The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. GRASSLEY).

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

Let us pray.
Strong Deliverer, our shelter in the time of storms, we acknowledge today that You are God and we are not. You don’t disappoint those who trust in You, for You are our fortress and bulwark.

Lord, show our Senators Your ways and teach them to walk in Your path of integrity.

Through the seasons of our Nation’s history, You have been patient and merciful. Mighty God, be true to Your name. Fulfill Your purposes for our Nation and world.

We pray in Your Holy Name. Amen.

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

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

RESERVATION OF LEADER TIME
The PRESIDING OFFICER (Mrs. BLACKBURN). Under the previous order, the leadership time is reserved.

MORNING BUSINESS
The PRESIDING OFFICER. Under the previous order, the Senate will be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. The Senator from Iowa.
Mr. GRASSLEY. I ask unanimous consent to speak for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESCRIPTION DRUG COSTS
Mr. GRASSLEY. Last night, in the State of the Union Address, President Trump called on Congress to put bipartisan legislation to lower prescription drug prices on his desk and that he would sign it.

Here are the facts. The House is controlled by Democrats. The Senate requires bipartisanship to get any legislation done. There are only a couple of months left before the campaign season.

The time to act is right now.

I am calling on my colleagues on both sides of the aisle to get off the sidelines and to work with me and Senator WYDEN, as President Trump already is, to heed the call to action that he gave us last night and pass the Prescription Drug Pricing Reduction Act.

It is the only significant bipartisan bill in town. President Trump, the AARP, and the libertarian Cato think tank, to name just a few people involved, have all endorsed the bill.

If you are serious about fulfilling promises to lower drug costs, my office door is open, as Senator WYDEN’s door is open. It is time for the Senate to act and to deliver for the American people.

I yield the floor.

IMPEACHMENT
Mr. MERKLEY. Madam President, as Senators, our decisions build the foundation for future generations. I want those generations to know that I stood here on the floor of this Chamber fighting for equal justice under law. I stood here to defend our Senate’s responsibility to provide a fair trial with witnesses and documents. I stood here to say that when our President invites and pressures a foreign government to smear a political opponent and corrupt the integrity of our 2020 Presidential election, he must be removed from office.

As a number of my Republican colleagues have confessed, the House managers have proven their case. President Trump did sanction a corrupt conspiracy to smear a political opponent, former Vice President Joe Biden. President Trump assigned Rudy Giuliani, his personal lawyer, to accomplish that goal by arranging sham investigations by the Government of Ukraine. President Trump advanced his corrupt scheme by instructing the three amigos—Ambassador Volker, Secretary of Energy Rick Perry, and Ambassador Gordon Sondland—to work with Rudy for this goal. President Trump did use the resources of America, including an Oval Office meeting and security assistance to pressure Ukraine, which was at war with Russia, to participate in this corrupt conspiracy. The facts are clear.

But do President Trump’s acts rise to the level the Framers envisioned for removal of a President, or are they, as some colleagues in this Chamber have said, simply “inappropriate,” but not “impeachable”? With respect to those colleagues, “inappropriate” is lying to the public; “inappropriate” is shuttering our allies or failing to put your personal assets into a blind trust or encouraging foreign governments to patronize your properties. That is something you might call “inappropriate,” but that word does not begin to encompass President Trump’s actions in this case—a corrupt conspiracy comprising a fundamental assault on our Constitution.

This conspiracy is far worse than Watergate. Watergate was about a break-in to spy on the Democratic National Committee—bad, yes; wrong, definitely. But Watergate didn’t involve soliciting foreign interference to destroy the integrity of an election. It didn’t involve an effort to smear a political opponent. Watergate did not involve an across-the-board blockade of access by Congress to witnesses and documents.

This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
If you believe that Congress was right to conclude that President Nixon’s abuse of power merited expulsion from office, you have no choice but to conclude that President Trump’s corrupt conspiracy merits his expulsion from office.

President Trump should be removed from office this very day by action in this very Chamber, but he will not be removed because this Senate has failed to conduct a full and fair trial to reveal the extent of Trump’s corruption and because the siren call to party loyalty over country has infected this Chamber.

Every American understands what constitutes a full and fair trial. A full and fair trial has witnesses. A full and fair trial has documents. A full and fair trial has access to witnesses and documents. If this coverup goes forward, it will be the latest in a set of corrupt firsts this Senate has achieved under Republican leadership.

It has been the first Senate to ignore our constitutional responsibilities to debate and vote on a Supreme Court nominee in 2016. It became the first Senate to ignore the impeachment of a sitting President. It was the first Senate to ignore the impeachment of the U.S. Senate chooses to defend a corrupt President by converting a trial into a coverup. A trial without access to witnesses and documents is what one expects of a corrupted court in Russia or China, not the United States of America.

We know what democracy looks like, and it is not just about having the Constitution or holding elections. Our democracy is not set in stone. It is not given to any politician rather than the good will and good faith of the people of this country. Keeping a democracy takes courage and commitment. As the saying goes, “freedom isn’t free.” It is an inheritance bequeathed to us by ordinary citizens, who fought and bled and died to ensure that government “of the people, by the people, for the people shall not perish from the Earth.”

“Fighting for that inheritance doesn’t only happen on the battlefield. It happens when Americans everywhere go to the polls to cast a ballot. It happens when ordinary citizens, distraught at what they are seeing, speak up, join a march, or run for office to make a different decision. And it happens here in this Chamber—in this Senate Chamber—when Senators put addressing the challenges of our country over the pressures from their party.”

Before casting their votes today, I urge every one of my colleagues to ask themselves: Will you defend the integrity of our elections? Will you deliver impartial justice? Will you protect the separation of powers—the heart of our Constitution? Will you uphold the rule of law and the inspiring words carved above the doors of our Supreme Court, “Equal Justice Under Law”? I stand here today in support of our Constitution, which has made our Nation that shining city on a hill. I stand here today for equal justice under law. I stand here today for a full and fair trial as our Constitution demands. I stand here today to say that a President who has abdicated his duty of soliciting a foreign country to intervene in the election of 2020 and bias the outcome—betraying the trust of the American people and undermining the strength of our Constitution—must be removed from office.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

STATE OF THE UNION ADDRESS

Mr. SCHUMER. Madam President, I will speak later this afternoon, at about 3:30—prior to the vote on the Articles of Impeachment—about impeachment, but this morning, I would like to briefly respond to President Trump’s third State of the Union address. It was a sad moment for democracy.

The President’s speech last night was much more like a Trump rally than a speech a true leader would give. It was demagogic, unenlightened, highly partisan, and, in too many places, just untruthful. Instead of a dignified President, we had some combination of a pep rally leader, a reality show host, and a carnival barker. That is not what Presidents are.

President Trump took credit for inheriting an economy that has been growing at about the same pace over the last 10 years. The bottom line is, during the last 3 years of the Obama administration, more jobs were created than under these 3 years of the Trump administration. Yet he can’t resist digging at the past President even though the past President’s economic number was better than his.

He boasted about how many manufacturing jobs he has created. Manufacturing jobs have gone down, in part, because of the President’s trade policies for 5 months late last year. There was a 5-month-long recession last year. Farmers are struggling mightily. Farm income is way down. Bankruptcies are the highest they have been in 8 years. Crop prices are dwindling, and markets may never recover from the damage of the President’s trade war as so many contracts for soybeans and other goods have gone to Argentina and Brazil. These are not 1-year contracts; these are long-term contracts.

The President talked at length about healthcare and claimed—amazingly at one point—he will fight to protect patients with preexisting conditions. This President just lies—just lies. He is in court right now, trying to undo the protections for preexisting conditions. At the same time, he says he wants to do it, and all the Republicans get up
and cheer. His administration is working as hard as it can to take down the law that guarantees protections for preexisting conditions. The claim is not partly true; it is not half true; it is not misleading. It is flatly, objectively, unequivocally false. It reads on my notes as false. Let’s call it for what it is—it is a lie.

In 3 years, President Trump has done everything imaginable to undermine Americans’ healthcare. He is even hoping to drag out the resolution of the lawsuit past the next election. If President Trump were truly interested in shoring up protections for people with preexisting conditions, he would drop this lawsuit now. Then he would be doing something, not just talking and having his actions totally contradict his words. Until the President drops his lawsuit, when he says he cares about Americans’ healthcare, he is talking out of both sides of his mouth.

When he talks about being the blue-collar guy, he doesn’t understand blue-collar families. It is true that wages went up 3 percent. If you are making $50,000 a year, that is a good salary. By my calculation, that is about $30 a week. When you get a medical bill for $5,000 and your deductible is $5,000, when your car has an accident and it is going to cost you $3,000 or $4,000 to fix it and you don’t have that money, the $30 a week doesn’t mean much.

When asked, “Is it easier for you to pay your bills today or the day Trump became President?” they say it is harder to pay their bills today. That is what working families care about, getting their costs down—their college costs, their education costs, their healthcare costs, their automobile and infrastructure costs—not these vaunted Wall Street statistics that the financial leaders look at and think: Oh, we are great.

They are not great. Their 3-percent increase in income—and it has been greater—puts a lot of money in their pockets. Working people don’t feel any better—they feel worse—because Donald Trump always sides with the special interests when it comes to things that affect working families, like health care, like drug costs, like college loans.

In so many other areas, the President’s claims were not just not true. He claimed to have tough on China. He sold out to China a month ago. Everyone knows that. Because he has hurt the farmers so badly, the bulk of what happened in the Chinese agreement was for them to purchase some soybeans. We don’t even know if that will happen, but it didn’t get at the real ways China hurts us.

He spoke about the desire for a bipartisan infrastructure bill. We Senate Democrats put together a $1 trillion bill 4 years ago and the President hasn’t shown any interest in discussing it. In fact, when Speaker PELOSI and I went to visit him about infrastructure, he walked out.

This is typical of Donald Trump. In his speech, he bragged about all of these things he wants to do or is doing, but his actions belie his words. Maybe the best metaphor was his claim to bring democracy to Venezuela. There was a big policy there. It flopped. If the policy he promised Juan Guaido wouldn’t have been in the balcony here. He would have been in Venezuela. He would have been sitting in the President’s palace or at least have been waging a fight to win. He was here.

And the President brought his Venezuela policy? Give us a break.

He hasn’t brought an end to the Maduro regime. The Maduro regime is more powerful today and more entrenched today than it was when the President began his anti-Maduro fight—the same thing with North Korea, the same thing with China, the same thing with Russia, the same thing with Syria.

The fact is, when President Trump gets over his habit to speak, the number of mistruths, mischaracterizations, exaggerations, and contradictions is breathtaking. No other President comes close. The old expression says: “Watch what I do, not what I say.”

What is most revealing on Monday in his budget. That is what he wants to do. If past is prologue, almost everything in that budget will contradict what he will have said in his speech. In the past, he has cut money for healthcare, cut money for medical research, cut money for infrastructure, cut money for education, cut money to help kids with college—every one of those things.

Ladies and gentlemen, I have faith in the American people. They will not be fooled. They are used to it. They can tell a little show here—a nonreality show—when they see one. They know it is a show. It is done for their amusement, for their titillation, but it doesn’t improve America. Working people are not middle class is struggling to stay in the middle class, and those struggling to get to the middle class find it harder to get there. Their path is steeper.

Far more than the President’s speech, the President’s budget is what truly reveals his priorities. The budget will be the truth serum, and in a few days, the American people will see how many of the President’s words here are reality. I expect very few will be.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Madam President. I am going to use my remarks that my more extensive, written remarks that I have prepared be printed in the RECORD.

The PRESIDING OFFICER. Mr. CORNYN, Madam President, over the last months, our nation has been consumed by a single word, one that we don’t use often in our ordinary parlance. That word, of course, is “impeachment.” It has filled our news channels, our Twitter feeds, and dinner conversations. It has led to a wide-ranging debate on everything from the constitutional doctrines of the separation of powers to the due process of law—two concepts which are the most fundamental building blocks of who we are as a nation. It has even prompted those who typically have no interest in politics to tune into C–SPAN or into their favorite cable news channels.

The impeachment of a President of the United States is simply the gravest taking we can pursue in this country. It is the nuclear option in our Constitution—the choice of last resort—when a President has committed a crime so serious that Congress must act rather than leave the choice to the voters in the election.

The Framers of the Constitution granted this awesome power to the U.S. Congress and placed their confidence in the Senate to use only when absolutely necessary, when there is no other choice.

This is a rare, historic moment for the Members of this Chamber. This has been faced by the Senate only on two previous occasions during our Constitution’s 232-year history—only two times previously. We should be extraordinarily vigilant in ensuring that the impeachment power does not become a regular feature of our differences and, in the process, cheapen the vote of the American people. Soon, Members of the Senate will determine whether, for the first time in our history, a President will be removed from office, and then we will decide whether he will be barred from the ballot in 2020.

The question all Senators have to answer is, Did the President commit, in the words of the Constitution, a high crime and misdemeanor that warrants his removal from office or should he be acquitted of the charges made by the House? I did my best to listen intently to both sides as they presented their cases during the trial, and I am confident in saying that President Trump should be acquitted and not removed from office.

First, the Constitution gives the Congress the power to impeach and remove a President from office only for treason, bribery, and other high crimes and misdemeanors, but the two Articles of Impeachment passed by the House of Representatives fail to meet that standard.

The first charge, as we know, is abuse of power. House Democrats alleged that the President withheld military aid from Ukraine in exchange for investigations of Joe and Hunter
Biden. But they failed to bring forward compelling and unassailable evidence of any crime—again, the Constitution talks about treason, bribery, or other high crimes and misdemeanors; clearly, a criminal standard—and thus failed to meet their burden of proof. Certainly, the House managers failed to meet the high burden required to remove the President from office, effectively nullifying the will of tens of millions of Americans just months before the next election. What is more, the House's vague charge in the first article is equivalent to acts considered and rejected by the Framers of our Constitution.

That brings us to the second article we are considering—obstruction of Congress. During the House inquiry, Democrats were upset because some of the President's closest advisers—and their most sought-after witnesses—did not testify. To be clear, some of the executive branch witnesses were among the 78-day House testimony we heard during the Senate trial. But for those witnesses for whom it was clear the administration would claim a privilege, almost certainly leading to a long court battle, the House declined to issue the subpoenas and certainly did not seek judicial enforcement. Rather than addressing the privilege claims in court, as happened in the Nixon and Clinton impeachments, the Democratic managers moved to impeach President Trump for obstruction of Congress for protecting the Presidency itself from a partisan abuse of power by the House.

Removing the President from office for asserting long-recognized and constitutionally grounded privileges that have been invoked by both Republican and Democratic Presidents would set a very dangerous precedent and would do violence to the Constitution's separation of powers design. In effect, it would make the Presidency itself subservient to the people.

The father of our Constitution, James Madison, warned against allowing the impeachment power to create a Presidential tenure at the pleasure of the Senate.

Even more concerning, at every turn throughout this process, the House Democrats violated President Trump's right to due process of law. All American law is built on a constitutional foundation securing basic rights and rules of fairness for a citizen accused of wrongdoing.

It is undisputed that the House excluded the President's legal team from both the closed-door testimony and almost the entirety of the House's 78-day inquiry. They channeled personal, political, and political grievances and attempted to use the most solemn responsibility of Congress to bring down a political rival in a partisan process.

It is no secret that Democrats' crusade to remove the President began more than 3 years ago on the very day he was inaugurated. On January 20, 2017, the Washington Post ran a story with the headline “The campaign to impeach President Trump has begun.” At first, Speaker Pelosi wisely resisted. Less than a year ago, she said, “Impeachment is so divisive to the country that unless there is something so compelling and overwhelming and bipartisan I don't think we should go down that path because it divides the country.” And she was right. But when she couldn't hold back the stampede of her caucus, she did a 180-degree about-face. She encouraged House Democrats to rush forward an impeachment inquiry before an arbitrary Christmas deadline.

In the end, the articles passed with support from only a single party—not bipartisan. The bipartisanism the Speaker claimed was necessary was actually opposed to the impeachment of the President; that is, Democrats and Republicans voted in opposition to the Articles of Impeachment. Only Democrats voted for the Articles of Impeachment in the House.

Once the articles finally made it to the Senate after a confusing, 28-day delay, Speaker Pelosi tried to have Senator Schumer—the Democratic leader here—use Speaker Pelosi's standby of political votes every Member of the Senate knew would fail, just so he could secure some perceived political advantage against Republican Senators in the 2020 election.

What should have been a solemn, constitutional undertaking became partisan guerilla warfare to take down President Trump and make Senator Schumer the next majority leader of the U.S. Senate.

All of this was done on the eve of an election and just days shy of the first primary in Iowa.

Well, to say the timing was a coincidence would be laughable. This partisan impeachment process could not only remove him from office, it would also potentially prevent his name from appearing on the ballot in November. We are only 9 months away from an election—9 months away from the American people voting on the direction of our country—but our Democratic colleagues don't trust the American people, so they have taken matters into their own hands.

This politically motivated impeachment sets a dangerous precedent. This is a very dark day. This is not just about President Trump; this is about the Office of the Presidency and what precedent a conviction and removal would set for our Constitution and for our future. If successful, this would give a green light to future Congresses to weaponize impeachment to defeat a political opponent for any action—even a failure to kowtow to Congress's wishes.

Impeachment is a profoundly serious matter that must be handled as such. It cannot become the Hall Mary pass of a party to remove a President, effectively nullifying an election and interfering in the next.

I believe—I think we should all believe—that the results of the next election should be decided by the American people, not by Congress. The decision to remove a President from office requires undeniable evidence of a high crime. That is the language of our Constitution. But despite our colleagues' best attempts, the facts they presented simply don't add up to that standard.

House managers failed to meet their heavy burden of proof that President Trump, beyond a reasonable doubt, committed a crime, let alone a high crime; therefore, I will not vote to convict the President.

I hope our Democratic colleagues will finally accept the result of this trial—just as they have not accepted the result of the 2016 election—and I hope they won't take the advice of Congresswoman Waters, Maxine Waters in the House, and open a second impeachment nightmare every time we elect a new President.

Our country is deeply divided and damaged by this partisan impeachment process. It is time for us to bring it to a close and to let the wounds from this unnecessary and misguided episode heal.

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

STATEMENT FOR THE RECORD—IMPEACHMENT TRIAL OF DONALD JOHN TRUMP

SENATOR JOHN CORNYN OF TEXAS

Mr. President, I would like to submit this statement for the record regarding the impeachment trial of President Donald Trump.

In America, all government derives its power, in the words of the Declaration of Independence, “from the consent of the governed.” This is not just a statement of national policy, but a statement about legitimacy.

Elections are the principal means of conferring legitimacy by the consent of the governed. Impeachments, by the House and tried in the Senate, while conferring authority on 535 Members of Congress to nullify one election and disqualify a convicted President appearing on the ballot, exercise delegated power from the governed, much attenuated from the direct consent provided by the American people voting on the direction of our country—9 months away from November.
that any subpoenas issued before passage of a formal resolution of the House establishing an impeachment inquiry were constitutionally invalid and a violation of due process. The Constitution's grant of the "sole power of impeachment" to the House and argue that no authorizing resolution was required. Essentially, the Constitution allows the House to run an impeachment inquiry any way the House wants and no one can complain.

(2) Abuse of power

The President's lawyers charge that "abuse of power" alleged in the first Article of Impeachment is not a crime, much less a "high" crime, nor a violation of established law. This argument raises Due Process of Law concerns with regard to notice of what the law. This argument raises Due Process of Law concerns with regard to notice of what

"high" crime, nor a violation of established law. This argument raises Due Process of Law concerns with regard to notice of what

"high" crime, nor a violation of established law. This argument raises Due Process of Law concerns with regard to notice of what

"high" crime, nor a violation of established law. This argument raises Due Process of Law concerns with regard to notice of what

"high" crime, nor a violation of established law. This argument raises Due Process of Law concerns with regard to notice of what

"high" crime, nor a violation of established law. This argument raises Due Process of Law concerns with regard to notice of what

"high" crime, nor a violation of established law. This argument raises Due Process of Law concerns with regard to notice of what

"high" crime, nor a violation of established law. This argument raises Due Process of Law concerns with regard to notice of what

Page 1 of 1
“High Court of Impeachment,” and “Democracy’s ultimate court.” Hamilton, in Federalist 65, called it “a method of national inquest.”

One of most significant disputes in the Senate impeachment trial of President Trump was the duty of the House to develop evidence during its impeachment inquiry and the duty of the Senate when new evidence is sought by one or both parties during the trial. In addressing this issue, it is helpful to remind ourselves that the American system of justice is adversarial in nature. That is, it is a system that “resolves disputes by presenting conflicting views of fact and law to an impartial and relatively passive arbiter, who decides which claims are true.”10 This system “consists of a core of basic rights that recognize and protect the dignity of the individual in a free society.”11

The rights that comprise the adversary system include . . . the rights to call and to confront witnesses, and the right to require the government to prove guilt beyond a reasonable doubt. . . . These rights, and others, are also included in the broad and fundamental concept [of] due process of law—a concept which itself has been substantially equated with the adversary system.”12

The adversarial nature of these proceedings means that the House Managers were required to develop their case establishing the evidence, in the House inquiry, and not rely on the Senate to do so. In typical court proceedings, the failure of the prosecution to establish evidence results in dismissal, not in open-ended discovery or a re-opened investigation.

President Trump’s lawyers argued that there were three major errors in the House proceedings:

(1) The House did not initially authorize the impeachment inquiry, thus delegating its “sole” investigative authority to the Intelligence Committee, which issued dozens of subpoenas the President deemed invalid;

(2) The House process violations during the Intelligence Committee’s proceedings, including denial of notice, counsel, cross examination, and the opportunity to call witnesses;

(3) And, finally, that as an interested fact witness regarding Intelligence Committee contacts with the whistleblower, Chairman Schiff was biased and had to recuse himself from conducting the House investigation.

Again, the House Managers argue that the method by which the Articles of Impeachment were referred to the House had to be challenged in the Senate trial given the House’s “sole power to impeach.”

President Trump’s lawyers argue that whatever precedent was set by the Senate in this trial would be the “new normal” and govern not just this trial but all impeachment trials in the future. They also argue that to make impeachment “too easy” in the House will result in more frequent presidential impeachments being approved by the House, which the Senate would then be obligated to try. Similarly, they argue that the Senate should not re-award the failure of the House to litigate questions of presidential privileges and immunities in their impeachment inquiry and transfer that burden to the Senate. An important difference between the House and Senate is that House inquiries can be delegated to committees while the House conducts other business; not so in the Senate, which must sit as a court of impeachment until a trial is held.

Thus, during a Senate impeachment trial, absent unanimous consent—unlikely given the contentious nature of the proceedings—the Senate is precluded from any court-like function, even during delays while executive privilege and similar issues are litigated in the courts. Given that the House chose to not seek judicial enforcement of subpoenas during its impeachment inquiry because of concerns about delay, the question is do they want to impose a delay from the Senate trial?

If so, the President’s lawyers claim, such an outcome would significantly protract a Senate trial and permanently alter the relationship between the Senate and House in impeachment proceedings. Indeed, there is a strong textual and structural argument that the Constitution prohibits the Senate from performing the investigative role assigned to the House.

The House Managers contend that Chief Justice John Roberts had initially suggested that privilege and similar issues are litigated in court proceedings, the failure of the prosecution to establish evidence in the House would result in the Senate Managers prove beyond a reasonable doubt that the sole motive for pausing military aid to Ukraine was for his personal benefit? Or, did they fail to meet their burden?

Conclusion

Ultimately, the House Managers failed to provide a reasonable doubt that the sole motive for pausing military aid to Ukraine was for personal benefit.

ENDNOTES

1. See Declaration of Independence ("We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these Rights, Governments are instituted among Men, deriving their powers from the consent of the governed.


6. See Order of Supreme Court dated December 9, 2019, pertaining to Trump v. Mazars USA, 943 F.3d 710 (D.C. Cir. 2019); Trump v. Deutsche Bank, 943 F.3d 627 (2d Cir. 2019); and Trump v. Vance, 941 F.3d 631 (2d Cir. 2019). The Supreme Court will hear argument in these cases on March 31, 2020.

7. Issues associated with executive privilege were litigated and resolved in the courts well in advance of the Nixon and Clinton impeachments.

8. See December 17, 2019 Interview of Congressman Eric Swalwell by CNN's Wolf Blitzer ("Unless you send those (witnesses) to us, we can only conclude that you are guilty, because in America, innocent men do not hide and conceal evidence. In fact, they do just the opposite, they are forth coming and they want to cooperate, and the President is acting like a very guilty person.")

9. See Marbury v. Madison, 5 U.S. 137, 138 (1803) ("An act of congress repugnant to the constitution cannot become a law.")

10. Monroe H. Freeman, Jr., "Our Constitutionalized Adversary System," 1 Chapman Law Rev. 57, 57 (1998). Justice Scalia noted that the adversarial system is founded on a simple premise: the only way to resolve an issue (as the inquisitor does) conduct the factual and legal investigation himself, but instead decides on the basis of facts and arguments that he or she has gathered by the parties." McNeil v. Wisconsin, 501 U.S. 171, 181 n.2 (1991).

11. Id.

12. Id.

13. As even one of the witnesses who testified in the House has recognized, the Constitution designates the Chief Justice to serve as presiding officer of the Senate for purposes of considering and deciding impeachments because the Framers understood the obvious conflict of interest and tension in allowing the Vice President to preside over the trial of the President. See产业基地 v. Mazars USA, 943 F.3d 710 (D.C. Cir. 2019).
It was inappropriate for the President to ask a foreign leader to investigate his political opponent and to withhold U.S. aid to encourage this investigation. When elected officials appropriately interfere with such investigations, it undermines the principles that preserve our individual liberty by appropriating power to appropriate money. This separation of powers creates checks and balances in our government that protect our individual liberty by not allowing, in that case, the Executive to have too much power.

I replied to my friend: “Look, I was not voting for or against the President. I was voting for the United States Constitution.” Well, she wasn’t convinced.

This past Sunday, walking my dog Rufus in Nashville, I was confronted by a neighbor who said she was angry and crushed by my vote against allowing more witnesses in the impeachment trial. “The Senate should remove the President for extortion,” she said. I replied to her: “I was not voting for or against the President. I was voting for the United States Constitution, which, in my view, does not give the President from his office and from this year’s election ballot simply for actions that are inappropriate. The United States Constitution says a President may be convicted only for ‘Treason, Bribery, and other High Crimes and Misdemeanors.’ President Trump’s actions regarding Ukraine are a far cry from that. Plus,” I said, “unlike the Nixon impeachment, when almost all Republicans voted to initiate an impeachment inquiry, not one single Republican voted to initiate this impeachment inquiry against President Trump. The impeachment I said to her, “was a completely partisan action, and the Framers of the United States Constitution, especially James Madison, believed we should never ever have a partisan impeachment. That would undermine the separation of powers by allowing the House of Representatives to immobilize the executive branch, as well as the Senate, by a perpetual partisan series of impeachments.” Well, she was not convinced.

When our country was created, there had never been anything quite like it—a democratic republic with a written Constitution. The greatest innovation was the separation of powers among the Presidency, the Supreme Court, and the Congress. The late Justice Scalia said this of checks and balances: “Every tin horn dictator in the world today, every president for life, has a Bill of Rights. . . . What has made us free is our Constitution.” What he meant was, what makes the United States different and protects our individual liberty is the separation of powers and the checks and balances in our Constitution.

The goal of our Founders was not to have a King as a chief executive, on the one hand, or not to have a British-style parliament, on the other, which could remove our chief executive or prime minister with a majority or no-confidence vote. The principle reason our Constitution created a U.S. Senate is so that one body of Congress can pause and resist the excesses of the Executive. The popular passions that could run through the rank of Representatives like a freight train.

The language of the Constitution, of course, is subject to interpretation, but on some things, its words are clear. The President cannot spend money that Congress doesn’t appropriate—that is clear—and the Senate can’t remove a President for anything less than treason, bribery, high crimes and misdemeanors, and two-thirds of us, the Senators, must agree on that. That requires a bipartisan consensus.

We Senators take an oath to base our decisions on the provisions of our Constitution, which is what I have endeavored to do during this impeachment proceeding.

Madam President, I ask unanimous consent to include a few documents in the RECORD following my remarks. They include an editorial from Feb. 3 from the Wall Street Journal; an editorial from the National Review, also dated February 3; an opinion editorial by Robert Doar, president of the American Enterprise Institute on February 1; an article from Knox Today; a transcript from my appearance on “Meet the Press” on Sunday, February 2, 2020. These documents illuminate and further explain my statement today.

Thank you. There being no objection, the material was ordered to be printed in the RECORD, as follows:

From the Wall Street Journal, Feb. 3, 2020

EDITORIAL BOARD: LAMAR ALEXANDER’S FINEST HOUR—His Vote Against Witnesses Was Rooted in Constitution

Senate Republicans are taking even more media abuse than usual after voting to bar witnesses from the impeachment trial of President Trump. “Crimes” and “a dishonorable Senate” are two examples of the sputtering progressive rage. On the contrary, we think it was Lamar Alexander’s finest hour.

The Tennessee Republican, who isn’t running for re-election this year, was a decisive vote in the narrowly divided Senate on calling witnesses. He listened to the evidence and arguments from both sides, and then he offered his sensible judgment: Even if Mr. Trump did what House managers charge, it still isn’t enough to remove a President from office. “It was inappropriate for the president to ask a foreign leader to investigate his political opponent and to withhold United States aid to encourage that investigation,” Mr. Alexander said in a statement Thursday night. “But the Constitution does not give the Senate the power to remove the president from office and ban him from this year’s ballot simply for actions that are inappropriate.”

The House managers had proved their case to his satisfaction even without new witnesses, Mr. Alexander added, but “they do not meet the Constitution’s ‘treason, bribery, or other high crimes and misdemeanors’ standard for an impeachable offense.”

The late Justice Scalia said this of checks and balances: “Every tin horn dictator in the world today, every president for life, has a Bill of Rights. . . . What has made us free is our Constitution.” What he meant was, what makes the United States different and protects our individual liberty is the separation of powers and the checks and balances in our Constitution. “It was inappropriate for the president to ask a foreign leader to investigate Joe Biden’s son. He listened to the evidence and arguments from both sides, and then he offered his sensible judgment: Even if Mr. Trump did what House managers charge, it still isn’t enough to remove a President from office. “It was inappropriate for the president to ask a foreign leader to investigate Joe and Hunter Biden, and wrong to use U.S. aid as leverage. His call with Ukraine’s President was far from perfect.” It was reckless and self-destructive, as Mr. Trump often is.

Nearly all of his advisers and several Senators opposed his actions. Senators like Wisconsin’s Ron Johnson lobbied Mr. Trump hard against the aid delay, and in the end the aid was delivered within the fiscal year and Ukraine did not begin an investigation. Even the House managers did not allege specific crimes in their impeachment articles. For those who want the best overall account of what happened, we recommend the Nov. 18 letter that Mr. Johnson wrote to House Republicans. Mr. Alexander’s statement made two other crucial points. The first was that partisan removal of Mr. Trump would do to the country.
The framers believed that there should never, ever be a partisan impeachment. That is why the Constitution requires a 2/3 vote of the Senate for conviction. Yet not one House Republican voted for these articles. "Mr. Alexander directed Americans to the better solution of our constitutional bedrock," Mr. Alexander wrote. The Senate is prepared to acquit without a Senate vote if the president did it, but whether the United States Senate or the American people should decide what to do about what he did, "his statement said. "Our founding documents provide for duly elected presidents who serve with the consent of the governed, not at the pleasure of the United States Congress. Let the people decide.

Democrats and their allies in the media have spent three years trying to nullify the election their candidate lost in 2016. They have tried to use the Ukraine conspiracy theories, ignored abuse by the FBI, floated fantasies about triggering the 25th Amendment, and tried to turn bad presidential judgment toward Ukraine into an impeachable offense. Yet Mr. Trump's job approval rating has increased during the impeachment hearings and trial.

Our friendly advice to Democrats and the impeachment press is to accept that you lost fair and square in 2016 and focus on nominating a better Democratic candidate this year. Their bickering about the 25th Amendment is only part of the reason you haven't come forward. Yet Mr. Trump's job approval rating has increased during the impeachment hearings and trial.

The impeachment saga is drawing to a close. The Senate is prepared to acquit without hearing from witnesses, after Lamar Alexander, a swing vote, came out against calling them late last week.

In a statement, Mr. Alexander expressed the correct view on the underlying matter—one we have been urging Republicans to publicly adopt since impeachment first got off the ground.

The Tennessee Republican said that it has been amply established that Donald Trump used a hold on defense aid to pressure the Ukrainians to undertake the investigations that he wanted, and that this was, as he mildly put it, inappropriate. But this misconduct, he argued, doesn’t rise to the level of what he called impeachable offenses and misdemeanors required to remove a president from office.

The Senate was to do so anyway, it would further enervate the nation’s partisan divide, and perhaps undermine a national consensus to act when the public itself can decide whether Trump should stay in office or not.

Since we already know the core of what happened, Alexander explained, there was no need to hear from additional witnesses in the Senate trial. "On this theory of the case, the House did not have to prove a ~first trial and final court, rendering a judgment on a threshold question of law, rather than a trial court sitting through the facts.

In the light of Mr. Alexander’s statement, other Senate Republicans endorsed his line of analysis, which, it must be noted, is superior to the defense mounted by the White House legal team over the last two weeks. Because the president refused to acknowledge what he did, his team implausibly denied that he did it. And it has argued that one hadn’t been proven since there were no first-hand witnesses. Obviously, this position was at odds with the defense team’s insistence that no further witnesses be called. It also raised the natural question why, if people with firsthand knowledge had exculpatory information, the White House wasn’t eager to let them come forward.

Additionally, the White House maintained that a president can’t be impeached unless he’s guilty of a criminal violation. This is an erroneous interpretation of the Constitution, although it is true that past presidential impeachments have involved violations of the law and that such violations provide a bright line demonstration that one has committed abuse of power. Alan Dershowitz argued this position most aggressively for the president’s defense, and made it even worse by baldly arguing that it is only constitutional abuse of power. Alan Dershowitz argued this position most aggressively for the president’s defense, and made it even worse by baldly arguing that it is only constitutional abuse of power.

The ouster of Mr. Trump, the political outsider, on such slender grounds would be seen by half the country as an insider coup d’etat. Unlike Richard Nixon’s resignation, it would never be accepted by Mr. Trump’s voters, who would wave it as a bloody flag for years to come. Payback against the next Democratic President would wave it as a bloody flag for years to come. Payback against the next Democratic President.

