The Senate met at 1:15 p.m. and was called to order by the Chief Justice of the United States.

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

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

The Chaplain will lead us in prayer.

PRAYER

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

Let us pray.

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

Have Your way, Mighty God. You are the potter. Our Senators and we are the clay. Stretch Yourself and let this Nation and world know that You alone are sovereign.

I pray in the Name of Jesus. Amen.

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

PLEDGE OF ALLEGIANCE

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

The CHIEF JUSTICE. Senators, please be seated.

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

The Deputy Sergeant at Arms will make the proclamation.

The Deputy Sergeant at Arms, Jennifer Hemingway, made the proclamation as follows:

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

The CHIEF JUSTICE. The majority leader is recognized.

ORDER OF PROCEEDURE

Mr. McCONNELL. For the information of all colleagues, we will take a break about 2 hours in.

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

Mr. Manager SCHIFF. Are you a proponent or opponent?

Mr. Manager SCHIFF. Proponent.

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

Mr. CIPOLLONE. Opponent.

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

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

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

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

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

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

According to the New York Times:

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

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

You will see in a few moments—and you will recall Mr. Cipollone suggesting that the House managers were concealing facts from this body. He said all the facts should come out. Well, there is a new fact which indicates that Mr. Cipollone was one of those who were in the loop—yet another reason why we ought to hear...
from witnesses. Just as we predicted—and it didn’t require any great act of clairvoyance—the facts will come out. They will continue to come out. And the question before you today is whether they will come out in time for you to make a complete and informed judgment about the guilt or innocence of the President.

Now, that Times article goes on to say:

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

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

The account in Mr. Bolton’s manuscript portrays the most senior White House advisers as early witnesses in the effort that they have been to undermine the President from the outset.

Including the White House Counsel.

Over several pages—

According to the Times—

Mr. Bolton laid out Mr. Trump’s fixation on Ukraine and the president’s belief, based on a mix of scattershot events, assertions and outright conspiracy theories, that Ukraine used our military aid to pressure Ukraine to investigate a political rival said, if you could prove the President committed grave misconduct, you could hear the full story, provide the whole truth, and interfere in our elections, it would be an impeachable abuse of power. Senator HAM, too, recognized that, if such evidence existed, it could potentially change his mind on impeachment.

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

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

You will recall that Ambassador Bolton, the President’s former National Security Advisor, is one of the witnesses we asked for last Tuesday.

We did not know, at the time, what he would say. We didn’t know what kind of witness he would be, but Ambassador Bolton made clear that he was willing to testify and that he had relevant, firsthand knowledge that had not yet been heard. We urged—we argued—that we all deserved to hear that evidence, but the President opposed him.

Now we know why—because John Bolton could corroborate the rest of our evidence and confirm the President’s guilt.

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

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

For the same reasons, this body should grant our request to subpoena documents, the documents that the President also blocked the House from obtaining—documents from the White House, the State Department, the DOD, and the OMB—that will complete the story and provide the whole truth,
whatever that may be. We ask that you subpoena these documents so that you can decide for yourselves. If you have any doubt as to what occurred, let’s look at this additional evidence.

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

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

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

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

The Senate, in sitting as a Court of Impeachment, has heard witness testimony and received new documents while the Senate has repeatedly subpoenaed these witnesses. The Senate in this trial would mitigate the damage caused by the President’s wholesale obstruction of the House’s inquiry.

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

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

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

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

The President’s counsel alleged the House managers hid evidence from you. (Text of Videotape presentation:)

Mr. Counsel CIPOLLONE. (Because as house managers, really their goal should be to give you all of the facts because they’re asking you to do something very, very consequential.

And ask you yourself, ask yourself, given the fact you heard today that they didn’t tell you, who doesn’t want to talk about the facts? Who doesn’t want to talk about the facts? Impeachment shouldn’t be a shell game. They should give you the facts.

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

The President’s counsel cherry-picked misleading bits of evidence, cited deposition transcripts of witnesses who subsequently corrected themselves by the impeachment inquiry. The President, in this trial, would mitigate the damage caused by the President’s wholesale obstruction of the House’s inquiry.

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President Trump’s blanket order of prohibiting the entire executive branch from participating in the impeachment investigation also extends to witnesses. There are 12 in all who followed that order and refused to testify. Much of
you may believe that allowing this President to remain in the Oval Office would be catastrophic to our Republic and our democracy.

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

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

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

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

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

And if the President is telling the truth and he did nothing wrong and the evidence would prove that, then we all know that he would be an enthusiastic supporter of subpoenas. He would be here probably himself, if he could, urging you to do subpoenas if he had information that would prove he was totally not in the wrong. If he is innocent, he should want them to testify. His counsel should be the ones here asking today to subpoena Bolton and Mulvaney and others for testimony. The President would be eager to have the people closest to him to testify about his innocence. He would be eager to present the documents that show he was concerned about corruption and burden-sharing. But the fact that he has so strenuously opposed the testimony and the aid on Ukraine's announcement of the investigations that you have asked in the past 2 days.

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

I now yield to my colleague Manager Crow.

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

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

(Text of Videotape presentation:)

PURPURA: There is simply no evidence from the testimony of Ambassador Bolton, Mick Mulvaney, Robert Blair, and Michael Duffey. And during the presentations from both parties, it has become abundantly clear why the direct testimony from those witnesses is so critical, and new evidence continues to underscore that importance.

