically to constrain Presidents.

Its subpoenas are backed with the full force of the impeachment clause. They cannot be thwarted by ordinary executive privileges or ordinary objections. It is therefore presumed—as President Polk conceded over 150 years ago—that ''all the archives and papers of the Executive Departments, public or private, would be subject to . . . inspection'' and ''every facility in the power of the Executive [would] be afforded to enable [the House] to prosecute the investigation.'' What investigation? The impeachment investigation of President Polk.

President's Polk's statement, which we will return to, was no outlier. Presidents have long understood that they must comply with impeachment inquiries. Consistent with this understanding, in the history of the Republic, no President has ever claimed the unilateral prerogative to categorically defy a House impeachment inquiry. On the contrary, every President facing this issue has agreed that Congress possesses a broad and penetrating power of inquiry when investigating grounds for impeachment.

This directly refutes President Trump's claim that he obstructed Congress to protect the Office of the President. Every prior occupant of his office has disavowed the limitless power that he asserts. That matters.

As the Supreme Court explained just a few years ago:

> [L]ong settled and established practice is a consideration of great weight in a proper interpretation of constitutional provisions regulating the relationship between Congress and the President.

Let's take a quick tour of the historical record. To begin at the beginning—a sweltering summer in Philadelphia, 1787—the Framers discussed at length the balance between Presidents and Congress. Remember, they had just fought a bloody war to rid themselves of a tyrant, and they were very conscious they didn't want another tyrant. When impeachment came up, they agreed it would limit the President's authority. But a strong majority of Framers saw that as a virtue, not a vice. They wanted to empower the President but also to keep his power from getting out of hand.

Yet impeachment could not serve that role if the House was unable to investigate the President for suspected high crimes and misdemeanors. This was recognized early on, starting with our very first President. In 1796, the

House requested that President Washington provide it sensitive diplomatic materials relating to the hugely unpopular Jay Treaty with Great Britain. President Washington declined since this request intruded upon his executive functions. But Washington agreed that impeachment would change his calculus. In the ensuing debates, it was noted on the House floor that Washington had admitted ''that where the House expresses an intention to impeach, the right to demand from the Executive all papers and information in his possession belongs to it.''

''All papers and information.'' This was only the first of many references to that point in our constitutional tradition. For example, less than 40 years later, in 1833, Justice Joseph Story remarked upon the dangers of Presidential obstruction. He wrote:

> The power of impeachment will generally be applied to persons holding high offices under the government; and it is of great consequence that the President should not have the power of preventing a thorough investigation of their conduct.

Consistent with this teaching, President Polk later offered his clear and insightful explanation of why Presidents must honor all impeachment subpoenas. As I mentioned just moments ago, he said:

> It may be alleged that the power of impeachment belongs to the House of Representatives, and that with a view to the exercise of this power, that House has the right to investigate the conduct of all public officers under the government. This is cheerfully admitted.

Decades later, during our first Presidential impeachment inquiry, President Andrew Johnson recognized Congress's power to thoroughly investigate him and his executive branch subordinates.

In 1857, for example, the House Judiciary Committee obtained executive and Presidential records. The committee interviewed Cabinet officers and Presidential aides about Cabinet meetings and private conversations with the President by his top aides and Cabinet officials. Multiple witnesses, moreover, answered questions about the opinions of the President's, statements made by the President, and the advice given to the President. There is no evidence that Johnson ever asserted any privilege to prevent disclosure of Presidential conversations to the committee or failed to comply with any of the committee's requests.

Thus, in the first 80 years of the Republic, Presidents Washington, Polk, and Johnson, along with members of committees of the House and a Supreme Court Justice, all recognized that Congress is authorized by the Constitution to investigate grounds for impeachment and that Presidents are obligated to give all information requested. President Trump's attempt to stonewall Congress would have shocked those Presidents.

With only a few exceptions, invocations of the impeachment power subsided from 1868 to 1972. Yet, even in that period, while objecting to ordinary legislative oversight, Presidents Ulysses S. Grant, Grover Cleveland, and Theodore Roosevelt each noted that Congress could obtain key executive branch documents in an impeachment inquiry. They thus confirm yet again that impeachment is different. Under the Constitution, it requires full compliance.

Then came Watergate, when President Nixon abused the power of his office to undermine his political opponents. But even Nixon—even Nixon—understood that he must comply with subpoenas for information relating to his misconduct. Thus, he stated in March 1973, regarding the Senate's Watergate investigation:

> All members of the White House staff will appear voluntarily when requested by the committee. They will testify under oath, and they will answer fully all proper questions.

As a result, many senior White House officials testified, including White House Counsel John Dean, White House Chief of Staff H. R. Haldeman, and Deputy Assistant to the President Alexander Butterfield.

In addition, Nixon produced many documents in response to congressional subpoenas, including notes from meetings with the President.

As the House Judiciary Committee explained at the time, 69 officials had been subjected to impeachment investigations throughout American history. Yet, ''with the possible exception of one minor official who invoked the privilege against self-incrimination, not one of them challenged the power of the committee conducting the investigation to compel the production of evidence it deemed necessary.''

President Nixon's production of records was incomplete, however, in a very important respect: He did not produce tape recordings of key Oval Office conversations. In response, the House Judiciary Committee approved an Article of Impeachment against the President for obstruction of Congress.

Twenty-four years later, the House undertook impeachment proceedings against President Clinton. Consistent with precedent and entirely unlike President Trump, Clinton ''pledged to cooperate fully with the [impeachment] investigation.'' Ultimately, he provided written responses to 81 interrogatories from the Judiciary Committee, and 3 witnesses provided testimony during the Senate trial.

As this review of the historic record proves, Presidents have long recognized that the Constitution compels them to honor subpoenas served by the House in an impeachment inquiry.

Stated simply, President Trump's categorical blockade of the House—his refusal to honor any subpoenas, his order that all subpoenas be defied without even knowing what they were—has no analog in the history of the Republic. Nothing even comes close. He has engaged in obstruction that several of his predecessors have expressly said is forbidden and that led to an Article of Impeachment against Nixon.

President Trump is an outlier. He is the first and only President ever to declare himself unaccountable and to ignore subpoenas backed by the Constitution's impeachment power. If he is not removed from office and if he is permitted to defy the Congress entirely, categorically, and to say that subpoenas from Congress in an impeachment inquiry are nonsense, then we will have lost—the House will have lost, and the Senate, certainly, will have lost—all power to hold any President accountable.

This is a determination by President Trump that he wants to be all powerful. He does not have to respect the Congress—he does not have to respect the representatives of the people. Only his will goes. He is a dictator. This must not stand. That is another reason he must be removed from office.

Ms. Manager LOFGREN. Mr. Chief Justice, Senators, we have now shown how the extreme measures President Trump took to conceal evidence and block witnesses defies the Constitution and centuries of historical practice; but there is more to this story, and it only further undermines President Trump's case. The position he has taken is not only baseless as an historical matter; it is also inconsistent with the Justice Department's stated reason for refusing to indict or prosecute Presidents.

The Department of Justice's unwillingness to indict a sitting President creates a danger that the President can't be held accountable by anyone, even for grave misconduct. To its credit, the Department of Justice recognized that risk. In its view, ''the constitutionally specified impeachment process ensures that the immunity would not place the President 'above the law.'''

This argument by the Justice Department is really important. In justifying its view that a President can't be held criminally liable while in office, the DOJ relies on Congress's ability to impeach and remove a President, but the Justice Department's rationale falls apart if the ''constitutionally specified impeachment process'' can't function because the President himself has obstructed it.

The Supreme Court correctly noted in Nixon v. Fitzgerald—and that is not Richard Nixon; it is Judge Nixon—''vigilant oversight by Congress'' is necessary to ''make credible the threat of impeachment.''

The President should not be treated as immune from criminal liability because he is subject to impeachment but then be allowed to sabotage the impeachment process itself. That is what this President did. That places him dangerously above the law and beyond the separation of powers. Presidents can't be above the law. Presidents, like everyone else, must obey subpoenas served in an impeachment inquiry.

In 1880, the Supreme Court explained: ''Where the question of such impeachment is before either [House of Congress] acting in its appropriate sphere

on that subject, we see no reason to doubt the right to compel the attendance of witnesses, and their answer to proper questions, in the same manner and by the use of the same means that courts of justice can in like cases.''

Almost a century later, Judge John Sirica's influential opinion on the Watergate ''roadmap'' in 1974 emphasized the special weight assigned to Congress in an impeachment.

He wrote:

> [I]t should not be forgotten that we deal in a matter of the most critical moment to the Nation, an impeachment investigation involving the President of the United States. It would be difficult to conceive of a more compelling need than that of this country for an unswervingly fair inquiry based on all the pertinent information.

That same year, the Supreme Court decided the famous case of Nixon v. United States. That is President Nixon. I was standing just across the street from the Court when the case was handed down, and I remember seeing the reporters running down those marble steps, clutching the Court's unanimous decision. That decision forced the release of key Oval Office tapes that President Nixon had tried to cover up by invoking executive privilege. In short order, it led to the resignation of President Nixon.

The plaintiff in that case was actually the special prosecutor, Leon Jaworski, who had been appointed to investigate the Watergate burglary and who had issued subpoenas for the Nixon tapes. The Supreme Court upheld these subpoenas against President Nixon's claim of executive privilege. It reasoned that his asserted interest in confidentiality could not overcome the constitutionally grounded interest in the fair administration of criminal justice.

In reaching that conclusion, the Court said:

> The ends of criminal justice would be defeated if judgments were to be founded on a partial or speculative presentation of the facts. The very integrity of the judicial system and public confidence in the system depend on full disclosure of all the facts, within the framework of the rules of evidence.

That reasoning, which was a unanimous decision by the Supreme Court in the Nixon tapes case, applies with full force—indeed, greater force—to impeachments.

The House Judiciary Committee recognized this when it approved an Article of Impeachment against President Nixon for obstruction of Congress.

It reasoned as follows:

> If a generalized Presidential interest in confidentiality cannot prevail over ''the fundamental demand of due process of law in the fair administration of justice,'' neither can it be permitted to prevail over the fundamental need to obtain all the relevant facts in the impeachment process. Whatever the limits of legislative power in other contexts—and whatever need may otherwise exist for preserving the confidentiality of Presidential conversations—in the context of an impeachment proceeding the balance was struck in the favor of the power of inquiry.