The question then is not whether the president had done what they alleged, and his weakest arguing that he should be removed for it. They tried to inflate the gravity of Trump’s offense by repeatedly calling it “election interference.” At the end of the day, though, what the Trump team sought was not an investigation of Joe or Hunter Biden, but a statement by the Ukrainians that they’d look into Burisma, the Ukrainian company on whose board Hunter Biden sat. The firm has a shady past and has been investigated before. Trump should have steered clear of anything involving his own family.

They had paid hush money to silence witnesses and attempted to misuse the CIA. And they interfered with the Department of Justice’s investigation of its own. New Burisma probe would have had any effect on 2020 (the vulnerability for Biden is Hunter’s payments, which are already on the record) and on any reasonable impeachment of an investigation never happened.

They argued that Trump’s seeking this Ukrainian interference was in keeping with his welcoming of Russian meddling, implying that Trump had been found guilty of colluding with the Russians in 2016, rather than exonerated. (Part of the complaint here is that we have to keep an exam trial that an ex-president learned via Russian hacking. Then again, so did Bernie Sanders in his fight with the DNC.

They alleged that the brief delay in aid to Ukraine somehow endangered our national security, a risible claim given that the Ukrainians got the aid and that Trump has provided Ukraine legal assistance that President Obama never did.

They accused the president of obstruction of justice for asserting privileges invoked by other presidents and not producing documents and witnesses on the House’s scheduled timeline, a charge that White House lawyer Patrick Philbin effectively dismissed.

Finally, they insisted that a trial without witnesses wouldn’t be fair, despite making arguments and repeatedly calling witnesses during their own rushed impeachment inquiry.

As for the Senate trial being a “cover-up,” as Democrats now insist it is, there is nothing stopping the House—or the Senate, for that matter—from seeking testimony from witnesses and other accounts of the trial. This would be entirely reasonable congressional oversight (despite the White House arguing otherwise) and there is a public interest in doing so as much as possible about this matter, even if Trump isn’t going to be removed.

Something else, the last two weeks have been a forum for extensive discussion about the respective powers of the two elected branches of government. We are sympathetic to pragmatic arguments that there is too much power. If Congress seeks to remedy this imbalance by impeaching and removing presidents, though, it will be sorely disappointed since the requirement for a Senate conviction is an almost insuperable obstacle to removal (as both House Republicans and House Democrats have experienced the last 20 years).

It would be better if Congress undertook a more systematic effort to take back prerogatives it has ceded to the executive branch and the courts. But we aren’t optimistic on this score, since the same Democrats who claim to be sticklers about congressional prerogatives today have a disheartening word about Elizabeth Warren’s and Bernie Sanders’s promised adventures in unilateral rule as president.

The end of the argument, Nancy Pelosi impeached knowing that the Senate wouldn’t convict, and so here we are—with nine months to go until voters get to make their judgment, not just about Ukraine, but about the last four years and Trump’s eventual opponent.

"It was inappropriate for the president to ask a foreign leader to investigate his political opponent and to withhold United States aid to encourage that investigation. When elected officials inappropriately interfere with such investigations, it undermines the principle of equal justice under the law. But the Constitution does not give the Senate the power to remove a president from office and ban him from this year’s ballot simply for actions that are inappropriate.”

Republican Sen. Lamar Alexander’s words resonated with some of the substance advocates. John Doar, had as he considered whether the conduct of President Richard Nixon was so serious that it should lead the House to impeach him and the Senate to remove him from office. Dad was in charge of the House Judiciary Committee staff, which took seven months (between December 1973 and July 1974) to examine the evidence and consider the question. What he concluded, and what the House Judiciary Committee by bipartisan majorities also found, was that Nixon deserved impeachment for a pattern of conduct over a multi-year period that both obstructed justice and abused power.

So the first article, concerning obstruction of justice, found that Nixon and his subordinates had tampered with witnesses and destroyed evidence in relation to both investigations. They had paid hush money and attempted to misuse the CIA. And they had lied repeatedly to investigators and the American people.

On abuse of power, Nixon was found to have misused his authority over the IRS, the FBI, the CIA, and the Secret Service to deprive political opponents of fair treatment and in the process he had violated the constitutional rights of citizens. After he came
under suspicion, he tried to manipulate these agencies to interfere with the investigation.

President Trump’s conduct toward Ukraine, though inappropriate, differs significantly from what happened in one crucial respect. Where Nixon’s impeachable abuse of power occurred over a period of several years, the conduct challenged by the House’s impeachment trial of President Trump was altogether more immediate. From July to September of last year, Trump attempted to coerc[e] a foreign government to open an investigation into his political opponents, and there was no doubt he was wrong. But it’s not the same as what Nixon did over multiple years.

This contrast brings to light a critical difference between the House’s behavior in 1974 and its efforts today. When Nixon’s actions came to light, the House conducted an impeachment the right way: The House Judiciary Committee, after coming to a majority conclusion because I think what he did is a long way from the House’s requirement, and produced charges that implicated the president and his subordinates in a pattern of impeachable conduct. Faced with certain impeachment and removal from office, Nixon resigned. What Trump attempted to do, as Alexander rightly sees, is not that.

Alexander is right about one other thing—we should let the people decide who our next president should be.

[From the Knox TN Today, Feb. 4, 2020]

LAMAR WAS RIGHT
(By Frank Craig)

Since I’m older than dirt, there have been occasions over the years when first-term state legislators would ask me if I had any advice for them. Yes.

When a major and controversial issue looms study it, decide where you are and let everyone know where you are. In other words, have a position on an issue that others have a position on and then let the public know where you will go when the wind blows.

Make sure you do not get into the group known as the undecideds. You will get hammered by both sides, wooed by both sides and hounded by the media. And finally, do not under any circumstances be the deciding vote. Yours will be the only vote anyone remembers.

You would think someone who has been around as long as Lamar Alexander could avoid this trap. But not so. In the impeachment trial of President Trump, he got the label undecided, he was then hounded by the media and hammered by both sides over whether he would march in lockstep with Majority Leader Mitch McConnell or whether he would vote to call more witnesses as the Democrats wanted.

And horror of horrors, he was the deciding vote and the only one that will be remembered. Somewhere along the line, I would have thought he would have thought twice before he did it again.

Alexander now finds himself being excoriated by both sides. The Trump supporters will never forget his failure to fall in line and salute. The anti-Trumpers are expressing their disappointment.

I’ve never been a Lamar fan. But I would like to make the case that he did exactly the right thing and he expressed the position of the majority of his Republican colleagues. He, administers who have been paying atten-
tion, says Trump did what he was accused of and what he did was wrong—inauspicious. But it did not rise to the level of removing him from office. There was no point in lis-
tening to additional witnesses and dragging things out. Everyone knew he was guilty.

But if Trump is to be removed from office, let the voters do it.

If you believe that Trump didn’t hold up aid to Ukraine or that he didn’t ask them to investigate Biden or that any of your critical faculties or you haven’t been paying attention.

Joe and Hunter Biden should be investig-
ted. By the FBI. I understand Trump’s frustration that the mainstream media could not be counted on to investigate what should be disqualifying information about Biden’s questionable associates, otherwise known as the “Gang Who Couldn’t Shoot Straight.”

I doubt you could find 10 Republican sena-
tors who, in their heart of hearts, didn’t agree with Lamar’s position. Many have echoed his argument. But it will be Lamar who will take the heat.

[From Meet the Press, Feb. 2, 2020]

INTERVIEW WITH SENATOR LAMAR ALEXANDER, U.S. SENATOR FOR TENNESSEE


Senator Lamar Alexander: Thank you, Chuck.

Todd: So one of the reasons you gave in your release about not voting for more wit-
nesses is that—and to decide that, okay, this trial is over, let’s get the people decide—and that the election was too close. So let me ask you this, since you’re the party leader, what would it be helpful for the people to decide if they had more information?

Alexander: Well, I mean, if you have eight witnesses, which is the least that I think would be helpful for the people to decide if they had more information?

Todd: What do you believe he did?

Alexander: What I believe he did. One, was that he called the president of Ukraine and asked him to become involved in investigat-
ing Joe Biden, who was—

Todd: You believe his wrongdoing began there, not now?

Alexander: I don’t know about that, but he admitted that. The president admitted that he released the transcript. He said it on tele-
vision. The second thing was, at least in part, he delayed the military and other as-
sistance to Ukraine in order to encourage that investigation. Those are the two things he did, I think he shouldn’t have done it. I think it was wrong. Inappropriate was the way I’d say it, improper, crossing the line. And then the only question left is, who de-
cides what to do about that?

Todd: Well, who decides what to do with that?

Alexander: The people. The people is my conclusion. You know, it struck me really for the first time early last week, that we’re not just being asked to remove the president from office. We’re saying, tell him you can’t be president in the 2020 election, which begins Mon-
day in Iowa.

Todd: If this weren’t an election year, wouldn’t you have looked at it differently?

Alexander: I would have looked at it dif-
ferently and probably come to the same con-
clusion because I think what he did is a long way from the House’s requirement, and produced charges that implicated the president and his subordinates in a pattern of impeachable conduct. Faced with certain impeachment and removal from office, Nixon resigned. What Trump attempted to do, as Alexander rightly sees, is not that.

Alexander: Maybe he didn’t know to do it.

Todd: Okay. This has been a rationale that I’ve heard from a lot of Republicans. Well, he’s still new to this. We have never removed a president this way in American history, to say the least. So let me ask you about that. Alexander: Well, I’m not sure he’s done anything wrong. That is a matter of opinion. What has happened here might encourage him that he can continue to do it that way. And I’m not quite sure he would think he would think twice before he did it again.

Todd: What example in the life of Donald Trump has he been chastened?

Alexander: I haven’t studied his life that close, but, like most people who survive to make it to the Presidency, he’s sure of himself. But hopefully he’ll look at this and say, okay, that was a mistake I shouldn’t have done that, shouldn’t have done it that way. And he’ll focus on the strengths of his Ad-
ministration, which are considerable.

Todd: Abuse of power?

Alexander: Well, that’s the problem with abuse of power. As Professor Dershowitz said during his argument, he argued that the president said, who’d been accused of abuse of power from Washington to Obama. So it’s too vague a standard to use to impeach a presi-
dent. And the founders didn’t use it. I mean, they said, I mean, think of what a high bar they set. They said treason, bribery, high crimes or misdemeanors. And then they said what do you mean by that? What do you mean by misdemeanors? Violation of a public trust.

Alexander: At the time they used it, mis-
demeanor meant a different thing in Great Brit-
ain. I think you’ll find that right. It was something akin to treason, bribery and other high crimes and misdemeanors, very high. And then in addition to that, two thirds of us in the Senate have to agree to that, which is very hard to do, which is why we’ve never removed a president this way in 232 years.

Todd: One of your other reasons was the partisan nature of the impeachment vote itself. In the House, now we are an-
swering a partisan impeachment vote in the House. With a partisan, I guess, I don’t know what we would call this right now.

Alexander: Well you all it acquittal. That’s what it means.

Todd: An acquittal, but essentially also, on how the trial was run—a partisan way from
They've been disingenuous about how what some believe is that the White House Cipollone was. They need any more evidence to prove it. That's the reason that the president didn't respond to them.

Todd: Bill Clinton offered regret for his behavior. This president has not. Does that bother you?

Alexander: Well, there hasn't been a vote yet either, so we'll see what he says and does. I think that's up to him.

Todd: You're comfortable acquitting him before he says his regret? Wouldn't that, not that not help make your acquittal vote?

Alexander: Well, I wasn't asked to decide who says his level of regret. I was asked, did he make a phone call and did he, at least in part, hold up aid in order to influence an investigation of Joe Biden? I concluded, I don't need to assess his level of regret. What I hope he would do is when he makes his State of the Union address, that he puts this completely behind him, never mentions it and talks about what he thinks he's done for the country and where we're headed. He's got a pretty good story to tell. If he'll focus on it.

Todd: You're one of the few people that detailed what you believe he did wrong. One of the few who's accused the facts as they were presented. Mitt Romney was just uninvited from CPAC. Mike Pompeo can't speak freely in talking about Maria Butina. The question is where is there room for dissent in the Republican party right now?

Alexander: Well, I believe there is. I mean, I dissent when I need to. Whether it's on—

Todd: —not easy though right now, is it? Alexander: Well, I voted in a way that not everybody agreed with. And we've had an almost unprecedented level of support. The 230 years of government, it's the mere mention of the word, CrowdStrike is a Russian intelligence firm. There was no evidence that they were doing anything. I thought he did it this past week and we'll have to take those articles, stop what we're doing. We don't have a vote either, so we'll see what he says and does. I don't have any sense.

Todd: You used the phrase "pour gasoline on a fire."

Alexander: Yeah.

Todd: It certainly struck home with me reading you something that I've been thinking long and hard about. How concerned are you about the democracy as it stands right now?

Alexander: Well, I'm concerned and I want to give credit to Marco Rubio because that's really his phrase. I borrowed it from him—pouring gasoline on the cultural fire.

Todd: He went a step further. He said this was an impeachable offense, but he was uncomfortable in an election year.

Alexander: But, I'm concerned about the divisions in the country. They're reflected in the Senate. They make it harder to get a result. I mean, I work pretty hard to get results on healthcare, making it easier to go to college. And we've had some real success. I mean, I work pretty hard to get a result. The Senate. They make it harder to get a result. The Senate. They make it harder to get a result. The Senate. They make it harder to get a result. The Senate.

Todd: Do you think it's more helpful for the public to hear from John Bolton?

Alexander: They'll read his book in two weeks.

Todd: You don't want to see him testify.

Alexander: Well, if the question is do I need more evidence to think the president did it, the answer is no. I guess I'm coming from this perspective. This is now as an isolated incident, here he is using Russian propaganda in order to try to talk to this new president of Ukraine. That's alarming. What he's getting from this CrowdStrike propaganda. My view is that is Russian propaganda. Maybe he has information that I didn't have.

Todd: Are you definitely voting to acquit or do you think you may vote present?

Alexander: No question. I'm going to vote to acquit. I'm concerned about this action that we could take that would establish a perpetual impeachment in the House of Representatives whenever the House was a first-term president. That would immobilize the Senate. You know, we have to take those articles, stop what we're doing, sit in our chairs for 11 hours a day for three or four weeks and consider it. And it would immobilize the presidency. So I don't want a situation—and the framers didn't either—where a partisan majority in the house could impeach a president.

Todd: You used the phrase "pour gasoline on a fire."

Alexander: Yeah.

Todd: It certainly struck home with me reading you something that I've been thinking long and hard about. How concerned are you about the democracy as it stands right now?

Alexander: Well, I'm concerned and I want to give credit to Marco Rubio because that's really his phrase. I borrowed it from him—pouring gasoline on the cultural fire.

Todd: He went a step further. He said this was an impeachable offense, but he was uncomfortable in an election year.

Alexander: But, I'm concerned about the divisions in the country. They're reflected in the Senate. They make it harder to get a result. I mean, I work pretty hard to get results on healthcare, making it easier to go to college. And we've had some real success. I mean, I work pretty hard to get a result. The Senate. They make it harder to get a result. The Senate. They make it harder to get a result. The Senate. They make it harder to get a result. The Senate.

Todd: Are you glad you're leaving?

Alexander: No, I've really loved being in the Senate, but it's time for me to go on, turn the page, think of something else to do. It'll be my third permanent retirement.

Todd: You've retired a few times, is this one going to stick?

Alexander: Well, we'll see.

Todd: Senator Lamar Alexander, Republican from Tennessee, our always thoughtful guest. Thanks for coming on.

Alexander: Thank you, Chuck.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. Sasse. Madam President, I ask unanimous consent to introduce into the Senate Record and into the impeachment trial record an op-ed that I wrote in the Omaha World-Herald this morning.

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

CONGRESSIONAL RECORD — SENATE

February 5, 2020

the trial. So, if we make bipartisanship a standard, if somebody has a stranglehold on a base of a political party, then what you're saying is, you can overcome any impeachable offense if you have this stranglehold on a group of people.

Alexander: Well, as far as what the Senate did, I thought we gave a good hearing to the case. I thought that we should dismiss it. We heard it. There were some who wanted to dismiss it. I helped make sure that we had a right to ask for more evidence if we needed it. I thought we heard enough. We heard, we saw videotapes of 192 times that witnesses testified. We sat there for 11 and 12 hour days for nine days. So, I think we heard the case firsthand. I don't think it's the most important point to me. James Madison, others thought there never, ever should be a wholly partisan impeachment. And if you look at Nixon, when the vote that authorized that inquiry was 410 to four and it's never been used in 230 years to re-impeachment as a tool for a first-term president. There been 63 impeachments, in 230 years, the consensus developed, a bipartisan consensus, that the Senate should acquit. We felt it and talked about what he thinks he's done for the country and where we're headed.

Todd: Alright, but what do you do if you have somebody who has the ability to essentially be a populist? You know, be somebody who is able to say it's fake news. It's deep state. Don't trust this. Don't trust that. The establishment. And don't worry about truth anymore. Don't worry about what you hear over there. I mean, some may say I'm painting an accurate picture.

Alexander: Well, the way you prevent that is you go back to the Declaration of Independence, is we have duly elected presidents with the consent of the governed. So we vote them out of office. The other thing that the Nixon case has shown was there had just been elected big in 1972 big time, only lost one state, I think. But then a consensus developed, a bipartisan consensus, that what he was doing was wrong. And then when they found the crimes, he only had 10 or 12 votes that would have kept him in the Senate. He quit. So those are the two options you have.

Todd: Have we essentially eliminated impeachment as a tool for a first-term president?

Alexander: No, I don't think so. I think impeachment as a tool should be rarely used and it's never been used in 230 years to remove a president, there were 63 impeachments, eight convictions. They're all federal judges on a lower standard.

Todd: Does it bother you that the president's lead lawyer, Pat Cipollone, is now fingered as being in the room with John Bolton the first time the president asked John Bolton to call the new President of Ukraine and literally every member of the Intelligence, eight members, eight convictions. They're all federal judges on a lower standard.

Alexander: Well, it doesn't have anything to do with my decision because my decision was, did the president do it, what's he's charged with? He wasn't charged with a crime. He was charged with two things. And my conclusion was, he did do that and I don't need any more evidence to prove it. That doesn't mean we have anything to do with where Cipollone was.

Todd: No, I say that does it only reinforce what's the White House was disingenuous about this the whole time. They've been disingenuous about how they've handled subpoenas from the House or requests from the House. Alexander: I don't agree with that Chuck, either. The fact of the matter is in the Nixon case, the House voted 410 to four to authorize an inquiry. That means that it authorized subpoenas by the judiciary committee for impeachment. This House never did that. And I went a step further, they asked for not properly authorized. That's the reason that the president didn't respond to them.
Impeachment is serious. It’s the “Break Glass in Case of Emergency” provision of the Constitution. I plan to vote against removing the president, and I write to explain this decision to the Nebraskans on both sides who have advocated impeachment or removal.

An impeachment trial requires senators to carry out two responsibilities: We’re jurors sworn to “do impartial justice.” We’re also elected officials responsible for promoting the civic welfare of the country. We must consider both the facts before us, and the long-term effects of the verdict rendered. I believe that removal is the wrong decision.

Let’s start with the facts of the case. It’s clear that the president had mixed motives in his decision to temporarily withhold military aid from Ukraine. The line between personal and public was not firmly safeguarded. But it is important to understand, whether one agrees with him or not, three things President Trump believes:

He believes foreign aid is almost always a bad deal for America. I don’t believe this, but he has maintained this position consistently since the 1980s.

He believes the American people need to know the 2016 election was legitimate, and he believes they want him to win.

He believes the Crowdstrike theory of 2016, that Ukraine conducted significant meddling in our election. I don’t believe this theory, but the president has heard it repeatedly from people he trusts, chiefly Rudy Giuliani, and he believes it.

These beliefs have consequences. When the president spoke to Ukraine’s president Zelensky in July 2019, he seems to have believed he was doing something that was simultaneously good for America, and good for himself politically—namely, reinforcing the legitimacy of his 2016 victory. It is worth remembering that that phone call occurred just days after Robert Mueller’s two-year investigation into the 2016 election concluded that “the investigation did not establish that members of the Trump Campaign conspired or coordinated with the Russian government in its election interference activities.”

This is not a blanket excuse, of course. Some of the president’s lawyers have admitted that the way the administration conducted its decisionmaking toward Ukraine was wrong. I agree. The call with Zelensky was certainly not “perfect,” and the president’s defense was made weaker by staking out that unrepentant position.

Moreover, Giuliani’s off-the-books foreign policy-making is unacceptable, and his role in walking the president into this airplane prop was not appreciated. His Crowdstrike theory was a bonkers attempt not only to validate Trump’s 2016 election, and to fling the media’s narrative of Russian interference in his face so that he could dishearten his troops. He believes it’s dangerous if they worry Russia will serve as a U.S. Senator, but they also believe it’s dangerous for the long-term civic health of America if they believe Russia has been removed from office by law required. And importantly, this happened three weeks before the legal deadline. To repeat: The president’s official staff repeatedly prevented Ukranian officials ultimately got the money, and no political investigation was initiated or announced.

You don’t need to be initially listening to bad advisors but eventually taking counsel from better advisors—which is precisely what happened here.

There is another question, though, beyond the facts of the case: What is the right thing for the long-term civic health of our country? Will America be more stable in 2021 if the Senate removed President Trump in January 2020—removes the president?

In our Constitution’s 232 years, no president has ever been removed from office by the Senate. Today’s debate comes at a time when our institutions of self-government are suffering a profound crisis of legitimacy, on both sides of the aisle. This is not a new crisis since 2016; its sources run much deeper and longer.

We need to shore up trust. A reckless removal attempt leaves America more bitterly divided. It makes it more likely that impeachment, intended as a tool of last resort for the most serious presidential crimes, becomes just another bludgeon in the party-out-of-power arsenal. And more Americans will conclude that constitutional self-government today is nothing more than partisan bloodsport.

We must do better. Our kids deserve better. Most of the restoration and healing will happen far from Washington, of course. But this week, senators have an important role: Get out of the way, and allow the American people to render their verdict on election day.

Mr. Sasse. Thank you.

The PRESIDENT OF THE UNITED STATES OF AMERICA.

Ms. HARRIS. Mr. President, when the Framers wrote the Constitution, they didn’t think someone like me would serve as a U.S. Senator, but they did envision someone like Donald Trump being President of the United States, someone who thinks he is above the law and that rules don’t apply to him. So they made sure our democracy had the tool of impeachment to stop that kind of abuse of power.

The House managers have clearly laid out a compelling case and evidence of Donald Trump’s misconduct. They have shown that the President of the United States of America withheld military aid and a coveted White House meeting for Ukraine. He wanted a foreign country to announce—not actually conduct, announce—an investigation into his political rivals. Then he refused to comply with congressional investigations into his misconduct. Unfortunately, a majority of the U.S. Senate decided that what Donald Trump did was wrong, are nonetheless going to refuse to hold him accountable.

The Senate trial of Donald Trump has been a miscarriage of justice. Donald Trump is going to get away with abusing his position of power for personal gain, abusing his position of power to stop Congress from looking into his misconduct and falsely claim he has been exonerated. He is going to escape accountability because a majority of Senators have decided to let him. They voted repeatedly to block key evidence like witnesses and documents that could have shed light on the full truth.

We must recognize that still in America there are two systems of justice—one for the powerful and another for everyone else. So let’s speak the truth about what our two systems of justice actually mean in the real world. It means that in our country too many people walk into courthouses and face systemic bias. Too often they lack adequate defense, and the prosecute whether they are overworked, underpaid, or both. It means that a young man named Emmett Till was falsely accused and then murdered, but his murderers didn’t have to spend a day in jail. It means that four young Black men have their lives taken and turned upside-down after being falsely accused of a crime in Groveland, FL. It means that, right now, too many people in America are sitting in jail without having yet been convicted of a crime but simply because they cannot afford bail. And it means that future Presidents of the United States will remember that the U.S. Senate failed to hold Donald Trump accountable, and they will be emboldened to abuse their power knowing there will be no consequence.

Donald Trump knows all this better than anybody. He may not acknowledge that we have two systems of justice, but he knows the institutions in this country, be it the courts or the Senate, are set up to protect powerful people like him. He told us as much when, regarding the sexual assault of women, he said, “if a guy is a star they let you do it. You can do anything.” He said that article II of the U.S. Constitution gives him, as President, the right to do whatever he wants.

Trump has shown us through his words and actions that he thinks he is above the law. And when the American people see the President acting as though he is above the law, it undermines their trust in our system of justice, distrustful of our democracy. When the U.S. Senate refuses to hold him accountable, it reinforces that loss of trust in our systems.

Now, I am under no illusion that this body is poised to hold this President accountable, but despite the conduct of the U.S. Senate in this impeachment trial, the American people must continue to strive toward the more perfect Union that our Constitution promises. It is going to take all of us—in every State, every town, everywhere—to continue fighting for the best of who we
are as a country. We each have an important role to play in fighting for those words inscribed on the U.S. Supreme Court building: “Equal Justice Under Law.”

Frederick Douglass, who I like, made, to one of the Founders of our Nation, wrote that “the whole history of the progress of human liberty shows that all concessions yet made to her august claims have been born of earnest struggle.”

The trial of Donald Trump has been one of those earnest struggles for liberty, and this fight, like so many before it, has been a fight against tyranny. This struggle has not been an easy one, and it has left too many people across our Nation feeling cynical. For too many people, this trial confirmed something they have always known, that the real power in this country lies not with them but with just a few people who advance their own interests at the expense of others’ needs and rights. No one else has the power to tilt the scales of justice in this trial is yet another example of the way that our system of justice has worked or more accurately, failed to work.

But here is the thing. Frederick Douglass also told us that “if there is no struggle, there is no progress.” He went on to say: “Power concedes nothing without a demand.” And he said: “It never did, and it never will.”

In order to wrestle power away from the few people at the very top who abuse power, the American people are going to have to fight for the voice of the people and the power of the people. We must go into the darkness to shine a light, and we cannot be deterred and we cannot be overwhelmed and we cannot ever give up on our country.

We cannot ever give up on the ideals that are the foundation for our system of democracy. We can never give up on the meaning of true justice. And it is part of our history, our past, our present, and our future that in order to make these values real, in order to make the promise of our country real, we can never take it for granted.

There will be moments in time, in history, where we experience incredible disappointment, but the greatest disappointment of all will be if we give up. We cannot ever give up fighting for who we know we are, and we must always see who we can be, unburdened by who we have been. That is the strength of our Nation.

So, after the Senate votes today, Donald Trump will want the American people to feel cynical. He will want us not to care. He will want us to think that he is all powerful and we have no power, but we are not going to let him get away with that.

We are not going to give him what he wants because the true power and potential of the United States of America resides not with the President but with the people—all the people.

So, in our long struggle for justice, I will do my part by voting to convict this lawless President and remove him from office, and I urge my colleagues to join me on the right side of history. I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. Trump, the President, considering whether to convict a President of the United States on Articles of Impeachment is a solemn and consequential duty, and I do not take it lightly. Even before we had a country, our Founders set forth the notion of “country first,” pledging in the Declaration of Independence their lives, fortunes, and sacred honor—a pledge they made to an idea, imagining and hoping for a country where no one was above the law, where no one had absolute power.

My dad, a World War II veteran, and my mom raised me to understand that this is what made our country the unique and indispensable democracy that is.

My obligation throughout this process has been to listen carefully to the case that the House managers put forward and the defenses asserted by the President’s lawyers, and then to carefully consider the constitutional basis for the impeachment of our Founders, and the facts.

That is what I have done over the past few days. The Senate heard extensive presentations from both sides and answers to the almost 200 questions that the Senators posed to the House managers and the President’s advocates.

The facts clearly showed that President Trump abused the public’s sacred trust by using taxpayer dollars to extract a foreign government into providing misinformation about a feared political opponent.

Let me repeat that. The President of the United States used taxpayer money that had been authorized, obligated, and cleared for delivery as critical aid to Ukraine to solicit a foreign government to interfere in our elections. He violated the law and the public trust. And he put our national security, and the lives of the Ukrainian soldiers on the frontlines of Russian aggression at risk.

Although the country was alerted to the possibility that the President had crossed a critical line because of revelations about his now-infamous July 25 phone call, it is not the phone call that has harmed him. It was the President’s impeachment. Instead, the phone call was a pivotal point in a scheme that had started earlier, spearheaded by President Trump’s personal lawyer Rudy Giuliani.

Mr. Giuliani has acknowledged that he was working with the President’s personal and political bidding when he engaged with the Ukrainian government.

As the newly elected anti-corruption Ukrainian Government came into power in July, the President and support from the United States, President Trump forced officials from Ukraine and the United States to negotiate through Mr. Giuliani, conflating his personal and political interests with the national security and diplomatic interests of our country.

And then, as President Zelensky resisted the request that he concoct and announce a fake investigation into the then Democratic Party candidate Joe Biden, Mr. Giuliani increased the pressure. Suddenly, and without explanation or a legally required notification to Congress, the President ordered that previously approved and critically needed military and economic aid to Ukraine be held up.

Mr. Trump, at his request through Mr. Giuliani, and then directly, solicited interference with an American election from a foreign government. And he ordered others in his administration to work with Mr. Giuliani to ensure this scheme’s success.

While there is still more evidence that the Senate should have subpoenaed both witnesses and documents that would have given us a more complete understanding of what happened, we have already learned much of the courage and strength of American patriots who put country before self—patriots like the intelligence community whistleblower, who was followed by Army Lieutenant Colonel Vindman, Ukrainian Marie Yovanovitch and William Taylor, as well as current members of the administration.

These Americans who came forward were doing exactly what we always ask of ourselves and our democracy. If you see something wrong, you need to speak up: “See something, say something.” It is a fundamental part of citizenship to alert each other to danger, to act for the greater good, to care about each other and our country without regard to political party.

When Americans step forward, sometimes at real risk to themselves, they rightly expect that their government will take the information they provide and act to make them safer, to protect their fundamental rights. That is the understanding between the American people and their representative government.

While the brave women and men who appeared before the House did their jobs, the Senate, under this majority, has unfortunately not. Rather than gathering full, relevant testimony under oath and with the benefit of cross-examination, the Senate majority has apparently decided that despite the lessened risk that they has heard, they are not interested in learning more: not interested in learning more about how a President, his personal agent, and members of his administration corrupted our foreign policy and put our Nation’s security at risk; not interested in learning more about how they planned to use the power of his office to tilt the scales of the next election to ensure that he stays in power; not interested in learning more about how they worked to cover it up.

Increasingly, over the last few days, the President’s defense team and more and more of my colleagues in the Senate have acknowledged the facts of the
President’s scheme. Their argument has shifted from “He didn’t do it” to “He had a right to,” to “He won’t do it again,” or even “It doesn’t really matter.” I disagree so strongly.

The debate is no more about whether our country, established by the very rejection of a monarchy, the President has absolute power is absurd, as is the idea that this President, whose conduct is ultimately the cause of this entire process, will suddenly stop President Trump continued to cite foreign powers as proxies without powers to interfere with our elections, maintaining to this day that “it was a perfect call.”

Our Founders knew that all people, all leaders, are fallible human beings. And they knew that our system of checks and balances could survive some level of human frailty, even in as important an office as the Presidency.

The one thing that they feared it could not survive was a President who would suddenly stop President Trump continued to cite foreign powers as proxies without powers to interfere with our elections, maintaining to this day that “it was a perfect call.”

Our Founders knew that they needed a mechanism to hold Presidents accountable for behavior that violated that basic understanding and that would threaten our democracy. And they provided a mechanism for removal outside of the election process because the immense damage a President could do in the time between elections—damage, in the case of this President’s continuing behavior, to our national security and election integrity.

Our Founders believed that they were establishing a country that would be unique in the history of humankind, a country that would be indispensable, built on the rule of law, not the whims of a ruler. Generation after generation of Americans have fought for that vision because of what it has meant to our individual and collective success and to the progress of humankind worldwide.

That is the America that I have sworn an oath to protect. I will vote in favor of both Articles of Impeachment because the President’s conduct requires it. Congress’s responsibility as a coequal branch of government requires it, and the very foundation and security of our American idea requires it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. JONES. Mr. President, on the day I was sworn in as a United States Senator, I took an oath to protect and defend the Constitution. Just last month, at the beginning of the impeachment trial, I took a second oath to do fair and impartial justice, according to the same Constitution I swore to protect.

As I took the oath and throughout the impeachment trial, I couldn’t help but think of my father. As many of you know, I lost my dad over the holiday recess. While so many were arguing over whether or not the Speaker of the House should send Articles of Impeachment to the Senate, I was struggling with watching him slip away, while only occasionally trying to weigh in with my voice to be heard about the need for a fair and nonpartisan impeachment trial. My dad was a great man, a loving husband, father, grandfather, and great-grandfather who did his best to instill in me the values of right and wrong as I grew up in Fairfield, Ohio, a place that he loved this country. Fortunately, however, he was never called on to do so, I firmly believe he would have placed his country above his family because he knew and understood fully what America and the freedoms and liberties that come with her mean to everyone in this great country and, significantly, to people around the world. I know he would have put his country before any allegiance to any political party of government. He was on the younger side of that “greatest generation” who joined the Navy at age 17 to serve our great military. That service and love of country shaped him into the man of principle that he was, instilling him in our principles.

In thinking of him, his patriotism, his principles, and how he raised me, I am reminded of Robert Kennedy’s words that were mentioned in this trial:

Few men are willing to brave the disapproval of their colleagues, the censure of their peers, the wrath of their society. Moral courage is a rarer commodity than bravery in battle or great intelligence. Yet it is the one essential, vital quality for those who seek to change a world that yields most painfully to change.

Candidly, to my colleagues on both sides of the aisle, I fear that moral courage, country before party is a rare commodity. People can write about it and talk about it in speeches and in the media, but it is harder to put into action when political careers may be on the line. Nowhere is the dilemma more difficult than in an impeachment of the President of the United States. Very early on in this process, I implored my colleagues on both sides of the aisle, in both Houses of Congress, to stay out of their political and partisan corners. Many did, but so many did not. Even the media continually view this entire process through partisan, political eyes and how it may or may not affect an election. That is unfortunate. The country deserves better, and we must find a way to move beyond such partisan divides.

The solemn oaths that I have taken have been my guides during what has been a difficult time for the country, my State, and for me personally. I did not run for the Senate hoping to participate in the impeachment trial of a duly elected President, but I cannot and will not shrink from my duty to defend the Constitution and to do impartial justice.