Not a single witness testified that the President himself said that there was any connection between any investigations and security assistance to any investigations. [Most of the democrats] witnesses have never spoken to the President at all let alone about Ukraine security assistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

So let’s ask Ambassador Bolton these questions directly under oath: The President says Ukraine felt no pressure, that soliciting these investigations wasn’t improper. Is that true? If it is true, why is Ukraine publicly saying the opposite? And if the President assumed that this was OK, why did you use the words “drug deal”? We should ask him that.

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

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

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

Fifth, the President’s main defense, once again, is that he withheld the military aid for legitimate reasons. But the evidence doesn’t support that. You have heard a lot. The evidence doesn’t support that Mr. Giuliani was motivated or part of our foreign policy.

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

He would know. Dr. Hill testified that Ambassador Bolton said Mr. Giuliani was “a hand grenade,” which he explained referred to “all of the procedures that Mr. Giuliani was making publicly, that the investigations that he was promoting, that the story line he was promoting, the narrative he was promoting was going to backfire.”

The narrative Mr. Giuliani was promoting, of course, was asking Ukraine to dig up dirt on Biden.

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

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

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

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

As Mr. Bolton said on January 30, “the idea that somehow testifying to what you think is true is destructive to the system of government we have, I think is very nearly the reverse, the exact reverse of the truth.”

As Manager SCHIFF started this out, the truth continues to come out. Again, in an article today, more information. The truth will come out, and it is continuing to. The question here before this body is, do you think the President’s state of mind in unknowable, that it requires a mind reader, or is anything but the most common element of proof of any crime, constitutional or otherwise. But if you want more information, let’s ask the President whether John Bolton can help fill in any gaps about his state of mind.

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

(Text of Videotape presentation:)

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

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

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

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

(Text of Videotape presentation:)

President TRUMP. If you think about it, he knows some of my thoughts. He knows when I think about leading the country. For me, this is what the President’s counsel claims that we want to read the President’s mind.

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

As Manager SCHIFF started this out, the truth continues to come out. Again, in an article today, more information. The truth will come out, and it is continuing to. The question here before this body is, do you think the President’s state of mind in unknowable, that it requires a mind reader, or is anything but the most common element of proof of any crime, constitutional or otherwise.
Let's turn first to Mr. Mulvaney. To begin with, Mr. Mulvaney participated in meetings and discussions with President Trump at every single stage of this scheme. We just talked about motives and intent. Well, if you want further insight into the President’s motives and intent, further direct evidence of why he withheld the military aid and the White House meeting, you should call his Acting Chief of Staff, who has more access than anyone.

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

Over and over again, Ambassador Sondland has told us and simple witnesses how Mr. Mulvaney was directly involved in the President’s scheme. Here is some of that testimony.

(Text of Videotape presentation:)

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

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

Mr. Manager SCHIFF. Including Mr. Mulvaney.

Mr. Manager SCHIFF. Correct.

Mr. Manager JEFFRIES. Remarkably, the President is still denying the facts. He argues you have to somehow prove that it is true, it is still not impeachable. But if the President did nothing wrong, if he held up the aid because of so-called corruption or burden-sharing reasons, he should want his chief of staff to come testify and explain that. I think that distinguished body and say just that.

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

Everyone was in the loop.

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

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

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

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

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

Remember that email exchange between Mr. Mulvaney and his Deputy, Rob Blair, on June 27, when Mulvaney asked Blair about whether they could implement the hold and Blair responded they had but that Congress would become “unhinged”? It wasn’t just Congress. It was the independent Government Accountability Office that determined that the President’s hold violated the law. But, if the President’s counsel is going to argue—without evidence—that he withheld the aid as part of U.S. foreign policy, it seems to make sense that the Senate should hear directly from Mr. Mulvaney, who has firsthand knowledge of exactly these facts. He said so himself.

(Text of Videotape presentation:)

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

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

Perhaps here is why:

(Text of Videotape presentation:)

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

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

Answer. The look back to what happened in 2016—

Question. The investigation into Democrats.

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

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

Answer. We do that all the time with foreign policy. We were holding the money at the same time for—what was it? The Northern Triangle countries so they would change their policies on immigration. By the way, this speaks to an important point, because I heard this yesterday and I can never remember the gentleman ever, the gentleman, the guy—that was his name? I don’t know him. I don’t know him. He testified yesterday. And if you go—and if you believe those reports—okay? Because believe—one guy—Was it McKinney? I don’t know. Who is that guy?

Answer. He testified yesterday. And if you go—and if you believe those reports—okay? Because believe—one guy—Was it McKinney? I don’t know. Who is that guy?—Okay. And I don’t know. And the guy what was his name? I don’t know him. He testified yesterday. And if you go—and if you believe those reports—okay? Because believe—one guy—Was it McKinney? I don’t know. Who is that guy?—Okay. And I don’t know. And the guy what was his name? I don’t know him. He testified yesterday. And if you go—and if you believe those reports—okay? Because believe—one guy—Was it McKinney? I don’t know. Who is that guy?—Okay. And I don’t know. And the guy what was his name? I don’t know him. He testified yesterday. And if you go—and if you believe those reports—okay? Because believe—one guy—Was it McKinney? I don’t know. Who is that guy?—Okay. And I don’t know. And the guy what was his name? I don’t know him. He testified yesterday. And if you go—and if you believe those reports—okay? Because believe—one guy—Was it McKinney? I don’t know. Who is that guy?—Okay. And I don’t know.
and, most importantly, the hold violated the law.

The President has the right to make policy, but he does not have the right to break the law and coerce an ally into helping him cheat in our free and fair elections. Nor does he have the right to spend hundreds of millions of dollars in taxpayer funds as leverage to get political dirt on an American citizen who happens to be his political opponent.

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

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

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

Here is an important email from that production.