Accordingly, President Trump's conduct is unprecedented and, actually, offensive to the precedents, and it is inconsistent with his duty—his oath—to faithfully execute the laws. That obligation to see that the laws are faithfully executed is not just about enforcing statutes; it is a duty to be faithful to the Constitution—every part of it—as stated in the text and understood across history, and it is a duty that he has violated by obstructing Congress here.

I want to make one additional point regarding the judiciary.

Presidents have an obligation to comply with Congress's impeachment inquiry regardless of whether a court has reviewed the request. We make this point even though, I think, President Trump's lawyers would be making a mistake to raise it. After all, the President's lawyers can't have it both ways. They can't argue here that we must go to court and then argue in court that our case can't be heard.

Anyway, the House's ''sole Power of impeachment'' wouldn't be ''sole'' or much of a ''power'' if the House could not investigate the President at all without first spending years litigating before the third branch of government. It would frustrate the Constitution for the House to depend entirely on the judiciary to advance its impeachment-related investigatory powers.

Consistent with this understanding, before President Trump, the House had never before filed a lawsuit to require testimony or documents in a Presidential impeachment. We didn't have to. No President had ever issued a blanket ban on compliance with House subpoenas or challenged the House to find a way around his unlawful order. In this strange and unprecedented situation, it is appropriate for Congress to reach its own judgment that the President is obstructing the exercise of its constitutional power.

As then-Representative LINDSEY GRAHAM explained in 1998 during the Clinton proceedings, where we served together on the Judiciary Committee: ''The day Richard Nixon failed to answer that subpoena is the day he was subject to impeachment because he took the power from Congress over the impeachment process away from Congress, and he became the judge and jury.''

There is still another reason it would be wrong and dangerous to insist that the House cannot take action without involving the courts, and that reason is delay.

Consider just three lawsuits filed by House committees over the past two decades to enforce subpoenas against senior executive branch officials. I served on the Judiciary Committee when we decided that we needed to hear from former White House Counsel Harriet Miers.

In Committee on the Judiciary v. Miers, the Judiciary Committee tried to enforce a subpoena that required her to give testimony about the contentious firing of nine U.S. attorneys. The committee served the subpoena in 2007. We negotiated—as the courts indicate you should—with the White House, and we finally filed suit in March of 2008. We won a favorable district court order in July 2008, but we didn't receive testimony from Miers until June of 2009. That was 2 years.

In Committee on Oversight and Government Reform v. Holder, the Committee on Oversight and Government Reform tried to force Attorney General Eric Holder to produce additional documents relating to the so-called Operation Fast and Furious. The committee served the subpoena in October 2011. They filed suit in August 2012. They won a series of orders requiring the production of documents, but the first such order did not issue until August of 2014—nearly 3 years.

In Committee on the Judiciary v. McGahn, the House Judiciary Committee sought to enforce a subpoena to require White House Counsel Don McGahn to give testimony regarding matters relating to the special counsel's investigation. We served that subpoena in April of last year. We filed suit in August of last year. We won a favorable district court order in November of last year. The court of appeals stayed that ruling and didn't hear arguments until early this month—with an opinion and, potentially, a Supreme Court application likely to follow. We will likely not have an answer this year.

Sometimes courts move quickly, but, here, they have not—not at all. Even when the House urges expedited action, it usually takes years, not months, to get evidence through judicial proceedings.

The President can't put off impeachment for years by ordering total defiance of the House and then insist that the House go to court even as he argues that it can't go to court. That is especially true when the President doesn't just raise one or two objections to specific subpoenas but orders a blanket, governmentwide coverup of all evidence.

That kind of order makes this clear. The President sees himself completely immune from any accountability—above the law. It reveals his pretentions, really, to absolute power. It confirms he must be removed from office.

Here is the key point: President Trump's obstruction of Congress is not merely unprecedented and wrong; it is also a high crime and misdemeanor, as the Framers used and understood that phrase, warranting his immediate removal from office. To see why, let's return to first principles.

As the Framers deliberated in Philadelphia, George Mason posed a profound question: ''Shall any man be above justice?''

That question wasn't a hypothetical. The Framers had just rebelled against England, where one man, the King, was in fact above justice.

By authorizing Congress to remove Presidents for egregious misconduct,

the Framers rejected that model. Unlike Britain's King, the President would answer to Congress and, thus, to the Nation, if he engaged in serious wrongdoing, because the impeachment power exists not to punish the President but to check Presidents. It can't function if Presidents are free to ignore all congressional investigation and oversight.

An impeachment scholar, Frank Bowman, said this:

> Without the power to compel compliance with subpoenas and the concomitant right to impeach a president for refusal to comply, the impeachment power would be nullified.

So the consequences of Presidential obstruction go beyond any particular impeachment inquiry. They go to the heart of the impeachment power itself. They weaken our shield against a dangerous or corrupt President.

Now, of course, Presidents are still free to raise privacy, national security, or other concerns in the course of an impeachment inquiry. There is room for good-faith negotiations over what evidence will be disclosed, although there is a strong presumption in favor of full compliance with congressional subpoenas.

But when a President abuses his office, abuses his power to completely defy House investigators in an impeachment inquiry, when he does that without lawful cause or excuse, he attacks the Constitution itself. When he does that, he confirms that he sees himself as above the law.

President Nixon's case is informative. As noted, President Nixon let his senior officials testify, he produced many documents. He did not direct anything like a blanket indiscriminate block of the House's impeachment inquiry. Still, he did defy subpoenas seeking records and recordings of the Oval Office.

Now, President Nixon claimed that his noncompliance was legally defensible. He invoked the doctrine of executive privilege. The judiciary rejected that excuse.

The committee emphasized that ''the doctrine of separation of powers cannot justify the withholding of information from an impeachment inquiry.'' After all, ''the very purpose of such an inquiry is to permit the House, acting on behalf of the people, to curb the excesses of another branch, in this instance the Executive.''

''Whatever the limits of legislative power in other contexts—and whatever need may otherwise exist for preserving the confidentiality of Presidential conversations—in the context of an impeachment proceeding the balance was struck in favor of the power of inquiry when the impeachment provision was written into the Constitution.

Now, ultimately, the committee approved an article against Nixon because he sought to prevent the House from exercising its constitutional duty.

Article III charged Nixon with abusing his power by interfering with the discharge of the Judiciary Committee's responsibility to investigate fully and completely whether he had committed high crimes and misdemeanors. President Nixon's third Article of Impeachment explained it this way:

> In refusing to produce these papers and things, Richard M. Nixon, substituting his judgment as to what materials were necessary for the inquiry, interposed the powers of the Presidency against the lawful subpoenas of the House of Representatives, thereby assuming to himself functions and judgments necessary to the exercise of the sole power of impeachment vested by the Constitution in the House of Representatives.
>
> In all of this, Richard M. Nixon has acted in a manner contrary to his trust as President and subversive of constitutional government, to the great prejudice of the cause of law and justice, and to the manifest injury of the people of the United States. . . .

President Nixon's case powerfully supports the conclusion that Presidential defiance of a House impeachment inquiry constitutes high crimes and misdemeanors.

You know, I have been thinking a lot about the Founders and have been rereading the Constitution and the notes from the Constitutional Convention. It was just a little over 230 years ago that they met in Philadelphia, not too far from here. They had been at it for a long time. They didn't know whether the constitution they were going to write would sustain freedom, but they were trying to create a completely different type of government.

On July 20, Governor Morris said this:

> The magistrate is not the king. The people are the king.

George Mason, of Virginia, on that same day said:

> Shall any man be above Justice? Above all, shall that man be above it who can commit the most extensive injustice?''

And Elbridge Gerry argued that he hoped that the maxim that the chief magistrate could do no wrong ''would never be adopted here.''

Now, finally, on September 8, they adopted the impeachment clause in the U.S. Constitution, but I hope that we will remember the admonition that we should never accept the fact that the magistrate—the President—can do no wrong.

They crafted the Constitution to protect our liberty and the liberty of those who will follow us.

Professor Noah Feldman talked about the Constitution in his testimony before the House.

(Text of Videotape presentation:)

> Noah FELDMAN. A President who says, as this President did say, I will not cooperate in any way, shape, or form with your process, robs a coordinate branch of government, he robs the House of Representatives of its basic constitutional power of impeachment.

Ms. Manager LOFGREN. You know, a President who does that also endangers the American people by stripping away the Constitution's final safeguard against Presidents who abuse power and harm the Nation. Such a President acts like a King, which the Founders were fighting against. That is what they wrote out of the Constitution. A President cannot be immune from oversight, accountability, and even simple justice in the exercise of the powers entrusted to him.

We can't let that stand in this case. The President must forfeit the powers that he has abused and be removed from office.

Mr. Manager JEFFRIES. Mr. Chief Justice, distinguished Members of the Senate, counsel for the President, my colleagues, the American people who are assembled here today, I think we have our next break scheduled for within the hour, and so I find myself in the unenviable position of being the only thing standing between you and our dinner. But be not discouraged because I am going to try to follow the advice of a former Sunday school teacher of mine. I grew up in the Cornerstone Baptist Church in Brooklyn. She said: Jeffries, on the question of public presentations, be brief, be bright, and be gone.

And so I am going to try to do my best.

Presidents are required to comply with impeachment subpoenas. This President has completely defied them. That conduct alone is a high crime and misdemeanor.

The facts here are not really in dispute. President Trump's defense appears to be: I can do whatever I want to do. Only I can fix it. I am the chosen one.

(Text of Videotape presentation:)

> President TRUMP. Then I have an Article II, where I have the right to do whatever I want as president. Nobody knows the system better than me. Which is why I alone can fix it. Somebody had to do it. I am the chosen one. Somebody had to do it.

Mr. Manager JEFFRIES. Is that who we are as a democracy?

President Trump can't address the substance of our case. He therefore complains about process, but these procedural complaints are baseless excuses, and they do not justify his attempts to hide the truth from Congress and from the American people.

The President's arguments fail for four simple reasons. First, the House, not the President, has the ''sole Power of Impeachment'' and the soul power ''to determine the Rules of its Proceedings.'' That is article I, section 2, of the Constitution.

Second, President Trump's ''due process'' argument has no basis in law, no basis in fact, no basis in the Constitution. President Trump may not preemptively deny any and all cooperation to the House and then assert that the House's procedures are illegitimate because they lack his cooperation.