In keeping with my oath as Senator and my oath to do impartial justice, I resolved that throughout this process, I would keep an open mind, to consider the evidence without regard to political affiliation, and to hear all of the evidence before making a decision on either charge against the President. I believe that my votes later today will reflect that commitment.

With the eyes of history upon us, I am acutely aware of the precedent that this impeachment trial will set for future Presidencies and Congresses. Unfortunately, I do not believe that those precedents are good ones. I am particularly concerned that we have set a precedent that the Senate does not have to go forward with witnesses or review documents, even when those witnesses have firsthand information and the documents would allow us to test not just the credibility of witnesses but also test the words of counsel of both parties.

It is my firm belief that the American people deserve more. In short, witnesses and documents would provide the Senate and the American people with a more complete picture of the truth. I believe the American people deserve nothing less.

That is not to say, however, that there is not sufficient evidence in which to render a judgment. There is. As a trial lawyer, I once explained this process to a jury as like putting together the pieces of a puzzle. When you open the box and spread all the pieces on the table, it is just an inchoate jumble. But one by one you hold those pieces up, and you hold them next to each other and see what fits and what doesn’t. Even if, as was often the case in my house growing up, you are missing a few pieces—even important ones—you more often than not see the picture.

As I have said many times, I believe the American people deserve to see a completed puzzle, a picture with all of the pieces—pieces in the form of documents and witnesses with relevant firsthand information, which would have provided valuable context, corroboration, or contradiction to which we have heard. But even with missing pieces, our common sense and life’s experiences allow us to see the picture as it comes into full view.

Throughout the trial, one piece of evidence continued to stand out for me. It was the President’s statement that he did not violate Article II, and I can do anything I want.” That seems to capture this President’s belief about the Presidency; that he has unbridled power, unchecked by Congress or the Judiciary or anyone else. The President’s actions toward Ukraine and Congress.

The sum of what we have seen and heard is, unfortunately, a picture of a President who has abused the great power of his office for personal gain—a picture of a President who has placed his personal interest well above the interests of the Nation and, in so doing,
threatened our national security, the security of our European allies, and the security of Ukraine. The evidence clearly proves that the President used the weight of his office and the weight of the U.S. Government to seek to coerce a foreign government to interfere in our democratic process. His actions were not only inappropriate; they were an abuse of power.

When I was a lawyer for the Alabama Judicial Inquiry Commission, there was a day when the chairman of the inquiry commission and one of Alabama's great judges, Randall Cole, used to say about judges who strayed from the canons of ethics. He would say that the judge “left his post.”

Sadly, President Trump left his post with regard to the withholding of military aid to Ukraine and a White House visit for the new Ukrainian President, and in so doing, he took the great powers of the Office of the President of the United States with him. Impeachment is the only check on such Presidential wrongdoing.

The second article of impeachment, obstruction of Congress, gave me more pause. I have struggled to understand the President's actions in their failure to fully pursue documents and witnesses and wished that they had done more. However, after careful consideration of the evidence developed in the hearings, the public disclosures, the legal precedents, and my own judgment, I believe it is critical to our constitutional structure that we also protect the authorities of the Congress of the United States. Here it was clear from the outset that the President had no intention whatsoever of accommodating Congress when he blocked both witnesses and documents from being produced. In addition, he engaged in a course of conduct to threaten potential witnesses and smear the reputations of the civil servants who did come forward and provide testimony.

The President's actions demonstrate a belief that he is above the law, that Congress has no power whatsoever in questioning or examining his actions, and that he is above their peril. That belief, unprecedented in the history of this country, simply must not be permitted to stand. To otherwise risk guaranteeing that no future whistleblower or witness will ever come forward, and no future President, Republican or Democrat, will be subject to congressional oversight as mandated by the Constitution even when the President has so clearly abused his office and violated the public trust.

Accordingly, I will vote to convict the President under both Articles of Impeachment. In doing so, I am mindful that in a democracy there is nothing more sacred than the right to vote and respecting the will of the people. But I am also mindful that when our Founders wrote the Constitution, they envisioned a time or at least a possibility that our democracy would be more damaged if we fail to impeach and remove a President. Such is the moment in history today.

The gravity of this moment, the seriousness of the charges, and the implication for future Presidencies and Congress have all contributed to the difficulty at which I arrived at my decision.

I am mindful that I am standing at a desk that once was used by John F. Kennedy, who famously wrote “Profiles in Courage,” and there will be so many who simply look at what I am doing today and say that it is a profile in courage. It is not. It is simply a matter of right and wrong, where doing right is not a courageous act; it is simply following your oath.

This has been a divisive time for our country. The President's actions have nonetheless been an important constitutional process for us to follow. As this chapter of history draws to a close, one thing is clear to me. As I have said before, our country deserves better than this. They deserve a President, and they deserve better from the Congress. We must find a way to come together, to set aside partisan differences, and to focus on what we have in common as Americans.

While I am confident in our favor these days, we still face great challenges, both domestically and internationally. But it remains my firm belief that united we can conquer them and remain the greatest hope for the people around the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, today the Senate is called upon to uphold our oath of office and our duty to the Constitution because President Trump failed to do so himself.

After listening closely to the impeachment managers and the President's defense team, weighing the evidence that was presented to us, and being denied the opportunity to see relevant documents and hear from firsthand witnesses, I will vote to find President Trump guilty on both Articles of Impeachment.

As a Senator and as a member of the Senate, I take my role in voting to impeach a President and remove him from office. I agree with those who say that impeachment should be rare and American voters should decide our elections. That is why it is so galling that President Trump blatantly solicited foreign interference in our democratic process. And he did it as he geared up for reelection.

The evidence shows President Trump deliberately and illicitly sought foreign help to manufacture a scandal that would elevate him by tarnishing a political rival.

He attempted to undermine our democracy, using U.S. taxpayer money in the form of U.S. military aid for Ukraine as leverage for his own personal benefit. The President's aides who heard President Trump's call seeking "a favor" from the Ukrainian President immediately sensed it was wrong. So when they alerted the White House lawyers, the call was immediately placed on a highly classified computer system. And despite the President claiming that the version of the call that was publicly released "is an exact word-for-word transcript," we know from testimony that there are key omissions in the document we all read.

Compounding the President's misconduct, he then engaged in an extended cover-up that appears to be ongoing to this day.

There is a lot to unravel here, and I will provide a more detailed legal explanation in the near future. But for now, let me briefly explain my decision and outline my thoughts on the Senate's impeachment proceedings and the different precedents I fear will be set when the majority chooses to side with the President over the Constitution's checks and balances.

The House of Representatives voted to impeach the President for abuse of power and obstruction of Congress. Based on the uncontested evidence, I concur.

It is clear that President Trump and others, such as Mr. Giuliani, who was serving as the President's lawyer, attempted to coerce the newly elected President of Ukraine to announce two sham investigations, including one that sought to directly damage President Trump's rival in the upcoming election. The President's actions served his personal and political needs, not those of our country. His efforts to withhold military aid to Ukraine for his own personal benefit undermined our national security.

The second article of impeachment charges the President with obstruction of Congress for blocking testimony and refusing to provide documents in response to House subpoenas in the impeachment inquiry. Again, the House managers produced overwhelming evidence of the President's obstruction and his efforts to cover up his malfeasance.

The President's counsel offered a number of unpersuasive arguments against this article, which fail to overcome the following: first, that the legislative branch has sole power over impeachment under the Constitution. That could not be more clear; second, past precedents of prior administrations and court rulings; and third, the blatant October 8 letter expressing a complete rejection of the House's impeachment proceedings.

The Constitution grants the executive branch significant power, but as Senator Reed of Illinois reminds us, our system is one of checks and balances so that no branch is entirely unfettered from oversight and the law.
President Trump would have us believe this system of checks and balances is wrong. In President Trump’s own words, he expressed the misguided imperial belief in the supremacy of his unchecked power, stating: “I have an Article II, where I have the right to do whatever I want as President.”

Couple this sentiment with his January 2016 boast that, quote: “I could stand in the middle of Fifth Avenue and shoot somebody and I wouldn’t lose voters. That paints a chilling picture of someone who clearly believes, incorrectly, that he is above the law. The President’s attorneys have hewn to this line of faulty reasoning and, in one notably preposterous effort, even claimed the President could avoid impeachment for an inappropiate action motivated entirely by his own political and personal interests.

The President’s defense also failed to sufficiently demonstrate that the President’s misuse of authority, expansive and aggressive positions about executive privilege, immunity, and the limits of Congress’s oversight authority, Republican leaders went along with it.

I have heard a variety of explanations for why my Republican colleagues voted against witnesses. But no one is going to be able to explain away the simple explanation: My Republican colleagues did not want to hear new evidence because they have a hunch it would be really, really bad for this President. It would further expose the depth of his wrongdoing. And it would make it harder for them to lose.

My colleagues on the other side of the aisle did not ask to be put in this position. President Trump’s misconduct forced it on them. But in the partisan rush to spare President Trump from having his staff and former staff publicly testify against him under oath, a bar has been lowered, a constitutional guardrail has been removed, the Senate has been voluntarily weakened, and our oversight powers severely diminished.

This short-term maneuver to shield President Trump from the truth is a severe blow against good government that will do lasting damage to this institution. I hope one day the damage can be repaired.

The arc of history is indeed long, and it does bend toward justice—but not today. Today, the Senate and the American people have denied access to real, available evidence and firsthand witnesses. We have been prohibited from considering new, material information that became available after the House’s impeachment vote.

The Constitution is our national compass. But at this critical moment, clouded by the fog of President Trump’s misconduct, the Senate majority has lost its way, and is no longer guided by the Constitution. In order to regain our moral bearings, stay true to our Constitution, and navigate a better path forward, we must hold President Trump accountable.

The President was wrong to invite foreign interference in our democracy. He was wrong to try and stonewall the investigation and he is wrong if he thinks he is above the law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. DUCKWORTH. Mr. President, from the first words in the Constitution, the weight that lies on every American’s shoulders has been clear: We the people are the ones who dreamed up this wild experiment that we call America, and we the people are the ones charged with ensuring its survival.

That is the tension—the push and the pull—behind our democracy because, while there is no greater privilege than living in a country whose Constitution guaranteesunalienable rights, there is no greater burden than knowing that our actions could sap that very same Constitution of its power; that our inaction risks allowing it to wither like any other piece of parchment from some bygone era.

For the past few weeks, it has been my sworn duty as a U.S. Senator to sit as an impartial juror in the impeachment trial of Donald J. Trump. While I wish the President had not put our Nation on trial, and when I accused him, after having listened closely with an open mind to both sides, it is now my duty as an American to vote on whether to remove him from office. Other than sending our troops into harm’s way, I cannot think of a more serious, more somber vote to take in this Chamber, but as sobering as it is, the right path forward is clear.

Throughout this trial, we have seen unprecedented obstruction from the Trump administration—obstruction soflagrant that it makes Nixon, when in the thick of Watergate, look like the model of transparency. Yet the facts uncovered still prove the truth of the matter: Trump abused his power when he secretly withheld security aid and a White House meeting to try to force Ukraine to announce investigations into a political rival in order to help him swing November’s election. He put his political self-interest ahead of our national security. He risked our country. He risked our democracy.

When the reports first emerged about what he had done, he denied it. Then his explanation changed to: Well, maybe I did do it, but it was only because I was trying to root out corruption.

If that were true, there would be some documentary record to prove that, and we have seen absolutely none, even after I asked for it during the questioning period.

Not only has he gone so far as to claim that, well, it doesn’t matter if he did it because he is the President, and the President can do anything he wants if it will help him get reelected. Breathtaking.

To put it another way, when he got caught, he lied. Then, when that lie was found out, he lied again, then again, then again.

Along the way, his own defense counsel could not paper-mache together what is the most basic argument to actually defend him. It would have been that they could muster boiled down to: When the President does it, it is not illegal. Nixon already tried that defense. It did not work then, and it does not work now because—here is the thing—in America, we believe not in rulers but in the rule of law.

Through all we have seen over the past few months, the truth has never changed. It is what National Security Council officials and decades-long diplomats testified to under oath. It is what foreign policy experts and Trump administration staffers—and, yes, an American warrior with a Purple Heart—have raised their right hands to tell us, time after time, since the House hearings had begun.

Even some of my Republican colleagues have admitted that Trump “cross[ed] a line.” Some said it as recently as this weekend, but many more said months ago that, if Trump did do what he is accused of, which they indeed, be wrong. Well, it is now obvious that those allegations were true, and it is pretty clear that Trump’s defense team knows that also. If they actually believe Trump did nothing wrong—that his call was “perfect”—then why would they fight so hard to block the witnesses and the documents from coming to light that could exonerate him? The only reason they would have done so is if they had known that he was guilty. The only reason for one to acquit or be exonerated if one is OK with trying to cover it up.

Now, I know that some folks have been saying that we should acquit...
him—that we should ignore our constitutional duty and leave him in office—because we are in an election year and that the voters should decide his fate. That is an argument that rings hollow because this trial was about Trump’s trying to cheat in the next election and rob the voters of their ability to decide. Any action other than voting to remove him would give him the license and the power to keep tampering with that race, to keep trying to turn that election into as much of an impeachment trial without witnesses.

You know, I spent 23 years in the military, and one of the most critical lessons anyone who serves learns is of the damage that can be done when troops don’t oppose illegal orders, when fealty becomes blind and ignorance becomes intentional. Just as it is the duty of military officers to oppose unlawful orders, it is the responsibility of public servants to hold those in power accountable.

Former NSC official Fiona Hill understood that when she testified before Congress because she knew that politics must never eclipse national security.

Ambassador Bill Taylor understood that as well. The veteran who has served in every administration since Reagan’s answered the question that is at the heart of the impeachment inquiry. He said under oath that, yes, there was a ‘‘clear understanding of a quid pro quo—exactly the sort of abuse of power no President should be allowed to get away with.’’

LTC Alexander Vindman—the Purple Heart recipient who dedicated decades of his life to our Armed Forces—understood the lessons of the past, too, in his saying that, here in America, right matters.

My colleagues in this Chamber who have attacked Lieutenant Colonel Vindman or who have provided a platform for others to tear him down just for doing what he believes is right should be ashamed of themselves.

We should all be aware of the example we set and always seek to elevate the national discourse. We should be thoughtful about our own conduct both in terms of respecting the rule of law and the sacrifices our troops make to keep us safe because, at the end of the day, our Constitution is really just a set of rules on some pieces of paper. It is our will to uphold its ideals and hold up the scales of justice.

So I am asking each of us today to muster up just an ounce of the courage shown by Piona Hill, Ambassador Taylor, and Lieutenant Colonel Vindman. When our names are called from the dais in a few hours, each of us will either pass or fail the most elementary, yet most important, test any elected official will ever take—whether to put country over party or party over country.

It may be a politically difficult vote for some of us, but it should not be a morally difficult vote for any of us because, while I know that voting to acquit would make the lives of some of my colleagues simpler come election day, I also know that America would have never been born if the heroes of centuries past made decisions based on politics.

It would have been easier to have kept bowing down to King George III than to have pushed 342 chests of tea into the Boston Harbor, and it would have been easier to have kept paying the taxes that others than to have waged a revolution. Yet those patriots knew the importance of rejecting what was easy if it were in conflict with what was right. They knew that the course of just a few could change history.

So, when it is time to vote this afternoon, we cannot think of political convenience. If we say abuse of power doesn’t warrant removal from office today, we will be paving the way for future Presidents to do even worse tomorrow—perhaps, more than any other. It was the time when Benjamin Franklin walked out of Independence Hall after the Constitutional Convention and someone asked: ‘‘What have we got—a republic or a monarchy?’’

We all know what he said: ‘‘A Republic if you can keep it.’’

Keeping it may very well come down to the 100 of us in this very Chamber. We are the ones the Constitution vests with the power to hold the President accountable, and through our actions, we are the ones who vest the Constitution with its power.

In this moment, let’s think not just of today but of tomorrow too. In this moment, let’s remember that, here, right matters; truth matters. The truth is that Donald Trump is guilty of abuse of power at a time.

We choose to have, even maybe years to choose to have, even maybe years to continue to do the work of the Congress. Part of that job is to do everything necessary to have Articles of Impeachment that are compelling and complete.

The House has time available to it to consider impeachment as they go about their essential work. They can continue to do the work of the Congress. They have weeks, months, if they choose to have, even maybe years to put a case together. They can call witnesses. They can go to court to seek testimony. They can determine if this is an impeachment question or just an oversight question.

The House can do lots of things, but once the Senate gets the Articles of Presidential Impeachment, they become for the Senate an absolute priority. Both our rules and reality mean we cannot do anything else, realistically, until we are done dealing with this on the Senate floor.

That was fundamentally what was so wrong with the House sending over a case that they said needed more work. If it needed more work, it should have had more work.

You can be for a strong review of the executive. You can be for strong congressional oversight and still support the idea of executive privilege. The
President has the right to unfettered advice and to know all the options. In fact, I think when you pierce that right, you begin to have advisers who may not want to give all the options to the President because it might appear they were for all the options. But the President’s advisors need to know that the President understands all the options and implications of a decision.

The President, by the way—another topic that came up here several times—the President determines executive policy. The staff, the assistants, and whoever else works in the executive branch doesn’t determine executive policy; the President determines executive policy. The staff can put all the notes in front of the President they want to, but it is the President’s decision what the policy of the administration will be. Sharing that decision with the Congress, sharing how he got to that point—or later, she got to that point—what that decision is a negotiated balance.

Congress says: We want to know this. The President says: No. I need to have some ability for people to give me advice that isn’t all available for the Congress.

So this is balanced out, and if that can’t happen, if that balance can’t be achieved, the judiciary decides what the balance is. The judiciary decides a question and says: You really must talk to the Congress about this, but you don’t have to talk to them about the next sentence you said at that same meeting.

That is the kind of balance that occurs.

The idea repeatedly advanced by the House managers that the Senate, by majority vote, can decide these questions is both outrageous and dangerous.

The idea that the government would balance itself is, frankly, the miracle of the Constitution. Nobody had ever proposed, until Philadelphia in 1787, one, that the basis for government was the people themselves, and two, you could have a government that was so finely balanced that it would operate and maintain itself over time.

The House managers would really upset that balance. By being unwilling to take the time the House had to pursue the constitutional solution, they decided: We don’t have to worry about the Constitution to have that solution.

To charge that the President’s assertion of article II rights that go back to Washington is one of the actual Articles of Impeachment—that is dangerous.

The legislative branch cannot also be the judicial branch. The legislative branch can’t also decide “here is the balance” if the executive and legislative branch are in a fight about what should be disclosed and what shouldn’t. You can’t continue to have the three balances of power in our government if one of the branches can decide what the legislative branch should decide.

In their haste to put this case together, the House sent the Senate the two weakest Articles of Impeachment possible. Presidents since Washington have been accused by some Members of Congress of abuse of power. Presidents since Washington have been accused by some Members of Congress of failure to cooperate with the Congress. The House has pursued against their own case. They repeatedly contended that they had made their case completely, they had made their case incontrovertibly, but they wanted us to call witnesses not to begin the case. They said they had already been in court 9 months to get the President’s former White House Counsel to testify and weren’t done yet, but somehow they thought the Senate could get that person and others in a matter of days.

These arguments have been and should have been rejected by the Senate.

Today, the Articles of Impeachment should be and will be rejected by the Senate. Based on the Speaker’s March comments, these articles should have never been sent to the Senate. They were not compelling, they were not overwhelming, they were not bipartisan, and most importantly, they were not necessary.

One of the lessons we send today is to this House and to future Houses of Representatives: Do your job. Take it seriously. Don’t make it political. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEE. Mr. President, I have long maintained that, if not all, of the most serious and vexing problems within our Federal Government can be traced to a deviation from the twin core structural protections of the Constitution.

There are two of these protections—one that operates along a vertical axis; the other, a horizontal.

The vertical protection we call federalism, which states a very simple fact: that in the American system of government, every person has to do with the Federal Government: one that makes the laws, one that executes the laws, and one that interprets the laws when people can’t come to an agreement and have an active, live dispute as to the meaning of a particular law in a particular case or controversy.

Sadly, we have drifted steadily, aggressively from both of these principles over the last 80 years. For roughly the first 150 years of the founding of our Republic and of the operation of our constitutional structure, we adhered pretty closely to them, but over the last 80 years or so, we have drifted steadily. This has been a bipartisan problem. It was one that was created under the broad leadership of Republicans and Democrats alike and, in fact, in Senates and Houses of Representatives and White Houses of every conceivable partisan combination.

We have essentially taken power away from the American people in two steps—first, by moving power from the State and local level and taking it to Washington, in violation of the vertical protection we call federalism; and then a second time, moving it away from the people’s elected lawmakers in Washington to unelected, unaccountable bureaucrats placed within the executive branch of government but who are neither elected by the people nor accountable to anyone who is electable. Thus, they constitute essentially a fourth branch of government within our system, one that is not sanctioned or contemplated by the Constitution and doesn’t really fit all that well within its framework.

This has made the Federal Government bigger and more powerful. It has occurred in a way that has made people less powerful. It has made government in general and in particular, this government, the Federal Government, less responsive to the needs of the people. It has been fundamentally contrary to the way our system of government operates.

What, one might ask, does any of this have to do with impeachment? Well, in my people’s elected lawmakers are working at a lot. This distance that we have created in these two steps—moving power from the people to Washington and within Washington, handing it to unelected lawmakers or unelected bureaucrats—has created an amount of anxiety among the American people. Not all of them necessarily recognize it in the same way that I do or describe it with the same words, but they know something is not right. They know it when their Federal Government requires them to work at least part of every year just to pay their Federal taxes, only to be told later that it is not enough and hasn’t been enough for
a long time since we have accumulated $22 to $32 trillion in debt, and when they come to understand that the Federal Government also imposes some $2 trillion in regulatory compliance costs on the American people.

This harms the poor and middle class. It makes everything we buy more expensive. It results in diminished wages, unemployment, and underemployment. On some level, the American people feel this. They experience this. They understand it. It creates anxiety. It was that very anxiety that caused people to want to elect a different kind of leader in 2016, and they did. It was this set of circumstances that caused them to elect Donald J. Trump as the 45th President of the United States, and I am glad they did because he promised to change the way we do things here, and he has done that.

But as someone who has focused intently on the need to reconnect the American people with the confines of government, Donald Trump presents something of a serious threat to those who have occupied these positions of power, these individuals who, while hard-working, well-intentioned, well-educated, highly specialized, occupy these positions of power within what we loosely refer to as the executive branch but is in reality an unelected, unaccountable fourth branch of government.

He has bucked them on many, many levels and has infuriated them as he has done so, even as he is implementing the American people’s wishes to close that gap between the people and the government that is supposed to serve them.

He has bucked them on so many levels, declining to defer to the opinions of self-proclaimed government experts who claim that they know better than any of us on a number of levels.

He bucked them, for example, when it comes to the Foreign Intelligence Surveillance Act—or FISA, as it is sometimes described—when he insisted that FISA had been abused in efforts to undermine his candidacy and infringe on the rights of the American people. When he took that position, Washington bureaucrats predictably mocked him, but he turned out to be right.

He called out the folly of engaging in endless nation-building exercises—part of a two-decade-long war effort that has cost this country dearly in terms of American blood and treasure. Washington bureaucrats mocked him again, but he turned out to be right.

He raised questions with how U.S. foreign aid is used and sometimes misused throughout the world, sometimes to the detriment of the American people and the very interests that such aid was created to alleviate. Washington bureaucrats mocked him, but he turned out to be right.

President Trump asked Ukraine to investigate a Ukrainian energy company, Burisma. He momentarily paused U.S. aid to Ukraine while seeking a commitment from the then newly elected Ukrainian President, Volodymyr Zelensky, regarding that effort. He wanted to make sure that he could trust this recently elected President, or “[t]he executive Power [of the United States Government] shall be vested in the President of the United States.”

It is important to remember that there are exactly two Federal officials who were elected within the executive branch of government. One is the Vice President, and the other is the President.

The Vice President’s duties, I would add, are relatively limited. Constitutionally speaking, the Vice President is the President of the Senate and thus performs a quasi-legislative role, but the Vice President’s executive branch duties are entirely bound up with those of the President. They consist of aiding and assisting the President as the President may deem necessary and standing ready to step into the position of the Presidency should it become necessary as a result of disability, imprisonment, or death. That the entire executive branch authority is bound up within the Presidency itself. The President is the executive branch of government, just as the Justices who sit across the street themselves amount to the capstone of the judicial branch, just as 100 Senators and 435 Representatives are the legislative branch.

The President is the executive branch. As such, it is his prerogative, within the confines of what the law allows and authorizes and otherwise provides, to decide how to execute that. It is not only not incompatible with that system of government, it is entirely consistent with it—indeed, authorized by it.

A President should be able to say: Look, we have a newly elected President in Ukraine.

We have longstanding allegations of corruption within Ukraine. Those allegations have been proved within Ukraine. No one disputes that corruption is rampant in Ukraine.

A newly elected President comes in. This President or any President in the future decides: Hey, we are giving a lot of aid to this country—$391 million for the year in question. I want to make sure that I understand how that President operates. I want to establish a relationship of trust before taking a step further with that President. So I am going to take my time. I am going to take maybe a few weeks in order to make sure we are on a sure footing there.

He did that. There is nothing wrong with that.

What is the response from the House managers? Well, it gets back to that interagency process, as if people whom the American people don’t know or have reason to know because those people don’t stand accountable to the people—they are not really accountable to anyone who is in turn elected by the people—the fact that those people involved in the interagency process might disagree with a foreign policy decision made by the President of the United States and the fact that this President of the United States might take a different approach than his predecessor or predecessors does not make this President’s decisions criminal. It certainly doesn’t make them impeachable. It doesn’t even make them wrong.

In the eyes of many and I believe most Americans—they want a President to be careful about how the
United States spends money. They want the United States to stop and reconsider from time to time the fact that we spend a lot of money throughout the world on countries that are not the United States. We want a President of the United States to be able to make a decision in pushing pause before that President knows whether he can trust a newly elected government in the country in question.

So to suggest here that our commitment to the Constitution; to suggest here, as the House managers have, that our respect for the separation of powers within the constitutional framework somehow demands that we remove the duly elected President of the United States is simply wrong. It is elevating to a status completely foreign to our constitutional structure an entity that the Constitution does not name. It elevates a policy dispute to a question of high crimes and misdemeanors. Those two are not the same thing.

At the end of the day, this government does, in fact, stand accountable to the people. This government is of, by, and for the people. We cannot remove the 45th President of the United States for something that the law and the Constitution allow him to do without doing undue violence to that system of government to which every single one of us has sworn an oath.

I have sworn to uphold and protect and defend that system of government. That means standing up for the American people and those they have elected to do a job recognized by the Constitution.

I will be voting to defend this President’s actions. I will be voting against undoing the vote taken by the American people some 3½ years ago. I will be voting for the principle of freedom and for the very principles that our Constitution was designed to protect.

I urge all of my colleagues to reject these deeply factually and legally flawed Articles of Impeachment and to vote not guilty.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CRAMER. Mr. President, I rise today to officially declare that I will vote against both Articles of Impeachment brought against President Trump by the very partisan and, quite frankly, ridiculous House of Representatives. I know my position is hardly a surprise, but it is almost as unsurprising as the House impeaching the President, to begin with.

Since the moment he was sworn into office, Democrats have schemed to remove Donald Trump from office. It is not my opinion. I take them at their word. Their fixation on his removal was a conclusion in search of a justification, which they manufactured from a perception between world leaders lacked—leaked—by one of the many career bureaucrats who seem to have forgotten that they work for the elected leaders in this country, not the other way around.

So the two Articles of Impeachment before this body today, in my view, are without merit. They are an affront, in fact, to this institution and to our Constitution, representing the very same partisan derangement that worried our Founding Fathers so much that they made the threshold for impeachment this high.

The Senate exists exactly for moments like this. I didn’t arrive at my conclusion to support acquittal hastily or flippantly, and I don’t believe any of my colleagues did either, including those who come to a different conclusion from me. Because, from beginning to end, such flawed Articles by the House, the Senate did in fact dutifully and solemnly follow its constitutional obligation. During the last days of the trial, we heard sworn testimony from 13 witnesses and factually and legally reviewed over 28,000 pages of documents.

But even more than the House managers’ shallow arguments and lack of evidence against the President, it is the process for our President and the obvious derangement at the very root of every investigation, beginning with the corrupt FBI Crossfire Hurricane counterintelligence investigation during the 2016 election cycle. Articles of Impeachment will vote on in a few hours should have ended at their beginning.

Can we agree that if a Speaker of the House unilaterally declares an impeachment inquiry, it represents the opinion of Congress, not the official authorization of the entire Congress? Can we agree that a vote to begin an impeachment inquiry that has only partisan support and bipartisan opposition is not what the Founders intended? Can we agree that impeachment proceedings started by a majority of one party and opposed by Members of both parties on their face fail, if not the letter of the law, certainly, the spirit of the Constitution?

Yet, even under the cloud of purely partisan politics of the House of Representatives, the Senate conducted a complete, comprehensive trial, resulting, in my view, in a crystal clear conclusion: The Democratic-led House of Representatives failed to meet the most basic standards of proof and has dramatically lowered the bar for impeachment to unacceptable levels. It is deeply concerning, and I believe we must commit to never, ever letting it happen again to the President or any political party.

That can start today. In just a few hours, the Senate will have the opportunity to cast a vote to end this whole ordeal, and, in doing so, can make a statement that the threshold for undoing the will of the American people in the most recent election and undermining the will of a major political party in the upcoming election should be higher than one party’s petty obsession.

I hope my colleagues on both sides of the aisle join me in voting against these charges. But whether he is acquitted or convicted and removed, it is my prayer, as we were admonished many times throughout the last few weeks by our Chaplain Black, that God will be the final judge.

Then we can move on to the unifying issues the American people want us to tackle—issues like infrastructure, education, energy security and dominance, national security, and the rising cost of healthcare and others. These are issues the American people care about. These are issues that North Dakotans care about. These are issues that the people that have sent us here to deal with. Let’s do it together. Let’s start now.

I yield the floor.

The PRESIDENT pro tempore. Mr. President, I rise to urge all of my colleagues to reject the motion to acquit President Donald J. Trump on both Articles of Impeachment presented by House Democrats. I have listened carefully to the arguments presented by Democratic managers and the White House defense team. Those prosecuting the President failed on a legal and constitutional basis to produce the evidence required to undertake the very serious act of removing a duly elected President from this office.

This trial exposed that pure political partisanship fueled a reckless investigation and the subsequent impeachment of the President on weak, vague, and noncriminal accusations. The Democrats’ case, which lacked the basic standards of fairness and due process, was fabricated to fulfill their one long-held hope to impeach President Trump.

We should all be concerned about the dangerous precedent and consequences of convicting any President on charges originating from strictly partisan reasons. The Founding Fathers warned against allowing impeachment to become a political weapon. In this case, House Democrats crossed that line.

Rejecting the abuse of power and obstruction of Congress articles before us will affirm our belief and the impeachment standards intended by the Founders. With my votes to acquit President Trump, justice will be secure. The Senate has faithfully executed its constitutional duties to hear and judge the charges leveled against the President.

I remain hopeful that we can finally set aside this flawed partisan investigation, prosecution, and persecution of President Trump. The citizens of Mississippi and this great Nation are more interested in us getting back to doing the work they sent us here to do.
I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Mr. President, fellow Senators, I come today to talk about the business at hand. Obviously, it is the vote that we are going to take at 4 o’clock this afternoon.

We were subjected to days and days of trial here—many witnesses, witness statements, and all that sort of thing—and it is incumbent upon us now as jurors to reach a conclusion, and I have done so.

I come at this with a little bit of a different view, probably, than others. I have tried more cases, probably, than anyone on the floor, both as a prosecutor and in private practice. So I watched carefully as the case was presented to us and how the case had been put together by the managers from the House. What I learned in the many years of trial experience that I had is that the only way, really, to try a case and to reach where you want to get is to do it in good faith and to do it honestly.

I had real trouble right at the beginning when I saw that the lead manager read a transcript purporting to be a transcript of the President’s phone call that has been at issue here, and it was falsified. It was falsified knowingly, willfully, intentionally. So, as a result of that, when they walked through the door and wanted to present their case, there was a strike there already, and I put it in that perspective.

How the case unfolded after that was surprising to me. I have never seen a case succeed the way they put the case together. They put the case together by taking every fact that they wanted to make fly and put it only in the best light without showing the other side but not transparently—that I found was the only way, really, to try a case and to reach where you want to get is to do it in good faith and to do it honestly.

Now, admittedly, they had a witness who was going around saying that, and they called every person he told to tell us that that was the situation. The problem is, it was hearsay. There is a good reason why they don’t allow hearsay in a court of law, and that is, it simply wasn’t true.

What the person who was spreading that rumor actually talked to the President about it, the President got angry and said: That is not true. I go to the President about it, the President got angry and said: That is not true. I called him to be my political exercise is going to fail. And once again—once again—God has blessed America, and the Republic of the Constitution and using what is in America, and the Republic that Benjamin Franklin said we have, if we can keep it, is going to be sustained.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Madam President, over the past 3 weeks, we have heard from the House managers and the President’s counsel regarding the facts of the case against President Donald Trump.

Much like trials in Lorain and Lima and Lordstown, OH, or in Marietta, in Massillon, and in Marion, OH, we have seen the prosecution—in this case, the House managers—and the defense—in this case, the President’s lawyers—present their cases. All 100 of us—every one of us—are the jury. We took an oath to be impartial jurors. We all took an oath to be impartial jurors just like juries in Ohio and across America. But to some of my colleagues, that just appeared to be a joke.

The great journalist Bill Moyers summed up the past 3 weeks: “What we’ve just seen is the dictator of the Senate manipulating the impeachment process to save the demagogue in the White House whose political party has become the gravedigger of democracy.”

Let me say that again. “What we have just seen is the dictator of the government but, indeed, a very, very narrow swath. It was interesting that, from the beginning, they picked the two words of “treason” and “bribery,” and to that they then had a long debate about what it would be in addition to that. They had such words as “malfeasance,” “misfeasance,” “corruption,” and all those kinds of things that could be very broad. They rejected all those and said, no, specifically, it had to be “high Crimes and Misdemeanors.”

So what they did was they narrowed the lane considerably and made it difficult to remove the head of the second branch of government. And then, on top of that, for frost on the cake, they said it has got to be two-thirds. Now, what did that simply mean? They knew—they knew—that human beings being the way they are, that human beings who were involved in the political process and political parties would reach to get rid of a political enemy using everything they could. So they wanted to see that that didn’t happen with impeachment. So, as a result of that, they gave us the two-thirds requirement, and that meant that no President was going to be impeached without a bipartisan movement.