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

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

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

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

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

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


I yield to my distinguished colleague, Manager LOFRENTZ.

Mr. LOFRENTZ. Mr. Chief Justice and Senators, it is not just about hearing from witnesses; you need documents. The documents don’t lie. There are specific documents relevant to this impeachment trial. I’ve even involved the White House, OMB, DOD, and the State Department, and the President has hidden them from us.

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

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

Many of these records are at the White House. The White House has records about the phone calls with President Zelensky, about scheduling an Oval Office meeting with President Zelensky, about the President’s decision to hold security assistance, about communications among his top aides, and about concerns raised by public officials with legal counsel.

Mr. Duffey provided no credible explanation for the hold. So how did Mr. Duffey understand the “clear direction” to continue the hold? Why is the President claiming that this wasn’t unlawful when DOD—the Department of Defense—repeatedly warned his administration that it was unlawful?

Now, the President, of course, has disputed this fact, but we have demonstrated that OMB was warned repeatedly by DOD officials of two things: first, continuing to withhold

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

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

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

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

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

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

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

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

Here is why. Let’s focus on John Bolton, since this week’s revelations confirm the importance of his testimony. First, as a private citizen, John Bolton is fully protected by the First Amendment if he wants to testify. There is no basis for imposing prior restraint for censoring him just because some of his testimony could include communications with the President. That is long commonplace. As long as his testimony isn’t classified, it is shielded by the free speech clause of the First Amendment.

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

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

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

The second reason is the President waived any claim of executive privilege about Ambassador Bolton’s testimony. All 17 witnesses testified in the House about these matters without any assertion of privilege by the President. Of course, President Trump, as well as his lawyers and senior officials, have publicly discussed and tweeted about these issues at some length. The President has also directly denied reports about what Ambassador Bolton will say in his forthcoming book. Under these circumstances, the President cannot be allowed to tell his version of his story to the public while using executive privilege to silence a key witness who would contradict him. You shouldn’t let the President escape responsibility only to later see clearly what happened in Ambassador Bolton’s book.

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

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

Here is what it says: The Senate shall have the sole Power to try all Impeachments. . . . When the President of the United States is tried, the Chief Justice shall preside.

Now, I think that provision in the Constitution means something. It is up to the Senate to decide how to try this impeachment with fairness, with witnesses, and documents. Privileges asserted can be decided using the process that you devise. That is not unconstitutional. It is what the Constitution provides.

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

I yield now to Manager SCHIFF.

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

We agree with the President’s counsel on this much: This will set a new precedent. This will be cited in impeachment trials from this point to the end of history. You can bet in every impeachment that follows, whether it is a Presidential impeachment or the impeachment of a judge, if that judge or President believes that it is to his or her advantage that there shall be a trial in which they don’t have to cite the case of Donald J. Trump. They will make the argument that you can adjudicate the guilt or innocence of the party who is accused without hearing from a single witness, without reviewing a single document. And I would submit that will be a very dangerous and long-lasting precedent that we will all have to live with.

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

If the Senate allows President Trump’s obstruction to stand, it effectively nullifies the impeachment power. It will allow future Presidents to decide whether they want their misconduct to be investigated or not,
whether they would like to participate in an impeachment investigation or not. That is a power of the Congress. By permitting a categorical obstruction, it turns the impeachment power against itself.

How we respond to this unprecedented obstruction will shape future debates between our branches of government and the executive forever. And it is no surprise that Trump’s refusal to cooperate with his impeachment is part of a pattern of obstruction of Congress. The ability of Congress to conduct meaningful and probing oversight—oversight that, by its nature, is intended to be a check and balance on the awesome powers of the executive branch—hangs on our willingness to compel documents that President Trump is hiding with no valid justification, no precedential support.

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

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

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

This week has made that abundantly clear.

The documents the President is hiding will come out. The witnesses the President is concealing will tell their stories. And we will be asked why we didn’t want to hear that information when we had the chance, when we could consider its relevance and importance in making this most serious decision. What answer shall we give if we do not allow witnesses and documents to speak the truth now, when it is greater than what any courtroom in America could come to know about the President’s innocence or guilt?

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

Let the American people know that you understand the truth. Let them know you still care about the truth, that the truth still matters. Though much divides us, on this we should agree: A trial, stripped of all its trappings, should be a search for the truth, and that requires witnesses and testimony.

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

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

Now, what does that mean? Without a fair trial, the government must become arbitrary. Now, of course, he is talking about the right of an average citizen in America, when someone is tried but there is no representation that the verdict has any meaning. How could it, if the result is baked in by the process? Assume the American people, whatever the result may be, that at least they got a fair shake.

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

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

The CHIEF JUSTICE. Thank you, Mr. Manager.

The majority leader is recognized.

RECESS

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

The CHIEF JUSTICE. Without objection, so ordered.

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

The CHIEF JUSTICE. Please be seated.

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

Mr. Counsel Philbin. Mr. Chief Justice, Members of the Senate, the House managers have said throughout their presentation and throughout all of the proceedings here again and again that you can’t have a trial without witnesses and documents, as if it is just that simple. If you are going to have a trial, there have to be new witnesses and documents. But it is not that simple.

Let me unpack that and explain what is really at stake there.

The first is this idea that, if you come to trial, you have to always go to witnesses, have new witnesses come in, but that is not true. In every legal system and in our legal systems on both the civil and criminal sides, there is a way to decide right up front, in some quick way, whether there is really a triable issue, whether you really need
to go to all the trouble of calling in new witnesses and having more evidence in something like that. There is not here. There is no need for that because these Articles of Impeachment, on their face, are defective, and we have explained that. Let me start with the first Article, the obstruction of charge.