Third, President Trump's claim that he is being treated differently completely lacks merit. Despite what he contends, the House provided President Trump with greater protection than what was given to both President Nixon and President Clinton. The fact

that President Trump failed to take advantage of these procedural protections does not mean they did not exist.

President Trump is not the first President to complain about House procedures. He won't be the last. He is not the first one to challenge the motives of any investigation or certainly an impeachment inquiry. Such complaints are standard operating procedure from the article II executive branch.

President Johnson, President Nixon, President Clinton had plenty of complaints, but no President—no President, no President—has treated such objections as a basis for withholding evidence, let alone categorically defying every single subpoena—none—except Donald John Trump.

Finally, the obligation to comply with an impeachment subpoena is unyielding. It does not dissipate because the President believes House committees should invite different witnesses, give his defenders unfettered subpoena power, or involve his personal lawyers at the deposition stage of the process, when that has never been done.

And if a President can defy Congress on such fragile grounds, then, it is difficult to imagine why any future President would ever comply with an impeachment or investigative subpoena again.

Now, throughout our history, impeachments have been rare, and the Supreme Court has made clear that it is wary of intruding on matters of impeachment. This, of course, leaves room for interbranch negotiation, but it does not allow the President to engage in blanket defiance.

President Trump's objections are not genuinely rooted in the law. They are not good-faith legal arguments. We know that because President Trump said early on he would fight all subpoenas. We know that because he declared the impeachment inquiry illegitimate before it even adopted any procedures; we know that because he has denounced every single effort to investigate him as a witch hunt; and we know that because he never even claimed executive privilege during the entire impeachment proceeding.

President Trump's first excuse for obstructing Congress is his asserted belief that he did nothing wrong—that his July 25 call with President Zelensky was ''perfect.''

In the October 8 letter sent by his Counsel, President Trump asserted the prerogative to defy all House subpoenas because he has declared his own innocence. As Mr. Cipollone put it, at President Trump's behest, ''the President did nothing wrong,'' and ''there is no basis for an impeachment inquiry.'' Yes, the White House Counsel includes this in a formal letter to the House, defying every single subpoena.

As we have shown in our discussion of the first Article of Impeachment, these claims of innocence are baseless. They lack merit. We have provided overwhelming evidence of President Trump's guilt.

The President cannot unlawfully obstruct a House impeachment inquiry because he sees no need to be investigated. One of the most sacred principles of justice is that no man should be the judge in his own case, and yet that is exactly what President Trump has been determined to do. But this is America. He cannot be judge, jury, and executioner. Moreover, the President cannot simply claim innocence and then walk away from a constitutionally mandated process.

Even President Nixon did not do that, as we have previously established. Congress has a constitutional responsibility to serve as a check and balance on an out-of-control executive branch. Our responsibility is not to this President; it is to the American people.

Blanket Presidential defiance would bring a swift halt to all congressional oversight of the Executive. That principle would have authorized categorical obstruction in the impeachments of President Johnson, President Nixon, and President Clinton. In each of those cases, the House was controlled by a different party than the Presidency, and the President attacked those inquiries as partisan. Yet those Presidents did not view their concerns with excessive partisanship as a basis for defying every single subpoena.

The purpose of an impeachment inquiry is for the House to collect evidence to determine, on behalf of the American people, whether the President may have committed an impeachable offense because the Constitution vests the House alone with the ''sole Power of Impeachment.''

A President who serves as the judge of his own innocence is not acting as a President. That is a dictator. That is a despot. That is not democracy.

The President also believes, it appears, that blanket obstruction is justified because the House did not expressly adopt a resolution authorizing an impeachment inquiry or properly delegate such investigatory powers to its committees.

The full House voted in January in advance of the inquiry to adopt rules authorizing committees to conduct investigations, issue subpoenas, gather documents, and hear testimony.

Beginning in the spring and summer of 2019, evidence came to light that President Trump and his associates might have been seeking the assistance of another foreign government, Ukraine, to influence the upcoming 2020 election.

On September 9, the House investigating committees announced they were launching a joint investigation. They requested records from the White House and the Department of State. This investigation was consistent with all rules approved by the full House. At the same time, evidence emerged that the President may have attempted to cover up his actions and prevent the transmission of a whistleblower complaint to the Intelligence Committees of the Senate and the House.

Given the gravity of these allegations and the immediacy of the threat to the next Presidential election, the Speaker of the House, a constitutional officer, explicitly named in article I, announced on September 24 that the House would begin a formal impeachment inquiry. There is nothing in the Constitution, nothing in Federal law, nothing in Supreme Court jurisprudence that required a formal vote at the time.

The President has put forth fake arguments about process because he cannot defend the substance of these allegations.

Following the announcement of the impeachment inquiry, the House investigating committees issued additional requests—and then subpoenas—for documents and testimony. The committees ''made clear that this information would be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.

Then, on October 31, the full House voted to approve H. Res. 660, which directed the House committees to ''continue their ongoing investigations as part of the existing . . . inquiry into whether sufficient grounds exist for the House of Representatives to exercise its Constitutional power to impeach Donald John Trump.''

In addition to affirming the ongoing House impeachment inquiry, H. Res. 660 set forth procedures for open hearings in the Intelligence Committee and for additional proceedings in the Judiciary Committee.

Every step in this process was fully consistent with the Constitution, the rules of the House, and House precedent.

The House's autonomy to structure its own proceedings for an impeachment inquiry is grounded in the Constitution. The President's principal argument to the contrary is that no committee of the House is permitted to investigate any Presidential misconduct until the full House acted.

As a Federal district court recently confirmed, the notion that a full House vote is required to authorize an impeachment inquiry ''has no textual support in the U.S. Constitution [or] the governing rules of the House.''

The investigations into misconduct by Presidents Andrew Johnson, Nixon, and Clinton all began prior to the House's consideration and approval of a resolution authorizing the investigations.

Recently, under Republican control, the Judiciary Committee considered the impeachment of the Commissioner of the Internal Revenue Service following a referral from another committee and absent a full vote of the House for an impeachment inquiry.

There is no merit to President Trump's argument that the full House

had to vote. The sequence of events in this particular case largely tracks those in the Nixon proceedings. There, the House Judiciary's proceedings began in October of 1973, when resolutions calling for President Nixon's impeachment were introduced in the House and referred to the Judiciary Committee.

Over the next several months, the committee investigated the Watergate break-in and coverup, among other matters, using its existing investigatory authorities. The committee also hired a special counsel and other attorneys to assist in these efforts. Most importantly, all of this occurred before the House approved a resolution directing the Judiciary Committee to investigate whether grounds to impeach Richard Nixon existed.

In this instance, the committees began the investigation with their existing powers authorized by the full House. That course of events is entirely consistent with the Richard Nixon precedent. It is also common sense. After all, before voting to conduct an impeachment inquiry, the House must ascertain the nature and seriousness of the allegations and the scope of the inquiry that may follow their actions.

President Trump's second excuse also fails. Let's now address the President's so-called due process and fairness argument. The President has phrased his complaints in the language of ''due process.'' He has complained that the procedures were not fair, even though they reflect prior practice and strike a reasonable balance between Presidential involvement on the one hand and the House's obligation to find the truth on the other.

Presidents come and Presidents go. They have all sharply criticized House procedures, but no President has ever treated those objections as a basis for complete defiance. No President has ever done that.

In the context of a House impeachment inquiry, it is fair to say that the President is a suspect—a suspect who may have committed a high crime or misdemeanor. He cannot tell the detectives investigating the possible constitutional crime what they should do in the context of their investigation.

In the President's October 8 letter, Mr. Cipollone complains that he was denied ''the most basic protections demanded by due process under the Constitution and by fundamental fairness,'' including ''the right to cross-examine witnesses, to call witnesses, to receive transcripts of testimony, to have access to evidence,'' and ''to have counsel present.''

It sounds terrible, but it is not accurate.

The President appears to have mistaken the initial phases of the impeachment inquiry for a full-blown trial. The trial phase of the impeachment inquiry is taking place right now.

Chairman Peter Rodino of the Judiciary Committee once observed, as it related to the impeachment proceedings against President Nixon, that ''it is not a right but a privilege or a courtesy'' for the President to participate through counsel.

An impeachment inquiry is not a trial; rather, it entails a collection and evaluation of facts before a trial occurs. In that respect, the House acts like a grand jury or a prosecutor investigating the evidence to determine whether charges are warranted or not. Federal grand juries and prosecutors do not allow targets of their investigation to coordinate witness testimony. The protections that the President labeled as ''due process'' do not apply here because those entitlements that he sought, many of which were actually afforded to him—but those entitlements that he sought would not necessarily be available to any American in a grand jury investigation.

Moreover, it should be clear that the House, notwithstanding this framework, has typically provided a level of transparency in impeachment inquiries, particularly as it relates to Presidents.

In past impeachment inquiries, this has typically meant that the principal evidence relied upon by the House Judiciary Committee is disclosed to the President and to the public, though some evidence in past proceedings has actually remained confidential.

The President has typically been given an opportunity to participate in the proceedings at a stage when evidence has been fully gathered and is presented to the Judiciary Committee. President Trump was given the chance to do that in this case, but he declined.

Presidents have been entitled to present evidence that is relevant to the inquiry and to request that relevant witnesses be called. President Trump was given the chance to do that in the House impeachment inquiry before the Judiciary Committee, but he declined.

Under H. Res. 660, President Trump received procedural protections not just equal to but in some instances greater than that afforded to Presidents Nixon and Clinton. So let's be clear. The privileges described in the October 8 letter were in fact offered to President Trump as they had been in prior impeachment inquiries. The President was able to review all evidence relied on by the House investigating committees, including evidence that the minority's public report identified as favorable to President Trump.

During the Judiciary Committee proceedings, the President had opportunities to present evidence, call witnesses, have counsel present to raise objections, cross-examine witnesses, and respond to the evidence raised against him.

As the Rules Committee report accompanying H. Res. 660 noted, these privileges are ''commensurate with the inquiry process followed in the cases of'' Nixon and Clinton. President Trump simply chose not to avail himself of what had been afforded to him.

The fact that President Trump declined to take advantage of these protections does not excuse his blanket, unconstitutional obstruction. Unlike the Nixon and Clinton impeachments, in this particular instance, the argument that the President has made—the argument that he has made as it relates to the investigative process—is not analogous.