This movement has been entirely partisan. No Republican voted to impeach him in the House of Representatives. This afternoon at 4 we are going to have a vote, and it is going to be along party lines and, again, it is going to be bipartisan.

So what do we have here? At the end of the day, we have a political exercise, and that political exercise is going to fail. And once again—once again—God has blessed America, and the Republic that Benjamin Franklin said we have, if we can keep it, is going to be sustained.
Senate manipulating the impeachment process to save the demagogue in the White House whose political party has become the gravedigger of democracy.”

Even before this trial began, Leader McConnell admitted out loud that he was coordinating the trial process with the White House. The leader of the Senate was coordinating with the White House on impeachment. I challenge him to show me one trial in my State of Ohio or his State of Kentucky where the jury coordinated with the defense lawyers. In a fair trial, the defense and prosecution would have been able to introduce evidence, to call witnesses, and to listen to testimony. Every other impeachment proceeding in the Senate for 250 years had witnesses. Some of them had dozens. We had zero. Leader McConnell rushed this trial through. He turned off cameras in this body so that the American public couldn’t see the whole process. He restricted reporter access. We know reporters roam the halls to talk to Members of the House and Senate. He restricted access there. He twisted arms to make sure every Republican voted to block witnesses. He didn’t get a couple of them, but he had enough to protect himself.

The public already sees through it. This is a sham trial. I said from the beginning we would keep an open mind. If there are witnesses who would exonerate the President, the American people need to hear from them.

Over the course of this trial we heard mounting, overwhelming evidence that President Trump did something that not even Richard Nixon ever did: He extorted a foreign leader. He fired a career foreign service officer for rooting out corruption. He put his own President above our collective interest, that cannot be the kind of quid pro quo that results in impeachment.

Make no mistake, the full truth is going to come out. The Presiding Officer, my colleagues on the other side of the aisle, they are all going to be embarrassed because they covered this up. It wasn’t just the President and the Vice President and Secretary Pompeo and Chief of Staff Mulvany; it was 51 Republican U.S. Senators, including the Presiding Officer, who is a new Member of this body, who covered up this evidence.

It will come out this week. It will come out this month, this year, the year after that, for decades to come. And when the full truth comes out, we will be judged by our children and grandchildren. Without additional witnesses, we must judge based on the facts presented. The House managers made a clear, compelling case. In the middle of a war with Russia, the President froze $400 million in security assistance to Ukraine to investigate into his 2020 political opponent. He refused a critical meeting with President Zelensky in the Oval Office.

These actions don’t promote our national security or the rule of law; they promote Donald Trump personally and his campaign.

We know the President extorted President Zelensky. He asked the leader of a foreign government to help him. That is the definition of an abuse of power. That is not some political decision—no choice—but to convict this President of abusing his office. All of us know this. To acquit would set a clear, dangerous precedent: If you abuse your office, it is OK. Congress will look the other way.

This trial and these votes we are about to cast are about way more than just President Trump. They are about the future of democracy. It will send a message to this President—or whomsoever he appoints—to all future Presidents. It will be heard around the world—our verdict—by our allies and enemies alike, especially the Russians. Are we going to roll out the welcome mat to our adversaries to interfere in our elections? Are we going to give a green light to the President of the United States to base our country’s foreign policy not on our collective, agreed-upon national security or that of our allies, like Ukraine, but on the President’s personal political campaign?

These are the issues at stake. If we don’t hold this President accountable for abuse of office, if no one in his own party, if no one on this side of the aisle—no one—has the backbone to stand up and say “stop,” there is no question it will get worse. How do I know that? I have heard it from a number of my Republican colleagues when, perhaps, they will tell me. “We are concerned about what the President is going to do if he is exonerated.”

I was particularly appalled by the words of Mr. Dershowitz. He said: “If a President does something which he believes will help him win the public interest, that cannot be the kind of quid pro quo that results in impeachment.”

Think about that for a moment. If the President thinks it is OK, he thinks it is going to help his election, and he thinks his election is in the public interest, then it is OK; the President can break any law, can funnel taxpayer money toward his reelection, can turn the arm of the State against his political enemies not be held accountable. That is what this claim comes down to.

Remember the words of Richard Nixon: “When the President does it, that means it is not illegal.”

My colleagues think I am exaggerating. We don’t have the option to vote in favor of some arguments made during the trial and not others. Mr. Dershowitz’s words will live forever in the historical record. If they are allowed to stand beside a “not guilty” verdict—make no mistake—they will be used as precedent by future aspiring autocrats. In the words of House Manager Schiff, “that way madness lies.”

I know some of my colleagues agree this sets a dangerous precedent. Some of you have admitted to me that you are troubled by the President’s behavior. You know he is reckless. You know he lies. You know what he did was wrong. I have heard Republican after Republican after Republican Senator tell me that privately. If you acknowledge that, if you have said it to me, if you have said it inside your family, if you said it to your staff, if you just said it to yourself, I implore you, we have no choice but to vote to convict.

What are my colleagues afraid of? I think about the words of Adam Schiff in the Chamber of Deputies: “If you find that the House has proved its case and still vote to acquit”—if you still vote to acquit—“your name will be tied to his with a cord of steel and for all of history.”

“You name will be tied to his with a cord of steel and for all of history.”

So I ask my colleagues again: What are you afraid of?
One of our American fundamental values is that we have no Kings, no nobility, no oligarchs. No matter how rich, no matter how powerful, no matter how much money you give to Mitch McConnell’s super PAC, everyone can and should be accountable. I hope my colleagues remember that. I hope they will choose courage over fear. I hope they will choose country over party. I hope they will join me in holding this President accountable to the Constitution, the people we all took an oath to serve.

We know this: Americans are watching. They will not forget. I will close with quoting, again, Bill Moyers, a longtime journalist: “What we have just seen is the dictator of the Senate manipulating the impeachment process to save the demagogue in the White House whose political party has become the gravedigger of democracy. I know my colleagues on the other side of the aisle know better. I hope they vote what they really know.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Ms. HIRONO. Madam President, when the Framers debated whether to include the power of impeachment in the Constitution, they envisioned a moment very much like the one we face now. They were fearful of a corrupt President who would abuse the Presidency for his or her personal gain, particularly one who would allow any foreign country to interfere in the affairs of our United States. With this fear in mind, the Framers directed the Senate to determine whether to ultimately remove that President from office.

In normal times, the Senate—conscious of its awesome responsibility—would meet this moment with the appropriate sobriety and responsibility to conduct a full and fair trial. That includes calling appropriate witnesses and subpoenaing relevant documents, none of which happened here.

In the Senate, the Framers would have weighed the evidence presented by both sides and rendered impartial justice. And in normal times, having been presented with overwhelming evidence of impeachable acts, the Senate would have embraced its constitutional responsibility to convict the President and remove him or her from office.

But as we have learned too often over the past 3 years, these are not normal times. Instead of fulfilling its duty later in life, the U.S. Senate will fail its test at a crucial moment of our country by voting to acquit Donald J. Trump of abuse of power and obstruction of Congress.

The Senate cannot blame its constitutional failure on the House managers. They proved their case with overwhelming and compelling evidence. Manager Jerry Nadler laid out a meticulous case demonstrating how and why the President’s actions rose to the constitutional standard for impeachment and removal.

Manager Hakeem Jeffries explained how Donald Trump “directly pressured the Ukrainian leader to commence phony political investigations as a part of his effort to cheat and solicit foreign interference in the 2020 election.”

Manager Val Demings walked us through the evidence of how Donald Trump used $391 million of taxpayer money to pressure Ukraine to announce politically motivated investigations. She concluded: “This is enough to prove extortion in court.

Manager Adam Schiff tied together the evidence of Donald Trump’s abuse of power—the most serious of impeachable offenses and one that includes extortion and bribery.

And manager Zoe Lofgren used her extensive experience to provide perspective on Donald Trump’s unprecedented, unilateral, and complete obstruction of Congress to cover up his corruption. She is the only Member of Congress to be involved in three Presidential impeachments.

The President’s lawyers could not refute the House’s case. Instead, they ultimately resorted to the argument that the facts as presented by the House managers, Donald Trump’s conduct is not impeachable. It is what I have called the “He did it; so what?” argument.

Many of my Republican colleagues are using the “So what?” argument to justify their votes to let the President off the hook. Yet the senior Senator from Tennessee said: “I think he shouldn’t have done it. I think it was wrong. I think it was inappropriate.” He then added, “Improper, crossing a line.” But he refused to hold the President accountable, arguing that the voters should decide.

The junior Senator from Iowa said: “He is referring to the President—but because we have proven our case, and it matters to you. Truth matters to you. Right matters to you. You are decent. He is not what you are.

It is time for the Senate to uphold its constitutional responsibility by convicting this President and holding him accountable.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. Bennet. Madam President, when I was in the second grade—which I did twice because I was dyslexic, so I don’t know which year of the second grade it was, but one of those 2 years—we were asked to line up in order of whose father had been here the longest period of time and whose family had been here the shortest period of time.

I turned out to be the answer to both of those questions. My father’s family came all the way back to the Mayflower, and my mom’s family were Polish Jews who survived the Holocaust. They didn’t leave Warsaw because my grandfather had a large family he didn’t want to leave behind. And in the event—everybody was killed in the Holocaust except my mom, her parents, and an aunt. They lived in Warsaw for 2 years after the war. Then they went to Stockholm for a year. They went to

are reinforcing the President’s misguided belief that he can do whatever he wants under article II of the U.S. Constitution.

Donald Trump was already a danger to this country. We have seen it in his policy decisions—from taking away healthcare from millions of Americans to threatening painful cuts to Social Security and Medicare, to engaging in an all-out assault on immigrants in this country.

But today, we are called on to confront a completely different type of danger—one that goes well beyond the significant policy differences I have with this President.

If we let Donald Trump get away without extorting the President of another country for his own personal, political benefit, the Senate will be complicit—complicit—in his next corrupt schemes.

Later today, I will vote to convict and remove President Donald Trump for abusing his power and obstructing Congress. I am under no illusion that many Republican colleagues will vote the same. They have argued it is up to the American people to decide, as though impeachment were not a totally separable, constitutional remedy for a lawless President.

As I considered my vote, I listened closely to Manager Schiff’s closing statement about why the Senate needs to convict this President. He said:

“I do not ask you to convict him because truth or right or decency matters nothing to him—

He is referring to the President—but because we have proven our case, and it matters to you. Truth matters to you. Right matters to you. You are decent. He is not what you are.

It is time for the Senate to uphold its constitutional responsibility by convicting this President and holding him accountable.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. Bennet. Madam President, when I was in the second grade—which I did twice because I was dyslexic, so I don’t know which year of the second grade it was, but one of those 2 years—we were asked to line up in order of whose father had been here the longest period of time and whose family had been here the shortest period of time.

I turned out to be the answer to both of those questions. My father’s family came all the way back to the Mayflower, and my mom’s family were Polish Jews who survived the Holocaust. They didn’t leave Warsaw because my grandfather had a large family he didn’t want to leave behind. And in the event—everybody was killed in the event except my mom, her parents, and an aunt. They lived in Warsaw for 2 years after the war. Then they went to Stockholm for a year. They went to

are reinforcing the President’s misguided belief that he can do whatever he wants under article II of the U.S. Constitution.

Donald Trump was already a danger to this country. We have seen it in his policy decisions—from taking away healthcare from millions of Americans to threatening painful cuts to Social Security and Medicare, to engaging in an all-out assault on immigrants in this country.

But today, we are called on to confront a completely different type of danger—one that goes well beyond the significant policy differences I have with this President.

If we let Donald Trump get away without extorting the President of another country for his own personal, political benefit, the Senate will be complicit—complicit—in his next corrupt schemes.

Later today, I will vote to convict and remove President Donald Trump for abusing his power and obstructing Congress. I am under no illusion that many Republican colleagues will vote the same. They have argued it is up to the American people to decide, as though impeachment were not a totally separable, constitutional remedy for a lawless President.

As I considered my vote, I listened closely to Manager Schiff’s closing statement about why the Senate needs to convict this President. He said:

“I do not ask you to convict him because truth or right or decency matters nothing to him—

He is referring to the President—but because we have proven our case, and it matters to you. Truth matters to you. Right matters to you. You are decent. He is not what you are.

It is time for the Senate to uphold its constitutional responsibility by convicting this President and holding him accountable.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BENNET. Madam President, when I was in the second grade—which I did twice because I was dyslexic, so I don’t know which year of the second grade it was, but one of those 2 years—we were asked to line up in order of whose father had been here the longest period of time and whose family had been here the shortest period of time.

I turned out to be the answer to both of those questions. My father’s family came all the way back to the Mayflower, and my mom’s family were Polish Jews who survived the Holocaust. They didn’t leave Warsaw because my grandfather had a large family he didn’t want to leave behind. And in the event—everybody was killed in the event except my mom, her parents, and an aunt. They lived in Warsaw for 2 years after the war. Then they went to Stockholm for a year. They went to
Mexico City for a year, of all places. And then they came to the United States—the one place in the world they could rebuild their shattered lives, and they did rebuild their shattered lives. My mom was the only person in the family who could speak any English. She learned English while she was in the New York City public schools. She graduated from Hunter College High School. She went on to graduate from Wellesley College in Massachusetts in one generation. My grandparents rebuilt the business they had lost during the war. I knew from them how important the idea of America was, not because we were perfect—exactly the opposite of that—because we were imperfect. But we lived in a free society that was able to cure its imperfections with the hard work of our citizens to make this country more democratic, more free, and more fair—a country committed to the rule of law. Nobody was above the rule of law, and nobody was treated unfairly by the law, even if you were an immigrant to this country.

From my dad’s example, I learned something really different. It might interest some people around here to know he was a staffer in the Senate for many years. I actually grew up coming here on Saturday mornings, throwing paper airplanes around the hallways of the Dirksen Building and Russell Building. He worked here at a very different time in the Senate. He worked here at a time when Republicans and Democrats worked together to uphold the rule of law, to pass important legislation that was needed by the American people to move our country forward, a time when Democrats and Republicans went back home and said: I didn’t get everything I wanted, to be sure, but the 65 percent I did get is worth the bill we have, and here is why: the other side needed 35 percent. Those issues are completely gone in the U.S. Senate, and I grieve for them. My dad passed away about a year ago. I don’t get everything I wanted, to be sure, but the 65 percent I did get is worth the bill we have, and here is why: the other side needed 35 percent. Those issues are completely gone in the U.S. Senate, and I grieve for them.

In the last 10 years that I have been here, I have watched politicians come to this floor and destroy the solemn responsibilities—the constitutional responsibilities we have to advise and consent on judicial appointments, to turn that constitutional responsibility into nothing more than a vicious partisan exercise. That hasn’t been done by the American people. That wasn’t done by any other generation of politicians who were in this place. It has been done by this generation of politicians led by the Senator from Kentucky, the majority leader of the Senate.

We have become a body that does nothing. We are an employment agency. That is what we are. Seventy-five percent of the votes last year were on appointments. We voted on 26 amendments last year—26—26. In the world’s greatest deliberative body, we passed eight amendments in a year. Pathetic. We didn’t consider any of the major issues the American people are confronting in their lives, not a single one—10 years of townhalls with people saying to me: Michael, we are killing ourselves, and we can’t afford housing, healthcare, higher education, early childhood education. We cannot save. We can’t live a middle-class life. We think our kids are going to live a more diminished life than we do.

What does the U.S. Senate do? Cut taxes for rich people. We don’t have time to do anything else around here. And now, when we are the only body on planet Earth charged with the responsibility of dealing with the guilt or innocence of this President, we can’t even bring ourselves to have witnesses and evidence as part of a fair trial, even when there are literally witnesses with direct knowledge of what the President did practically banging on the door of the Senate saying: Let me testify.

We are too lazy for that. The reality is, we are too broken for that. We are too broken for that. And we have failed in our duty to the American people. Hamilton said in Federalist 65 that in an impeachment trial we were the inquisitors for the people. The Senate—we would be the inquisitors for the people. How can you be the inquisitors for the people when you don’t even dignify the process with evidence and with witnesses?

I often have school kids come visit me here in the Senate, which I really enjoy because I used to be the superintendent of the Denver Public Schools. When they come visit me, they very often have been on the Mall. They have seen the Lincoln Memorial. They have seen the Washington Monument. They have seen the Seneca. And there is a tendency among them to believe that this was just all here, that it was all just here. And of course, 230 years ago, I tell them, none of it was here. None of it was here. It was in the ideas of the Founders. It was in the vision of the very often the people who were the Founders, who did two incredible things in their lifetime, in their generation, that had never been done before in human history. They wrote a Constitution that would be ratified by the people who lived under it. It never occurred to them, the Founders, that they never have imagined that we would have lasted 230 years—at least until the age of Donald Trump.

They led an armed insurrection against a colonial power. We call that the Revolutionary War. That succeeded too.

They did something terrible in their generation that will last for the rest of days, and that is to establish human slavery. The building we are standing in today was built by enslaved human beings because of the decisions that they made.

But I tell the kids who come and visit me that there is a reason why there are not enslaved human beings in this country anymore and that is because of people like Frederick Douglass. He was born a slave in the United States of America, escaped his slavery in Maryland, risked his life and limb to get to Massachusetts, and he found the abolitionist movement there. And the abolitionist movement has been arguing for generations that the Constitution was a pro-slavery document. Frederick Douglass, who is completely self-taught, said to them: You have this exactly wrong, exactly backward, 180 degrees from the truth. The Constitution is an anti-slavery document. Frederick Douglass said, not a pro-slavery document.

But we are not living up to the words of the Constitution. It is the same thing Dr. King said the night before he was killed in Memphis when he went down there for the striking garbage workers and he said: I am here to make America keep the promise you wrote down on the page.

In my mind, Frederick Douglass and Dr. King are Founders, just as much as the people who wrote the Constitution of the United States. How could they not be? How could they not be?

The women who fought to give my kids, my three daughters, the right to vote, who fought for 50 years to get the right to vote—mostly women in this country—are Founders, just like the people who wrote the Constitution, as well.

Over the years that I have been here, I have seen this institution crumble into rubble. This institution has become incapable of addressing the most existential questions of our time that the next generation cannot address. They can’t fix their own school. They can’t fix our immigration system. They can’t fix climate change, although they are getting less and less patient with us. They have sold their soul to social media feeds that divide us.

But what I have come to conclude is that the responsibility of all of us—not just Senators but all of us as citizens in a democratic republic—230 years after the founding of this Republic, is the responsibility of the Founders. It is that elevated sense of what a citizen is required to do in a republic to sustain that republic, and I think that is the right way to think about it. It gives you a sense of what is really at stake beyond the headlines on the cable television. It is the responsibility of the Founders to keep the promise you wrote down on the page. It is the responsibility of each and every one of us to have the elevated sense of what a citizen is required to do in a republic to sustain that republic.
The Senate has clearly failed that standard. We have clearly failed that standard. The idea that we would turn our backs and close our eyes to evidence pounding on the outside of the doors of this Capitol is pitiful. It is disgraceful. It is failure for this body for all time. More than 50 percent of the people in this place have said that what the President did was wrong. It clearly was wrong. It clearly was unconstitutional. It clearly was impeachable.

Mr. President, would you run for office saying to the American people: I am going to try to extort a foreign power for my own electoral interest to interfere in our elections? It is exactly the kind of conduct that the impeachment our job was written for. It is a textbook case of why the impeachment clause exists.

But even if you don’t agree with me that he should have been convicted or that he should be convicted, I don’t know how in this body goes home and faces their constituents and says that we wouldn’t even look at the evidence.

So I say to the American people: Our democracy is much at risk. I am not one of those people who believes that Donald Trump is the source of all our problems. I think he has made matters much worse, to be sure, but he is a symptom of our problem. He is a symptom of our failure to tend to the democracy—to our responsibility—as Founders. And if we don’t begin to take that responsibility as seriously as our parents and grandparents did—people who faced much bigger challenges than we ever did—nobody is asking us, thank God, to end human slavery. Nobody is asking us to fight for 50 years for the self-evident proposition that women should have the right to vote. We are not marching in Selma, being beaten, or self-evident proposition that all people are created equal. Nobody is asking us to climb the Cliffs of Normandy to fight for freedom in a World War. But we are being asked to save the democracy and we are going to fail that test today in the Senate. And my prayer for our country is that the American people will not fail that test. I am optimistic that we will not. We have never failed before, and I don’t think we will fail it in our time. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

MS. BALDWIN. Madam President, in 2012, the good people of Wisconsin elected me to work for them in the Senate. Like every one of my fellow Senators, I took an oath of office. In 2018, I was reelected and I took that same oath. We have all taken that oath. It is not to support and defend the President—this President or any other. Our oath is to support and defend the Constitution of the United States. That is our job every day that we come to work, and it certainly is our job here today.

Just over 2 weeks ago, we all stood together right here and we took another oath given to us by Chief Justice Roberts to do impartial judgment in this impeachment trial. I have taken this responsibility very seriously. I have listened to both sides make their case, I have reviewed the evidence presented, and I have carefully considered the facts.

From the beginning, I have supported a full, fair, and honest impeachment trial. A majority of this Senate has failed to allow it. I supported the release of relevant documents, and I am optimistic that we will not. We are not marching in Selma, being beaten, or self-evident proposition that all people are created equal. No-...
have faced character assassination from this President, the White House, and some of my colleagues here in the Senate. It is a disgrace to this institution that they have been treated as anything less than the patriots they are.

As Army LTC Alexander Vindman said, “This is America. Here, right matters.”

My judgment is inspired by these words, and I am guided to my commitment to support and defend the Constitution. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. MURPHY. Madam President, it is important to remind ourselves, at moments like this, how unnatural and uncommon democracy really is. Just think of all of the important forums in your life. Think about your workplace, your family, your favorite sports team. None of them makes decisions by democratic vote. The CEO decides how much money you are going to make. It is not by the vote of your fellow employees. You love your kids, but they don't get an equal say in household matters as mom and dad do. The plays the Chiefs called on their sports team. None of them makes decisions in a bipartisan vote, and, of course, a tiny percentage—have lived in a democratic society as mom and dad do. The plays the Chiefs called on their sports team. None of them makes decisions in a bipartisan vote, and, of course, a tiny percent—have lived in a democratic society.

The plays the Chiefs called on their sports team. None of them makes decisions in a bipartisan vote, and, of course, a tiny percent—have lived in a democratic society. If there is so interesting to me is that it is not like the Republicans didn't see this moment coming. In fact, many of my colleagues across the aisle literally predicted it. President's election, here is what the Republican Senators said about Donald Trump.

One said:

He is shallow. He is ill-prepared to be Commander in Chief. I think he is crazy. I think he is unfit for office.

Another said:

The man is a pathological liar. He doesn't know the difference between truth and lies.

Yet another Republican Senator said what we are dealing with is a con artist. He is a very rich con artist.

Now, you can shrug this off as election-year rhetoric, but no Democrat has ever said these kinds of things about a candidate from our party, and prior to Trump, no Republican had said such things about candidates from their party either. The truth is the Republicans, before Trump became the head of their party, knew exactly how dangerous he was and how dangerous he would be if he won. They knew he would try to use the awesome power of the executive branch to enrich themselves or to win office illicitly, and I grew up under the belief that, when those bad men presented themselves, this place had the ability to put aside party and work to protect our fragile democracy from attack.

This attack on our Republic that we are debating today, if left unchecked, is potentially lethal. The one sacred covenant that an American President must keep is to use the massive power of the executive branch for the good of the country, not for personal financial or political benefit. The difference between a democracy and a tin-pot dictatorship is that, here, we don't allow Presidents to use the official levers of power to destroy political opponents. Yet that is exactly what President Trump did, and we all know it. Even the Republicans who are going to vote to acquit him today admit he would be if he won. They knew he would try to use the awesome power of the executive branch to enrich themselves or to win office illicitly, and I grew up under the belief that, when those bad men presented themselves, this place had the ability to put aside party and work to protect our fragile democracy from attack.

This attack on our Republic that we are debating today, if left unchecked, is potentially lethal. The one sacred covenant that an American President must keep is to use the massive power of the executive branch for the good of the country, not for personal financial or political benefit. The difference between a democracy and a tin-pot dictatorship is that, here, we don't allow Presidents to use the official levers of power to destroy political opponents. Yet that is exactly what President Trump did, and we all know it. Even the Republicans who are going to vote to acquit him today admit he would be if he won. They knew he would try to use the awesome power of the executive branch to enrich themselves or to win office illicitly, and I grew up under the belief that, when those bad men presented themselves, this place had the ability to put aside party and work to protect our fragile democracy from attack.

This attack on our Republic that we are debating today, if left unchecked, is potentially lethal. The one sacred covenant that an American President must keep is to use the massive power of the executive branch for the good of the country, not for personal financial or political benefit. The difference between a democracy and a tin-pot dictatorship is that, here, we don't allow Presidents to use the official levers of power to destroy political opponents. Yet that is exactly what President Trump did, and we all know it. Even the Republicans who are going to vote to acquit him today admit he would be if he won. They knew he would try to use the awesome power of the executive branch to enrich themselves or to win office illicitly, and I grew up under the belief that, when those bad men presented themselves, this place had the ability to put aside party and work to protect our fragile democracy from attack.

This attack on our Republic that we are debating today, if left unchecked, is potentially lethal. The one sacred covenant that an American President must keep is to use the massive power of the executive branch for the good of the country, not for personal financial or political benefit. The difference between a democracy and a tin-pot dictatorship is that, here, we don't allow Presidents to use the official levers of power to destroy political opponents. Yet that is exactly what President Trump did, and we all know it. Even the Republicans who are going to vote to acquit him today admit he would be if he won. They knew he would try to use the awesome power of the executive branch to enrich themselves or to win office illicitly, and I grew up under the belief that, when those bad men presented themselves, this place had the ability to put aside party and work to protect our fragile democracy from attack.

This attack on our Republic that we are debating today, if left unchecked, is potentially lethal. The one sacred covenant that an American President must keep is to use the massive power of the executive branch for the good of the country, not for personal financial or political benefit. The difference between a democracy and a tin-pot dictatorship is that, here, we don't allow Presidents to use the official levers of power to destroy political opponents. Yet that is exactly what President Trump did, and we all know it. Even the Republicans who are going to vote to acquit him today admit he would be if he won. They knew he would try to use the awesome power of the executive branch to enrich themselves or to win office illicitly, and I grew up under the belief that, when those bad men presented themselves, this place had the ability to put aside party and work to protect our fragile democracy from attack.

This attack on our Republic that we are debating today, if left unchecked, is potentially lethal. The one sacred covenant that an American President must keep is to use the massive power of the executive branch for the good of the country, not for personal financial or political benefit. The difference between a democracy and a tin-pot dictatorship is that, here, we don't allow Presidents to use the official levers of power to destroy political opponents. Yet that is exactly what President Trump did, and we all know it. Even the Republicans who are going to vote to acquit him today admit he would be if he won. They knew he would try to use the awesome power of the executive branch to enrich themselves or to win office illicitly, and I grew up under the belief that, when those bad men presented themselves, this place had the ability to put aside party and work to protect our fragile democracy from attack.

This attack on our Republic that we are debating today, if left unchecked, is potentially lethal. The one sacred covenant that an American President must keep is to use the massive power of the executive branch for the good of the country, not for personal financial or political benefit. The difference between a democracy and a tin-pot dictatorship is that, here, we don't allow Presidents to use the official levers of power to destroy political opponents. Yet that is exactly what President Trump did, and we all know it. Even the Republicans who are going to vote to acquit him today admit he would be if he won. They knew he would try to use the awesome power of the executive branch to enrich themselves or to win office illicitly, and I grew up under the belief that, when those bad men presented themselves, this place had the ability to put aside party and work to protect our fragile democracy from attack.
Would we have the courage to stand up to our base, to our political supporters, and vote to remove a Democratic President who had chosen to trade away the safety of the Nation for political help? It would not be easy. No, the easy thing to do would be to just do what is happening today—to box our ears, close our eyes, and just hope the corruption goes away.

So I have thought a lot about this question over these past 2 days, and I have arrived at a conclusion that at the very least for me, I would hold the Democrats to the same standard. I would vote to remove. But I admit to some level of doubt, and I think that I need to be honest about that because the pressures today to put party first are real on both sides of the aisle, and they are much more acute today than they were during Watergate.

It is with that reality as context that I prepare to vote today. I believe that the metrics of the crimes are worthy of removal. I will vote to convict on both Articles of Impeachment.

But I know that something is rotten in the state of Denmark. Ours is an inherently put country about party, and today we are doing, often, the opposite. I believe within the cult of personality that has become the Trump Presidency, the disease is more acute and more perilous to the Nation's health on the Republican side of the ledger, but I admit this affliction has spread to all corners of this Chamber.

If we are to survive as a democracy—a fragile, delicate, constantly in need of tending democracy—then this Senate needs to figure out a way after today to reorder our incentive system and recalibrate our faiths so that the health of one party never ever again comes at the expense of this Nation. I yield the floor.

The PRESIDING OFFICER (Mr. PERDUE). The Senator from Utah.

Mr. ROMNEY. Mr. President, the Constitution is the foundation of our Republic's success, and we each strive not to lose sight of our promise to defend it.

The Constitution established a vehicle of impeachment that has occupied both Houses of our Congress these many days. We have labored to faithfully execute our responsibilities to it. We have arrived at different judgments, but I hope we respect each other's good faith.

The allegations made in the Articles of Impeachment are very serious. As a Senator-juror, I swore an oath before God to exercise impartial justice. I am profoundly religious. My faith is at the heart of who I am. I take an oath before God seriously, and I am committed to preserve the Constitution.

I knew from the outset that being tasked with judging the President—the leader of my own party—would be the most difficult decision I have ever faced. I was not wrong.

The House managers presented evidence supporting their case, and the White House counsel disputed that case. In addition, the President's team presented three defenses: first, that there could be no impeachment without a statutory crime; second, that the Bidens' conduct justified the President's actions; and third, that the judgment of the President's actions should be left to the voters.

The grave question the Constitution tasks Senators to answer is whether President Trump committed an act so extreme and egregious that it rises to the level of a high crime and misdemeanor. Yes, he did. The President asked a foreign government to investigate his political rival. The President withheld vital military funds from a country to pressure their political leader to do what the President delayed funds for an American ally at war with Russian invaders. The President's purpose was personal and political. Accordingly, the President is guilty of an appalling abuse of public trust.

What he did was not "perfect." No, it was a flagrant assault on our electoral rights, our national security, and our fundamental values. It is an action to maintain an illusion that one's self in office is perhaps the most abusive and destructive violation of one's oath of office that I can imagine.

In the last several weeks, I have read numerous commentaries. Many demanded, in their words, that I "stand with the team." I can assure you that thought has been very much in my mind. You see, I support a great deal of what the President has done. I have voted with him 80 percent of the time. But my promise before God to apply impartial justice required that I put my personal feelings and political biases aside. Were I to ignore the evidence that has been presented and disregard what I believe my oath and the Constitution demand of me for the sake of a partisan end, it would, I fear, expose my character to history's rebuke and the censure of my own conscience.

I am aware that there are people in my party and in my State who will strenuously disapprove of my decision, and in some quarters, I will be vehemently denounced. I am sure to hear abuse from the President and his supporters. Does anyone seriously believe that I would not be subjected to consequences other than from an inescapable conviction that my oath before God demanded it of me?

I sought to hear testimony from John Bolton, not only because I believe he could add context to the charges but also because I hoped that what he might say could raise reasonable doubt and thus remove from me the awful obligation to vote for impeachment.

Like each Member of this deliberative body, I love our Country and believe that our Constitution was inspired by providence. I am convinced that freedom itself is dependent on the strength and vitality of our national character. As it is with each Senator, my vote is an act of conviction. We have come to different conclusions, fellow Senators, but I trust we have all followed the dictates of our conscience.

I acknowledge that my verdict will not remove the President from office. The results of this Senate court will, in fact, be appealed to a higher court—the judgment of the American people. Voters will make the final decision, just as the President's lawyers have implored. My vote will likely be in the minority in the Senate. But irrespective of these things, with my vote, I will tell my children and their children that I did my duty to the best of my ability, believing that my country expected it of me.

My vote will only be one name among many—no more, no less—to future generations of Americans who look at the record of this trial. They will note merely that I was among the Senators
who determined that what the President did was wrong, grievously wrong.

We are all footnotes at best in the annals of history, but in the most powerful Nation on Earth, the Nation conceived in liberty and justice, that distinction is enough for any citizen.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. SCOTT of South Carolina. Mr. President, over the past few weeks, we have heard a lot of arguments, accusations, and anecdotes. Some very skilled speakers on both sides have presented their case both for and against impeachment.

I listened intently, hour after hour, day after day, to the House managers and the President’s lawyers, and the word that kept coming to me, that I kept writing down in my notes was “fairness” because you, see, here in America you are innocent until proven guilty.

As the President’s defense team noted, “[A]t the foundation of those authentic forms of justice is fundamental fairness. It’s playing by the rules. It’s why we don’t allow deflated footballs or stealing signs from the field. Rules are rules. They’re there to be followed.”

You can create all the rhetorical imagery in the world, but without the facts to prove guilt, it doesn’t mean a thing. They can say the President cannot be trusted, but without proving why he can’t be trusted, their words are just empty political attacks.

You can speak of David v. Goliath, but if you were the one trying to subvert the presumption of innocence, if you were the one to will facts into existence, you are not David; you have become Goliath.

Our job here in the Senate is to ensure a fair trial based on the evidence gathered by the House. I have been accused by my colleagues of not wanting that fair trial. The exact opposite is true. We have ensured a fair trial in the Senate after House Democrats abused historical precedents in their zeal to impeach a President they simply do not like.

During prior impeachment proceedings in the last 50 years—lasting around 75 days or so in the House—the House’s opposing party was allowed witnesses and the ability to cross-examine the witnesses. The House Republicans were locked out of the first 71 of 78 days. Let me say that differently. The ability to cross-examine the witnesses who are coming before the House against the President, the House Republicans and the President’s team were not allowed to cross-examine those witnesses. The ability to contradict and/or to cross-examine or have a conversation about the evidence at the foundation of the trial? The White House is. Senators and Republicans were not allowed. They were about the absence of due process. The House Republicans and President’s team, were not allowed for 71 of 78 days in the House. This is not a fair process. Does that sound fair to you?

Democrats began talking about impeachment within months of President Trump’s election and have made it clear that their No. 1 goal—perhaps their only goal—was to remove him from office. Does that sound fair to you?

They have said: “We are going to impeach the . . . ” and used an expletive.