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

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

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

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

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

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

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

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

If the procedures used in the House to bring this proceeding here to this stage are accepted, if the Senate says “Yes, we will start calling new witnesses because you didn’t get the job done,” that in itself is going to get it “out here;” then that becomes the new normal. And that is important in a couple of ways. One is, as we have pointed out, the totally unprecedented process that was used in the House that violated all notions of due process. There are precedents going back 150 years in the House, ensuring that someone accused in an impeachment hearing in the House has due process rights to be represented, to cross-examine witnesses, to be able to present evidence. They didn’t allow the President to do that, and if this body says that is OK, then that becomes the new normal.

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

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

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

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

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

Now, they also suggest that it is not going to take a long time, that they only want a few witnesses. But, of course, if things are opened up to witnesses, it is going to take a lot of time. And if you don’t, the fault lies right here, whether or not that privilege exists, by the Chief Justice sitting as the Presiding Officer—that doesn’t make sense. That is not the way it works.

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

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

The Framers recognized that impeachments could be done for illegitimate reasons. They recognized that
January 31, 2020

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It is not the process that the Framers had in mind, and it is not something the Senate should condone in this case. The Senate is not here to do the investigatory work that the House didn’t do. Where there has been a process that denials due process, that produced a record that is not watertight, the reaction from this body should be to reject the Articles of Impeachment, not to condone and put its imprimatur on the way the proceedings were handled in the House and not to prolong matters of discovery for the work we know that the House failed to do by not seeking evidence and not doing a fair and legitimate process to bring the Articles of Impeachment here.

Thank you.

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

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

William Taylor, former Acting United States Ambassador to Ukraine, testified in the House. We didn’t get the opportunity to cross-examine him. He would be called.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In the Clinton investigation, they talk about witnesses being called, but...
the three witnesses that were called had either testified before the grand jury or before the House committee. There weren’t new witnesses. What Mr. Philbin says is correct; that under our constitutional design, they are supposed to be investigated; you are to deliberate. But what they are asking you to do is now become the investigative agency, the investigative body.

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

The same can be said from Representative LOFROEN:

You said you have evidence proving the case through, for example, at the meeting when Bolton said it was a drug deal, well, we have fact witnesses. Hill was there, Vindman was there, both of them there. So this idea that they haven’t had witnesses, that is the smoke screen. You have heard from a lot of witnesses. The problem with the case, the problem with their position is, even with all of these witnesses, it doesn’t prove up an impeachable offense. The articles fail. I think it is very dangerous if the House runs up—which they did—Articles of Impeachment quickly, so quickly that they are clamoring for evidence, despite the fact that they put all of this evidence forward. They got their wish of an impeachment by Christmas. That was the goal. But now they want you to do the work they failed to do.

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

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

How many constitutional challenges will we have in this body because they placed the burden on you that they would not take themselves in putting their case forward? If we look at our constitutional framework and our constitutional structure, that is not the way it is supposed to be. Now, our opposition to this motion is rather straightforward, as I have said. We came here ready to try the case on the record that they presented, the record that the managers told us was overwhelming and complete. Mr. SCHIFF went through every sentence of the Articles of Impeachment just a few days ago and said: Proved, proved, proved, proved. But the problem is that what is proved, proved, proved is not an impeachable offense. You could have witnesses that prove a lot of things, but if there is not a violation of the law, if it doesn’t meet the constitutional required process, the constitutional required substantive issues of do these allegations rise to the level sufficient for a removal of office for a duly elected President of the United States? It doesn’t and especially so—especially so—when we are in an election year.

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

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

The CHIEF JUSTICE. Thank you, counsel.

The House managers have 30 minutes remaining.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And, of course, in every other non-impeachment context where the courts have looked at the issue of a Congress’s power to enforce subpoenas against witnesses or documents, the courts have said the power to compel compliance with a subpoena is coequal and co-extensive with the power to legislate because the country why he saved it for the book. When he knew information of direct relevance and consequence to a decision that you have to make about whether the President of the United States should be removed from office, it would be very difficult to explain why that is saved for a book.

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

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

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

And the reason why that argument is in such bad faith? As I pointed out to you yesterday, while they are in this body and are here, they are not the only body that has a right to make the decisions that are coequal and co-extensive with the power of the presidency. If the President of the United States would have fought harder to overcome our stonewalling, he would have sued us—and we had to expect that, he would have sued us and we had to defend against that. And we let them go up and down the courts. We have got a perfectly good judge right here.

Now, you heard our proposal yesterday that we take a week—just a week—to depose the witnesses that we feel are relevant, that they feel are relevant, and that the Justice rules are relevant. Just one week. Or that you can say that the Constitution requires them to go to court, but, of course, it doesn’t. There is absolutely no constitutional impediment from these fine lawyers saying: You know, that is eminently reasonable. If we make the argument that the Senate rules allow the Senate to rule when the Senate can say to the judge that the Senate rules allow the Senate to rule on the impeachment. In the sole exercise of the power to try impeachments, you the Senate for not fighting harder to overcome our stonewalling. If only they had fought harder to overcome our stonewalling, maybe they could have gotten these witnesses earlier.

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

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

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

Now, Mr. Sekulow ended his argument against witnesses with where Mr. Phillbin essentially began. It all comes back to the Dershowitz principle: What is the point of calling witnesses if the President can do whatever he wants under article II? What is the point of calling witnesses? What is the point of having a trial if the President can do whatever he wants under article II? The only constraining principle—and I think that one of the Senators asked yesterday: What is the limiting principle in the Dershowitz argument? If a President can corruptly seek foreign interference in his election because he believes that his election is in the national interest, then, you cannot imagine the President ever doing anything that may be to our national security. What is the limiting principle?