In this case, the House conducted a significant portion of the factual investigation itself because no independent prosecutor was appointed to investigate the allegations of wrongdoing against President Trump. Attorney General William Barr refused to authorize a criminal investigation into the serious allegations of misconduct against the President. They tried to whitewash the whole sordid affair. Left to their own devices, the House investigating committees followed standard best practices for investigations, consistent with the law enforcement investigation into Presidents Nixon and Clinton, in advance of their impeachments.

The committees released transcripts of all interviews and depositions conducted during the investigation. During the investigation, more than 100 Members of the House participated in the so-called closed-door proceedings—more than 100 Members of the House, 47 of whom were Republicans. They all had the opportunity to ask questions. They all had the opportunity to ask questions with equal time.

The Intelligence Committee held public hearings with 12 of the key witnesses testifying, including several requested by the House Republicans. It is important to note that the very same procedures in H. Res. 660 were supported by Acting White House Chief of Staff Mick Mulvaney when he served as a member of the Oversight Committee and by Secretary of State Mike Pompeo when he served as a member of the Select Committee on Benghazi.

(Text of Videotape presentation:)

Mr. GOWDY. I can just tell you in the private interviews there is never any of what you saw Thursday. It is one hour on the Republican side, one hour on the Democrat side—which is why you are going to see the next two dozen interviews done privately. Look at the other investigations being done right now. The Lois Lerner investigation that was just announced, was that public or private?

Mr. Manager JEFFRIES. If this process was good enough for other Presidents, why isn't it good enough for President Trump?

Representative Gowdy finished that statement by saying: ''The private ones have always produced the best results.'' ''The private ones,'' according to Trey Gowdy, ''have always produced the best results.''

President Trump complained that his counsel was not afforded the opportunity to participate during the Intel Committee's proceedings. But neither President Nixon nor President Clinton were permitted to have counsel participate in the initial fact-gathering stages

when they were investigated by special counsel, independent counsel.

President Nixon certainly had no attorney present when the prosecutors and grand juries began collecting evidence about Watergate and related matters. President Nixon did not have an attorney present in this distinguished body when the Senate Select Committee on Watergate began interviewing witnesses and holding public hearings. Nor did President Clinton have an attorney present when prosecutors from the Office of Independent Counsel Kenneth Starr deposed witnesses and elicited their testimony before a grand jury.

President Trump's attorney could have cross-examined the Intel Committee's counsel during his presentation of evidence before the House Judiciary Committee. That would have functioned as the equivalent opportunity afforded to President Clinton to have his counsel cross-examine Kenneth Starr, which he did, at length.

President Trump was provided a level of transparency and the opportunity to participate consistent with the highest standards of due process and fairness given to other Presidents who found themselves in the midst of an impeachment inquiry.

The President—and I am winding down—the President's next procedural complaint is that it was unconstitutional to exclude agency counsel from participating in congressional depositions. The basis for the rule excluding agency counsel is straightforward. It prevents agency officials who are directly implicated in the abuses Congress is investigating from trying to prevent their own employees from coming forward to tell Congress and the American people the truth. It is common sense. The rule protects the rights of witnesses by allowing them to be accompanied in depositions by personal counsel, a right that was afforded to all of the witnesses who appeared in this matter.

Agency attorneys have been excluded from congressional depositions of executive branch officials for decades under both Republicans and Democrats, including Republican Chairman Dan Burton, Republican Chairman Darrell Issa, Republican Chairman Jason Chaffetz, Republican Chairman Trey Gowdy, Republican Chairman KEVIN BRADY, and Republican Chairman Jeb Hensarling, just to name a few.

Again, the Constitution provides the House with the sole power of impeachment and the sole authority to determine the rules of its proceedings, which were fair to all involved. Given the Constitution's clarity on this point, the President's argument that he can engage in blanket obstruction is just dead wrong.

President Trump also objects that the House minority lacked sufficient subpoena rights. But the subpoena rules that were applied in the Trump impeachment inquiry were put into place by my good friends and colleagues on the other side of the aisle, House Republicans, when they were in the majority. We are playing by the same rules devised by our Republican colleagues.

President Nixon did not engage in blanket obstruction. President Clinton did not engage in blanket obstruction. No President of the United States has ever acted this way.

Lastly, we should reject President Trump's suggestion that he can conceal all evidence of misconduct based on unspecified confidentiality interests. Those are his exact words, ''confidentiality interests.'' Not once in the entire impeachment inquiry did he ever actually invoke executive privilege.

Perhaps that is because executive privilege cannot be invoked to conceal evidence of wrongdoing. Perhaps that is because executive privilege does not permit blanket obstruction that includes blocking documents and witnesses from the entire executive branch. Perhaps President Trump didn't invoke executive privilege because it has never been accepted as a sufficient basis for completely and totally defying all impeachment inquiries and subpoenas. Or perhaps President Trump didn't invoke executive privilege because when President Nixon did so, he lost decisively, unanimously, clearly before the Supreme Court. Whatever the explanation, President Trump never invoked executive privilege. So it is not a credible defense to his obstruction of Congress.

President Trump has lastly suggested that his obstruction is justified because his top aides are ''absolutely immune'' from being compelled to testify before Congress. Every Federal court to consider the so-called doctrine of ''absolute immunity'' has rejected it.

In 2008, a Federal court rejected an assertion by the 43rd President of the United States that White House Counsel Harriet Miers was immune from being compelled to testify, noting that the President had failed to point to a single judicial opinion to justify that claim.

And on November 25 of last year, another Federal judge rejected President Trump's claim of absolute immunity for former White House Counsel Don McGahn. The court concluded:

> Executive branch officials are not absolutely immune from compulsory congressional process—no matter how many times the Executive branch has asserted as much over the years—even if the President expressly directs such officials [not to comply].

The court added: ''[Simply stated], the primary takeaway from the past 250 [-some-odd] years of recorded American history is that Presidents are not kings.''

The President is not a King.

President Trump tried to cheat. He got caught, and then he worked hard to cover it up. He must be held accountable for abusing his power. He must be held accountable for obstructing Congress. He must be held accountable for breaking his promise to the American people.

(Text of Videotape presentation:)

> My foreign policy will always put the interests of the American people and American security above all else. Has to be first, has to be. That will be the foundation of every single decision that I will make.

Mr. Manager JEFFRIES. What does it mean to put America First? America is a great country, but, above all else, I think America is an idea—a precious idea. It is an idea that has withstood the test of time—an enduring idea—year after year, decade after decade, century after century, as we continue a long, necessary, and majestic march toward a more perfect Union. America is an idea: one person, one vote; liberty and justice for all; equal protection under the law; government of the people, by the people, and for the people; the preeminence of the rule of law. America is an idea. We can either defend that idea or we can abandon it. God help us all if we choose to abandon it.

The CHIEF JUSTICE. The majority leader is recognized.

RECESS

Mr. MCCONNELL. Mr. Chief Justice, we will take a 30-minute break for dinner.

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

There being no objection, at 6:45 p.m. the Senate, sitting as a Court of Impeachment, recessed until 7:32 p.m.; whereupon the Senate reassembled when called to order by the CHIEF JUSTICE.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. MCCONNELL. I have spoken with Congressman SCHIFF and his team, and it looks like we have a couple more hours.

Mr. Manager CROW. Mr. Chief Justice, Members of the Senate, counsel for the President, impeachment exists not to inflict personal punishment for past wrongdoing but, rather, to protect against future Presidential misconduct that would endanger democracy and the rule of law.

President Trump remains a threat in at least three fundamental ways:

First, he continues to assert in court and elsewhere that nobody in the U.S. Government can investigate him for wrongdoing, making him unaccountable.

Second, his conduct here is not a one-off; it is a pattern of soliciting foreign interference in our elections to his own advantage and then using the powers of his office to stop anyone who dares to investigate.

Finally, the President's obstruction is very much a constitutional crime in progress, harming Congress, as it deliberates these very proceedings, and the American people, who deserve to know the facts.

A President who believes he can get away with anything and can use his office to conceal evidence of abuse threatens us all.

President Trump is the first President in U.S. history to say he is immune from any effort to examine his conduct or check his power. He claims he is completely immune from criminal indictment and prosecution while serving as President. He claims he can commit any crime—even shoot someone on Fifth Avenue, as he has joked about—with impunity. The President's own lawyers have argued in court that he cannot even be investigated for violating the law under any circumstance. No President of either party has ever made claims like this.

If an investigation somehow does uncover misconduct by the President, as this investigation has done, the President believes he can simply quash it. He claims the right to end Federal law enforcement investigations for any reason—or none at all—even when there is credible evidence of his own wrongdoing.

Added together, the President's positions amount to a license to do anything he wants. No court has ever accepted this view and for good reason: Our Founders created a system in which all people—even Presidents—are bound by the law and accountable for their actions.

In addition to claiming that he is immune from criminal process, President Trump contends that he is not accountable to either Congress or the judiciary. He has invoked bizarre legal theories to justify defying congressional investigations. He has argued that Congress is forbidden from having the courts intervene when executive branch officials disregard its subpoenas. He has sued to block third parties from complying with congressional subpoenas.

Perhaps most remarkably, President Trump has claimed that Congress cannot investigate his misconduct outside of an impeachment inquiry, while simultaneously claiming that Congress cannot investigate his misconduct in an impeachment inquiry. Of course, President Trump considers any inquiry to be illegitimate if he thinks he did nothing wrong, doubts the motives of Congress, or decides that he would prefer a different set of rules.

Let's review the President's position. He can't be investigated for crimes. He can end any Federal law enforcement investigation into him. He is immune from any State law enforcement investigation. Neither he nor his aides can be subpoenaed. He can reject subpoenas based on broad, novel, and even rejected theories. When he does reject subpoenas, Congress is not allowed to sue him, but he is allowed to sue to block others from complying with congressional subpoenas. Congress definitely can't investigate him outside of an impeachment inquiry, and, again, it can't investigate him as part of one.

The bottom line is that the President truly believes that he is above the law. This is not our system, and it never has been. The President is a constitutional officer. Unlike a King, he is accountable to the Constitution. But this President doesn't believe that, and that is why we are here.

Remember, the precedent that you set in this trial will shape American democracy for the future. It will govern this President, and it will govern those who follow. If you let the President get away with his obstruction, you risk grave and irreparable harm to the separation of powers itself.