They said: “We have to impeach him, otherwise he’s going to win the election.” Now that might be the transparency we have been looking for in this process—the real root or foundation of why we found ourselves here for 60 hours of testimony. It might be because, as they said themselves, if we don’t impeach him, he might just win.

What an amazing thought that the American people and not Members of Congress would decide the Presidency of the United States. What a novel concept that the people and Congress would not remove his name from the ballot in 2020, but we would allow the American people to decide the fate of this President and of the Presidency.

They don’t get it. They don’t understand. The American people should be and are the final arbiters of what happens. They want to make not only the President vulnerable, but they want to make Republican Senators vulnerable so that they can control the majority of the Senate because the facts are not winning for them. The facts are winning for us because when you look at the facts, they are not their facts and our facts, they are just the facts. What I have learned from watching the House managers who were very convincing—they were very convincing the first day—and after that what we realized was, some facts mixed with a little fiction led to 100 percent deception. You cannot mix facts and fiction without having the perception deceive the American public, and that is what we saw here in our Chamber.

Why is that the case? It is simple. When you look at the facts of this Presidency, you come to a few conclusions that are, in fact, indisputable. One of those conclusions is that our economy is booming, and it is not simply booming from the top. When you start looking into the crosstabs, as I like to say, what you find is that the bottom 20 percent of the American population, increases that the top 20 percent are not seeing. So this economy is working for the most vulnerable Americans, and that is challenging to our friends on the other side.

When you think about the fact that the opportunity zone legislation supported by this President is bringing $67 billion of private sector dollars into the most vulnerable communities, that is challenging to the other side, but those, too, are facts. When you think about the fact that the President is driving criminal justice reform and making communities safer and having a fairer justice system for those who are incarcerated, that is challenging to the other side, but it is, indeed, a fact, driven home by the Republican Party and President Donald John Trump. These facts do have consequences, just like elections.

Our friends on the other side, unfortunately, decided that they could not beat him at the polls, give Congress an opportunity to, in fact, impeach the President. My friends on the left simply don’t want a fair process. This process has lacked—for the President, they paint their efforts as fighting on behalf of democracy when, in fact, they are just working on behalf of Democrats. That is not fair. It is not what the American people deserve.

House managers said over and over again, the Senate had to protect our Nation’s free and fair elections, but they are seeking to overturn a fairly won election with absurd charges. The House managers said over and over again that the Senate has to allow new witnesses so as to make the Senate trial fair, but they didn’t bother with the notion of fairness when they were in charge in the House.

Their notion of fairness is to give the prosecution do-overs and extra latitude but not the defendants.

Actions speak louder than words, and the Democrats’ actions have said all we need to hear.

Let’s vote no on these motions today and get back to working for the American people.

Mr. COONS. Mr. President, the last time this body—the last time the Senate—debated the fate of a President in the context of impeachment, the legendary Senator from West Virginia, Robert Byrd, rose and said:

I think my country sinks beneath the yoke. It weeps, it bleeds, and each new day a gash is added to her wounds.

A country today, as then, is in pain. We are deeply divided, and most days, it seems to me that we here are the ones wielding the shiv, not the salve.

The Founders gave this Senate the sole power to try impeachments because, as Alexander Hamilton wrote: “Where else than in the Senate could be and are the final arbiters of what they paint their efforts as fighting on behalf of democracy when, in fact, they are just working on behalf of Democrats.”

I wish I could say with confidence that we here have lived up to the faith our Founders entrusted in us. Unfortunately, I fear, in this impeachment trial, the Senate has failed a historic test of our ability to put country over party.

Foreign interference in our democracy has posed a grave threat to our Nation since its very founding. James Madison wrote that impeachment was an “indispensable” check against a President who would “betray his trust to foreign powers.”

The threat of foreign interference remains grave and real to this day. It is indisputable that Russia attacked our 2016 election and interfered in it broadly. President Trump’s own FBI Director and Director of National Intelligence have warned us they are intent
The President’s counsel have warned us of danger in partisan impeachments. They have cautioned that abuse of power—the first article—is a difficult standard to define. They have expressed deep concern about an impeachment that brings the brink of our next Presidential election.

I understand those concerns and even share some of them. The House managers, in turn, warned us that our President has demonstrated a perilous willingness to seek foreign interference in our elections and presented significant evidence that the President withheld foreign aid from a vulnerable ally, not to serve our national interest but to attack an opponent. They demonstrated the President has categorically obstructed congressional investigations to cover up his misconduct. These are serious dangers too. We, then, are faced with a choice between serious and significant dangers. After listening closely to the evidence, weighing the arguments, and reflecting on my constitutional responsibility and duty to do impartial justice, I have decided today I will vote guilty on both articles.

I recognize that many of my colleagues have made up their minds. No matter what decision you have reached, I think it is a sad day for our country. I myself have never been on a crusade to impeach Donald Trump, as has been alleged against all Democrats. I have sought ways to work across the aisle and listened to their positions. I fervently support a President who has consistently and publically invited foreign interference in our elections.

During his 2016 campaign, Donald Trump looked straight into the cameras at a press conference and said: Russians, if you’re listening, I hope you’re able to find Secretary Clinton’s 30,000 emails.

We now know with certainty that Russian military intelligence hackers first attempted to break into Secretary Clinton’s office servers for the first time that very day. Throughout his campaign, President Trump praised the publication of emails that Russian hackers had stolen from his political opponent. He mercilessly attacked former FBI Director Robert Mueller throughout his investigation into the 2016 election and allegations of Russian interference.

Now we know, following this trial, that the day after Special Counsel Mueller testified about his investigation to this Congress, President Trump, on a phone call with the President of Ukraine, asked for a favor. He asked President Zelensky to announce an investigation of his chief political rival, former Vice President Joe Biden, and he asked for an investigation into a Russian conspiracy theory about that DNC server. In the weeks and the months since, he has repeated that Ukraine should investigate his political opponent and that China should as well.

During the trial here, after the House managers and President’s counsel made their presentation, Senators had the opportunity to ask questions. I asked a question of the President’s lawyers about a sentence in their own trial brief about “Congress has forbidden foreigners’ involvement in American elections.”

I simply asked whether the President’s counsel believed their client, the President, was agreeing with the statement, and they refused to confirm that he does. And how could they when he has repeatedly invited and solicited foreign interference in our elections?

So, my colleagues: Do you doubt that President Trump did what he is accused of? Do you doubt he would do it again? Do you think for even one moment he would refuse the help of foreign agents to smear any one of us if he thought it was in his best political interest? And I have to ask: What becomes of our democracy when elections become a no-holds-barred blood sport, when our foreign adversaries become our allies, and when Americans of the opposing party are our enemies?

Throughout this trial, I have listened to the arguments of the House managers prosecuting the case against President Trump and of the arguments of counsel for the President. I engaged with colleagues on both sides of the aisle and listened to their positions.

So here is my plea—that we would find ways to work together to defend our next Presidential election. Where do we go from here? Well, after President Clinton’s impeachment trial, he said: “This can be and must be a time of reconciliation and renewal for [our country].” I am privileged for the harm he had done to our Nation.

When President Nixon announced his resignation, he said: “The first essential is to begin healing the wounds of this Nation.”

I wish President Trump would use this moment to bring our country together to assure our people we will work to make the 2020 election a fair contest; that he would tell Russia and China to stay out of our elections; that he would tell the American people, whoever his opponent might be, the fight will be between candidates, not families: that if he loses, he will leave peacefully, in a dignified manner; and that if he wins, he will work tirelessly to be the President for all people.

But at this point, some might suggest it would be hopelessly naïve to expect President Trump that he would apologize or strive to heal our country or do the important work of safeguarding our next election. So that falls to us.

To my colleagues who have concluded impeachment is too heavy a hammer to wield, if you believe the American people should decide the fate of this President in the next election, what will you do to protect our democracy? What will you do to ensure the American people learn the truth of what happened so that they can cast informed votes? Will you support or secure our elections? Will you express support for the intelligence community that is working to keep our country safe? Will you ensure the whistleblowers who expose corruption are protected, not vilified? Will you press this administration to cooperate with investigations and to allow meaningful accommodations so that Congress can have its power of oversight? Why can we not do this together?

Each day of this trial, we have said the Pledge of Allegiance to our common Nation. For my Republican friends who have concluded the voters should decide President Trump’s fate, we need to do more together to make this possible. Many of my Democratic friends, I know, are poised to do their very best to defeat President Trump at the ballot box.

So here is my plea—that we would find ways to work together to defend...
our democracy and safeguard our next election. We have spent more time together here in the last few weeks than in the last few years. Imagine if we dedicated that same time to passing the dozens of bipartisan bills that have come from among the House that are awaiting action. Imagine what we could accomplish for our States and our country if we actually tackled the challenges of affordable healthcare and ending the opioid crisis, making our schools and communities safer, and bridging the divisions.

What fills me with dread, to my colleagues, is that each day we come to this floor and talk past each other and not to each other and fail to help our constituents.

Let me close by paraphrasing our Chaplain—Chaplain Black—whose daily prayers brought me great strength in recent weeks: May we work together to bring peace and unity. May we permit Godliness to make us bold as lions as we see a clear vision of our Lord’s desire for our Nation and remember we borrow our heartbeats from our Creator each day.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. GARDNER. Mr. President, over the last several months and last several weeks, the American people have watched Washington convulse in partisan accusations, investigations, and ballots—a moment when the impeachment reached its highest watermark as the U.S. Senate carried out the third Presidential impeachment trial in our Nation’s history.

We saw, over the last 2 weeks, an impeachment process that included the testimony of 17 witnesses, more than 100 hours of testimony, and tens of thousands of pages of evidence, records, and documents, which I successfully fought to make part of the record. I fought hard to extend the duration of testimony to ensure that each side could be heard over 6 days instead of just 4. But what we did not see over the last 2 weeks was a conclusive reason to remove the President of the United States—an act which would nullify the 2016 election and rob roughly half the country of their preferred candidate for the 2020 elections.

House managers repeatedly stated that they had established “overwhelming evidence” and an “airtight” case. Mr. President, yet they also repeatedly claimed they needed additional investigation and testimony. A case cannot be both “overwhelming” and “airtight” and yet incomplete at the same time. That contradiction is not mere semantics.

In their partisan—呜呜 —irrational—race to impeach, the House failed to do the fundamental work required to prove its case, to meet the heavy burden. For the Senate to ignore this deficiency and conduct its own investigation would weaponize the impeachment process. A House majority could simply short-circuit an investigation, impeachment, and demand the Senate complete the House’s work—what they were asking us to do.

The Founders were concerned about this very point. Alexander Hamilton wrote, regarding impeachments: “[T]here will always be the greatest danger that the decision will be regulated by faction, by party—the subserviency of the weaker to the more powerful party; the prejudice of the subordinate to the superior party; the deference of the defeated to the victorious party, by real demonstrations of innocence or guilt.”

More recently, Congressman JERRY NADLER, one of the House managers in the trial, said: “There must never be a narrowly voted impeachment or an impeachment substantially supported by one of our major political parties and largely opposed by the other. Such an impeachment will lack legitimacy.”

Last March, Speaker NANCY PELOSI said: “Impeachment is so divisive to the country that unless there’s something so compelling and overwhelming and bipartisan, I don’t think we should go down that path, because it divides the country.”

The Framers knew that partisan impeachments could lead to impeachments over policy disagreements. Legal scholars like Charles Black have written that policy differences are not impeachable under the Constitution, but only when those differences about corruption and the proper use of tax dollars are at the very heart of this impeachment. Nevertheless, that disagreement led the House to deploy this most serious of constitutional remedies.

The reason the Framers were concerned about partisan or policy impeachments was their concern for the American people. Removing a President disenfranchises the American people. For a Senate of only 100 people, to do that requires a genuine, bipartisan, national consensus. Here, especially only 9 months before an election, I cannot pretend the people will accept this body removing a President who received nearly 63 million votes without meeting that high burden.

The House managers’ other argument to remove the President—obstruction of Congress—is an affront to the Constitution. The Framers created a system of government in which the legislative, executive, and the judiciary are evenly balanced. The Framers consciously diluted each branch’s power, making all three separate but equal and empowered to check each other.

The obstruction charge assumes the House, in its role as the executive branch. In their zeal, the House managers would disempower the judiciary and demand that the House’s interpretation of the sole power of impeachment be accepted by the Senate and the other branches without question. They claim no constitutional privilege exists to protect the executive branch against the legislature seeking impeachment. They go further and claim that a single Justice—a single Justice of the Senate—sole power to try impeachments can actually strip the executive of its constitutional protections with a simple decree.

In Federalist 76, Hamilton wrote: “[L]iberty can have nothing to fear from the judiciary alone, but would have everything to fear from its union with either of the other departments.”

If the House managers prevail, the House would have destroyed our constitutional balance, declaring itself the arbiter of constitutional rights and conscripting the Chief Justice to do its bidding. The obstruction charge is not borne from oversight or impeachment and trial, but that cannot come at the expense of constitutional rights—certainly not without input from the judiciary. After all, since Marbury v. Madison, “[i]t is emphatically the province and duty of the judicial Department to say what the law is.”

Without this separation, nothing stops the House from seeking privileged information under the guise of an impeachment inquiry.

The House managers say that no matter how flimsy the House’s case, if the Executive tries to protect that information constitutionally, that itself is an impeachable offense. That dangerous precedent would weaken the system of checks and balances, threatening the President with removal and setting the stage for a constitutional crisis without recourse to the courts. With that precedent set, the separation of powers would simply cease to exist.

Over the 244-year history of our country, no President has been removed from office. The first Presidential impeachment occurred in 1868. The next was more than 100 years later, 1998. Fifty percent of Presidents have been impeached in the last 25 years alone. A tool so rarely used in the past is now being used more frequently. It is a dangerous development, and the Senate stands as the safeguard as passions grow even more heated.

These defective articles and the defective process leading to them allow the House to muddy things and claim we are setting a destructive precedent for the future.

Of course, bad cases make bad law. The House’s decision to short-circuit the investigation—moving faster than any Presidential impeachment ever, and a wholly partisan one at that—certainly makes for a bad case.

So, again, let me be clear about what this precedent does not do. At the outset, this case does not set the precedent that a President can do anything and as long as he believes it to be in his electoral interest. I also reject the claim that impeachment requires criminal conduct. Rather, this shows, first, that House committees cannot simply assume the impeachment power to act on the basis of information without express authority from the full body and corresponding political accountability.

Second, the House should work in good faith with the Executive through the accommodation process, a process that has demurred our impasse. The House should seek the assistance of the judicial branch before turning to impeachment.
February 5, 2020

CONGRESSIONAL RECORD — SENATE

S901

But today, and throughout this “trial,” we are failing this test and witnessing the very worst of the modern Senate. After being confronted with overwhelming evidence of a brazen abuse of executive power, and an equally brazen attempt to keep that evidence from our view and the American people, the Senate is poised to look the other way. To simply move on. To pretend the Senate has no responsibility to reveal the President’s misconduct and, God forbid, hold him accountable.

Indeed we are being told the Senate has no constitutional role to play, and only the American people should judge the President’s misconduct in the next election. This is despite the Senate’s constitutionally-mandated role, and despite the fact that the President’s scheme was aimed at cheating in that very election. And now the Senate is cementing a cover-up of the President’s misconduct, to keep its extent hidden longer, its impact lessened, and, then, to somehow re-vote to “impeach” and “remove” the President. Will American people be equpped to judge the President’s actions? How far the Senate has fallen.

In some ways, President Nixon’s misconduct—directing a break-in of the Democratic National Committee head-quarters to benefit himself politically—seems quaint compared to what we face today. As charged in Article I, President Trump secretly directed a sweeping, illegal scheme to withhold $400 million in military aid from an adversary nation at war in order to extort ally into announcing investigations of his political opponent to boost his re-election. Then, instead of hiding select incriminating records, as President Nixon did, President Trump attempted to hide every single record from the American people. As reflected in Article II, President Trump has the distinction of being the only president in our nation’s history to direct all executive branch officials not to cooperate with a congressional inquiry. How I want to be clear: I did not relish the prospect of an impeachment trial. I have stark disagreements with this President on issues of policy and the law, on morality and honesty. But it is for the American people to judge a president on those matters. Today is not about differences over policy. It is about the integrity of our elections, and it is about the Constitution.

The Constitution cannot protect itself. During this trial, the words of Washington, Madison, Jefferson, Hamilton, and Lincoln have frequently been invoked on behalf of our Constitution. Now it is our turn to record our names in that story. I want to be clear: I did not relish the prospect of an impeachment trial. I have stark disagreements with this President on issues of policy and the law, on morality and honesty. But it is for the American people to judge a president on those matters. Today is not about differences over policy. It is about the integrity of our elections, and it is about the Constitution.

The Constitution cannot protect itself. During this trial, the words of Washington, Madison, Jefferson, Hamilton, and Lincoln have frequently been invoked on behalf of our Constitution. Now it is our turn to record our names in that story. I want to be clear: I did not relish the prospect of an impeachment trial. I have stark disagreements with this President on issues of policy and the law, on morality and honesty. But it is for the American people to judge a president on those matters. Today is not about differences over policy. It is about the integrity of our elections, and it is about the Constitution.

The Constitution cannot protect itself. During this trial, the words of Washington, Madison, Jefferson, Hamilton, and Lincoln have frequently been invoked on behalf of our Constitution. Now it is our turn to record our names in that story. I want to be clear: I did not relish the prospect of an impeachment trial. I have stark disagreements with this President on issues of policy and the law, on morality and honesty. But it is for the American people to judge a president on those matters. Today is not about differences over policy. It is about the integrity of our elections, and it is about the Constitution.

The Constitution cannot protect itself. During this trial, the words of Washington, Madison, Jefferson, Hamilton, and Lincoln have frequently been invoked on behalf of our Constitution. Now it is our turn to record our names in that story. I want to be clear: I did not relish the prospect of an impeachment trial. I have stark disagreements with this President on issues of policy and the law, on morality and honesty. But it is for the American people to judge a president on those matters. Today is not about differences over policy. It is about the integrity of our elections, and it is about the Constitution.

The Constitution cannot protect itself. During this trial, the words of Washington, Madison, Jefferson, Hamilton, and Lincoln have frequently been invoked on behalf of our Constitution. Now it is our turn to record our names in that story. I want to be clear: I did not relish the prospect of an impeachment trial. I have stark disagreements with this President on issues of policy and the law, on morality and honesty. But it is for the American people to judge a president on those matters. Today is not about differences over policy. It is about the integrity of our elections, and it is about the Constitution.

The Constitution cannot protect itself. During this trial, the words of Washington, Madison, Jefferson, Hamilton, and Lincoln have frequently been invoked on behalf of our Constitution. Now it is our turn to record our names in that story. I want to be clear: I did not relish the prospect of an impeachment trial. I have stark disagreements with this President on issues of policy and the law, on morality and honesty. But it is for the American people to judge a president on those matters. Today is not about differences over policy. It is about the integrity of our elections, and it is about the Constitution.

The Constitution cannot protect itself. During this trial, the words of Washington, Madison, Jefferson, Hamilton, and Lincoln have frequently been invoked on behalf of our Constitution. Now it is our turn to record our names in that story. I want to be clear: I did not relish the prospect of an impeachment trial. I have stark disagreements with this President on issues of policy and the law, on morality and honesty. But it is for the American people to judge a president on those matters. Today is not about differences over policy. It is about the integrity of our elections, and it is about the Constitution.
opponent’s emails. Hours later, Russia did.

The President then weaponized Russia’s criminal influence campaign, which resulted in an investigation that uncovered a morass of inappropriate contacts with Russians, lies to cover them up, multiple instances of the President of Government of Ukraine and 37 other indictments and convictions. Yet, after the saga concluded, the President felt liberated. Literally the day after Special Counsel Robert Mueller testified, the President asked the Treasury to confirm he “for a favor.” He has since publicly repeated his request for Ukraine to intervene in our election, and made the same request to China, on national television.

All of us must ask: If we acquit President Trump today, what will he do tomorrow? None of us knows. But two things I am confident of: President Trump’s willingness to abuse his office, and his eagerness to exploit foreign interference in our elections, will only grow. Especially, Congress’s capability to do anything about it will be crippled.

While the President’s lawyers stood on the Senate floor and admonished the House Managers for failing to litigate each subpoena in court to exhaustion, he had other lawyers in court making the mutually exclusive argument that Article III courts have no jurisdiction to settle disputes between our two branches. Such duplicity would put to shame any of my honorable God. Meanwhile, the President’s Department of Justice claims not only that President Trump cannot be indicted while in office, he cannot even be investigated.

But don’t worry, the President’s lawyers promise us, the President is still not above the law because Congress can hold him in check through our confirmation power and power of the purse. Neither would come close to checking a lawless executive. It is well known that the President has effectively stopped nominating senior officials in his administration. He has now set a modern record for acting cabinet officers, multiple instances of the President feeling that he can get away with egregious, illegal misconduct.

If the Senate does not recognize the gravity of President Trump’s “violation of the public trust,” and hold him accountable, we will have seen a preview of what is to come. Foreign interference in our elections. Total non-compliance with lawful congressional oversight. Disregard of our constitutional power of the purse. Open, flagrant corruption. I fear there is no bottleneck.

This is the tragic result of the Senate failing its constitutional duty to hold a real trial. We will leave President Trump “sacred and inviolable” and with “no constitutional tribunal to which he can be subjected without involving the crisis of a national revolution.” As Hamilton warned over two centuries ago, that is not a president; that is a king. I, for one, will never forget it.

I have listened very carefully to both sides over the past two weeks. The record has established, leaving no doubt in my view, that President Trump directed the most impeachable, corrupt scheme by any president in this country’s history. To protect our constitutional republic, and to safeguard our government’s system of checks and balances, my oath to our Constitution compels me to hold the President of the United States accountable.

I will vote to convict and remove President Donald J. Trump from office.

Mr. President, I yield the floor.

Mr. SHELBY. Mr. President, over the past 2 weeks, my colleagues and I have patiently listened to arguments from both the House managers and the President’s counsel right here in the Senate Chamber. I have heard from the House that the President has committed an act worthy of impeachment.

As a Senator, I believe that the first and perhaps most important consideration is whether abuse of power and obstruction of Congress are impeachable offenses as asserted by our House managers.

Impeachment is a necessary and essential component of our Constitution. It serves as an important check on civil officers who may abuse their duties against the United States. However, our Founding Fathers were wise to ensure that the impeachment and the
conviction of a sitting President would not be of partisan intent. Since President Trump took office, many have sought to delegitimize his Presidency with partisan attacks. We have heard this right here in the Senate, and we have experienced it. This extreme effort to delegitimize the President, I believe, is unjustified and intolerable.

Now that the Senate has heard and studied the arguments from both sides, I believe the lack of merit in the House managers’ case is evident. The outcome of this trial is a finding of acquittal. Acquittal is the judgment the Senate should and, I believe, will render—and soon.

For my part, I have weighed the House managers’ case and found it wanting in fundamental aspects. I will try to explain.

I believe that their case does not allege an impeachable offense. Even if the facts are as they have stated, the managers have failed, I believe, as a matter of constitutional law, to meet the exceedingly high bar for removal of the President as established by our Founding Fathers, the Framers of the Constitution. In their wisdom, the Framers rejected vague grounds for impeachment—offenses like we have heard here, “maladministration”—for fear that it would, in the words of Madison, result in a President “tenure during which the Senate judges the right.” “Abuse of power,” one of the charges put forward here by the House managers, is a concept as vague and susceptible to abuse, I believe, as “maladministration.” If you take just a minute or two to look at the definitions of “abuse” and “mal,” they draw distinct similarities. “Mal,” a prefix of Latin origin, means bad, evil, wrong. “Abuse,” also of Latin origin, means to wrongly use or to use for a bad effect. There is a kinship between “mal” and “abuse.”

As the Framers rejected in their wisdom “maladministration,” I believe that they, too, would reject the non-criminal “abuse of power.” Instead, the Framers, as the Presiding Officer knows, provided for impeachment only in a few limited cases: treason, bribery, and high crimes and misdemeanors. Only those offenses justify taking the dire step of removing a duly elected President from office and permanently taking his name off the ballot.

This institution, the U.S. Senate, I believe, should not lower the constitutional bar and authorize their theory of impeachment for abuse of power. It is simply not an impeachable offense, in my judgment. Their criteria for removal centers not on the President’s actions but on their loose perception of his motivations. If the Senate endorses this approach, we will dramatically transform the impeachment power as we have known it over the years. We will send this grave constitutional power into a tool for adjudicating policy disputes and political disagreements among all of us. The Framers, in their wisdom, cautioned us against this dangerous path, and I believe the Senate will heed their warning.

The other article, the House managers’ obstruction of Congress claim, is similarly flawed. Congress’s investigative authorities are critical tools, and we use them in ensuring our system of checks and balances. But those powers are not absolute.

The President, too, as head of a co-equal branch of government, enjoys these privileges and immunities. The facts of this impeachment are well known, and many Republicans concede that they are likely true. They believe as I do, that President Trump pressured the Ukrainian President by withholding vital military aid and a prized White House visit in return for the announcement of an investigation of the Bidens and the Russian-concocted CrowdStrike fantasy.

Some of these same Republicans acknowledge that what the President did was “inappropriate.” At least one has used the word “impeachable.” But many say they are still going to vote to acquit him regardless. So let’s open our eyes to the morning after a judgment of acquittal. The President’s actions have set the precedent of foreign interference in our elections. Expect more of the same.

A majority of this body will have voted for the President’s argument that inviting interference by a foreign government is not impeachable if it serves the President’s personal political interests.

We will also have found for the first time in the history of this Nation that an impeachment proceeding in the Senate can be conducted without any direct witnesses or evidence presented on one side of the case. A President facing impeachment can ignore subpoenas to produce documents or witnesses to Congress.

Alexander Hamilton described the Senate as the very best venue for an impeachment trial because it is “independent and dignified,” in his words. When the Senate voted 51 to 49 against witnesses and evidence, those 51 raised into question any claim to independence or dignity.

In addition, an acquittal will leave the extreme views stated by the President’s defense counsel Alan Dershowitz unchallenged: first, that abuse of power is not an impeachable offense; second, that the impeachment charges against the President were constitutionally insufficient; and, third, his most dangerous theory, that unless the President has committed an actual crime, his conduct cannot be corrupt or impeachable as long as he believes it was necessary for his reelection.

In addition, the President’s defense counsel Dershowitz would have excused Richard Nixon’s ordering of IRS audits of his political enemies. Mr. Dershowitz has created an
escape clause to impeach, which is breathtaking in its impact and unknown in our legal history. We have all received a letter signed by nearly 300 constitutional law scholars flatly rejecting the arguments offered by the President.

I ask unanimous consent to have printed in the RECORD the scholars’ letter.

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

**January 31, 2020.**

To the United States Senate: The signatories of this letter are professors of law and scholars of the American constitution who write to clarify that impeachment does not require proof of crime, that abuse of power is an impeachable offense, and that a president may not abuse the power of his office to secure re-election, whatever he may believe about how beneficial his continuance in power is to the country.

**Impeachable Conduct Does Not Require Proof of Any Crime**

Impeachment for “high Crimes and Misdemeanors” under Article II of the U.S. Constitution does not require proof that a president violated any criminal law. The phrase “high Crimes and Misdemeanors” is a term of art consciously adopted by the drafters of the American constitution from Great Britain. Beginning in 1386, the term was frequently used by Parliament to describe the wide variety of conduct, much of it non-criminal abuses of official power, for which British officials were impeached.

The phrase “high crimes and misdemeanors” was introduced into the American constitution by George Mason, who explained in his writings that it referred to the concept of “treason and bribery” by drawing his colleagues’ attention to the ongoing parliamentary impeachment trial of Warren Hastings, a former governor of the East India Company. Hastings was charged with a long list of abuses of power that his articles of impeachment labeled “high crimes and misdemeanors,” but which even his chief prosecutor, Edmund Burke, admitted were not prosecutable crimes. On George Mason’s motion, the Philadelphia convention wrote into our constitution the same phrase, without the inclusion of “treason and bribery,” to describe Hastings’ non-criminal misconduct.

No convention delegate ever suggested that impeachment of the president be limited to violations of criminal law. Multiple founders emphasized the need for impeachment to extend to plainly non-criminal conduct. For example, James Madison and George Nicholas said that abuses of the pardon power should be impeachable. Edmund Randolph believed that violation of the foreign emoluments clause would be impeachable. Thus, Alexander Hamilton’s famous observation in Federalist 65 that impeachment of offenses “are of a nature which may with peculiar propriety be designated POLITICAL, as they relate chiefly to injuries done immediately to the society itself” was not merely an advocate’s rhetorical flourish, but a well-informed description of the shared understanding of those who wrote and ratified the Constitution.

Since ratification, one senator and multiple judges have been impeached for non-criminal behavior. The first federal official impeached, convicted, and removed for “high crimes and misdemeanors” was John Pickering, whose offenses were making bad legal rulings, being drunk on the bench, and taking the name of the Supreme Being in vain.

Among presidents, the tenth and eleventh articles of impeachment against President Andrew Johnson charged non-criminal misconduct. The first and second articles of impeachment against President Richard Nixon approved by the House Judiciary Committee rejected the argument that impeachment requires prosecution of a crime, and the third alleges non-criminal obstruction of Congress. Indeed, the Nixon House Judiciary Committee issued a report in which the conclusion that impeachment conduct must be criminal.

The consensus of scholarly opinion is that impeachable conduct does not require proof of crime.

**Abuse of Power Is an Impeachable High Crime and Misdemeanor**

It has been suggested that abuse of power is not a high enough crime or misdemeanor. The reverse is true. The British Parliament invented impeachment as a legislative counterweight to abuses of power by the Crown and its ministers. The American Framers inserted impeachment into our constitution primarily out of concern about presidential abuse of power. They inserted the phrase “high crimes and misdemeanors” into the definition of impeachable conduct in order to cover non-criminal abuses of power. As Edmund Randolph observed at the Constitutional Convention, “the propriety of impeachments was a favorite principle with many” because the framers “will have great opportunities of abusing his power.”

In Federalist 65, Hamilton defined “high crimes and misdemeanors” as “those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust.” This understanding has often been expressed otherwise. For example, in 1926, the House voted to impeach U.S. District Judge George English. The Judiciary Committee report on the matter reviewed the abuses he allegedly undertook.

Thus, an official may be impeached for offenses of a political character and for gross betrayal of public interests. Also, for abuses or betrayals of trusts, for inexcusable negligence of duty [or] for the tyrannical abuse of power.

Two of the three prior presidential impeachment crises have involved charges of abuse of power. The eleventh article of impeachment against President Andrew Johnson alleged that he was attempting to prevent implementation of Reconstruction legislation passed by Congress in March 1867, and thus violated Article II, Section 3, of the constitution by failing to take care that the laws be faithfully executed.” The second article of impeachment against Richard Nixon charged a litany of abuses of presidential power, including “interfering with agencies of the Executive Branch.”

Even if no precedent existed, the constitutional logic for abuse of presidential power is plain. The president is granted wide powers under the constitution. The framers recognized that a great many abuses of those powers might violate no law, but nonetheless pose immense danger to the constitutional order. They consciously rejected the idea that periodic elections were a sufficient protection against this danger and inserted impeachment as a remedy.

The consensus of scholarly opinion is that abuse of power is an impeachable “high crime and misdemeanor.”

A president may not abuse his powers of office to secure his own re-election.

Finally, one of President Trump’s attorneys has suggested that so long as a president believes his conviction is in the public interest, “if a president did something that he believes will help get him elected, in the public interest, that cannot be the kind of quid pro quo that results in his impeachment.” It is true that merely because a president makes a policy choice he believes will benefit him does not mean that choice is not necessarily impeachable. However, if a President employs his powers in a way that cannot reasonably be explained in terms of anything less than misconduct in the performance of his executive function, the president’s private conviction that his maintenance of power is for the greater good does not insulate him from impeachment.

To accept such a view would give the president carte blanche to corrupt American electoral democracy.

Distinguishing between minor misuses of presidential authority and grave abuses requiring impeachment and removal is not an exact science. That is why the Constitution assigns the task, not to a court, but to Congress, relying upon its collective wisdom to assess whether a president has committed a “high crime and misdemeanor” requiring his conviction and removal.

**Signatories**

Frank O. Bowman, III; Michael Gerhardt; Laurence H. Tribe; Brenda Wineapple; Timothy Naftali; Neal Kumar Katyal; Pamela S. Karlan; Noah Feldman; Jonathan Turley; David A. Straus; Martha Minow; Geoffrey R. Stone; Walter Dellinger; Charles Fried; Erwin Chemerinsky; Thomas Gold; Cass R. Sunstein; G. Edward White; Abbe Smith; James V. Feinerman; Jane M. Spinak, Esq.

**Arguments**

Ira L. Lupu; David C. Vladeck; Eric M. Freedman; Carol L. Chomsky; Jennifer Taub; Naomi R. Cahn; Stephen I. Vladeck; Jed Shugerman; Ilya Somin; Michael Diamond; Paul Litton; Christopher Gelpi; Prof. Debra A. Ramirez; Stacy Hawkins; Jeffrey T.
February 5, 2020

CONGRESSIONAL RECORD — SENATE

S905

Renz; Mary Croseley; Barbara S.; Barron; Ira P.; Robbins; Clark B.; Lombardi, J.D.; PhD; Penny M.; Venetis; Michael Lawrence; Joanne M.; Grossman; Theo Liebmann; Paul; Trachtenberg; Mikhail K.; Thompson; Professor Vernon Valentine Palmer; Barbara Stark; Anya Bernstein; Ruti Teitel; William D.; Araiz; Lauren Gilbert, Esq.; Christopher E.; Cornelius; James May; Kimberly; D.; Faucon; Natalie Gomez-Velez; Phyllis Goldfarb; Rachel Van Cleeve; Arnold Rochvarg; Lindsey Webb, Ethel J. Leib; Carlton F.; Larson; Natalie M.; Chin; Heidi K.; Brown; Elizabeth McCormick; Bernard F.; Perlmuter, Esq.; Robert St.; Martin Westley; John Burkoff; David G.; Ammerman; Richard; D.; Friedman; Anthony M.; Dillol; Leslie Rose; Arthur B. L. Hatcher; Fred B. Brown; Joseph Pileri; James R. Maxeiner; Genevieve Byrne; Daniel Nevins; Rick Wilson; Prof. Jonathan Askin; Goldner; Anthony Paul Farley; Elizabeth Manian.