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

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

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

As conscientious citizens from all walks of life are trying their best to understand the complex impeachment issues now being deliberated in the trial in the U.S. Senate, the rules of evidence are central to the question. Should the Senate allow additional sworn testimony from fact witnesses with firsthand knowledge and include relevant documents? As a lifelong Republican and a retired member of the U.S. Senate, who once served as a juror in a Presidential impeachment trial, I am mindful of the difficult responsibilities those currently serving now shoulder. I believe, as I am sure you do, that not only is the President on trial, but in many ways, so is the Senate itself. As such, I am strongly supportive of the efforts of my former colleague Bob Corker and colleagues who are considering that the Senate accept the introduction of additional evidence that they deem relevant.

Not long ago Senators of both major parties always worked to accommodate fellow colleagues with differing points of view to arrive at outcomes that would best serve the nation’s interests. If witnesses are suppressed in this trial and a majority of Americans are left believing the trial was a sham, I can only imagine the lasting damage done to the Senate, and to our fragile national consensus. The Senate embraces its legacy and delivers for the American people by avoiding the risk.

Throughout the long life of our nation, federal and state judicial systems have largely supported the judicial norms of evidence, witnesses and relevant documents. I respectfully urge the Senate to be guided by the rules of evidence and follow our nation’s judicial norms, precedents and institutions to uphold the Constitution and the rule of law by welcoming relevant witnesses and documents as part of this impeachment trial.

That is your colleague, former Senator John Warner.

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

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

I yield back.

The CHIEF JUSTICE. Thank you, Mr. Manager.

Mr. MCCONNELL. Mr. Chief Justice. The CHIEF JUSTICE. The majority leader is recognized.

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

The CHIEF JUSTICE. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

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

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

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

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

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

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

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

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

(Rollcall Vote No. 27)

YEAS—49

Baldwin
Benner
Binnsmental
Boofer
Burk
Canwell
Cardin
Carper
Casey
Collins
Coons
Cortez Masto
Duckworth
Durbin
Feinstein
Gillibrand
Grassley
Harriss
Hassan
Hassan
Hirono
Jones
Kaye
King
Klobuchar
Leahy
Manchin
Markley
Menendez
Menendez
Merkley
Murphy
Murray
Peters
Reed
Romney

NAYS—51

Alexander
Barrasso
Blackburn
Bray
Boozman
Boozman
Brown
Cassidy
Cassidy
Cox
Cotzin
Cox
Crom
Crom
Crump
Crump
Daines

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January 31, 2020
The motion was rejected.

A RECESS SUBJECT TO THE CALL OF THE CHAIR.

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

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

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

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

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

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

The legislative clerk read as follows: A resolution (S. Res. 486) to provide for related procedures concerning the articles of impeachment against Donald John Trump, President of the United States.

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

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

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

The CHIEF JUSTICE. The majority leader.

Mr. MCCONNELL. Mr. Chief Justice, I ask unanimous consent that the amendment would succeed.

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

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

[Rollcall Vote No. 28]

YEAS—53

Alexander
Barrasso
Blackburn
Blunt
Bouzeman
Braun
Burr
Capito
Cassidy
Collins
Cornyn
Cotton
Cramer
Crapo
Crus
Daines
Enzi
Ernst
Fischer
Gardner
Graham
Grassley
Hauser
Hoeven
Hyde-Smith
Inhofe
Johnson
Kennedy
NAYS—47

Baldwin
Bennet
Blumenthal
Braun
Brown
Cantwell
Carroll
Carper
Casey
Casserly
Cortez Masto
Duckworth
Sinema
Cardin
Leahy
Manchin
Murray
Feinstein
Gillibrand
Harris
Young

Rosen
Sanders
Schatz
Schumer
Shahen
Sinema
Smith
Stabenow
Tester
Udall
Van Hollen
Warren
Warnen
Whitehouse
Wyden

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

The CHIEF JUSTICE. The Democratic leader is recognized.

AMENDMENT NO. 1296

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

The CHIEF JUSTICE. The clerk will read the amendment.

The senior assistant legislative clerk read as follows:

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

The amendment is as follows: (Purpose: To subpoena certain relevant witnesses and documents.)

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

The CHIEF JUSTICE. The clerk will report.

The senior assistant legislative clerk read as follows:

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

[The amendment is printed in today's Record under "Text of Amendments."]

The CHIEF JUSTICE. The majority leader is recognized.

MOTION TO TABLE

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

The CHIEF JUSTICE. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

[Rollcall Vote No. 29]

YEAS—51

Alexander
Barrasso
Blackburn
Blunt
Bouzeman
Braun
Burr
Capito
Cassidy
Collins
Cornyn
Cotton
Cramer
Crapo
Crus
Daines
Enzi
Ernst
Fischer
Gardner
Graham
Grassley
Hauser
Hoeven
Hyde-Smith
Inhofe
Johnson
Kennedy
MURPHY
Murray
Neely
Paul
Portman
Perdue
Risch
Roberts
Romney
Rounds
Rubio
Sasse
Scott (FL)
Scott (SC)
Shelby
Sullivan
Thune
Tillis
Toomey
Wicker
Young

NAYS—49

Baldwin
Bennet
Blumenthal
Braun
Brown
Cantwell
Carroll
Carper
Casey
Casserly
Cortez Masto
Duckworth
Sinema
Cardin
Leahy
Manchin
Murray
Feinstein
Gillibrand
Harris
Young

Rosen
Sanders
Schatz
Schumer
Shahen
Sinema
Smith
Stabenow
Tester
Udall
Van Hollen
Warren
Warnen
Whitehouse
Wyden

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

The CHIEF JUSTICE. The Democratic leader is recognized.