Representative Lawrence Hogan, a Republican from Maryland, made this point during the Nixon impeachment hearing.

(Text of Videotape presentation:)

Mr. HOGAN (Republican). The historical precedent we are setting here is so great because in every future impeachment of a President, it is inconceivable that the evidence relating to that impeachment will not be in the hands of the executive branch which is under his controls. So I agree with the gentleman from Ohio, Mr. Seiberling, if we do not pass this article today, the whole impeachment power becomes meaningless.

Mr. Manager CROW. This leads us to a second consideration: the President's pattern of obstructing.

Article II describes President Trump's impeachable conduct in obstructing Congress. On its own, that warrants removal from office. Yet it must be noted that the President's obstruction fits a disturbing pattern.

As stated in article II, President Trump's obstruction is ''consistent with [his] previous efforts to undermine United States Government investigations into foreign interference in United States elections.''

Another example is President Trump's attempts to impede the special counsel's investigation into Russian interference with the 2016 election, as well as the President's sustained efforts to obstruct the special counsel after learning that he was under investigation for obstruction of justice.

The special counsel's investigation addressed an issue of extraordinary importance to our national security and democracy: the integrity of our elections themselves. Rather than aid the special counsel's investigation, however, President Trump sought to thwart it and used the powers of his office to do it.

After learning that he himself was under investigation, President Trump ordered the firing of the special counsel, sought to curtail the special counsel's investigation, instructed the White House Counsel to create a false record and make false public statements, and tampered with at least two key witnesses in the investigation.

The pattern is as unmistakable as it is unnerving.

In one moment, President Trump welcomed and invited a foreign nation to interfere in an election to his advantage, and the next, he solicited and pressured a foreign nation to do so.

In one moment, President Trump used the powers of his office to obstruct the special counsel, and the next, he used the powers of his office to obstruct the House impeachment inquiry.

In one moment, the President stated that he remained free to invite foreign interference in our elections. In the next, he, in fact, invited additional foreign interference in our elections.

(Text of Videotape presentation:)

President TRUMP. By the way, likewise, China should start an investigation into the Bidens.

Mr. Manager CROW. Indeed, President Trump placed his fateful July 25 call to President Zelensky just 1 day after the special counsel testified in Congress about his findings.

As Professor Gerhardt testified before the Judiciary Committee:

The power to impeach includes the power to investigate, but, if the president can stymy this House's impeachment inquiry, he can eliminate the impeachment powers as a means for holding him and future presidents accountable for serious misconduct. If left unchecked, the president will likely continue his pattern of soliciting foreign interference on his behalf in the next election.

I must emphasize that President Trump's obstruction persists to this day.

The second Article of Impeachment charges a high crime in progress. As a result, the President's wrongdoing did not just harm the House as we have performed our own constitutional duty; it is also harming the Senate, which is being deprived of information you need before the votes you will soon take. And, of course, the true victim is the American people, who deserve the full truth.

As we have discussed, the President claims that all the evidence he is hiding and covering up would actually prove his innocence. To borrow a phrase from the late Justice Scalia, that claim ''taxes the credulity of the credulous.''

President Trump has used all the authority of his office to block the full truth from coming to light. He has defied subpoenas and ordered others to do so. He has publicly intimidated and threatened witnesses. He has attacked the House for daring to investigate him. And he has lobbed an endless volley of personal attacks on witnesses and meritless complaints about procedure to sow confusion and distract the American people.

The President's abuses are unfolding before our eyes, and they must be stopped.

Before I conclude, I think you all deserve an explanation from me as to why I am standing here. There has been a lot of conversation in the last few years about what makes America great, and I have some ideas about that. I happen to think that what makes America great is that generation after generation, there have been Americans who have been willing to stand up and put aside their self-interest to make great sacrifices for the public good, for our country. I know because I have seen people do that. Like some of the people in this Chamber, I have seen people give everything for this country so we could sit here today.

Now, this isn't politically expedient. It certainly isn't for me. It is hard. It requires sacrifice. It is uncomfortable. But that is the very definition of ''public service''; that we are here to give of ourselves for the country, for others, at sacrifice to ourselves. Those who have given so much for this country deserve nothing less from us now than to try to honor those sacrifices. I have tried to do that the last few days. My time is done, and it is now your turn.

Mr. Manager SCHIFF. Chief Justice, Senators, counsel for the President, you will be pleased to know this is the last presentation of the evening. And as I started last night, I made reference to some good advice I got from an encouraging voice that said: Keep it up but not too long.

Tonight I got some equally good advice: To be immortal, you don't need to be eternal. I will do my best not to be eternal.

The first point I would like to make is I am tired. I don't know about you, but I am exhausted, and I can only imagine how you feel. But I am also very deeply grateful for just how you have attended to these presentations and discussions over the last few days. I am deeply grateful. I can tell how much consideration you have given to our point of view and the President's point of view, and that is all we can ask. At the end of the day, all we can ask is that you hear us out and make the best judgment that you can, consistent with your conscience and our Constitution.

Now, I wanted to start out tonight with where we began when we first appeared before you about a week ago, and that is with the resolution itself, with what the President is charged with in the articles and how that holds up now that you have heard the evidence from the House.

Donald Trump was impeached in article I for abuse of power, and that article provides that:

In his conduct of the office of the President of the United States—and in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed—Donald J. Trump has abused the powers of the Presidency, in that:

Using the powers of his high office, President Trump solicited the interference of a foreign government, Ukraine, in the 2020 United States Presidential election.

''President Trump solicited interference of a foreign government, Ukraine, in the 2020 election.''

That has been proved.

He did so through a scheme or course of conduct that included soliciting the Government of Ukraine to publicly announce investigations that would benefit his reelection, harm the election prospects of a political opponent, and influence the 2020 Presidential election to his advantage.

That has been proved.

President Trump also sought to pressure the Government of Ukraine to take these steps by conditioning official United States Government acts of significant value to Ukraine on its public announcement of the investigations.

That has been proved.

President Trump engaged in this scheme or course of conduct for corrupt purposes in pursuit of personal political benefit.

That has been proved.

In so doing, President Trump used the powers of the Presidency in a manner that compromised the national security of the United States and undermined the integrity of the United States democratic process.

That has been proved.

He thus ignored and injured the interests of the Nation.

That has been proved.

President Trump engaged in this scheme or course of conduct through the following means:

(1) President Trump—acting both directly and through his agents within and outside the United States Government—corruptly solicited the Government of Ukraine to publicly announce investigations into—

(A) a political opponent, former Vice President Joseph R. Biden, Jr.; and

That has been proved.

(B) a discredited theory promoted by Russia alleging that Ukraine—rather than Russia—interfered in the 2016 United States Presidential election.

That has been proved.

(2) With the same corrupt motives, President Trump—acting both directly and through his agents within and outside the United States Government—conditioned two official acts on the public announcements that he had requested—

(A) the release of $391 million of United States taxpayer funds that Congress had appropriated on a bipartisan basis for the purpose of providing vital military and security assistance to Ukraine to oppose Russian aggression and which President Trump had ordered suspended.

That has been proved.

(B) a head of state meeting at the White House, which the President of Ukraine sought to demonstrate continued United States support for the Government of Ukraine in the face of Russian aggression.

That has been proved.

(3) Faced with the public revelation of his actions, President Trump ultimately released the military and security assistance to the Government of Ukraine, but has persisted in openly and corruptly urging and soliciting Ukraine to undertake investigations for his personal political benefit.

That has been proved.

These actions were consistent with President Trump's previous invitations of foreign interference in United States elections.

That has been proved.

In all of this, President Trump abused the powers of the Presidency by ignoring and injuring national security and other vital national interests to obtain an improper personal political benefit.

That has been proved.

He also betrayed the Nation by abusing his high office to enlist a foreign power in corrupting democratic elections.

That has been proved.

Wherefore President Trump, by such conduct, has demonstrated that he will remain a threat to national security and the Constitution if allowed to remain in office, and has acted in a manner grossly incompatible with self-governance and the rule of law.

That has been proved.

President Trump thus warrants impeachment and trial, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

That will be for you to decide. But the facts have been proved. Those facts are not contested. We have met our burden.

Article II: Obstruction of Congress.

The Constitution provides that the House of Representatives ''shall have the sole Power of Impeachment'' and the President ''shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.'' In his conduct of the office of President of the United States—and in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed—Donald J. Trump has directed the unprecedented, categorical, and indiscriminate defiance of subpoenas issued by the House of Representatives pursuant to its ''sole Power of Impeachment''.

That has been proved.

President Trump has abused the powers of Presidency in a manner offensive to, and subversive of, the Constitution, in that:

The House of Representatives has engaged in an impeachment inquiry focused on President Trump's corrupt solicitation of the Government of Ukraine to interfere in the 2020 United States Presidential election.

That has been proved.

As part of this impeachment inquiry, the Committees undertaking investigation served subpoenas seeking documents and testimony deemed vital to the inquiry for various Executive Branch agencies and offices, and current and former officials.

That has been proved.

In response, without lawful cause or excuse, President Trump directed Executive Branch agencies, offices, and officials not to comply with those subpoenas.

That has been proved.

President Trump thus interposed the powers of the Presidency against the lawful subpoenas of the House of Representatives, and assumed to himself functions and judgments necessary to the exercise of the ''sole Power of Impeachment'' vested by the Constitution in the House of Representatives.

That has been proved.

President Trump abused the powers of his high office through the following means:

(1) Directing the White House to defy a lawful subpoena by withholding the production of documents sought therein by the Committees.

That has been proved.

(2) Directing other Executive Branch agencies and offices to defy lawful subpoenas and withhold the production of documents and records from the Committees—in response to which the Department of State, Office of Management and Budget, Department of Energy, and Department of Defense refused to produce a single document or record.

That has been proved.

(3) Directing current and former Executive Branch officials not to cooperate with the

Committees—in response to which nine Administration officials defied subpoenas for testimony, namely John Michael ''Mick'' Mulvaney, Robert B. Blair, John A. Eisenberg, Michael Ellis, Preston Wells Griffith, Russell T. Vought, Michael Duffey, Brian McCormack, and T. Ulrich Brechbuhl.

That has been proved.

These actions were consistent with President Trump's previous efforts to undermine United States Government investigations into foreign interference in United States elections.