Anil Kalhan; Rebecca K. Stewart; Anthony G. Gabriel J. Chin; Margaret Montoya, J.D.; Eppinger; Jimmy Gurule ´; Odeana R. Neal; Mark C. Modak-Truran, J.D., Ph.D.; Pro- 

bars with an entourage of post-Soviet trusts, and lounging at European cigar ican Ambassadors whose service he dis-

his global escapades, harassing Amer-

Giuliani a pat on the back to continue 

verdict would also give President 
sor's torturous reasoning. An acquittal 
tal by the Senate blesses the profes-


More than anything, a verdict of acquittal says a majority of the Senate believes this President is above the law and cannot be held accountable for conduct abusing the powers of his of-

And to those of my colleagues who 
describe the President’s conduct as merely “inappropriate,” I disagree. Disparaging John McCain’s service to our country is disgusting and inappro-


In a country with one-eighth of our population, more Ukrainian troops contribute to America’s national security as well.

see: "I have an Arti-

dent Trump spoke to a group of young 

child of the man he was. He said: “Any 

Ukraine with a bipartisan group of 

Chair of Ukraine. The current leadership had been a part of a story for almost two decades, and in many ways, it was a story that had spanned multiple presidencies. The story of Ukraine’s journey to independence and self-determination is a testament to the resilience of the Ukrainian people. The challenges faced by Ukraine, particularly in the face of external threats, have underscored the importance of robust diplomatic and security cooperation. The United States, as a strong ally, has played a vital role in supporting Ukraine’s efforts to safeguard its sovereignty and territorial integrity.

After the vote, representatives from both sides of the aisle came together to express their support for each other. There was a sense of unity and respect that transcended political divides. This moment served as a reminder of the importance of working together in the spirit of our founding principles. It was a testament to the enduring legacy of the 20th Amendment and the values it represents.

Bill Cohen—aalso a Republican—was a member of the House Judiciary Committee. He studied the evidence with Tom Railsback and then worked with him to draft Articles of Impeachment. Bill Cohen received death threats, and he thought his votes to impeach President Nixon would be the end of his political career. But he went on to a distinguished career in the House, three terms in the Senate, and served as Secretary of Defense.

Listen to what Bill Cohen said recently of President Trump’s actions:

This is presidential conduct that you want to be ashamed of. He is corrupting institu-

ments, politicizing the military, and acts like he is THE law.

And then Cohen added:

If the President’s conduct is acceptable, we really don’t have a Republic as we’ve known it any more.

May I respectfully say to my Senate colleagues, Ben Franklin warned us of this day.

I will vote guilty on both Articles of Impeachment against President Donald John Trump, on article I abuse of power and article II obstruction of Con-

gress. But at this moment of high con-

stitutional drama, I hope my last words can be a personal appeal to my Senate colleagues.

Last night, many of us attended a State of the Union Address which was as emotionally charged as any I have
ever attended. As divided as our Nation may be and as divided as the Senate may be, we should remember America has weathered greater storms than this impeachment and our current political standoff.

If it was Abraham Lincoln, in the darkness of our worst storm, who called on us “to strive on to finish the work we are in, to work to bind the nation’s wounds.”

After this vote and after this day, those of us who are entrusted with this high office must each do our part to work to bind the wounds of our divided nation. I hope we can leave this Chamber with that common resolve.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, let me just begin with a note of optimism. You are going to get to pick the next President, not a bunch of politicians driving a horse. I don’t say that lightly. I didn’t vote for President Trump. I voted for somebody I wouldn’t know if they walked in the door. But I accepted the fact that he won. That has been hard for a lot of people to do. And it is not like I am above it, because I was being investigated. I supported the Mueller investigation. I had Democratic colleagues come to me and say: We are afraid he is going to fire Mueller. Will you stand with us to make sure Mueller can complete his investigation? And I did. And it may have taken 2 years, $32 million, FBI agents, subpoenas, you name it. The verdict is in. What did we find? Nothing. I thought that would be it.

But it is never enough when it comes to President Trump. This sham process is the low point in the Senate for me. If you think you have done the country a good service by legitimizing this impeachment process, what you have done is unleashed the partisan forces of Hell. This is sour grapes.

They impeached the President of the United States in 78 days. You cannot get a parking ticket, if you contested it, in 78 days. They gave out souvenirs pens when it was over.

If you can’t see through that, your hatred of Donald Trump has blinded you to the obvious. This is not about protecting the country; this is about destroying the President.

There are no rules when it comes to Donald Trump. Everybody in America can confront the witnesses against him, except Donald Trump. Everybody in America can call witnesses on their behalf, except President Trump. Everybody in America can introduce evidence, except for President Trump. He is not investigated. He is not required to testify. He is not required to go to prison. They put him below the law. In the process of impeaching this President, you have made it almost impossible for future Presidents to do their job.

In 78 days, you took due process, as we have come to know it in America, and threw it in the garbage can. This is the first impeachment in the history of the country driven by politicians.

The Nixon impeachment had outside counsel. Watergate prosecutors. The Clinton impeachment had Ken Starr, who looked at President Clinton for years before he brought it to Congress. The Mueller investigation went on for 2 years. I trusted Bob Mueller. And when he rendered his verdict, it just broke your heart. And you can’t let it go.

The only way this is going to end permanently is for the President to get reelected. And he will.

So as long as Congress, it is a wholesale assault on the Presidency; it is abandoning every sense of fairness that every American has come to expect in their own lives; it is driven by blind partisanship and hatred of the man himself. And they wanted to do it in 78 days. Why? Because they wanted to impeach him before the election. I am not making this up. They said that.

The reason the President never was allowed to go to court and challenge the subpoenas that were never issued is because it would have been a waste of time. Understood it might take time. President Clinton and President Nixon were allowed to go to article III court and contest the House’s action. That was denied this President because it would be the way of impeaching him before the election.

And you send this crap over here, and you are OK with it. My Democratic colleagues. You are OK with the idea that the President was denied his day in court, and you were going to rule on executive privilege as a political body. You are willing to deal out the article III court because you hate Trump that much.

What you have done is you have weakened the institution of the Presidency. Be careful what you wish for because it is going to come back your way.

Abuse of Congress should be entitled “abuse of power by the Congress.” If you can’t see through that, your hatred of Donald Trump has blinded you to the obvious. This is a sham. This is a farce. This is disgraceful. This is an affront to President Trump as a person. It is a threat to the office. It will end soon.

There is going to be an overwhelming rejection of both articles. We are going to pick up the pieces and try to go forward.

But I can say this without any hesitation: I worry about the future of the Presidency after what has happened here. Ladies and gentlemen, you will come to regret this whole process.

And to my good friend DICK DURBIN, Donald Trump has done more to help the Ukrainian people fight the Russians, how about giving them some weapons? This is a sham. This is a farce. This is a disgrace. This is an affront to President Trump as a person. It is a threat to the office. It will end soon. There is going to be an overwhelming rejection of both articles. We are going to pick up the pieces and try to go forward.

But I can say this without any hesitation: I worry about the future of the Presidency after what has happened here. Ladies and gentlemen, you will come to regret this whole process.

And to my good friend DICK DURBIN, Donald Trump has done more to help the Ukrainian people fight the Russians, how about giving them some weapons? This is a sham. This is a farce. This is a disgrace. This is an affront to President Trump as a person. It is a threat to the office. It will end soon. There is going to be an overwhelming rejection of both articles. We are going to pick up the pieces and try to go forward.

But I can say this without any hesitation: I worry about the future of the Presidency after what has happened here. Ladies and gentlemen, you will come to regret this whole process.

And to my good friend DICK DURBIN, Donald Trump has done more to help the Ukrainian people fight the Russians, how about giving them some weapons? This is a sham. This is a farce. This is a disgrace. This is an affront to President Trump as a person. It is a threat to the office. It will end soon. There is going to be an overwhelming rejection of both articles. We are going to pick up the pieces and try to go forward.

But I can say this without any hesitation: I worry about the future of the Presidency after what has happened here. Ladies and gentlemen, you will come to regret this whole process.

And to my good friend DICK DURBIN, Donald Trump has done more to help the Ukrainian people fight the Russians, how about giving them some weapons? This is a sham. This is a farce. This is a disgrace. This is an affront to President Trump as a person. It is a threat to the office. It will end soon. There is going to be an overwhelming rejection of both articles. We are going to pick up the pieces and try to go forward.

But I can say this without any hesitation: I worry about the future of the Presidency after what has happened here. Ladies and gentlemen, you will come to regret this whole process.

And to my good friend DICK DURBIN, Donald Trump has done more to help the Ukrainian people fight the Russians, how about giving them some weapons? This is a sham. This is a farce. This is a disgrace. This is an affront to President Trump as a person. It is a threat to the office. It will end soon. There is going to be an overwhelming rejection of both articles. We are going to pick up the pieces and try to go forward.

But I can say this without any hesitation: I worry about the future of the Presidency after what has happened here. Ladies and gentlemen, you will come to regret this whole process.

And to my good friend DICK DURBIN, Donald Trump has done more to help the Ukrainian people fight the Russians, how about giving them some weapons? This is a sham. This is a farce. This is a disgrace. This is an affront to President Trump as a person. It is a threat to the office. It will end soon. There is going to be an overwhelming rejection of both articles. We are going to pick up the pieces and try to go forward.

But I can say this without any hesitation: I worry about the future of the Presidency after what has happened here. Ladies and gentlemen, you will come to regret this whole process.

And to my good friend DICK DURBIN, Donald Trump has done more to help the Ukrainian people fight the Russians, how about giving them some weapons? This is a sham. This is a farce. This is a disgrace. This is an affront to President Trump as a person. It is a threat to the office. It will end soon. There is going to be an overwhelming rejection of both articles. We are going to pick up the pieces and try to go forward.

But I can say this without any hesitation: I worry about the future of the Presidency after what has happened here. Ladies and gentlemen, you will come to regret this whole process.

And to my good friend DICK DURBIN, Donald Trump has done more to help the Ukrainian people fight the Russians, how about giving them some weapons? This is a sham. This is a farce. This is a disgrace. This is an affront to President Trump as a person. It is a threat to the office. It will end soon. There is going to be an overwhelming rejection of both articles. We are going to pick up the pieces and try to go forward.

But I can say this without any hesitation: I worry about the future of the Presidency after what has happened here. Ladies and gentlemen, you will come to regret this whole process.
Monica Lewinsky. While the conduct covered by that article was inappropriate, to have made such conduct impeachable would have done grave damage to the Presidency by failing to recognize that, in the future, the office will be occupied by flawed human beings. It was obvious to me that President Clinton’s lying under oath about his relationship with Monica Lewinsky, while wrong, was not a high crime or misdemeanor and that many people in similar circumstances would be inclined to lie to protect themselves and their families.

As to the impeachment of President Trump, I feel compelled to condemn the impeachment process used in the House because I believe it was devoid of basic, fundamental due process. The process used in the House for this impeachment was unlike that used for Presidents Nixon or Clinton. This impeachment was completed within 78 days and had a spirit of partisanship and haste that were missing. The Senate will lead to the weaponization of impeachment against future presidents.

President Trump was entirely shut out of the House Intelligence Committee stage in the House Intelligence Committee. The House denied the right to counsel, and the right to cross-examine and call witnesses. Moreover, the great volume of evidence gathered against President Trump by the House Intelligence Committee consisted of depositions. The House Judiciary Committee impeachment hearings were, for lack of a better term, a sham. And most importantly, the House managers admitted the reason that neither the House Intelligence Committee nor the House Judiciary Committee sought testimony in the House from President Trump’s closest advisers, including former National Security Adviser John Bolton, Secretary of State Mike Pompeo, and Acting Chief of Staff Mick Mulvaney, is because it would have required the House to go to court, impeding their desire to impeach the President before the election. It was a calculated decision to deal article III courts out of President Trump’s impeachment inquiry due to a political timetable. The Senate must send a clear message that this can never, ever happen again.

As to the substance of the allegations against President Trump, the abuse of power charged by the House is vague, does not allege criminal misconduct, and requires the Senate to engage in a subjective analysis of the President’s motives and actions. The House managers argued to the Senate that the sole and exclusive purpose of freezing aid to Ukraine was to protect President Trump’s reelection and his son Hunter. It is hard to believe that Vice President Biden was an effective messenger for reform efforts in Ukraine while his son Hunter was receiving $3 million from Burisma, one of Ukraine’s most corrupt companies. As Professor Dershowitz described, there are three buckets for examining allegations of corrupt motive or action with regards to impeachment. The first is where there is clearly only a public, national benefit, as in the analogy of freezing aid to Israel unless it stops building new settlements. The second is the mixed motive category in which there is a public benefit—in this case, the public benefit of exposing the Bidens’ conduct in the Ukrainian energy sector—and the possibility of a personal, political benefit as well. The third is where there is clearly a pure corrupt motive, as when there is a pecuniary or financial benefit, an allegation that has not been made against President Trump.

It is obvious to me that, after the Mueller report, President Trump viewed the House impeachment inquiry as a gross double standard when it comes to investigations. The House launched an investigation into his phone call with President Zelensky while at the same time the House showed no interest in the actions of Vice President Biden and Hunter Biden. The President, in my view, was perfectly justified in wanting to look into the circumstances surrounding the firing of Ukrainian prosecutor General Viktor Shokin, who was investigating Burisma, and whether his termination benefited Hunter Biden and Burisma.

It is clear to me that the phone call focused on burden-sharing, corruption, and election interference in an appropriate manner. The most vexing question was how the President was supposed to deal with legitimate concerns. The House managers in one moment suggest that President Trump could not have asked the Attorney General to investigate these concerns because that would be equivalent to President Trump asking for an investigation of a political rival. But in the next moment, the House managers declare that the proper way for President Trump to have dealt with those allegations would have been to ask the Attorney General to investigate. They could not agree. I believe that it is fair to criticize President Trump’s overreliance on his private attorney, Rudy Giuliani, to investigate alleged corruption and conflicts of interest regarding the Bidens and Burisma. However, I do not find this remotely an impeachable offense, and it would be beneficial for the country as a whole to find ways to deal with such matters in the criminal-justice system. Assuming the facts in the light most favorable to the House managers, that for a period of time the aid was suspended by President Trump to get Ukraine to investigate him and election interference, I find both articles fail as nonimpeachable offenses. I find this to be the case even if we assume the New York Times article about Mr. Bolton is accurate. The Ukrainians received the military aid and did not open the requested investigation.

The abuse of power Article of Impeachment is beyond vague and requires a subjective analysis that no judge would allow in a court. It also represents an existential threat to the Presidency. Moreover, the obstruction of Congress Article is literally impeaching the President because he chose to follow the advice of White House counsel and the Department of Justice and was willing to use constitutional privileges in a manner consistent with every other President. This article must be soundly rejected, not only in this case, but in the future. Whether one likes President Trump or not, he is the President with privileges attached to his office.

The House of Representatives, I believe, abused their authority by rushing this impeachment and putting the Senate in the position of having to play the role of an article III court. The long-term effect of this practice would be to neuter the Presidency, making the office of the President only as strong as the House allows. The House of Representatives’ abuse of authority by rushing this impeachment and putting the Senate in the position of having to play the role of an article III court.

The allegations contained in this impeachment are not what the Framers had in mind as high crimes or misdemeanors. The Framers, in my view, envisioned serious, criminal-like misconduct that would shake the foundation of the American constitutional system. The Nixon impeachment had broad bipartisan support once the facts became known. The Clinton impeachment started with bipartisan support in the House and ended with bipartisan support in the Senate, even though it fell well short of the two-thirds vote requirement to remove the President. In the case of President Trump, this impeachment started with bipartisan rejection of the Articles of Impeachment in the House and, if not rejected in the Senate, will lead to impeachment as almost an inevitability, as future Presidents will be in the same position to the political exigencies of the House in any given moment.

My decision to vote not guilty on both Articles of Impeachment, I hope, will be seen as a rejection of what the House did and how they did it. I firmly believe that article III courts have a role in the impeachment process and that, to remove a President from office, the conduct has to be of a nature
that would shake the very foundation of our constitutional system. The impeachment of President Trump was driven by a level of partisanship and ends justify the means behavior that the American people have rejected. The best way to end this matter is to allow the American people to vote for or against President Trump in November, not to remove him from the ballot.

These Articles of Impeachment must be soundly rejected by the Senate because they represent an assault on the Presidency to itself and are a weaponization of impeachment as a political tool. They must fail for a variety of reasons. First, the conduct being alleged by House managers is that there was a temporary suspension on military assistance to Ukraine, which was eventually received ahead of schedule to leverage an investigation that never occurred. This is not the constitutional earthquake the Founders had in mind regarding bribery, treason, and crimes against the Constitution in a way that undermines the President for exercising the legal and moral rights available to all Presidents as part of our constitutional structure. This article must fall because the House chose their impeachment path based on a political timetable of impeaching the President before Christmas to set up an election year trial in the Senate. The Senate must reject the theory offered by the House managers with their proposition of impeachment; to do otherwise would allow the House in the future to deal article III courts out of the impeachment process and give the House complete control over the impeachment field in a way that denies fundamental fairness.

Because it took the House 78 days from start to finish to impeach the President of the United States and, during its fact-gathering process, the House denied the President the right to counsel and cross-examine witnesses against him, and the ability to introduce evidence on his behalf, the Senate must reject both Articles of Impeachment.

I am compelled to vote not guilty, to ensure impeachment will not become the new normal.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. SCHUMER. Mr. President, the Articles of Impeachment before us charged President Donald John Trump with offenses against the Constitution and the American people.

The first Article of Impeachment charges that President Trump abused the Office of the Presidency by soliciting the interference of a foreign power, Ukraine, to benefit himself in the 2020 election. The President asked a foreign leader to do us a favor&quot; — meaning him—and investigate his political opponents.

In order to elicit these political investigations, President Trump withheld a White House meeting and hundreds of millions of dollars in military assistance to the United States' ally at war with Russia. There is extensive documentation in the record proving this quid pro quo and the corrupt motive behind it. The facts are not seriously in dispute. In fact, several Republican Senators admitted they believe the President committed this offense with varying degrees of "inappropriate," "wrong," "shameful." Almost all Republicans will argue, however, that this reprehensible conduct does not rise to the level of an impeachable offense.

The Founders could not have been clearer. William Davie, a delegate to the Constitutional Convention, deemed impeachment "an essential security," lest the President "spare no efforts or means whatever to get himself re-elected."

James Madison offered a specific list of impeachable offenses during a debate in Independence Hall:

A President "might lose his capacity" or embezzle public funds.

"A despicable soul might even succumb to bribes while in office."

Madison then arrived at what he believed was the worst conduct a President could engage in: the President could betray his trust to foreign powers, which would be "fateful to the Republic." Those are Madison's words.

When I studied the Constitution and the Federalist Papers in high school, admittedly, I was skeptical of George Washington's warning that "foreign influence is one of the most baneful foes of republican government." It seemed so far-fetched. Who would dare? But the foresight and wisdom of the Founders endure. Madison was right. Washington was right.

There is no greater subversion of our democracy than for powers outside of our borders to determine elections within them. If Americans believe that they don't determine their Senator, their Governor, that, but, rather, some foreign potentate does, that is the beginning of the end of democracy.

For a foreign country to attempt such a thing on its own is contemptible. For an American President to deliberately solicit such a thing—to blackmail a foreign country into helping him win an election—is unforgivable.

Does this rise to the level of an impeachable offense? Of course it does. The term "high crimes" derives from English law. "Crimes" were committed between subjects of the monarchy. "High crimes" were committed against the Crown itself. The Framers did not design a monarchy; they designed a democracy, a nation where the people were King. High crimes are those committed against the entire people of the United States.

The President sought to cheat the people out of a free and fair election. How could such an offense not be deemed a high crime—a crime against the people? As one constitutional scholar in the House inquiry hearings testified: "If this is not impeachable, nothing is." I believe that.

I judge that President Trump is guilty of the first Article of Impeachment.

The second Article of Impeachment is equally straightforward. Once the President realized he got caught, he tried to cover it up. The President asserted blanket immunity. He categorically defied congressional subpoenas, ordered his aides not to testify, and withheld the production of relevant documents.

Even President Nixon, author of the most infamous Presidential exercise of the impeachment power in history, permitted his aides to testify in Congress in the Watergate investigation. The idea that the Trump administration was properly invoking the various rights and privileges of the Presidency is nonsense. At each stage of the House inquiry, the administration conjured up a different bad-faith justification for evading accountability. There is no circumstance under which the administration would have complied.

When I asked the President's counsel twice to name one document or one witness the President provided to Congress, they could not answer. It cannot be that the President, by dint of legal shamelessness, can escape scrutiny entirely.

Once again, the facts are not in dispute, but some have sought to portray the second Article of Impeachment as somehow less important than the first. It is not. The second Article of Impeachment is necessary to ensure the President remains in Congress in the Watergate investigation.

The consequences of sanctioning such categorical obstruction of Congress will be far-reaching, and they will be irrevocable.

I judge that President Trump is guilty of the second Article of Impeachment.

The Senate should convict President Trump, remove him from the Presidency, and disqualify him from holding future office. The guilt of the President on these charges is so obvious that here, again, several Republican Senators admit that the House has proved it as a case.

So instead of maintaining the President's innocence, the President's counsel ultimately told the Senate that even if the President did what he was accused of, it is not impeachable. This has taken the form of an escalating series of Dershowitzian arguments, including "Abuse of power is not an impeachable offense": "The President..."
can’t be impeached for noncriminal conduct, but he also can’t be indicted for criminal conduct”; “If a President believes his own reelection is essential to the Nation, then a quid pro quo is not corrupt.” These are the excuses of a child caught in a lie.

Each explanation is more outlandish and desperate than the last. It would be laughable if not for the fact that the cumulative effect of these arguments would render not just this President but all Presidents immune from impeachment and therefore above the law.

Several Members of this Chamber said that even if the President is guilty and even if it is impeachable, the Senate still shouldn’t convict the President because there is an election coming up—as if the Framers forgot about elections when they wrote the impeachment clause. If the Founders believed that even when a President is guilty of an impeachable offense, the next Congress would decide his fate, they never would have included an impeachment clause in the Constitution. That much is obvious.

Alone, each of the defenses advanced by the President’s counsel comes close to being a crock of malarkey. Together, they are as dangerous to the Republic as this President—a fig leaf so large as to excuse any Presidential misconduct. Unable to defend the President, arguments were found to make him a King. Let future generations know that only a fraction of the Senate swallowed these fantasies. The rest of us condemn them to the ash heap of history and the derision of first-year law students everywhere.

We are only the third Senate in history to sit as a Court of Impeachment for the President. The task we were given was not easy, but the Framers gave the Senate this responsibility because they could not imagine any other body could do it. They considered the President’s powers so dangerous to the liberties of others, but they entrusted it to us, and the Senate failed. The Republican caucus trained its outrage not on the conduct of the President but on the impeachment process in the House, deriding—falsely—an alleged lack of fairness and thoroughness.

The conjured outrage was so blinding that the Republican majority ended up guilty of the very sins it falsely accused the House of committing. It conducted the least fair, least thorough, most rushed impeachment trial in the history of this country.

A simple majority of Senators denied the Senate’s right to examine relevant evidence, to call witnesses, to review documents, and to properly try the impeachment of the President, making this the first impeachment trial in history that heard from no witnesses. A simple majority of Senators, in deference to and most likely in fear of the President of their party, perpetrated a great injustice. They are rightly in fear of the President of their party, but let it never be said again that they are worth nothing at all to President Trump or to anybody else.

No doubt, the President will boast he received total exoneration, but we know better. We know this wasn’t a trial by jury, but a trial by public opinion. And the American people know it, too. We have heard a lot about the Framers over the past several weeks, about the impeachment clause they forged, the separation of powers they wrought, the conduct they most feared in our chief magistrate. But there is something the Founders considered even more fundamental to our Republic: truth. The Founders had seen and studied societies governed by the iron fist of kings, but none by argument, rational thinking, facts, and debate.

Hamilton said the American people would determine “whether societies of men are really capable or not of establishing good government from reflection and choice, or . . . forever destined to depend on accident and force.” And what an astonishing thing the Founders did. They placed a bet with long odds. They believed that “reflection and choice” would make us capable of self-government; that we wouldn’t agree on everything, but at least we could agree on a common baseline of fact and of truth. They wrote a Constitution with the remarkable idea that even the most powerful person in our country was not above the law and could be put on trial. A trial—a place where you seek truth. The faith our Founders placed in us makes the failure of this Senate even more damming.

Our Nation was founded on the idea of truth, but there was no truth here. The Republican majority couldn’t let truth into this trial. The Republican majority refused to get the evidence because they were afraid of what it might show.

Our Nation was founded on the idea of truth, but in order to countenance this President, you have to ignore the truth. The Republicans walk through the halls with their heads down. They don’t want to look in the mirror; they can’t respond to everything he says. They hope he learned his lesson this time. Yes, maybe, this time, he learned his lesson.

Our Nation was founded on truth, but in order to excuse this President, you have to willfully ignore the truth and indulge in the President’s conspiracy theories: Millions of people voted illegally. The deep state is out to get him. Ukraine interfered in our elections. You must attempt to normalize his behavior. The Democrats must claim the Democrats are just as bad.

Our Nation was founded on the idea of truth, but this President is such a menace—so contemptuous of every virtue, so dishonorable, so dishonest—that you must ignore—indeed, sacrifice—the truth to maintain his favor.

The trial of this President—its failure—reflects the central challenge of this Presidency and, maybe, the central challenge of this democracy. You cannot be on the side of this President and be on the side of truth, and if we are to survive as a nation, we must choose truth because, if the truth doesn’t matter, if the news you view is not the news that you see, if an election is acceptable, if everyone is as wicked as the wickedest among us, then hope for the future is lost.

The eyes of the Nation are upon this Senate, and what they see will strike doubt in the heart of even the most ardent patriot.

The House managers established that the President abused the great power of his office to try to cheat in an election, and the Senate majority is poised to acquit. I believe that.

So I direct my final message not to the House managers, not even to my fellow Senators, but to the American people. My message is simple: Don’t lose hope. There is justice in this world, but we always overcome. The Senate’s opening prayer yesterday was Amos 5:24: Let justice roll down like water, righteousness like an ever-flowing stream.

The long arc of the moral universe, my fellow Americans, does bend toward justice. America does change for the better but not on its own. It took millions of Americans hundreds of years to make this country what it is today—Americans of every age and color and creed who marched and protested, who stood up and sat in: Americans who died while defending this democracy, this beautiful democracy, in its darkest hours.

On Memorial Day in 1884, Oliver Wendell Holmes told his war-weary audience: “[W]hether [one] accepts from Fortune her spade, and will look downward and dig, or from Aspiration her axe and cord, and will scale the ice, the dell Holmes told his war-weary audi-
to keep partisan flames from scorching our Republic. So they created the Senate—out of “necessity.” James Madison wrote, “of some stable institution in the government.”

Today, we will fulfill this founding purpose by electing this incoherent case that comes nowhere near—nowhere near—justifying the first Presidential removal in history. This partisan impeachment will end today, but I fear the threat to our institutions may not because this episode is one symptom of something much deeper.

In the last 3 years, the opposition to this President has come to revolve around a truly dangerous concept. Leaders in the opposite party increasingly argue that, if our institutions don’t produce the outcomes they like, our institutions themselves must be broken. One side has decided that defeat simply means the whole system is broken, that it must literally tear up the rules written in the Constitution.

Normally, when a party loses an election, it accepts defeat. It reflects and retools—but not this time. When Secretary Clinton was suggesting her defeat was invalid. She called our President “illegitimate.” A former President falsely claimed: “[President] Trump didn’t actually win.” “He lost the election,” a former President said. Members of Congress have used similar rhetoric—a disinformation campaign, weakening confidence in our democracy.

The very real issue of foreign election interference was abused to fuel conspiracy. For years, voices said there had been a secret conspiracy between the President’s campaign and a foreign government, but when the Mueller investigation and the Senate Intelligence Committee debunked that, the delegitimizing endeavor didn’t stop. It didn’t stop.

Remember what Chairman Schiff said here on the floor? He suggested that if the American people reelect President Trump in November then the election is presumptively invalid as well. That was Chairman SCHIFF, on this floor, saying, if the American people reelect President Trump this November, the election will be presumptively invalid as well.

So they still don’t accept the American voters’ last decision, and now they are preparing to reject the voters’ next decision if they don’t like the outcome—not only the last decision but the next decision. Heads, we win. Tails, you cheated. And who can trust our democracy anyway, they say?

This kind of talk creates more fear and division than our foreign adversaries could achieve in their wildest dream. And so, our adversaries seek to “divide us against each other, degrade our institutions, and destroy the faith of the American people in our democracy.” As she noted, if Americans become “consumed by partisan fervor,” we can easily do that work for them.

The architects of this impeachment claimed they were defending norms and traditions. In reality, it was an assault on both.

First, the House attacked its own precedents on fairness and due process and by rushing to use the impeachment power as a political weapon of first resort. Then their articles attacked the Chief Justice. Then they attacked the Senate and called us “treacherous.” Then the far left tried to impugn the Chief Justice for remaining neutral during the trial.

Now, for the final act, the Speaker of the House is trying to steal the Senate’s ability to pass a quittal. The Speaker says she will just refuse to accept this acquittal. The Speaker of the House of Representatives says she refuses to accept this acquittal—whatever that means. Perhaps she will tear up the verdict like she tore up the State of the Union Address.

So I would ask my distinguished colleagues across the aisle: Is this really—really—where you want to go? The President isn’t the President? An acquittal isn’t an acquittal? Attack institutions until they get their way? Even my colleagues who may not agree with this President must see the insanity of this logic. It is like saying you are so worried about a bull in a china shop that you want to bulldoze the china shop to chase it out.

Here is the most troubling part. There is no sign this attack on our institutions will end here. In recent months, Democratic Presidential candidates and Senate leaders have toyed with killing the filibuster so that the Senate could approve radical changes with less deliberation and less persuasion.

Several of our colleagues sent an extraordinary brief to the Supreme Court, threatening political retribution if the Justices did not decide a case the way they wanted. We have seen proposals to turn the FEC—the regulator of elections and political speech—into a partisan body for the first time ever.

All of these things signal a toxic discourse and a temptation to stop debating policy within our great American governing traditions and, instead, declare war on the traditions themselves—a war on the traditions themselves.

So, colleagues, with whatever policy differences we may have, we should all agree that this is a case beyond the level of an offense that unquestionably demands removal. If it does, I ask whether the House has produced a reasonable doubt that the conduct actually occurred. The House’s case clearly fails on the first of those questions. Accordingly, I will vote not guilty on both articles.

The President, in his request, taken at face value, is not impeachable conduct. A President is not prohibited by law or any other restriction from engaging the assistance of a foreign ally in an investigation into an opponent. The House attempts to cure this defect by suggesting that the President’s subjective motive—political advantage—is enough to turn an otherwise unimpeachable act into one that demands permanent removal from office. I will not lend my vote in support of such an unnecessary and irreversible break from the Constitution’s clear standard for impeachment.

The Senate is an institution of precedent. Our predecessors are formed and often guided, especially in times like this, by history and the actions of our predecessors. While we look to history, however, we must be mindful of the reality that our choices make history, for better or worse. I hope we will do so here and do here necessarily becomes part of the roadmap for future Presidential impeachments and their consideration by this body. These days, that reality can be difficult to keep front and center.

The Framers built the Senate to have temporary rage from doing permanent damage to our Republic.

The Framers built the Senate to have temporary rage from doing permanent damage to our Republic. That is what they will do when we vote on this precedent-breaking impeachment.

I hope we will look back on this vote and say this was the day the fever began to break.

I hope we will not say this was just the beginning.

Mr. GRASSLEY. Mr. President, as Senators, we cast a vote of our consciences. Each vote is important. A vote to convict or acquit the President of the United States on charges of impeachment is one of the most important votes a Senator could ever cast. Until this week, such a vote has only taken place twice since the founding of our Republic.

The President has been accused of committing “high Crimes and misdemeanors” for requesting that a foreign leader launch an anti-corruption investigation into his potential political opponent and obstructing the impeachment investigation. For such conduct, the House of Representatives asks this body to remove the President from office and thus從over again serving in a position of public trust. As both a judge and juror, this Senator asks first whether the conduct alleged rises to the level of an offense that unquestionably demands removal. If it does, I ask whether the House has produced a reasonable doubt that the conduct actually occurred. The House’s case clearly fails on the first of those questions. Accordingly, I will vote not guilty on both articles.

Mr. SCHIFF. Mr. President, regarding the Senate’s role in the State of the Union Address. As the President made known, the Senate is an institution of precedent. Our predecessors are formed and often guided, especially in times like this, by history and the actions of our predecessors. While we look to history, however, we must be mindful of the reality that our choices make history, for better or worse. I hope we will do so here and do here necessarily becomes part of the roadmap for future Presidential impeachments and their consideration by this body. These days, that reality can be difficult to keep front and center.

The Framers built the Senate to have temporary rage from doing permanent damage to our Republic. That is what they will do when we vote on this precedent-breaking impeachment.

I hope we will look back on this vote and say this was the day the fever began to break.

I hope we will not say this was just the beginning.
results. We are each bound by the special oath we take while sitting as a Court of Impeachment to ‘do impartial justice according to the Constitution and laws.’ But as President pro tempore, I recognize we must also do justice to the institution and to the Republic that it serves.

This trial began with a full and fair opportunity to debate and amend the rules that would guide our process. The Senate considered and voted on 11 separate amendments to the resolution, over the span of nearly 13 hours. Consistent with precedent, the Senate adopted a resolution to allow the same length of time for opening arguments and questions as was agreed to unanimously in 1999 during the Clinton impeachment trial. Consistent with precedent, the Senate agreed to table the issue of witnesses and additional evidence until after the conclusion of questions from Members. Consistent with precedent, the Senate engaged in a robust and open debate on the necessity of calling witnesses and pursuing additional evidence. We heard nearly 24 hours of presentation from the House managers, nearly 12 hours of presentation from the President’s counsel, and engaged in 16 hours of questioning to both sides.

Up to today, the Senate has sat as a Court of Impeachment for a combined total of over 70 hours. The Senate did not and does not cut corners, nor can the final vote be credibly called a rushed result or anything less than the product of a fair and judicious process. Future generations, if faced with the toxic turmoil of impeachment, will be better served by the precedent we followed and the example we set in this Chamber. I cannot in good conscience say the same of the articles before us today.

I have said since the beginning of this unfortunate episode that the House’s article, don’t do the things that don’t appear to allege anything satisfying the Constitution’s clear requirement of “Treason, Bribery, or other high Crimes and Misdemeanors.” Yet I took my role as a juror seriously. I committed to hear the evidence in the record and to reflect on the arguments made. After 9 days of presentation and questions and after fully considering the record as presented to the Senate, I am convinced that what the House is asking us to do is not only constitutionally flawed but dangerously unprecedented.