AMENDMENT NO. 1297

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

The CHIEF JUSTICE. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

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

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

[Rollcall Vote No. 29]
The motion to table is agreed to; the amendment is tabled.

The CHIEF JUSTICE. The clerk will report.

The senior assistant legislative clerk read as follows:

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

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

The amendment is as follows: (Purpose: To subpoena John Robert Bolton)

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

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

The amendment is as follows: (Purpose: To subpoena John Robert Bolton)

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

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

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

Examination of the witness at a deposition shall be conducted by the Managers on the part of the House of Representatives or their counsel, and by counsel for the President.

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

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

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

The deposition authorized by this resolution shall be held in the Senate Chambers and shall be considered depositions before the Senate for purposes of rule XXIX of the Standing Rules of the Senate, sections 101, 102, and 104 of the Revised Statutes (2 U.S.C. 181, 192, and 194), sections 705 and 707 of the Ethics in Government Act of 1978 (2 U.S.C. 288a, 288d, and 288f), sections 6002 and 6005 of title 18, United States Code, and section 1365 of title 28, United States Code. The Secretary of the Senate shall arrange for stenographic assistance, including videotaping, to record depositions as provided in section 205. Such expenses as may be necessary shall be paid from the contingent fund of the Senate upon vouchers from the Appropriations Committee, for the Appropriations Act, item 1302.2, Appropriations Act for Fiscal Year 2019.
The CHIEF JUSTICE. Is there a sufficient second?
There is a sufficient second.
The clerk will call the roll.
The senior assistant legislative clerk called the roll.
The CHIEF JUSTICE. Is there any Senator in the Chamber wishing to vote or change his or her vote?
The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 31]

**YEAS—**

Alexander  Fischer  Perdue
Barras  Garcia  Portman
Blackburn  Graham  Risch
Blunt  Grassley  Roberts
Boozman  Hawley  Romney
Brown  Hoeven  Rounds
Burr  Hyde-Smith  Rubio
Capito  Inhofe  Sasse
Cassidy  Johnson  Saenz
Collins  Kennedy  Scott (FL)
Coryn  Lankford  Shelby
Cotton  Lee  Sullivan
Cramer  Loeffler  Tillis
Cran  McConnell  Tester
Cruz  McSally  Udall
Daines  Kaine  Shaheen
Cantwell  King  Sinema
Cardin  Klobuchar  Smith
Carper  Leahy  Stabenow
Casey  Manchin  Tester
Coons  Markey  Udall
Cortez Masto  Menendez  Van Hollen
Duckworth  Markley  Warner
Durbin  Murphy  Warn  
Feinstein  Murray  Warren
Gillibrand  Pingree  Whitehouse
Harris  Reed  Wyden

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

The CHIEF JUSTICE. The question occurs on the adoption of S. Res. 488. Mr. MCCONNELL, Mr. Chief Justice, I ask for the yeas and nays.

The CHIEF JUSTICE. Is there a sufficient second?
There is a sufficient second.
The clerk will call the roll.
The legislative clerk called the roll.
The CHIEF JUSTICE. Is there any Member in the Chamber who wishes to vote or change his or her vote?

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

[Rollcall Vote No. 32]

**YEAS—**

Alexander  Fischer  Perdue
Barras  Garcia  Portman
Blackburn  Graham  Risch
Blunt  Grassley  Roberts
Boozman  Hawley  Romney
Brown  Hoeven  Rounds
Burr  Hyde-Smith  Rubio
Capito  Inhofe  Sasse
Cassidy  Johnson  Saenz
Collins  Kennedy  Scott (FL)
Coryn  Lankford  Shelby
Cotton  Lee  Sullivan
Cramer  Loeffler  Tillis
Cran  McConnell  Tester
Cruz  McSally  Udall
Daines  Kaine  Shaheen
Cantwell  King  Sinema
Cardin  Klobuchar  Smith
Carper  Leahy  Stabenow
Casey  Manchin  Tester
Coons  Markey  Udall
Cortez Masto  Menendez  Van Hollen
Duckworth  Markley  Warner
Durbin  Murphy  Warn  
Feinstein  Murray  Warren
Gillibrand  Pingree  Whitehouse
Harris  Reed  Wyden

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

By Mr. MCCONNELL:

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

**SUBMITTED RESOLUTIONS**

**SENATE RESOLUTION 488—**

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

By Mr. MCCONNELL:

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

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

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

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

**AMENDMENTS SUBMITTED AND PROPOSED**

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

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

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

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

**TEXT OF AMENDMENTS**

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

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

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

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

(A) for the taking of testimony of—

(i) John Robert Bolton;
(ii) John Michael “Mike” Mulvaney;
(iii) Michael P. Duffey; and
(iv) Robert B. Blair;

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

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

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

(I) former Vice President Joseph Biden;
(II) Hunter Biden and any of his associates;
(III) Burisma Holdings Limited (also known as “Burisma”);

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

(V) the Democratic National Committee; or

(VI) CrowdStrike;