That has been proved.

Through these actions, President Trump sought to arrogate to himself the right to determine the propriety, scope, and nature of an impeachment inquiry into his own conduct, as well as the unilateral prerogative to deny any and all information to the House of Representatives in the exercise of its ''sole Power of Impeachment.''

That has been proved.

In the history of the Republic, no President has ever ordered the complete defiance of an impeachment inquiry or sought to obstruct and impede so comprehensively the ability of the House of Representatives to investigate ''high Crimes and Misdemeanors''.

That has been proved.

This abuse of office served to cover up the President's own repeated misconduct and to seize and control the power of impeachment—and thus to nullify a vital constitutional safeguard vested solely in the House of Representatives.

This has been proved.

In all of this, President Trump has acted in a manner contrary to his trust as President and subversive of constitutional government, to the great prejudice of the cause of law and justice, and to the manifest injury of the people of the United States.

That has been proved.

Wherefore, President Trump, by such conduct, has demonstrated that he will remain a threat to the Constitution if allowed to remain in office, and has acted in a manner grossly incompatible with self-government and the rule of law.

That has been proved.

President Trump thus warrants impeachment and trial, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

That will be for you to determine.

Let me say something about this second article. The facts of the President's defiance of Congress are very simple because they were so uniform, because they were so categorical, because they are so uncontested; yet do not mistake for a moment the fact that it was simple and quick to present that course of conduct compared with the sophisticated campaign to coerce Ukraine into thinking that that second article is any less significant than the first. Do not believe that for a moment. If there is no article II, let me tell you something: There will never be an article I. If there is no article II, there will never of any kind or shape or form be an article I.

And why is that? Because, if you and we lack the power to investigate a President, there will never be an article I. Whether that article I is an abuse of power or that article I is treason or that article I is bribery, there will never be an article I if the Congress can't investigate an impeachable offense. If the Congress cannot investigate the President's own wrongdoing because the President prevents it, there will never be an article I because there will be no more impeachment power. It will be gone. It will be gone.

As I said before, our relationship with Ukraine will survive. God willing, our relationship with Ukraine will survive, and Ukraine will prosper. We will get beyond this ugly chapter of our history.

Yet, if we are to decide here that a President of the United States can simply say, Under article II, I can do whatever I want, and I don't have to treat a coequal branch of government like it exists, and I don't have to give it any more than the back of my hand, that will be an unending injury to this country—Ukraine will survive, and so will we—but that will be an unending injury to this country because the balance of power that our Founders set out will never be the same if a President can simply say: I am going to fight all subpoenas.

I will tell you something else. Truism in the courts is just as true here in the Senate. When they say, ''Justice delayed is justice denied,'' if you give this President or any other the unilateral power to delay as long as he or she likes—to litigate matters for years and years in the courts—do not fool yourself into thinking it is anything less.

In April, it will be a year since we subpoenaed Don McGahn, and there is no sign of an end to that case. I will tell you, when it gets to the Supreme Court, you might think that is the end, but it is just the end of the first chapter because Don McGahn is in court, saying: I am absolutely immune from testifying.

Now, that has been rejected by every court that has looked at it. We will see what the court of appeals says, and then we will see if it goes to an en banc court of appeals, and then we will see what the Supreme Court says. When we prevail in the Supreme Court, do you know what happens? That is not the end of the matter. It goes back to the trial court, and then—well, they can't claim absolute immunity anymore. They can't claim that. They don't even have to bother showing up.

So now we are going to turn to plan B, executive privilege, where ''we can't and won't answer any of the questions that are really pertinent to your impeachment inquiry.'' Let's start out in district court and then go to the court of appeals and then go to the en banc and then go to the Supreme Court.

You can game the system for years. Justice delayed is justice denied, and so it is true about Presidential accountability. When you suggest or I suggest or anyone suggests or the White House suggests ''why didn't the Congress—why didn't the House—just exhaust their remedies?''—as if in the Constitution, where it says ''the House shall have the sole Power of Impeachment'' there is an asterisk that reads: ''after exhausting all court remedies and seeking relief in the district court and seeking relief in the court of appeals and, after that, going to the Supreme Court''—let's not kid ourselves about what that really is.

What that really means is you allow the President to control the timing of his own impeachment or if it will ever be permitted to come before this body. That is not an impeachment power. That is the absence of an impeachment power.

Article II is every bit as important as article I. Without article II, there is no article I ever again, no matter how egregious this President's conduct or any other's. It is fundamental to the separation of powers. If you can't have the ability to enforce an impeachment power, you might as well not put it in the Constitution.

Shortly, the President's lawyers will have a chance to make their presentation. As we will not have the ability to respond to what they say, I want to give you a little preview of what I think they are going to have in store for you so that, when you do hear it, you can put it into some perspective.

I expect that they will attack the process, and I don't think that is any mystery. I want to tell you both what I expect they will share with you and what it really means. When you cut through all of the chaff, what does it really mean that they are saying? This is what I expect they will tell you.

The process was so unfair. It was the most unfair in the history of the world because, in the House, they took depositions. How dare they take depositions? How dare they listen to Trey Gowdy? How dare they follow the Republican procedures that preceded their investigation? How dare they?

They were so secretive in the bunker in the basement, as if whether it is on the ground floor or in the basement or on the first floor makes any difference. There were those supersecret depositions in which only 100 Members of Congress—equivalent to the entire Senate—could participate. That is how secret they were. That is how exclusive they were. Every Democrat, every Republican on the three committees could participate. Of course, that wasn't enough, so you even had more storm the SCIF, right? So you have 100 people who can participate, but as you heard earlier, the Republicans were not allowed to participate.

OK. That is just false. Do you know how we did it in those supersecret depositions? You can look this up yourselves because we released the transcripts. We got an hour. They got an hour. We got 45 minutes. They got 45 minutes. We did that back and forth until everyone was done asking their questions.

You are going to hear that Chairman SCHIFF was so unfair, he wouldn't allow us to ask our questions. Well, there were certain questions I didn't allow,

questions like ''Who is the whistleblower? because we want to punish that whistleblower.'' Some of us in that House and in this House believe we ought to protect whistleblowers. So, yes, I did not allow the outing of the whistleblower.

When they say the chairman wouldn't allow certain questions, that is what they mean. It means that we protect people who have the courage to come forward and blow the whistle, and we don't think—though the President might—that they are traitors and spies. To believe that someone who blows the whistle on misconduct of the serious nature that you now know took place is a traitor or a spy, there is only one way you can come to that conclusion, and that is if you believe you are the state and that anything that contradicts you is treason. That is the only way that you could conceive of someone who exposes wrongdoing as being a traitor or a spy, but that is exactly how this President views those who expose his wrongdoing—because he is the state. Like any good monarch, he is the state.

You will hear the President wasn't allowed to participate in the Judiciary Committee. Well, that is false, too, as you know. The President had the same rights in our proceedings as President Nixon and President Clinton. Nonetheless, you will hear it was so unfair.

One other thing that was really unfair was that all of the subpoenas were invalid because the House didn't pass a resolution announcing its impeachment inquiry—never mind that we actually did. The problem was, they said, well, we had not, and then we did. Then the problem was, well, you did.

Of course, as you know, the Constitution says the House will ''have the sole Power of Impeachment.'' If we want to do it by House resolution, we can do it by House resolution. If we want to do it by committee, we can do it by committee. It is not the President's place to tell us how to conduct an impeachment proceeding any more than it is the President's place to tell you how you should try it.

So, when you see that eight-page diatribe from the White House Counsel, saying we should have been able to have had a resolution in the House or we should have been able to have had ''this,'' what you should hear—what they really mean—is Donald Trump had the right to control his own impeachment proceeding, and it is an outrage that Donald Trump didn't get to write the rules of his own impeachment proceeding in the House. If you give a President that right, there is no impeachment power. You will hear them say that.

You will hear them complain about depositions that were the same as the Republicans' or the right to participate that was the same as with Clinton and Nixon and that, by the way, they were not allowed to call witnesses, they said. Well, 3 of the 12 witnesses that we heard in our open hearings were the minority's witness requests. You will hear those arguments, that it was the most unfair in history. The fact is we have the same process.

In those other impeachments, the majority did not surrender its subpoena power to the minority. Do you know what it did? It said you can subpoena witnesses, and if the majority doesn't agree, you can force a vote. That is the same process we have here. The majority does not surrender its subpoena power. It didn't in the prior impeachments, and it didn't in this one. When they say the process was unfair, what they really mean is, Don't look at what the President did. For God's sake, don't look at what the President did.

I think the second thing you will hear from the President's team will be to attack the managers. Those managers are just awful. They are terrible people, especially that Schiff guy. He is the worst. He is the worst. In exhibit A, he mocked the President. He mocked the President. He mocked the President as if he was shaking down the leader of another country like he was an organized crime figure. He mocked the President. He said it was like the President said: Listen, Zelensky, because I am only going to say this seven times.

Well, I discovered something very significant by mocking the President, and that is, for a man who loves to mock others, he does not like to be mocked. As it turns out, he has got pretty thin skin. Who would have thought? Never mind that I said I wasn't using his words before I said it and that I wasn't using his words after I said it and that I said I was making a parody of his words. It is an outrage, he mocked the President—that SCHIFF, terrible.

They will attack other colleagues, too, for things said in the heat of debate here on the floor as we were reaching the wee hours in the morning, and they will attack some of my colleagues who aren't even in this Chamber. Maybe they will attack The Squad. That is a perennial favorite with the President. If they attack The Squad, you should ask: What does that have to do with the price of beans?

You can expect attacks on all kinds of Members of the House that have nothing to do with the issues before you. When you hear those attacks, you should ask yourself: Away from what do they want to distract my attention? Nine times out of ten, it will be the President's misconduct. Look for it—attacks on the managers, attacks on other House Members, attacks on the Speaker, attacks on who knows what. It is all of the same ilk. Whatever you do, just don't consider the President's misconduct.

You will also hear attacks on the Constitution. Of course, it will not be framed as attacking the Constitution, but that is really what it represents, and that is: Abuse of power doesn't violate the Constitution.

Presidents of the United States have every right to abuse their power. That is the argument.

OK. I know it is a hard argument to make, right? Presidents have a constitutional right to abuse their power, and how dare the House of Representatives charge a President with abusing his power?