The House’s first article, impeaching the President for “abuse of power,” rests on objectively legal conduct. Until Congress legislates otherwise, a President is well within his or her legal and constitutional authority, as the head of state, to request that a foreign leader assist with an anti-corruption investigation falling outside of the jurisdiction of our domestic law enforcement agencies. It is equally premature to impeach the President for “obstruction of Congress” on the theory that the mere appearance of impropriety, no matter who is implicated, is grounds for impeachment. As the House’s opening arguments had concluded, the President didn’t have to give them this information or anything more.

Had he done so, this impeachment saga would have taken better care to avoid even the mere appearance of impropriety. But the President himself, however, should not conclude from my vote that I think his conduct was above reproach. He alone knows what his motives were. The President has a duty to the American people to root out corruption no matter who is implicated. And running for office does not make one immune from scrutiny. But the President’s request was poorly timed and poorly executed, and he should have taken better care to avoid even the mere appearance of impropriety. Had he done so, this impeachment saga might have been avoided altogether. It is clear that many of the President’s opponents had plans to impeach him from the day he took office. But the President didn’t have to give them this pretense.

The House’s second article, impeaching the President for “obstruction of Congress” is equally unprecedented as grounds for removal from office and patently frivolous. It purports that, if the President claims constitutional privileges against Congress, “threatens to litigate, or otherwise fails to immediately give up the goods, he or she must be removed from office.

I know a thing or two about obstruction by the executive branch under the Constitution’s clear requirement of ‘obstructing Congress’ for the President’s alleged conduct. This formulation, in the House’s trial brief and presentation dem-
both Democrat and Republican administrations. Congressional oversight—rooting out waste, fraud, and abuse—is central to my role as a Senator representing Iowa taxpayers and has been for 40 years. If there is anything as sure as death and taxes, it is Federal agencies’ ability to resist Congress’ efforts to look behind the curtain. In the face of obstruction, I don’t retreat. I go to work. I use the tools the Constitution provides to this institution. I withhold consent on nominations until I get an honest answer to an oversight request. I work with my colleagues to exercise Congress’s power of the purse. And when necessary, I take the administration to court. That is the very core of checks and balances. For years, I fought the Obama administration to obtain documents related to Operation Fast and Furious. I spent years seeking answers and records from the Obama administration during my investigation into Secretary Clinton’s mishandling of highly classified information.

Under the House’s “obstruction of Congress” standard, should President Obama have been impeached for his failure to waive privileges during the course of other committees’ oversight investigations? We fought President Obama on this for 3 years in the courts, and we still didn’t end up with all we asked for. We never heard a peep from the Democrats then. So the hypocrisy here by the House Democrats is on full display.

When I face unprecedented obstruction, I don’t agitate to impeach. Rather, my office aggressively negotiates, in good faith, with the executive branch. We discuss the scope of questions and document requests. We discuss the intent of the inquiry to provide context for the requested documents. We build an airtight case and demand cooperation. Negotiations are difficult. They take time. Demand cooperation. Negotiations are never a means to an end. We build an airtight case and press our case when the other side refuses to cooperate.

In the case before us, the House issued a series of requests and subpoenas to individuals within the White House and throughout the administration. But it did so rather early in its inquiry. The House learned of the whistleblower complaint in September, issued subpoenas for records in October, and impeached the President in December, 4 months from opening the inquiry to impeachment for “obstruction.” We can speak from experience, that is unreasonable and doesn’t allow an investigation to appropriately and reasonably run its course. That timeline makes clear to me that the House majority really had one goal in mind: to impeach the President at all costs, no matter what the facts and the law might say. Most importantly, the House failed to exhaust all legal remedies to enforce its requests and subpoenas. When challenged to stand up for the legality of its requests, the Investigative Subcommittee simply retreated. Yet, now, the House accuses the Senate of aiding and abetting a coverup, if we don’t finish their job for them. The evidence is “overwhelming;” yet the Senate must entertain more witnesses and gather more records that the House chose to forgo.

The House’s failure to proceed with the trial of President Trump, rea- sonable, good-faith manner has created fundamental flaws in its own case. They skipped basic steps. It is not the job of the Senate to fix the fundamental flaws that directly result from the House’s failure to do its job. The Senate should not be asked to do what the House may cower to defend its own authority, but it will not extort and demean this body into cleaning up a mess of the House’s own making.

For the myriad ways in which the House failed to exercise the fundamentals of oversight, for the terrible new precedent the House wants us to endorse, and for the risk of future generations taking it up as the standard, I will vote not guilty on the obstruction article.

Now, there has been much discussion and debate about the whistleblower whose complaint framed the House’s inquiry in this case. I have worked for and with whistleblowers for more than 30 years. They shed light on waste, fraud, and abuse, and they are fixed in a setting where the public ought to know about, all frequently at great personal cost. Whistleblowers are patriots, and they are heroes. I believed that in the 1980s. I believe it today. I have sponsored, cosponsored, and otherwise strongly supported numerous laws designed to strengthen whistleblowers protections. I have reminded agencies with us and of their protection under the law for doing so. And this is how it works. Of course, it is much better to have firsthand information because it is more reliable. However, whether it is firsthand information or secondhand, it is possible to conduct a thorough investigation of a whistleblower’s claims and respect his or her request for confidentiality.

As I said in October of last year, attempts by anyone in government or the media to “out” a whistleblower just to sell an article or score a political point is not helpful. It undermines the spirit and purpose of the whistleblower protection laws. I remember very well the rabid, public lashing experienced by the brave whistleblowers who came to me at the time of the Department of Justice’s Operation Fast and Furious. President Obama’s Justice Department worked overtime to discredit them and tarnish their good names in the press, all to protect an operation that it tried to keep hidden from Congress and the American people, and that resulted in the death of an American Border Patrol agent. That was not the treatment those whistleblowers deserved. It is not the treatment any whistleblower deserves, who comes forward in good faith, to report what he or she truly believes is waste, fraud, or abuse.

But whistleblower claims require careful evaluation and follow up, par-
71 of the 78 days of the House’s expedi
ted impeachment inquiry, the Presi
dent was not permitted to take part or
have agency counsel present. Many of
the rights traditionally afforded to the
minority party in impeachment proce-
ded nor withheld. An
and an authorizing vote by the full House
didn’t occur until 4 weeks after hear-
ings had already begun. When the ar-
ticles themselves were put to a vote by
the full House, just in time for Christ-
mas, the only bipartisanship we saw was
the effort to get the trial over with. Two
caucuses have already occurred. The
2020 Presidential election is well under-
way. Yet we are being asked to remove
the incumbent from the ballot, based
on Articles of Impeachment supported
by only one party in Congress. Taken
together, the Senate should take no part
in endorsing the dangerous new
precedent this would set for future
impeachments.

With more than 28,000 pages of evi-
dence on the witnesses, and over 70 hours
open, transparent consideration by
the Senate, I believe the American peo-
ple are more than adequately prepared
to decide for themselves the fate of this
President in November. This decision
does not allow the House’s action or in-
quiries to stand independent of the
constitutional obligation to try impe-
achments. As Senators, we are here to debate
and vote on difficult questions. I under-
stand this may be a difficult question politically—but it is nowhere close to a
difficult question under the law or
reason. Let us conduct this trial with the se-
riousness it deserves—consistent with
Senate precedent, the overwhelming
expectations of the American people,
and how every other trial across the
county is conducted. It is a reasonable
perception that the Senate alone has the
sole power to try impeachments, includ-
ing the Chief Justice’s power to actun-
client privilege. And this after-
earnings proceedings, even if only for pur-
poses of judicial review.

As Senators, we are here to debate
and vote on difficult questions. I under-
stand this may be a difficult question politically—but it is nowhere close to a
difficult question under the law or
reason. Let us conduct this trial with the se-
riousness it deserves—consistent with
Senate precedent, the overwhelming
expectations of the American people,
and how every other trial across the
county is conducted. It is a reasonable
perception that the Senate alone has the
sole power to try impeachments, includ-
ing the Chief Justice’s power to actun-
client privilege. And this after-
earnings proceedings, even if only for pur-
poses of judicial review.

As Senators, we are here to debate
and vote on difficult questions. I under-
stand this may be a difficult question politically—but it is nowhere close to a
difficult question under the law or
reason. Let us conduct this trial with the se-
riousness it deserves—consistent with
Senate precedent, the overwhelming
expectations of the American people,
and how every other trial across the
county is conducted. It is a reasonable
perception that the Senate alone has the
sole power to try impeachments, includ-
ing the Chief Justice’s power to actun-
client privilege. And this after-
earnings proceedings, even if only for pur-
poses of judicial review.

As Senators, we are here to debate
and vote on difficult questions. I under-
stand this may be a difficult question politically—but it is nowhere close to a
difficult question under the law or
reason. Let us conduct this trial with the se-
riousness it deserves—consistent with
Senate precedent, the overwhelming
expectations of the American people,
and how every other trial across the
county is conducted. It is a reasonable
perception that the Senate alone has the
sole power to try impeachments, includ-
ing the Chief Justice’s power to actun-
client privilege. And this after-
earnings proceedings, even if only for pur-
poses of judicial review.

As Senators, we are here to debate
and vote on difficult questions. I under-
stand this may be a difficult question politically—but it is nowhere close to a
difficult question under the law or
reason. Let us conduct this trial with the se-
riousness it deserves—consistent with
Senate precedent, the overwhelming
expectations of the American people,
and how every other trial across the
county is conducted. It is a reasonable
perception that the Senate alone has the
sole power to try impeachments, includ-
ing the Chief Justice’s power to actun-
client privilege. And this after-
earnings proceedings, even if only for pur-
poses of judicial review.

As Senators, we are here to debate
and vote on difficult questions. I under-
stand this may be a difficult question politically—but it is nowhere close to a
difficult question under the law or
reason. Let us conduct this trial with the se-
riousness it deserves—consistent with
Senate precedent, the overwhelming
expectations of the American people,
and how every other trial across the
county is conducted. It is a reasonable
perception that the Senate alone has the
sole power to try impeachments, includ-
ing the Chief Justice’s power to actun-
client privilege. And this after-
earnings proceedings, even if only for pur-
poses of judicial review.

As Senators, we are here to debate
and vote on difficult questions. I under-
stand this may be a difficult question politically—but it is nowhere close to a
difficult question under the law or
reason. Let us conduct this trial with the se-
riousness it deserves—consistent with
Senate precedent, the overwhelming
expectations of the American people,
and how every other trial across the
county is conducted. It is a reasonable
perception that the Senate alone has the
sole power to try impeachments, includ-
ing the Chief Justice’s power to actun-
client privilege. And this after-
earnings proceedings, even if only for pur-
poses of judicial review.

As Senators, we are here to debate
and vote on difficult questions. I under-
stand this may be a difficult question politically—but it is nowhere close to a
difficult question under the law or
reason. Let us conduct this trial with the se-
riousness it deserves—consistent with
Senate precedent, the overwhelming
expectations of the American people,
and how every other trial across the
county is conducted. It is a reasonable
perception that the Senate alone has the
sole power to try impeachments, includ-
ing the Chief Justice’s power to actun-
client privilege. And this after-
earnings proceedings, even if only for pur-
poses of judicial review.

As Senators, we are here to debate
and vote on difficult questions. I under-
stand this may be a difficult question politically—but it is nowhere close to a
difficult question under the law or
reason. Let us conduct this trial with the se-
riousness it deserves—consistent with
Senate precedent, the overwhelming
expectations of the American people,
and how every other trial across the
county is conducted. It is a reasonable
perception that the Senate alone has the
sole power to try impeachments, includ-
ing the Chief Justice’s power to actun-
client privilege. And this after-
earnings proceedings, even if only for pur-
poses of judicial review.

As Senators, we are here to debate
and vote on difficult questions. I under-
stand this may be a difficult question politically—but it is nowhere close to a
difficult question under the law or
reason. Let us conduct this trial with the se-
riousness it deserves—consistent with
Senate precedent, the overwhelming
expectations of the American people,
and how every other trial across the
county is conducted. It is a reasonable
perception that the Senate alone has the
sole power to try impeachments, includ-
ing the Chief Justice’s power to actun-
client privilege. And this after-
earnings proceedings, even if only for pur-
poses of judicial review.

As Senators, we are here to debate
and vote on difficult questions. I under-
stand this may be a difficult question politically—but it is nowhere close to a
difficult question under the law or
reason. Let us conduct this trial with the se-
riousness it deserves—consistent with
Senate precedent, the overwhelming
expectations of the American people,
and how every other trial across the
county is conducted. It is a reasonable
perception that the Senate alone has the
sole power to try impeachments, includ-
ing the Chief Justice’s power to actun-
client privilege. And this after-
earnings proceedings, even if only for pur-
poses of judicial review.

As Senators, we are here to debate
and vote on difficult questions. I under-
stand this may be a difficult question politically—but it is nowhere close to a
difficult question under the law or
reason. Let us conduct this trial with the se-
riousness it deserves—consistent with
Senate precedent, the overwhelming
expectations of the American people,
and how every other trial across the
county is conducted. It is a reasonable
perception that the Senate alone has the
sole power to try impeachments, includ-
ing the Chief Justice’s power to actun-
client privilege. And this after-
earnings proceedings, even if only for pur-
poses of judicial review.

As Senators, we are here to debate
and vote on difficult questions. I under-
stand this may be a difficult question politically—but it is nowhere close to a
difficult question under the law or
reason. Let us conduct this trial with the se-
riousness it deserves—consistent with
Senate precedent, the overwhelming
expectations of the American people,
and how every other trial across the
county is conducted. It is a reasonable
perception that the Senate alone has the
sole power to try impeachments, includ-
ing the Chief Justice’s power to actun-
client privilege. And this after-
earnings proceedings, even if only for pur-
poses of judicial review.
of his counsel arguing that the President cannot be impeached for failing to respond to House subpoenas, the Justice Department argued in court that the House can use its impeachment power to enforce its subpoenas. It is up to all 100 of us to put a stop to this nonsense.

I have served in this body for 45 years. It is not often we face votes like this—votes that will leave a significant mark on history, and will shape our constitutional ability to serve as a check against presidents for generations to come. I pray the Senate is worthy of this responsibility, and of this moment. I fear the repercussions if it is not.

I will vote to hear from witnesses. With deep respect, I ask my fellow senators to do the same.

Mr. ENZI. Mr. President, I rise today to speak on the trial of President Trump.

After information from more than a dozen witnesses, over a hundred questions, and days of oral arguments, I believe the House failed to prove its case for the two Articles of Impeachment. The House’s story relies on too much speculation, guessing games and repetition held up under a haphazard manner is nothing more than an attempt to influence an election. The House claims to have proven its case, but insists on more evidence. It was the House’s responsibility to ensure it had developed a complete record of the evidence it needed to make its case, and only then, can any of the witnesses be called to testify at the Senate trial. The President’s counsel must be allowed to cross-examine all persons deposed by the House. Then, and only then, can any of the witnesses be called to testify at the Senate trial.

The House cannot simply rely on repetition of possibilities of violations, no matter how many times stated, to make their accusations true. A complete investigation means the investigators don’t rush to judgment, don’t speculate about the content of calls, don’t rely on collection of accusations about the content of such calls as a substitute for seeking the truth.

During the initial investigation, witnesses should have already been deposed by both sides before it comes to the Senate. The President’s counsel must be allowed to call any of the witnesses to testify at the Senate trial. The House investigation has to be complete.

Finally, I would call for our outside institutions to also think about how they contribute to the well-being of our country. I have often said that conflict sells. It might even increase sales to both consumers of news for both parties, but I fear that we are all treating this like a sport, speculating which team will win and which will lose. I suspect that some venomous statements about this process have ended some friendships and strained some families. In the end, if we lose faith in our institutions, our friends and our families, we will all lose.

We desperately need more civility. That is simply being nice to each other. A person of bad character or is incorrigible.” It violates the Golden Rule as revised by my mom, “Do what’s right. Do your best. Treat others as THEY wish to be treated.” One of the first movies I saw was the now-classic animated picture, “Bambi.” I am reminded of the little rabbit saying, “My Mom always says, if you can’t say something nice, don’t say anything at all!” I believe we all agree on at least 80 percent of most issues, but the trend seems to be shifting to a political correctness on the other 20 percent we don’t agree on. That 20 percent causes divisiveness, opposition, venomous harsh words, and anger.
Too often, it feels like our Nation is only becoming more divided, more hostile. I do not believe that our country will ever be able to successfully tackle our looming problems if we continue down this road. As we move forward from this chapter in our Nation’s history, I hope that we will focus more on our shared goals that can help our Nation, and not the issues that drive us apart.

Mr. BURR. Mr. President, in my 25 years representing North Carolina in Congress, I have cast thousands of votes, each with its own significance. The ones that weigh most heavily are those that send our men and women in uniform into armed conflict. Those are the votes I spend the most time debating before casting—first and foremost because of the human cost involved but secondly because they hold the power to irrevocably set the course of American history.

With similar consideration, I have taken a sober and deliberate approach to the impeachment proceedings of the last few weeks, conscious of my constitutional responsibility to serve as an impartial juror.

As the investigative body, the House has charged President Trump with abuse of power and obstruction of Congress. The Senate’s role is to determine whether the House has proven its case beyond a reasonable doubt and whether, if true, these charges rise to the level of removing the President from office.

After listening to more than 70 hours of arguments from the House managers and the President’s counsel, I have concluded that the House has not provided the Senate with a compelling reason for taking the unprecedented and destabilizing step of removing the President from office.

In my role as chairman of the Senate Intelligence Committee, I have visited countries all over the world. What separates the United States from every other nation on Earth is our predictable, stable transitions of power. Every 4 years, Americans cast their ballots with the confidence their vote will be counted and the knowledge that both winners and losers will abide by the results.

To remove a U.S. President from office, for the first time in history, on anything less than overwhelming evidence of “Treason, Bribery, or High Crimes and Misdemeanors” would effectively overturn the will of the American people.

As the Speaker said last year, “Impeachment is so divisive to the country that unless there’s something so compelling and overwhelming and bipartisan, I don’t think we should go down that path, because it divides the country.”

I believe the Speaker was correct in her assessment. A year later, however, the House went down that exact path, choosing to conduct a highly partisan impeachment inquiry, with underwhelming evidence, in a deeply flawed process.

The House had ample opportunity to pursue the answers to its inquiry in order to prove their case beyond a reasonable doubt. They chose not to do so. Instead, investigators followed an arbitrary, self-imposed timeline dictated by political, rather than substantive, concerns.

For example, the House did not attempt to compel certain witnesses to testify because doing so would have meant confronting issues of executive privilege—something every administration lays claim to—may have caused some level of delays and involved the courts.

At the time, the House testified their decision by claiming the issue was too important, too urgent, for any delays. Yet, after the House voted on the Articles of Impeachment, the Speaker waited 4 full weeks before transmitting the articles to the Senate. Those were weeks the House could have spent furthering its inquiry, had it not rushed its inquiry, had it not rushed the process. Instead, without a hint of irony, House leadership attempted to use that time to pressure the Senate into gathering the very witness testimony they own investigators chose not to pursue.

Additionally, in drafting the Articles of Impeachment, the House stated President Trump committed “Criminal bribery and solicitation of bribe or kickback.” two crimes that carry penalties under our Criminal Code. Inexplicably, the House chose not to include those alleged criminal misdeeds in the articles sent to the Senate, much less argue them in front of this body.

At every turn, it appears the House made decisions not based on the pursuit of justice but on politics. When due process threatened to slow down the march forward, they took shortcuts. When evidence was too complicated to obtain or an accusation did not carry weight, the House created new, flimsy standards on the fly, hopping from one trial to the next.

For example, the House did not at the time, it included the value charge of “maladministration,” as well.

During the Constitutional Convention in 1787, George Mason moved to add “maladministration” to the U.S. Constitution’s list of impeachable offenses, asking: “Why is the provision restrained to Treason & bribery only? Treason as defined in the Constitution will not reach many great and dangerous offences. Attempts to subvert the Constitution may not be Treason as above defined.”

I submit for this body James Madison’s response: “So vague a term will be equivalent to a tenure during the pleasure of the Senate.”

Madison knew that impeachment had to address genuine disagreements about governance. One does not need to look further than the U.S. Constitution into a parliamentary body, akin to those tumultuous coalitions in Europe, which could recall a President on little more than a whim. To do so subordinates the Constitution to the whims of the political winds changing as frequently then as they do now, he saw that every President could theoretically be impeached on trifling, uncertain terms.

In a functioning democracy, the President cannot serve at “the pleasure of the Senate.” He must serve at the pleasure of the people.

Gouverneur Morris supported Madison’s argument, adding at the time: “An election every four years will prevent maladministration.”

Thus “maladministration” was not made an impeachable offense in America, expressly because it was not the recourse of free and fair elections. I bring up this story for two reasons.

First, the Founder’s decision signals to me they felt strongly that an impeachable offense must be a crime akin to treason, bribery, or an act equally serious, as defined in the Criminal Code. Second, this story tells me the Founders believed anything that does not meet the Constitutional threshold should be navigated through the electoral process.

By that standard, I do not believe the Articles of Impeachment presented to the Senate rise to the level of removal from office, nor do I believe House managers succeeded in making the case incumbent upon them to prove. Given the weak underpinnings of the articles themselves and the House’s partisan process, it would be an error to remove the President mere months before a national election; therefore, I have concluded I will vote to acquit President Donald J. Trump on both articles of impeachment.

Ms. KLOBUCHAR. Mr. President, today is a somber day for our country.
As Senators, we are here as representatives of the American people. It is our duty, as we each swore to do when we took our oath of office, to support and defend the Constitution. We also took an oath, as judges and jurors in this proceeding, to "administer justice" as we consider these articles—including the serious charge that the President of the United States leveraged the power of his office for his own personal gain.

These are the oaths that the Framers set out for us in the Constitution, to guide the Senate in its oversight responsibilities. The Framers believed that the legislative branch was best positioned to provide a check on the Executive. They envisioned that the separation of powers would allow each branch of government to oversee the other. They also knew, based on their experience living under the British monarchy, that someday a President might corrupt the powers of the office. William Davie of North Carolina was particularly concerned that a President could abuse his office by sparing "no efforts or means whatever to get himself reelected."

So the Framers put in place a standard that would cover a range of presidential misconduct, settling on: "Treason, Bribery, or other high Crimes and Misdemeanors." As Alexander Hamilton explained in Federalist 65, the phrase was intended to cover "abuse or violation of some public trust" and "injuries done immediately to society itself." The Framers designed a remedy for this public harm: removal from public office. So now we are here as judge and jury to try the case and to evaluate whether the President's acts have violated the public trust and injured our democracy.

I am concerned of course that the Senate has decided that we must make this decision without all the facts. With the Senate’s vote on the subpoena, the President blocked the opportunity to call witnesses with firsthand knowledge or to get relevant documents. Fairness means evidence—it means documents, and it means witnesses. In every past impeachment trial in the Senate, in this body’s entire 231-year history, there have been witnesses. There is no reason why the Senate should not have called people to testify who have firsthand knowledge of the President’s conduct, especially if, as some of my colleagues have suggested, you believe the facts are disputed.

During the question period, I asked about the impeachment of Judge Porteous in 2010. I joined several of my colleagues in serving on the trial committee. We heard from 26 witnesses in the Senate, 17 of whom were new witnesses who had not previously testified in the House. What possible reason could there be for allowing 26 witnesses in a judicial impeachment trial and zero in a Senate trial? How can we consider this a fair trial if we are not even willing to try and get to the truth?

We do not even have to try and find it. John Bolton has firsthand knowledge about central facts in this case, and he said he would comply with a subpoena from the Senate. We also know there are documents that could verify testimony presented in the House, like emails sent between administration officials in the days after the July 25 call. We cannot ignore this evidence—we have a constitutional duty to consider it. And since then, new evidence has continued to emerge. One way or another, the truth is going to come out. I believe that history will remember that the majority in this body did not seek out the evidence and instead decided that the President’s alleged corrupt acts did not even require a closer look.

But even without firsthand accounts and without primary documents, the House managers have presented a compelling case. I was particularly interested in the managers’ assertion that the President’s conduct put our national security at risk by jeopardizing our support for Ukraine.

Protection of Ukraine’s fragile democracy has been a bipartisan priority. I went to Ukraine with the late Senator John McCain and Senator LINDSEY GRAHAM right after the 2016 election to make clear that the United States government would continue to support our ally Ukraine, in the face of Russian aggression—that we will stand up for democracy. As the House managers stressed, it is in our national security interest to strengthen Ukraine’s democracy. The United States has 60,000 troops stationed in Europe, and thousands of Ukrainians have died fighting Russian forces and their proxies.

Our Nation’s support for Ukraine is critically needed. Ukraine is at the frontline of Russian aggression, and its most immediate need is U.S. aid. In 2014, the United States has provided over $1.5 billion in aid. Russia is watchful, everything we do. So this summer, as a new Ukrainian President prepared to lead his country and address the war with Russia, it was critical that President Trump showed the world that we stand with Ukraine. Instead, President Trump decided to withhold military security assistance and to deny the Ukrainian President an Oval Office meeting. In doing so, he jeopardized our national security interests and put the Ukrainians in danger. But worse yet, he did so to benefit himself.

Testimony from the 17 current and former officials from the President’s administration made it clear that the President leveraged the power of his office to pressure Ukraine to announce an investigation into his political rival. These brave public servants defied the President’s order and agreed to testify about what happened despite the risks to their careers. Former U.S. Ambassador to Ukraine Marie Yovanovitch showed particular courage, testifying before the House even as the President disparaged her on Twitter. And I will never forget when Lieutenant Colonel Vindman testified and sent a message to his immigrant father, saying, “Don’t worry Dad, I will be fine for telling the truth.”

Manager SCHIFF said, in our country—"right matters." What is right and wrong under our Constitution does not turn on whether or not you like the President. It is not about whether the device for its checks and balances policies that you agree or disagree with. It is about whether it remains true that in our country, right matters. Through his actions, the President compromised the security of our ally, Ukraine, invited document interference in our elections, and undermined the integrity of our democratic process—conduct that I believe the Framers would see as an abuse of power and violation of his oath of office.

The Articles of Impeachment include a second charge: that the President used the powers of his office to prevent Congress from investigating his actions and attempted to place himself above the law.

Unlike any President before him, President Trump categorically refused to comply with any requests from Congress. Even President Nixon refused to comply with congressional requests. Despite that history, President Trump directed every member of his administration not to comply with requests to testify and also directed the executive branch not to release a single document or witness to Congress.

The President’s refusal to respect the Congress’s authority is a direct threat to the separation of powers. The Constitution gives the House the “sole power of impeachment,” a tool of last resort to provide a check on the President. By refusing to cooperate, the President is attempting to erase the Congress’s constitutional power and to prevent the American people from learning of his misconduct. As we discussed during our opening remarks, the President is asserting that his aides have absolute immunity, a proposition that Federal courts have consistently rejected. Manager Demings warned, “absolute power corrupts absolutely.” But this President has taken many steps to place himself above the law.

This administration has taken the position that a sitting President cannot be indicted or prosecuted. This President has argued that Office of Special Counsel from State and criminal investigations. And now we are being asked to say that the Constitution’s check on a President’s power, as set out by the Framers, cannot prevent a President from abusing his power and covering it up.

During the trial, we have heard this directly from the President’s defense. In the words of Alan Dershowitz, “If a president does something which he believes will help him get elected—in the public interest—that cannot be the kind of quid pro quo that results in impeachment.” These echo the words of
an impeached President, Richard Nixon, who said: "When the president does it, that means it is not illegal." We cannot accept that conclusion. In this country the President is not King, the law is King. But if the Senate looks past that, the Senate's defiance of Congress, we will formatter undermine our status as a coequal branch and undermine the rule of law.

So as we consider these Articles of Impeachment, I ask my colleagues to think about the consequences. Our system, designed by the Framers 232 years ago, is one not of absolute power but of power through and by the people. We are, in some ways, faced with the same question the Founders faced when they made the fateful decision to challenge the unchecked power of a King.

When signing the Declaration of Independence, John Hancock signed his name large and said, "There must be no pulling different ways. We must all hang together." Benjamin Franklin replied, "If the rats are hanging together, or most assuredly we shall all hang separately."

We have the opportunity today to stand together and say that the Constitution, that these United States, are stronger than our enemies, foreign and domestic, and we, together, are stronger than a President who would corrupt our democracy with an abuse of power and an attempt to deny the rights of a coequal branch of government. We do not have to agree on everything today or tomorrow or a year from now, but surely we can agree on the same basic principles: that this is a government of laws, not of men-and women; that in this country, no one is above the law. If we can agree on that much, then I submit to my colleagues that the choice before us is clear.

Mr. SANDERS. Mr. President, an impeachment trial of a sitting President of the United States is not a matter to be taken lightly. A President should not and must not be impeached because of political disagreements or policy differences. That is what elections are for. Instead, an impeachment trial occurs when a President violates the oath he or she swore to uphold the Constitution of the United States.

Therefore, there are two questions for me to answer as a juror in the impeachment trial of President Donald J. Trump: whether President Trump is guilty of his power abuse and the President for his own political gain and whether he obstructed Congress in their investigation of him.

The first Article of Impeachment charges President Trump with abuse of power when he "solicited the interference of a foreign government, Ukraine, in the 2020 United States Presidential election." Based on the evidence I heard during the Senate trial, Trump "corruptly solicited" an investigation into former Vice President Joe Biden as a way to benefit his own reelection chances. To increase the pressure on Ukraine, President Trump then withheld approximately $400 million in military aid from Ukraine. Finally, according to the charges, even when Trump's scheme to withhold aid was made public, he "persisted in openly and corruptly urging and soliciting Ukraine to undertake this personal political benefit." So on this first Article of Impeachment, it is my view that the President is clearly guilty.

The second Article of Impeachment asserts that Trump obstructed Congress in its investigation of Trump's abuse of power, stating that Trump "has directed the unprecedented, categorical, and indiscriminate defiance of subpoenas issued by the House of Representatives pursuant to its sole Power of Impeachment." According to the warped logic of the arguments presented by the President's counsel, there are almost no legal bounds to anything a President can do so long as it benefits his own reelection. If a President investigated criminally or by Congress while in office, then he or she would be effectively above the law. President Trump, who raised absurd legal arguments to hide his actions and obstruct Congress, is clearly guilty.

Now, frankly, while the House of Representatives passed two Articles of Impeachment, President Trump could have been impeached for more than just that.

For example, it seems clear that Donald Trump has violated both the domestic and foreign emoluments clauses. In other words, it appears Trump has used the Federal Government over and over to benefit himself financially.

In 2018 alone, Trump's organization made over $40 million in profit just from his Trump hotel in DC alone. And foreign governments, including lobbying firms connected to the Saudi Arabian Government, have spent hundreds of thousands of dollars at that hotel. That appears to be corruption, pure and simple.

In addition, we all know, there is significant evidence that Donald Trump committed obstruction of justice with regard to the Robert Mueller investigation by, among other actions, firing the FBI Director, James Comey. One of the duties of dealing with President Trump and his administration is that we cannot trust his words. He is a pathological liar who, according to media research, has lied thousands of times since he was elected. During the trial, I posed a question to the House impeachment managers: Given that the media has documented President Trump's thousands of lies while in office—more than 16,200 as of January 2020—who expected to believe that anything President Trump says has credibility? The answer is that, sadly, we cannot.

Sadly, we now have a President who sees himself as above the law and is either ignorant or indifferent to the Constitution. And we have a President who clearly committed impeachable offenses.

The evidence of Trump's guilt is so overwhelming that the Republican Party, for the first time in the history of Presidential impeachment, obstructed testimony from witnesses—even willing witnesses. It defies basic common sense that in a trial to determine whether the United States is above the law, the Senate would not hear from the people who could speak directly to President Trump's behavior and motive. Leader MITCH MCCONNELL's handling of this trial, unfortunately, was nothing more than a political act.

Yet this impeachment trial is about more than just the charges against President Trump. What this impeachment vote will decide is whether we believe that the President, any President, is above the law.

Last week, Alan Dershowitz, one of President Trump's lawyers, argued to the Senate that a President cannot be impeached for any actions he or she undertakes for the benefit of their own reelection. That is truly an extraordinary and unconstitutional assertion. If Trump is acquitted, I fear the repercussions of this argument would do grave damage to the rule of law in our country.

Imagine what such a precedent would allow an incumbent president to get away with for the sake of their own reelection. Hacking an opponent's email using government resources? Soliciting election interference from China? Under this argument, what would stop a President from withholding infrastructure or education funding to a given State to pressure elected officials into helping the President politically?

Let me be clear: Republicans will set a dangerous and lawless precedent if they vote to acquit President Trump. A Republican acquittal of Donald Trump won't just mean that the current President is above the law; it will give a green light to all future Presidents to disregard the law so long as it benefits their reelection.

It gives me no pleasure to conclude that President Donald Trump is guilty of the offenses laid out in the two Articles of Impeachment. I will vote to convict on both counts. But my greater concern is if Republicans acquit President Trump by undercutting the very rule of law. That will truly be remembered as a sad and dangerous moment in the history of our country.

Mr. TOOMEY. Mr. President, I rise to speak about the House Articles of Impeachment against President Donald Trump.

In 1999, then-Senator Joe Biden of Delaware asked the following question during the impeachment trial of President Bill Clinton: "[D]o these actions rise to the level of high crimes and misdemeanors necessary to justify the most obviously antidemocratic act the Senate can engage in—overturning an elected President?" He answered his own question by voting against removing President Clinton from office.
It is this constitutionally grounded framework—articulated well by Vice President Biden—that guided my review of President Trump’s impeachment and, ultimately, my decision to oppose his removal.

House Democrats’ impeachment articles allege that President Trump briefly paused aid and withheld a White House meeting with Ukraine’s President to pressure Ukraine into investigating two publicly reported corruption allegations. The first matter was involvement of Ukraine’s prosecutor in the 2016 election. The second was Vice President Biden’s role in firing the controversial Ukrainian prosecutor investigating a company on whose board Vice President Biden’s son sat. When House Democrats demanded witnesses and documents concerning the President’s conduct, he invoked constitutional rights and resisted their demands.

The President’s actions were not “perfect.” Some were inappropriate. But the question before the Senate is not whether his actions were perfect; it is whether they constitute impeachable offenses that justify removing a sitting President from office for the first time in the 243-year history of our Republic.