(iii) the actual or potential suspension, withholding, delaying, freezing, or releasing
of United States foreign assistance, military assistance, or security assistance of any kind to Ukraine, including but not limited to the Ukraine Security Assistance Initiative (USAI) and Foreign Military Financing (FMF);
(iv) all documents, communications, notes, and other records created or received by Acting Chief Financial Officer Peter Feaver, Deputy Chief Financial Officer Brian McMillan, or former National Security Advisor John R. Bolton, Senior Advisor to the Chief of Staff Robert B. Blair, and other White House officials relating to the decision not to attend, or to ask Vice President Pence not to attend, and the subsequent decision about the composition of the delegation to be limited to interns;
(ii) a meeting at the White House on or around May 23, 2019, involving, among others, President Trump, then-Special Representative for Ukraine Negotiations Kurt Volker, then-Energy Secretary Rick Perry, and United States Ambassador to the European Union Gordon Sondland, as well as any private meetings or conversations with those individuals before or after the larger meeting;
(iii) a meeting at the White House on or around July 10, 2019, involving Ukrainian officials Andriy Yermak and Oleksander Danylyuk and United States Government officials Andriy Yermak and Oleksander Danylyuk, and subsequent meeting in the Ward Room;
(iv) a meeting at the White House on or around August 30, 2019, involving President Trump, Secretary of State Mike Pompeo, and Secretary of Defense Mark Esper;
(v) a planned meeting, later cancelled, in Warsaw, Poland, on or about September 1, 2019 between President Trump and President Zelensky, and subsequently attended by Vice President Pence; and
(vi) a meeting at the White House on or around September 11, 2019, involving President Trump, Vice President Pence, and Mr. Mulvany concerning the lifting of the hold on United States foreign assistance to Ukraine; 
meetings, telephone calls or conversations related to any occasions in which National Security Council officials reported concerns to the Department of Defense, including but not limited to National Security Council Legal Advisor, John Eisenberg, regarding matters related to Ukraine, including but not limited to:
(I) the decision to delay military assistance to Ukraine;
(ii) the July 10, 2019 meeting at the White House with Ukrainian officials; and
(iii) the President’s July 25, 2019 call with the President of Ukraine; 
(a) officials at the Department of Defense, including but not limited to Undersecretary of Defense Elaine McCusker; and
(b) Associate Director Michael Duffey, Deputy Associate Director Mark Sandy, or any other Office of Management and Budget employee;
(V) all draft and final versions of the August 7, 2019, memorandum prepared by the National Security Division, International Affairs Division, and Office of General Counsel of the Department of Defense and the Budget about the release of foreign assistance, security assistance, or security assistance to Ukraine; and
(VII) the Ukrainian government’s knowledge prior to August 28, 2019, of any actual or potential suspension, withholding, delaying, freezing, or releasing of United States foreign assistance, military assistance, or security assistance to Ukraine, including all meetings, calls, or other engagements with Ukrainian officials regarding potential or actual suspensions, holds, or delays in United States assistance to Ukraine;
communications, opinions, advice, consultations, approvals, or770 CONGRESSIONAL RECORD — SENATE January 31, 2020
January 31, 2020