Now, I am looking forward to that constitutional argument by Alan Dershowitz because I want to know why abusing power and trust is not impeachable now, but it was a few years ago. The last time I checked, I don't think there was significant change to the Constitution between the time he said it was impeachable and the time he is saying now that, apparently, it is not impeachable. So I am looking forward to that argument.

But I am also looking forward to Ken Starr's presentation because, during the Clinton impeachment, he maintained that a President not only could but must be impeached for obstructing justice, that Clinton—Bill Clinton—needed to be impeached because he lied under oath about sex, and to do so obstructed justice.

You can be impeached for obstructing justice, but you cannot be impeached for obstructing Congress.

Now, I have to confess I don't know exactly how that is supposed to work because the logical conclusion from that is Ken Starr is saying that Bill Clinton's mistake was in showing up under subpoena, that Bill Clinton's mistake was in not saying: I am going to fight all subpoenas. Bill Clinton's mistake was in not taking the position that under article II he could do whatever he wanted.

Does that really make any sense? You can be impeached for obstructing your own branch of government, but you cannot be impeached for obstructing a coequal branch of government. That would make no sense to the Framers. I have to think, over the centuries, as they have watched us, they would be astonished that anyone would take that argument seriously or could so misapprehend how this balance of power is supposed to work.

So I look forward to that argument, and maybe, when they make that argument, they can explain to us why their position on abuse of power isn't even supported by their own Attorney General. So I hope they will answer why even their own Attorney General doesn't agree with them—not to mention, by the way, the constitutional law expert called by the Republicans in the House who also testified, as to abuse of power, that it is impeachable, that you don't need a crime. It is impeachable.

When you hear them make these arguments—cannot be impeached for abusing your power—this is what it really means: We cannot defend his conduct, so we want to make it go all away without even having to think about it. You don't even need to think about what the President did because

the House charged it wrong, so don't even consider what the President did. That is what that argument means. We can't defend the indefensible, so we have to fall back on this: Even if he abused his office, even if he did all the things he is accused of, that is perfectly fine. Nothing can be done about it.

You will also hear, as part of the defense—and you heard this from Jay Sekulow. I think it was the last thing he said: ''The whistleblower.'' And then he stepped back to the table. ''The whistleblower.''

I don't really know what that means, but I suspect you will hear more of that. ''The whistleblower.'' ''The whistleblower.'' It is his or her fault that we are here. ''The whistleblower.''

You know, I would encourage you to read the whistleblower complaint again. When you read that complaint again, you will see just how remarkably accurate it is. It is astonishingly accurate.

You know, for all the times the President is out there saying that the complaint was all wrong, was all wrong, you read it—now that you have heard the evidence, you read it, and you will see how remarkably right the whistleblower is.

When that complaint was filed, it was obviously before we had our depositions and had our hearings, all of which obviated the need for the whistleblower.

In the beginning, we wanted the whistleblower to come and testify because all that we knew about was the complaint, but then we were able to hear from firsthand witnesses about what happened.

Then something else happened. The President and his allies began threatening the whistleblower, and the life of the whistleblower was at risk. And what was the point in exposing that whistleblower at the risk of his or her life when we had the evidence we needed? What was the point, except retribution? Retribution—and the President wants it still.

Do you know why the President is mad at the whistleblower? Because, but for the whistleblower, he wouldn't have been caught, and that is an unforgiveable sin. He is the State, and but for the whistleblower, the President wouldn't have been caught. For that he is a spy, and he is guilty of treason.

Now, what does he add to this? Nothing but retribution—a pound of flesh.

You will also hear the President's defense: They hate the President. They hate the President. You should not consider the President's misconduct because they hate the President.

Now, what I have said—I will leave you to your own judgments about the President. I only hate what he has done to this country. I grieve for what he has done to this country.

But when they make the argument to you that this is only happening because they hate the President, it is just another of the myriad forms of ''Please do not consider what the President did.''

Whether you like the President or you dislike the President is immaterial. It is all about the Constitution and his misconduct. If it meets the standard of impeachable conduct, as we have proved, it doesn't matter whether you like him; it doesn't matter whether you dislike him. What matters is whether he is a danger to the country because he will do it again, and none of us can have confidence, based on his record, that he will not do it again because he is telling us every day that he will.

You will hear the further defense that Biden is corrupt—that Joe Biden is corrupt, that Hunter Biden is corrupt. This is their defense. It is another defense because what they hope to achieve in a Senate trial is what they couldn't achieve through their scheme.

If they couldn't get Ukraine to smear the Bidens, they want to use this trial to do it instead. So let's call Hunter Biden. Let's smear the Bidens. Let's succeed in the trial with what we couldn't do with this scheme. That is the goal.

Now, I don't know whether Rudy Giuliani, who said he was going to present his report to some of the Senators, has presented his report. Maybe he has. Maybe you will get to see what is in Rudy Giuliani's report. Maybe you will get to see some documents smearing the Bidens produced by—who knows? Maybe these same Russian, corrupt former prosecutors.

But make no mistake about what that is about. It is about completing the object of the scheme through other means, through the means of this trial.

You may hear the argument that what the President is doing when he is obstructing Congress is protecting the office for future Presidents because there is nothing more important to Donald Trump than protecting the Office of the Presidency for future Presidents. And I suppose when he withheld military aid from Ukraine, he was trying to protect future Presidents. And when he sought to force a foreign power to intervene in our election, he was doing it on behalf of future Presidents because future Presidents might likewise wish to cheat in a further election.

I don't think that argument goes very far, but I expect you will hear it. I expect you will hear it.

You may hear an argument that the President was really concerned about corruption, and he was concerned about the burden-sharing. I won't spend much time on that because you have heard the evidence on that. There is no indication that this had anything to do with corruption and every, every bit of evidence that it had nothing to do with fighting corruption or burden-sharing. Indeed, nothing about the burden changed between the time he froze the aid and the time he released the aid. There was no new effort to get others to contribute more, and Europe contributes a great deal as it is. This is an after-the-fact rationalization.

You probably saw the public reporting that there was an exhaustive effort after the fact to come up with a post hoc rationalization for this scheme. I would like to show you the product of that investigation, but I will need your help because it is among the documents they refuse to turn over. They will show you just what an after-the-fact invention this argument is.

Now, I expect you will hear the argument that Obama did it. Obama did it. That may take several different forms, but the form of ''Obama did it'' that I am referring to is ''Obama also withheld aid.'' Honestly, I think that argument is an insult to our intelligence because the argument is that Obama withheld aid from Egypt, and he made a condition with it.

Obama withheld aid from Egypt after they had a revolution and circumstances changed. And do you know something? He didn't hide it from Congress. In fact, Congress supported it. Yes, there are times when we withhold aid for a good policy reason—not a corrupt effort to get help in your election.

The American people know the difference between right and wrong. They can recognize the difference between aid that is withheld for a malicious purpose and aid that is held in the best interests of our national security. But you will hear the ''Obama did it'' argument.

You will hear the call was perfect. You will hear the call was perfect. I suspect the reason they will make the argument that the call was perfect is because the President insists that they do. I don't think they really want to have to make that argument. You wouldn't either. But they have a client to represent, so they will make the argument that the call was perfect, and they will also make the argument that Ukraine thinks the call was perfect. Ukraine says there was no pressure.

What that really means is that Ukraine wants a future. Ukraine knows it is still beholden to us for aid. Ukraine still hasn't gotten in through the door of the White House. Ukraine knows if they acknowledged that they were shaken down by the President of the United States, the President of the United States will make them pay. So when you hear them say that Ukraine felt no pressure and their proof is because the Ukraine President doesn't want to call the President of the United States a bad name, you will know why—because they need America. They need America. The Framers did not expect you to leave your common sense at the door.

Now, you will also hear the defense that the President said there was ''no quid pro quo.'' The President said there was ''no quid pro quo.'' I guess that is the end of the story. This is a well-known principle of criminal law—that if the defendant says he didn't do it, he couldn't have done it.

If the defendant learns he has been caught and he says that he didn't do it, he couldn't have done it. That doesn't hold up in any courtroom. It shouldn't hold up here.

You also will hear a variation of ''no harm no foul.'' They got the money. They got the money, and they got the meeting—even though they didn't. They got the meeting on the sideline of the U.N.—kind of a drive-by. But they got a meeting—no harm no foul, right? The meeting on the sidelines is pretty much the same thing, right, as a head-of-state meeting in the Oval Office? Of course, it is not.

Why do you think, at the meeting at the United Nations, the President of Ukraine was still saying: Hey, when am I going to get to come to town? He certainly recognizes the difference, and we should too. What is more, there is every bit of harm and every bit of foul in withholding aid from an ally at war and releasing it only when you are caught.

Russia knows now about the wedge in our relations with Ukraine. The moment Russia found out about this—and I have to imagine, given how good their intel services are, they did not have to wait for POLITICO to break the story any more than Ukraine. In fact, there is so deep a penetration of Ukraine, I would have to expect that the Russians would have found out at least as early as the Ukrainians did, if not earlier.

The moment Ukraine learned and Russia learned, there was harm, because Ukraine knew they couldn't trust us and Russia knew they could take advantage of us. There was immediate harm, and just because someone is caught, because a scheme is thwarted, doesn't make that scheme any less criminal and corrupt. You get no pass when you get caught.

I expect one of the defenses you will see is they will play you certain testimony from the House where my colleagues on the other side of the aisle ask questions like these: Did the President ever say he was bribing Ukraine? Did you ever see him actually bribe Ukraine? Did you hear him say that he was going to bribe Ukraine? Did you personally see this yourself? If you didn't see it, if he didn't lay it out for you, then it could not have happened. Two plus two does not equal four. You are not allowed to consider anything except for a televised confession by the President, and, even then, don't consider it.

So I imagine you will hear some of that testimony where witnesses are asked—they work for the Defense Department: Did the President ever tell you that he was conditioning the aid? Never mind that these are people who don't necessarily even talk to the President, but I expect you will see some of that.

As I mentioned before, you will hear the defense say: We claim privilege. You can't impeach the President over the exercise of privilege. Never mind the fact that they never claimed privilege; they never asserted privilege. And do you know why? Do you know why they never actually invoked privilege in the House? It is because they know that if they did, they would have to produce the documents and they would have to show what they were redacting, and they didn't want to do even that. They knew for the overwhelming majority of the documents and witness testimony there was no even colorable claim of privilege. So they didn't even want to invoke it. All they were saying is ''Maybe someday.'' But you will hear that you can't be impeached for a claim of privilege they never made.

So what do all these defenses mean? What do they mean? What do they mean collectively when you add them all up?

What they mean is, under article II, the President can do whatever he wants. That is really it. That is really it, stripped of all the detail and all the histrionics. What they want us to believe is that the President can do whatever he wants under article II, and there is nothing that you or the House can do about it.

Robert Kennedy once said:

> Moral courage is a rarer commodity than bravery in battle or great intelligence. Yet it is the one essential, vital quality for those who seek to change a world that yields most painfully to change.

''Moral courage is a rarer commodity than bravery in battle.'' I have to say, when I first read that, I wasn't sure I agreed. Moral courage is a rarer quality than courage in battle. It just doesn't seem right. I wasn't sure I really agreed, and for a Democrat not to agree with a Kennedy is kind of a heresy. I am sure my GOP colleagues feel the same way about the Kennedys from Louisiana. After all, what can be more brave than courage in battle? What could be more rare than courage in battle? But then I got to visit, as I know all of you have, our servicemembers around the world and see just how blessed we are with an abundance of heroes by the millions who have joined the service of this country—servicemembers who, every day, demonstrate the most incredible bravery. I just have the greatest respect for them, for people like JASON CROW and John McCain and Daniel Inouye and so many others who served in this body or the other or who never served in office, by the millions, around the country and around the world—the most incredible respect. It is an amazing thing, how common is their uncommon bravery.

My father is 92. He is probably watching. He is part of the ''greatest generation.'' He left high school early to join the service. He tried to enlist in the Marine Corps, and he failed the physical. At the end of World War II, he failed the physical for bad eyesight and flat feet—which was apparently enough to fail the physical. So 2 weeks later, he went and tried to enlist in the Army, thinking: Maybe it is a different physical standard, and even if it isn't, maybe I will get a different physician. As it turned out—same standard, same physician. He recognized my father, and he said: Weren't you here 2 weeks ago?

And my father said: Yeah.

And he said: Do you really want to get in that bad?

And my father said: Yeah. And he was in the Army.

So the war was over, and he never left the United States. When he left the service, he went to the University of Alabama. About midway through, he wanted to get on with his life, and he left college and went out into the business world. It is something he will always regret—leaving college early—but I think in many ways he got a better education than I did.

I think I was lucky to get a good education, but I think those like JASON—and others who served in the military and also went to school—got the best education. But I think there are certain things you can only learn by being in the military. Certainly, you can't really learn about war without going to war, and maybe there are things you just can't learn about life without going to war. So those of you who have served have the most complete education I think there is.

Even so, is moral courage really more rare than that on a battlefield? And then I saw what Robert Kennedy meant by moral courage. He said: ''Few men are willing to brave the disapproval of their peers, the censure of their colleagues, [and] the wrath of their society.''

Then I understood by that measure just how rare moral courage is. How many of us are willing to brave the disapproval of our peers, the censure of our colleagues, and the wrath of our society?

Just as those who have not served in the military can't fully understand what service means, so, too, there is a different kind of paternity or sorority among those who have served in the House. I always tell my constituents that there are two kinds of jobs in Congress, and it is not Democrats or Republicans; it is those in a safe seat, and those in an unsafe seat. I am sure the same is true of those in a safe State or an unsafe State. It is why I think there is a certain chemistry between Members who represent those swing districts and States—because they can step into each other's shoes.

One of the things that we in this fellowship of officeholders understand that most people don't is that real political courage doesn't come from disagreeing with our opponents but from disagreeing with our friends and with our own party because it means having to stare down accusations of disloyalty and betrayal: He's a Democrat in name only or she's a Republican in name only.

What I said last night, if it resonated with anyone in this Chamber, didn't require courage. My views, as heartfelt as they are, reflect the views of my constituents. But what happens when

our heartfelt views of right and wrong are in conflict with the popular opinion of our constituents?

What happens when the devotion to our oaths, to our values, to our love of country depart from the momentary passion of the large number of people backing us? Those are the times that try our souls.

CBS news reported last night that a Trump confidante said that GOP Senators were warned: ''Vote against the President, and your head will be on a pike.'' I don't know if that is true.

''Vote against the President, and your head will be on a pike.'' I have to say when I read that—and again, I don't know if that is true, but when I read that, I was struck by the irony. I hope it is not true. I hope it is not true. I was struck by the irony of the idea, when we are talking about a President who would make himself a Monarch, that whoever that was would use the terminology of a penalty that was opposed by a Monarch—''head on a pike.''

Just this week America lost a hero, Thomas Railsback, who passed away on Monday, the day before this trial began. Some of you may have known or even served with Congressman Thomas Railsback. He was a Republican from Illinois and the second ranking Member on the House Judiciary Committee when that committee was conducting its impeachment inquiry into President Nixon.

In July of 1974, as the inquiry was coming to a close, Congressman Railsback began meeting with a bipartisan group of Members of the House—three other Republicans and three Democrats. Here in the Senate they might have called them the Gang of 7.

They gathered and they talked and they labored over language and ultimately helped develop the bipartisan support for the articles that led a group of Republican Senators, including Barry Goldwater and Howard Baker, to tell President Nixon that he must resign.

Some say that the Nixon impeachment might not have moved forward were it not for those four courageous Republicans led by Congressman Railsback, and it pained the Congressman because he credited Nixon with giving him his seat and with getting him elected. He did it, he said, because ''seeing all the evidence, it was something we had to do because the evidence was there.'' One of his aides, Ray LaHood, eulogized him saying: He felt an obligation to the Constitution to do what is right.

Now, soon, Members of this body will face the most momentous of decisions—not, as I said at the outset, between guilt and innocence, but a far more foundational issue: Should there be a fair trial? Shall the House be able to present its case with witnesses and documents through the use of subpoenas as has been the case in every impeachment trial in history?

Now, the President's lawyers have been making their case outside of this Chamber, threatening to stall these proceedings with the assertion of false claims of privilege. Having persuaded this body to postpone consideration of the witnesses and documents, they now appear to be preparing the ground to say it will be too late to consider them next week.

But consider this: Of the hundreds of documents that we have subpoenaed, there is no colorable claim and none has been asserted. To the degree that you could even make a claim, that claim has been waived. To the degree that even superficially the claim would attach, it does not conceal misconduct. And what is more, to the degree that there were a dispute over whether a privilege applied, we have a perfectly good judge sitting behind me empowered by the rules of this body to resolve those disputes.

When the Chief Justice decides where a narrow application of privilege ought to apply, you will still have the power to overrule him. How often do you get the chance to overrule a Chief Justice of the Supreme Court? You have to admit, it is every legislator's dream.

So let us not be fooled by the argument that it will take too long or persuaded that the trial must be over before the State of the Union. This is no parking ticket we are contesting and no shoplifting case we are prosecuting. It is a matter of high crimes and misdemeanors.

How long is too long to have a fair trial—fair to the President and fair to the American people? The American people do not agree on much, but they will not forgive being deprived of the truth and certainly not because it took a back seat to expediency.

In his pamphlet of 1777, ''The American Crisis,'' Thomas Paine wrote:

> Those who expect to reap the blessings of freedom must . . . undergo the fatigue of supporting it.

Is it too much fatigue to call witnesses and have a fair trial? Are the blessings of freedom so meager that we will not endure the fatigue of a real trial with witnesses and documents?

President Lincoln, in his closing message to Congress in December 1862, said this:

> Fellow citizens, we cannot escape history. We of this Congress and this administration will be remembered in spite of ourselves. No personal significance, or insignificance, can spare one or another of us. The fiery trial through which we pass, will light us down, in honor or dishonor, to the latest generation.

I think he was the most interesting President in history. He may be the most interesting person in our history. This man, who started out dirt poor—dirt poor. Like hundreds of thousands of other people at the time, he had nothing—no money and no education. He educated himself. He educated himself. But he had a brain in that head, a brilliance in that mind that made him one of the most incredible, not just Presidents, but people in history.

I think he is the most interesting character in our history. Out of the hundreds and hundreds of thousands of other Americans at the time, why him? Why him?

I think a lot about history, as I know you do. Sometimes I think about how unforgiving history can be of our conduct.

We can do a lifetime's work, draft the most wonderful legislation, help our constituents, and yet we may be remembered for none of that. But for a single decision, we may be remembered, affecting the course of our country.

I believe this may be one of those moments—a moment we never thought we would see, a moment when our democracy was gravely threatened and not from without but from within.

Russia, too, has a constitution. It is not a bad constitution. It is just a meaningless one. In Russia, they have trial by telephone. They have the same ostensible rights we do to a trial. They hear evidence and witnesses, but before the verdict is rendered, the judge picks up the telephone and calls the right person to find out how it is supposed to turn out. Trial by telephone. Is that what we have here—a trial by telephone, someone on the other end of the phone dictating what this trial should look like?

The Founders gave us more than words. They gave us inspiration. They may have receded into mythology, but they inspire us still. And more than us, they inspire the rest of the world. They inspire the rest of the world.

From their prison cells in Turkey, journalists look to us. From their internment camps in China, they look to us. From their cells in Egypt, those who gathered in Tahrir Square for a better life look to us. From the Philippines, those who were the victims and their families of mass extrajudicial killings, they look to us. From Elgin prison, they look to us. From all over the world, they look to us.

Increasingly, they don't recognize what they see. It is a terrible tragedy for them. It is a worse tragedy for us, because there is nowhere else for them to turn. They are not going to turn to Russia. They are not going to turn to China. They are not going to turn to Europe with all of its problems. They look to us because we are still the indispensable Nation. They look to us because we have a rule of law. They look to us because no one is above that law.

One of the things that separates us from those people in Elgin prison is the right to a trial. It is a right to a trial. Americans get a fair trial.

So I am asking you. I implore you. Give America a fair trial. Give America a fair trial. She is worth it.

The CHIEF JUSTICE. The majority leader is recognized.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. McCONNELL. Mr. Chief Justice, I ask unanimous consent that the trial adjourn until 10:00 a.m., Saturday, January 25, and that this order also constitute the adjournment of the Senate.

There being no objection, at 8:54 p.m., the Senate, sitting as a Court of Impeachment, adjourned until Saturday, January 25, 2020, at 10 a.m.