CONGRESSIONAL RECORD — SENATE

S771

by, Secretary Michael R. Pompeo, Counselor T. Ulrich Brechbuhl, former Special Represen-
tative for Ukraine Negotiations Ambas-
sador Kurt Volker, Deputy Assistant Sec-
tary George Kent, then-United States Em-
bassy in Ukraine Charge d’Affaires William B. Taylor, and Ambassador to the European Union Gordon Sondland, and other State De-
partment officials, relating to efforts to
(i) demand, induce, persuade, or coerce Ukraine to conduct or an-
nounce investigations;
(ii) offer, schedule, cancel, or withhold a White House meeting for Ukraine’s presi-
dent; or
(iii) hold and then release military and other security assistance to Ukraine;
(iv) proposed meetings at or involving the White House that relate to Ukraine, including but not limited to—
(I) President Zelensky’s inauguration on May 20, 2019, involving Secretary of the Department of Defense, Office of Management and Budget, or the White House, on or involving the White House that relate to Ukraine, including but not limited to
(1) a September 15, 2019 memorandum to file written by Deputy Assistant Secretary Kent;
(2) all meetings or calls, including but not limited to the records of meetings or telephone calls, scheduling items, calendar entries, State Department visitor records, and email or text messages using personal or work-related devices, be-
tween or among—
(I) current or former State Department of-
ficials or employees, including but not limi-
ted to Secretary Michael R. Pompeo, Ambas-
sador Volker, Ambassador Sondland, and
(II) Rudolph W. Giuliani, Victoria Toensing, or Joseph diGenova; and
(vii) all meetings or proposed meetings at
(v) planned or actual meetings with Presi-
dent Trump related to United States foreign assistance, military assistance, or security assistance to Ukraine, including but not limited to
(1) communications among or between offi-
cials of the Department of Defense, White-
house, Office of Management and Budget, Department of State, or Office of the Vice
President;
(II) documents, communications, notes, or other records created, sent, or received by Secretary Mark Esper, Deputy Secretary David Norquist, Undersecretary of Defense Elaine McCusker, and Deputy Assistant Sec-
tary of Defense Laura Cooper, or Mr. Eric
Chewning;
(I) communications among or between offi-
cials of the Department of Defense, White-
house, Office of Management and Budget, Department of State, or Office of the Vice
President;
(II) documents, communications, notes, or other records created, sent, or received by Secretary Mark Esper, Deputy Secretary David Norquist, Undersecretary of Defense Elaine McCusker, and Deputy Assistant Sec-
tary of Defense Laura Cooper, or Mr. Eric
Chewning;
(III) draft or final letters from Deputy Sec-
tary David Norquist to the Office of Man-
agement and Budget; and
(IV) any meetings or proposed meetings at
(vi) communications, opinions, advice,
and other records created, sent, or received by, the Special Representative for Ukraine Negotiations Ambassador Kurt Volker, then-United States Embassy in Ukraine Charge d’Affaires William B. Taylor, and Ambassador to the European Union Gordon Sondland, as well as any private meetings or conversations with those individuals before or after the larger meeting;
(III) meetings at the White House on or about July 10, 2019, involving Ukrainian officials Andriy Yermak and Oleksander Daniyuk and United States Government of-
ficials or employees, not limited to, then-
National Security Advisor John Bolton, Sec-
tary Perry, Ambassador Volker, and Am-
bassador Sondland, to include at least a meeting in Ambassador Volker’s office and a subsequent meeting in the Ward Room;
(IV) a meeting at the White House on or around August 30, 2019, involving President Trump, Secretary of State Mike Pompeo, and Secretary of Defense Mark Esper;
(V) a planned meeting, later cancelled, in
Warsaw, Poland, on or around September 1, 2019 before President Trump and President Zelensky, and subsequently attended by Vice
President Pence; and
(VI) a meeting at the White House on or around August 16, 2019, involving Presi-
dent Trump, Vice President Pence, and Mr. Mulvaney concerning the lifting of the hold on security assistance for Ukraine;
(vi) all communications, including but not limited to WhatsApp or text messages on pri-
ivate devices, between current or former State Department officials or employees, in-
cluding but not limited to Secretary Michael R. Pompeo, Ambassador Volker, Ambassador Sondland, Ambassador Taylor, and Deputy Assistant Secretary Kent, and the following: President Zelensky, Andriy Yermak, or indi-
viduals or entities associated with or acting in any capacity as a representative, agent, or proxy for President Zelensky before and after his election;
(vii) all records specifically identified by
witnesses in the House of Representatives’ impeachment inquiry that memorialize key events or concerns, and any records reflect-
ing any discussions thereof, including but not limited to—
(i) an August 29, 2019 cable sent by Ambas-
sador Taylor to Secretary Pompeo;
(ii) an August 18, 2019 memorandum to file written by Deputy Assistant Secretary Kent; and
(iii) a September 15, 2019 memorandum to file written by Deputy Assistant Secretary Kent;
(iv) all communications, opinions, advice, counsel, approvals or concludens, issued by the Department of Defense, Office of Man-
agement and Budget, or the White House, on the legality of any suspension, withholding, delaying, freezing, or releasing of United States foreign assistance, military assistance, and security assistance to Ukraine;
(iii) communications, opinions, advice, counsel, approvals or concludens, issued by the Department of Defense, Office of Man-
agement and Budget, or the White House, on the legality of any suspension, withholding, delaying, freezing, or releasing of United States foreign assistance, military assistance, and security assistance to Ukraine; and
(iv) any communications among or between
officials of the Department of Defense, White-
house, Office of Management and Budget, Department of State, or Office of the Vice
President; as fol-
lo

SA 1296. Mr. SCHUMER proposed an amendment to the resolution S. Res. 48, to provide for related procedures concerning the articles of impeach-
ment against Donald John Trump, President of the United States; as fol-
lo

SA 1297. Mr. SCHUMER proposed an amendment to the resolution S. Res. 48, to provide for related procedures concerning the articles of impeach-
ment against Donald John Trump, President of the United States; as fol-
lo

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

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

At the appropriate place in the matter fol-
lowing the resolving clause, insert the fol-
lo

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

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

The deposition shall be videotaped and a transcript of the proceeding shall be made. The deposition shall be conducted in private. No person shall be admitted to the deposition. All persons present must maintain the confidentiality of the proceeding. The witness shall be examined by not more than 2 persons each on behalf of the Managers and counsel for the President. The witness may be accompanied by counsel. The scope of the examination by the Managers and counsel for both parties shall be limited to subject matters reflected in the Senate record. The party taking a deposition shall present to the other party, not less than 18 hours in advance of the deposition, copies of all exhibits which the deposing party intends to enter into the deposition. No exhibits outside of the Senate record shall be employed, except for articles and materials in the press, including electronic media. Any party may interrogate the witness as if the witness were declared adverse.

The deposition shall be videotaped and a transcript of the proceeding shall be made. The deposition shall be conducted in private. No person shall be admitted to the deposition. All persons present must maintain the confidentiality of the proceeding. The Chief Justice at the deposition shall file the videotaped and transcribed records of the deposition with the Secretary of the Senate, who shall maintain them as confidential proceedings of the Senate. The Sergeant at Arms is authorized to make available for review at secure locations, any of the videotapes or transcribed deposition records to Members of the Senate, one designated staff member per Senator, and the Chief Justice. The Senate may direct the Secretary of the Senate to distribute such materials, and to use whichever means of dissemination, including printing as Senate documents, printing in the Congressional Record, photo- and video-duplication, and electronic dissemination, he determines to be appropriate to accomplish any distribution of the videotaped or transcribed deposition records that he is directed to make pursuant to this paragraph.

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

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

SA 1298. Mr. VAN HOLLEN proposed an amendment to the resolution S. Res. 488, to provide for related procedures concerning the articles of impeachment against Donald John Trump, President of the United States; as follows:

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

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

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

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

The CHIEF JUSTICE. Without objection, so ordered.

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

Mr. McCONNELL. Mr. Chief Justice, I ask unanimous consent that the trial adjourn until 11 a.m., February 3, and that this order also constitute the adjournment of the Senate.

There being no objection, at 7:38 p.m., the Senate, sitting as a Court of Impeachment, adjourned until Monday, February 3, 2020, at 11 a.m.