Let’s consider the case against President Trump: obstruction of Congress and abuse of power. On obstruction, House Democrats allege the President lacked “lawful cause or excuse” to resist their subpoenas. This ignores that his resistance was based on constitutionally grounded legal defenses and immunities that are consistent with longstanding positions taken by administrations of both parties. Instead of negotiating a resolution or litigating in court, House Democrats rushed to impeach. But as House Democrats noted during President Clinton’s impeachment, a President’s defense is his legal and constitutional rights and responsibilities is not an impeachable offense.

House Democrats separately allege President Trump abused his power by conditioning a White House meeting and the release of aid on Ukraine agreeing to pursue corruption investigations. Their case rests entirely on the faulty claim that the only possible motive for his actions was his personal political gain. In fact, there are legitimate interests for Congress to investigate into apparent corruption, especially when taxpayer dollars are involved.

Here is what ultimately occurred: President Trump met with Ukraine’s President, and the aid was released after a brief pause. These actions happened without Ukraine announcing or conducting investigations. The idea that President Trump committed an impeachable offense by meeting with Ukraine’s President at the United Nation’s annual meeting instead of Washington, DC is absurd. Moreover, the pause in aid did not hinder Ukraine’s ability to combat Russia. In fact, as witnesses in the House impeachment proceedings stated, U.S. policy in support of Ukraine is stronger under President Trump than under President Obama.

Even if House Democrats’ presumptions that President Trump’s motives are true, additional witnesses in the Senate, beyond the 17 witnesses who testified in the House impeachment proceedings, are unnecessary because the President’s actions do not rise to the level of removing him from office, given the potential upheaval that would result from his removal and the ballot months before an election. Our country is already far too divided and this would only make matters worse.

As Vice President Biden also stated during President Clinton’s impeachment trial, “[t]here is no question the Constitution sets the bar for impeachment very high.” A President can only be impeached and removed for “Treason, Bribery, or other high Crimes and Misdemeanors.” While there is debate about the precise meaning of “other high Crimes and Misdemeanors,” it is clear that impeachable conduct must be comparable to the serious offenses of treason and bribery. If not, why should the President be comparable to the President?

The framework Vice President Biden articulated in 1999 for judging an impeachment was right then, and it is right now. President Trump’s conduct does not meet the very high bar required to justify overturning the election and kicking him off the ballot in an election that has already begun. In November, the American people will decide for themselves whether President Trump should stay in office. In our democratic system, that is the way it should be.

Mr. RUBIO. Mr. President, voting to find the President guilty in the Senate is not simply a finding of wrongdoing; it is a vote to remove a President from office for the first time in the 243-year history of our Republic.

When they decided to include impeachment in the Constitution, the Framers understood how disruptive and traumatic it would be. As Alexander Hamilton warned, impeachment will “agitate the passions of the whole community.”

This is why they decided to require the support of two-thirds of the Senate to remove a President we serve as a guardrail against partisan impeachment and against removal of a President without broad public support.

Leaders in both parties previously recognized that impeachment must be bipartisan and must enjoy broad public support. In fact, as recently as March of last year, Manager ADAM SCHIFF said there would be “little to be gained by putting the country through the ‘wrenching experience’ of a partisan impeachment. Yet, only a few months later, a partisan impeachment is exactly what the House produced. This meant two Articles of Impeachment whose true purpose was not to protect the Nation but, rather, to, as Speaker NANCY PELOSI said, ‘stain the President’s record because he has been impeached forever’ and ‘they can never erase that.’”

It now falls upon this Senate to take up what the House produced and faithfully execute our duties under the Constitution of the United States.

Why does impeachment exist? As manager JERRY NADLER reminded us last week, removal is not a punishment for a crime, nor is removal supposed to be a way to hold Presidents accountable that impeachment is for. The sole purpose of this extraordinary power to remove the one person entrusted with all of the powers of an entire branch of government is to provide a last-resort remedy to protect the democratic system. That is why Hamilton wrote in 1788 that in these trials our decisions should be pursuing “the public good.”

Even before the trial, I announced that, for me, the question would not just be whether the President’s actions were wrong but ultimately whether what he did was removable. The two are not the same. It is possible for an offense to meet a standard of impeachment and yet not be in the best interest of the country to remove a President from office.

To answer this question, the first step was to ask whether it would serve the public good to remove the President, even if the managers had proven every allegation they made. It was not difficult to answer that there would be little to be gained by the charge of obstruction of congress. The President availed himself of legal defenses and constitutional privileges on the advice of his legal counsel. He has taken a position identical to that of every other administration in the last 50 years. That is not an impeachable offense, much less a removable one.

Negotiations with Congress and enforcement in the courts, not impeachment, should be the front-line recourse when Congress and the courts disagree on the separation of powers. But here, the House failed to go to court because, as Manager SCHIFF admitted, they did not want to go through a year-long exercise to get the information they wanted. Ironically, they now demand that the Senate go through this very long exercise they themselves decided to avoid.

On the first Article of Impeachment, I reject the argument that abuse of power can never constitute grounds for removal unless it is a crime. A crime-like action is alleged. However, even if the House managers had been able to prove every allegation made in article I,
would it be in the interest of the Nation to remove the President? Answering this question requires a political judgment—one that takes into account both the severity of the wrongdoing they allege and the impact removal would have on the Nation.

I disagree with the House Managers’ argument that, if we find the allegations they have made are true, failing to remove the President leaves us with no remedy to constrain this or future Presidents. Congress and the courts have a nonexclusive role by which they can constrain the power of the Executive. And ultimately, voters themselves can hold the President accountable in an election, including the one just 9 months from now.

I also considered removal in the context of the bitter divisions and deep polarization our country currently faces. The removal of the President—especially one based on a narrowly voted impeachment, supported by one political party and opposed by another and without broad public support—would, as Manager NADLER warned over two decades ago, “produce divisiveness and bitterness” that will threaten our Nation for decades. Can anyone doubt the bitterness that will threaten our Nation? Can anyone doubt that our country currently faces the divisiveness and bitterness that probably began in earnest the day after the 2016 presidential election?

I also reject the argument that unless we call new witnesses, this is not a fair trial. First, they cannot argue that fairness demands we seek witnesses they did little to pursue. Second, even if new witnesses would testify to the truth of the allegations made, these allegations, even if they had been able to prove them, would not warrant the President’s removal.

This high bar I have set is not new for me. As Ranking Member, I rejected calls to pursue impeachment of President Obama, noting that he “has two years left in his term,” and, instead of pursuing impeachment, we should use existing tools at our disposal to “limit the amount of damage he’s doing to our economy and our national security.”

Senator PATRICK LEAHY, the President pro tempore emeritus, once warned, “[A] partisan impeachment cannot command the respect of the American people. It is no more valid than a stolen election.” His words are more true today than when he said them two decades ago. We should heed his advice.

I will not vote to remove the President because doing so would put at risk our extraordinary and potentially irreparable damage to our already divided Nation.

Mr. JOHNSON. Mr. President, I am glad that this unfortunate chapter in American history is over. The strength of our Republic lies in the fact that, more often than not, we settle our political differences at the ballot box, not on the streets or battlefield and not through impeachment.

Just last year, Speaker PELOSI said that any impeachment “would have to be so clearly bipartisan in terms of acceptance of it.” And in 1998, Representative NADLER, currently a House impeachment manager, said, “There must be broad public support, an impeachment substantively supported by one of our major political parties and largely opposed by the other . . . . Such an impeachment would lack legitimacy, would produce divisiveness and bitterness in our politics for years to come . . . .” And certainly what House Democrats passed. I truly wish Speaker PELOSI, Chairman NADLER, and their House colleagues would have followed their own advice.

As I listened to the House managers’ closing arguments, I jotted down adjectives describing the case they were making: angry, disingenuous, hyperbolic, sanctimonious, distorted—if not outright dishonest—and overstated; they were making a mountain out of a molehill.

Congressman SCHIFF and the other House managers are not stupid. They had to know that their insults and accusations—that the President had threatened to put our heads on a pike, that he would make a mountain out of a molehill—would be part of the coverup if we didn’t cave to their demand for witnesses—would not sway Republican Senators. No, they had another goal in mind. They were using impeachment and their public offices to accomplish the very thing they accused President Trump of doing, interfering in the 2020 election.

Impeachment should be reserved for the most serious of offenses where the risk to our democracy simply cannot wait for the voters’ next decision. That was not the case here.

Instead, the greater damage to our democracy would be to ratify a highly partisan House impeachment process that lacks due process and sought to impose a duty on the Senate to repair the House’s flawed product. Caving to House managers’ demands would have set a dangerous precedent and dramatically altered the constitutional order, further weaponizing impeachment and encouraging more of them.

Now that the trial is over, I sincerely hope everyone involved has renewed appreciation for the genius of our Founding Fathers and for the separation of powers they incorporated into the U.S. Constitution. I also hope all the players in this national travesty go forward with a greater sense of humility and recognition of the limits the Constitution places on their respective offices.

I am concerned about the divisiveness and bitterness that Chairman NADLER warned us about. We are a divided nation, and it often seems the lines are only hardening and growing farther apart. But hope lies in finding what binds us together—our love of freedom, our faith, our families.

We serve those who elect us. It is appropriate and necessary to engage in discussion and debate to sway public opinion, but in the end, it is essential that we rely upon, respect, and accept the public’s electoral decisions.

In addition, I ask unanimous consent that my November 18, 2019, letter to Speaker PELOSI and Chairman NADLER and the January 22, 2020, Real Clear Investigations article written by Paul Sperry be printed in the RECORD following my remarks.

The November 18, 2019, letter responds to NUNES and JORDAN’s request to provide information regarding my firsthand knowledge of events regarding Ukraine that were relevant to the impeachment inquiry. The January 22, 2020, article was referenced in my question to the House managers and counsel to the President during the 16-hour question and answer phase of the impeachment trial. Specifically, that question asked: “Recent reporting described two NSC staff holders from the Obama administration attendingkissinger’s meeting held one day earlier and held about two weeks into the Trump administration and talking loudly enough to be overheard saying, ‘we need to do everything we can to take out the president.’ On July 20, 2019, the House Intelligence Committee hired one of those individuals, Sean Misko. The report further describes relationships between Misko, Lt. Col. Vindman, and the alleged whistle-blower. Why did your committee hire Lt. Col. Vindman, and the alleged whistle-blower? Why did your committee hire one of those individuals, Sean Misko?”

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

HON. JIM JORDAN, Ranking Member, Committee on Oversight and Reform, Hon. DEVIN NUNES, Ranking Member, Permanent Select Committee on Intelligence.

DEAR CONGRESSMAN JORDAN AND CONGRESSMAN NUNES: I am writing in response to the request of Ranking Members Nunes and Jordan to provide my first-hand information and resulting perspective on events relevant to the House impeachment inquiry of President Trump. It is being written in the middle of that inquiry—after most of the deposits have been given behind closed doors, but before all the public hearings have been held.

I view this impeachment inquiry as a continuation of a concerted, coordinated, and well-coordinated effort to sabotage the Trump administration that probably began in earnest the day after the 2016 presidential election. The latest evidence of this comes with the reporting of a Jan. 30, 2017 tweet (10 days after Trump’s inauguration) by one of the whistle-blower’s attorneys, Mark Zaid: “#coup has started. Must push to #repeal #impeachment. #impeachment will follow ultimately.”

But even prior to the 2016 election, the FBI’s investigation and exoneration of former Secretary of State Hillary Clinton, combined with Fusion GPS’ solicitation and dissemination of the Steele dossier—and the FBI’s counterintelligence investigation based on that dossier’s unfounded future sabotage. As a result, my first-hand knowledge and involvement in this
saga began with the revelation that former Secretary of State Hillary Clinton kept a private e-mail server. I have been chairman of the Senate Committee on Homeland Security and Governmental Affairs (HSGAC) since January 2015. In addition to its homeland security portfolio, the committee also has oversight of the federal government, including the executive branch, the intelligence community, and certain federal agencies.

At the suggestion of Sonndal, the delegation (Perry, Volker, Sonndal and me) proposed a meeting with President Trump in the Oval Office. The purpose of the meeting was to discuss the situation in the United States, including our concerns about Russian aggression in Eastern Europe.

The first occurred during the country's electoral campaign. I had just finished making the point supporting Ukraine was essential because it was ground zero in our geopolitical strategy to compete with Russia. We expected support from the new administration when Zelensky responded to my point. He stated that it was the position of the NSC that our relationship with Ukraine should be maintained. The new administration was concerned about the possible need for a strong U.S. and NATO response to any Russian action.

There was also universal recognition and support for Ukraine to attend president-elect Volodymyr Zelensky's inauguration, which took place on May 20, went into the meeting hoping to obtain assurance from the new administration that it would support President Zelensky and the people of Ukraine. Our specific goals were to obtain a commitment from President Trump to invite Zelensky to the Oval Office, an U.S. ambassador to Ukraine who would have strong bipartisan support, and to have President Trump publicly voice his support.

I was surprised by President Trump's reaction to our request and requests. He expressed strong reservations about supporting Ukraine. He made it crystal clear that he viewed Ukraine as a corrupt country both generally and, specifically, regarding rumored meddling in the 2016 election. Volker summed up this attitude in his testimony when he said, "They are all corrupt. They are all terrible people. . . . I don't want to spend any time with that."

Upon President Trump ever explicitly mentioning the names Burisma or Biden, but it was obvious he was aware of rumors that corrupt actors in Ukraine might have played a part in helping create the false Russia collusion narrative.

Of the four-person delegation, the one who did not publicly voice his support for President Zelensky was me. As a result, I was in a better position to push back on the president's viewpoint and attempt to persuade him to change it. I acknowledged that he was correct regarding endemic corruption. I said that we weren't asking him to support corrupt oligarchs and politicians but to support the Ukrainian people who had given Zelensky much in common with President Trump. I also made the point that he and Zelensky had much in common. Both had faced strong resistance from entrenched interests both within and outside government. Zelensky would need much help in fulfilling his mandate, and America's support was crucial.

It was obvious that his viewpoint and reservations were strongly held, and that we would have a significant sales job ahead of us of getting him to change his mind. Specifically, he asked him to support corrupt oligarchs and politicians but to support the Ukrainian people who had given Zelensky much in common with President Trump. I also made the point that he and Zelensky had much in common. Both had faced strong resistance from entrenched interests both within and outside government. Zelensky would need much help in fulfilling his mandate, and America's support was crucial.

It was obvious that his viewpoint and reservations were strongly held, and that we would have a significant sales job ahead of us of getting him to change his mind. Specifically, he asked him to support corrupt oligarchs and politicians but to support the Ukrainian people who had given Zelensky much in common with President Trump. I also made the point that he and Zelensky had much in common. Both had faced strong resistance from entrenched interests both within and outside government. Zelensky would need much help in fulfilling his mandate, and America's support was crucial.
13 with members of the Ukrainian Parliament's Foreign Affairs Committee on July 11 with Ukraine’s ambassador to the U.S. and secretary of Ukraine’s National Security and Defense Council, Oles Danyliv; and on July 31 with Ukraine’s ambassador to the U.S., Valeriy Chaly. At no time during those meetings did anyone raise the issue of withholding military aid or express concerns regarding pressure being applied by the president or his administration.

During August recess, my staff worked with the State Department and others in the administration to plan a trip to Europe under the auspices of the可以使 myself to include Russia, Serbia, Kosovo and Ukraine. On or around Aug. 26, we were informed that our requests for visas into Russia were denied. On either Aug. 26 or 29, I became aware of the fact that $250 million of military aid was being withheld. This news would obviously impact my trip and discussions with Zelensky.

Sondland had texted me on Aug. 26 remarking on the Russian visa denial. I replied on Aug. 30, apologizing for my tardy response and renewing my offer to discuss Ukraine. We scheduled a call for sometime between 12:30 p.m. and 1:30 p.m. that same day. I called Sondland and asked what he knew about the hold on military aid. I did not want to abbreviate the conversation in any way, and my memory of exactly what Sondland told me is far from perfect. I was hoping that his testimony would help jog my memory, but he seems to have an even fuzzier recollection of that call than I do.

The most salient point of the call involved Sondland describing an arrangement where, if Ukraine did something to demonstrate its serious intention to fight corruption and possibly help determine what involvement in the case had by 2016 U.S. presidential campaign, then Trump would release the hold on military support.

I have stated that I winced when that arrangement was described to me. I felt U.S. support for Ukraine was essential, particularly with Zelensky’s new and inexperienced administration facing an aggressive Vladimir Putin. I feared any sign of reduced U.S. support could prompt Putin to demand more and that such a demand might have kept Ukraine from winning the 2018 U.S. presidential campaign, then Trump would release the hold on military support.

I have stated that I winced when that arrangement was described to me. I felt U.S. support for Ukraine was essential, particularly with Zelensky’s new and inexperienced administration facing an aggressive Vladimir Putin. I feared any sign of reduced U.S. support could prompt Putin to demand more and that such a demand might have kept Ukraine from winning the 2018 U.S. presidential campaign, then Trump would release the hold on military support.

I have stated that I winced when that arrangement was described to me. I felt U.S. support for Ukraine was essential, particularly with Zelensky’s new and inexperienced administration facing an aggressive Vladimir Putin. I feared any sign of reduced U.S. support could prompt Putin to demand more and that such a demand might have kept Ukraine from winning the 2018 U.S. presidential campaign, then Trump would release the hold on military support.

The purpose of the call was to inform Sondland of my upcoming trip to Ukraine and to try to persuade him to authorize me to tell Zelensky that the hold would be lifted on military aid. The president was not prepared to lift the hold, and he was consistent in the reasons he cited. He reminded me how thoroughly corrupt Ukraine was and again conveyed his frustration that Europe doesn’t do its part in providing military aid. He specifically cited the sort of conversation he would have with Angela Merkel, chancellor of Germany. To paraphrase him, I told him, “Angela, Angela, Angela and ask her, ‘Why don’t you fund these things,’ and she tells me, ‘Because we know you will.’ We’re schmucks. Ron. We’re schmucks.”

I acknowledged the corruption in Ukraine, and I did not dispute the fact that Europe could and should provide more military support. But I pointed out that Germany was opposed to providing Ukraine lethal defensive weaponry and simply would not do so. And a renewed attack on Ukraine from further aggression, it was up to the U.S. to provide it.

I had two additional counterarguments. First, I wasn’t suggesting we support the oligarchs and other corrupt Ukrainians. Our support would be for the courageous Ukrainians who have fought against Russian aggression and corruption politically in that it could be used to bolster the “Trump is soft on Russia” mantra. It was only after he reiterated his reasons for not releasing the military aid that I told him that Zelensky the support would be released that I asked him about whether there was some kind of arrangement where Ukraine would take some action and the hold would be lifted. Without hesitation, President Trump immediately denied such an arrangement existed. As reported in the Wall Street Journal, I quoted the president as saying, “(Expletive deleted)—No way, I would never do that. Who told you that?” I have accurately characterized the president’s veiment and—there was more than one expletive that I have deleted.

Based on his reaction, I felt more than a little guilty even asking him the question, much less telling him I heard it from Sondland. He seemed even more annoyed by that, and asked me, “Who is that guy?” I interpreted that not as a literal question—the president did know whom Sondland was—but rather as a sign that the president did not know how to handle the question. “I thought you were his buddy from the real estate business.” The president replied by saying he barely knew him. After discussing Sondland, we talked about other unrelated matters. Finally, the president said he had to go because he had a hurricane to deal with. He wrapped up the conversation by saying, “Let me go out on a limb here. Are you going to authorize the release of the hold on military support for Ukraine by saying something like, ‘Ron, I understand your position. We’re reviewing it now, and you’ll probably like my final decision.’”

On Tuesday, Sept. 3, I had a short follow up call with Sondland. I mentioned my upcoming trip to Ukraine, Serbia and Kosovo. I do not recall discussing anything in particular that relates to the current impeachment inquiry on that call.

We arrived in Kyiv on Sept. 4, joining Taylor and Murphy for a full day of meetings on Sept. 5 with embassy staff, members of the new Ukrainian administration, and Zelensky, who was accompanied by some of his top advisers. We also attended the opening proceedings of the Ukrainian High Anti-Corruption Court. The meetings reinforced our belief that Zelensky and his team were serious about fulfilling his mandate—to promote better governance by electing a team of effective judges to the High Anti-Corruption Court... to fight corruption. Second, I argued that withholding aid or expressing concerns that might risk losing Ukraine’s bipartisan support for Ukraine."

I next put in a call request for National Security Adviser John Bolton, and spoke with him on Aug. 31. I believe he grew with my request to request him to arrange with Zelensky to try to persuade him to authorize the release of the hold on military support. I did not memorize the conversation in any way, and my recollection of that call than I do.

The meeting with Zelensky started with the president doing his usual business. He stated that he wanted to make sure Zelensky knew exactly how he felt about Ukraine before any meeting took place. To repeat Volker’s quote of President Trump: They are very, very, very terrible people. I don’t want to spend any time with that.” That was the general attitude toward Ukraine that I felt President Trump directed us to convey. Since I did not have Volker’s quote at my disposal during the time I tried to portray that strongly held attitude and reiterated the reasons President Trump consistently gave me for his reservations regarding Ukraine: endemic corruption and inadequate European support.

I also conveyed the counterarguments I used (unsuccessfully) to persuade the president to lift his hold: (1) We would support the people of Ukraine, not corrupt oligarchs and (2) witholding military support was not politically smart. Although I recognized how this next point would be problematic, I also suggested any public statement Zelensky could make asking for greater support from Europe would probably be viewed favorably by President Trump.

Finally, I commented on how excellent Zelensky’s English was and encouraged him to do more of it as he prepared for a future meeting with President Trump. With a smile on his face, he replied, “But Senator Johnson, you don’t realize how beautiful my Ukrainian is.” I jokingly conceded the point by saying I was not able to distinguish his Ukrainian from his Russian.

This was a very open, frank, and supportive discussion. There was no reason for...
anyone on either side not to be completely honest or to withhold any concerns. At no time during this meeting—or any other meeting on this trip—was there any mention by Ukrainian officials that the president was feeling pressure on the hold on military support. We were very encouraged by our meetings with Zelensky and other members of his government in their commitment to fulfill their pledge of good governance and fight against corruption. When the issue of military support was raised, I provided the response I suggested above: I described it as a timing issue at the end of a fiscal year and said that, regardless of what decision President Trump made on the fiscal year 2019 funding, I was confident Congress would restore the funding in fiscal year 2020. In other words: Don’t mistake a budget issue for a change in America’s strong support for the people of Ukraine.

Congress came back into session on Sept. 9. During a vote early in the week, I approached the freshmen chairs of the Senate’s Ukraine Caucus, U.S. Sen. Richard Durbin, I briefly described our trip to Ukraine and the concerns Zelensky and his advisers had over the hold on military support. According to press reports, Senator Durbin stated that it was the first time he was made aware of the hold. I went on to describe how I tried to minimize the impact of that hold by assuring Ukrainians that Congress could restore the funding in fiscal year 2020. I encouraged Durbin, as I had encouraged Murphy, to use his membership on the Senate Appropriations Committee to restore the funding.

Also according to a press report, leading up to a Sept. 12 defense appropriation committee markup, Durbin offered an amendment to restore funding. On Sept. 11, the administration announced that the hold had been lifted. I think it is important to note the hold remained in place for 14 days after it was announced it became publicly known, and 55 days after the hold apparently had been placed.

On Aug. 31, I saw news reports of text messages that Volker had supplied the House of Representatives as part of his testimony. The texts discussed a possible press release on the hold issue and mentioned issues to help persuade President Trump to offer an Oval Office meeting. Up to that point, I had publicly disclosed only the first part of my Aug. 31 phone call with President Trump, where I lobbed him to release the military aid and he provided his consistent reasons for not doing so: corruption and inadequate European support.

Earlier in the week, I had given a phone interview with Siobhan Hughes of the Wall Street Journal where I spoke directly with Ukraine. With the disclosure of the Volker texts, I felt it was important to go on the record with the next part of my Aug. 31 call with Trump. His decision to hold had not previously disclosed this because I could not precisely recall what Sondland had told me on Aug. 30, and what I had conveyed to President Trump during the call. I would have liked Ukraine to take before military aid would be released. The point of my recollection, the action of Sondland on Aug. 30 involved a demonstration that the new Ukrainian government was serious about fighting corruption—something like the appointment of a special counsel with high credentials.

I called Hughes Friday morning, Oct. 4, to update my interview. It was a relatively lengthy interview, almost 30 minutes, as I attempted to put a rather complex set of events into context. Toward the tail end of that interview, Hughes said, ’’Almost exactly that. I thought he was kind of freelancing and he took it upon himself to do something that the president hadn’t exactly blessed, as you see it.’’ I re-quoted that possibility, but I don’t know that. Let’s face it: The president can’t have his fingers in everything. He can’t be stage-managing everything, so you have members of his administration trying to create good policy.

To my knowledge, most members of the administration who were dealing with the issues involving Ukraine disagreed with President Trump’s attitude and approach toward Ukraine. Many who had the opportunity to influence the president attempted to change his mind. I see nothing wrong with U.S. officials working with Ukrainian officials to demonstrate Ukraine’s commitment to reform in order to change President Trump’s attitude and gain his support.

Nor is it wrong for administration staff to use their powers of persuasion within their chain of command to influence policy. What is wrong is for people who work for, and at the pleasure of, the president to believe they are entitled to use their bosses for the sake of their own personal ambitions. If the whistleblower’s intention was to influence Ukraine’s president to go along with the administration’s position—was there any mention of pressure on him to influence the president, or any other presidential adviser, to go along with the administration’s position? If there were, I don’t know that the whistleblower was aware of it; I don’t know that the president didn’t know that. Let’s face it: The president can’t have his fingers in everything. He can’t be stage-managing everything, so you have members of his administration trying to create good policy.

I called Hughes Friday morning, Oct. 4, to update my interview. It was a relatively lengthy interview, almost 30 minutes, as I attempted to put a rather complex set of events into context. Toward the tail end of that interview, Hughes said, ’’Almost exactly that. I thought he was kind of freelancing and he took it upon himself to do something that the president hadn’t exactly blessed, as you see it.’’ I re-quoted that possibility, but I don’t know that. Let’s face it: The president can’t have his fingers in everything. He can’t be stage-managing everything, so you have members of his administration trying to create good policy.’’

To my knowledge, most members of the administration who were dealing with the issues involving Ukraine disagreed with President Trump’s attitude and approach toward Ukraine. Many who had the opportunity to influence the president attempted to change his mind. I see nothing wrong with U.S. officials working with Ukrainian officials to demonstrate Ukraine’s commitment to reform in order to change President Trump’s attitude and gain his support.

Nor is it wrong for administration staff to use their powers of persuasion within their chain of command to influence policy. What is wrong is for people who work for, and at the pleasure of, the president to believe they are entitled to use their bosses for the sake of their own personal ambitions. If the whistleblower’s intention was to influence Ukraine’s president to go along with the administration’s position—was there any mention of pressure on him to influence the president, or any other presidential adviser, to go along with the administration’s position? If there were, I don’t know that the whistleblower was aware of it; I don’t know that the president didn’t know that. Let’s face it: The president can’t have his fingers in everything. He can’t be stage-managing everything, so you have members of his administration trying to create good policy.

This impeachment effort has done a great deal of damage to our democracy. The re-lease of transcripts of discussions between the president of the United States and another world leader sets a terrible precedent that will deter and limit candid conversations between the president and world leaders from now on. The weakening of executive privilege will also limit the extent to which presidential advisers will feel comfortable in providing ‘‘guidance’’ to the whistleblower, who touched off Trump’s impeachment—was there any mention of pressure on him to influence the president, or any other presidential adviser, to go along with another staffer how to remove the newly elected president from office, according to former colleagues.

The Intelligence Community Inspector General acknowledges the whistleblower in this instance exhibits some measure of ‘‘an arguable political bias.’’ The whistleblower is selected by the president, stands in confidence to the IGIC’s assessment, given Zaid’s tweet that mentions coup, rebellion and impeachment only 10 days after Trump’s inauguration.

If the whistleblower’s intention was to improve and solidify the relationship between the U.S. and Ukraine, he or she failed miserably. Instead, the result has been to fuel the House’s impeachment desire (which I believe was the real motivation), and damage our democracy as described above.

Africa faces enormous challenges at home and abroad. My oversight efforts have underscored the critical need for the American public to have a legitimate and understandable desire to know if wrongdoing occurred directed toward influencing the 2016 election or altering Trump’s administration. The American public has also a right to know if no wrongdoing occurred. The sooner we get answers to the many urgent questions, the sooner we can attempt to heal our severely divided nation and turn our attention to the many daunting challenges America faces.

Sincerely,
RON JOHNSON,
United States Senator.

[From RealClearInvestigations, Jan. 22, 2019]
WHISTLEBLOWER WAS OVERHEARD IN ‘17 DISCUSSING WITH ALLY HOW TO REMOVE TRUMP
(By Paul Sperry)

Barely two weeks after Donald Trump took office, Eric Ciaramella—the CIA analyst who first spoke to the whistleblower who touched off Trump’s impeachment—was helped run the impeachment inquiry by the president and mentioned by lawmakers as the anonymous ‘‘whistleblower’’ who touched off Trump’s impeachment—was then helped run the impeachment inquiry by the president and mentioned by lawmakers as the anonymous ‘‘whistleblower’’ who touched off Trump’s impeachment—was then helped run the impeachment inquiry by the president and mentioned by lawmakers as the anonymous ‘‘whistleblower’’ who touched off Trump’s impeachment.

‘‘They weren’t just bent on subverting his agenda, the former official added. They were plotting to actually have him removed from office.’’

Misko left the White House last summer to join House impeachment manager Adam Schiff, the committee’s chairman, who has offered ‘‘guidance’’ to the whistleblower, who has been officially identified only as an intelligence officer in a complaint against Trump filed under whistleblower laws. Misko then helped run the impeachment inquiry based on that complaint as a top investigator for congressional Democrats.

‘‘They weren’t just bent on subverting his agenda, the former official added. They were plotting to actually have him removed from office.’’

Misko left the White House last summer to join House impeachment manager Adam Schiff, the committee’s chairman, who has offered ‘‘guidance’’ to the whistleblower, who has been officially identified only as an intelligence officer in a complaint against Trump filed under whistleblower laws. Misko then helped run the impeachment inquiry based on that complaint as a top investigator for congressional Democrats.

‘‘They weren’t just bent on subverting his agenda, the former official added. They were plotting to actually have him removed from office.’’

Misko left the White House last summer to join House impeachment manager Adam Schiff, the committee’s chairman, who has offered ‘‘guidance’’ to the whistleblower, who has been officially identified only as an intelligence officer in a complaint against Trump filed under whistleblower laws. Misko then helped run the impeachment inquiry based on that complaint as a top investigator for congressional Democrats.
pretext they and their Democratic allies had been looking for.

“They didn’t like his policies,” another former White House official said. “They had a political vendetta against him from Day One.”

Their efforts were part of a larger pattern of coordination to build a case for impeachment, which included both public and behind-the-scenes efforts to discredit Trump as anti-Trump figures both inside and outside of government.

All information sources for this article spoke only on condition that they not be further identified or described. Although strong evidence points to Ciaramella as the government official who lodged, the whistleblower complaint, he has not been officially identified as such. As a result, this article makes a distinction between public information and information about the unamed whistleblower/CIA analyst and specific information about Ciaramella.

Democrats based their impeachment case on the whistleblower complaint, which alleges that President Trump sought to help his re-election campaign by demanding that Ukraine’s leader investigate former Vice President Joe Biden and his son Hunter in exchange for military aid. Yet Schiff, who heads the House Intelligence Committee, and other Democrats have insisted on keeping the identity of the whistleblower secret, in part fearing for his safety, while arguing that his testimony no longer matters because other witnesses and documents have “corroborated” what he alleged in his complaint about the Ukraine call.

Republicans have fought unsuccessfully to call him as a witness, arguing that his motivations and associations are relevant—and that the president has the same due-process right to confront his accuser as any American.

The whistleblower’s candor is also being called into question. It turns out that the CIA operative failed to report his contacts with Schiff’s office to the intelligence community’s inspector general who fielded his whistleblower complaint. He withheld the information both in interviews with the inspector general, Michael Atkinson, and in writing, according to impeachment committee investigators. The whistleblower form he filled out required him to disclose whether he had other contact with Schiff including “members of Congress.” But he left that section blank on the disclosure form he signed.

The investigators say that details about how the whistleblower consulted with Schiff’s staff and perhaps misled Atkinson about those interactions are contained in the transcript of a closed-door briefing Atkinson gave to the House Intelligence Committee last October. However, Schiff has sealed the transcript from public view. It is the only impeachment-related transcript out of 18 that he has not released.

Schiff has classified the document “Secret,” preventing Republicans who attended the Atkinson briefing from quoting it. Even impeachment investigators cannot view it outside a highly secured room, known as a “SCIF,” in the basement of the Capitol. Schiff first got permission from Schiff, and they are forbidden from bringing phones into the SCIF or from taking notes from the briefing.

While the identity of the whistleblower remains unaconfirmed, at least officially, Trump recently retweeted a message naming Ciaramella, while Republican Sen. Paul and Rep. Louie Gohmert of the House Judiciary Committee have publicly demanded that Ciaramella testify about his role in the impeachment.

During last year’s closed-door House depositions of impeachment witnesses, Ciaramella’s name was invoked in heated discussions about the whistleblower, as RealClearInvestigations first reported Oct. 30, and has appeared in at least one text message among Republican and Trump impeachment investigators. The whistleblower complaint Schiff and his staff counsel have redacted his name from other documents.

Lawyers representing the whistleblower have neither confirmed nor denied that Ciaramella is their client. In November, after Donald Trump Jr. named Ciaramella and cited RCI’s story in a series of tweets, however, they sent a “cease and desist” letter to the White House demanding Trump and his “surrogates” stop “attacking” him.

And Misko was quoted by several of his former colleagues as beingavoiding the whistleblower complaint since it was made public in September. Ciaramella’s social media postings and profiles were scrubbed from the Internet.

**TAKE OUT THE PRESIDENT**

An Obama holdover and registered Democrat, Ciaramella in early 2017 expressed hostility toward the newly elected president during White House meetings, his co-workers said in interviews with RealClearInvestigations. They added that Ciaramella sought to have Trump removed from office long before the filing of the whistleblower complaint.

At the time, the CIA operative worked on loan to the White House as a top Ukrainian analyst in the National Security Council, whose head Schiff had as an adviser on Ukraine to Vice President Biden. The whistleblower complaint cites Biden, alleging that Trump demanded Ukraine’s newly elected leader investigate him and his son “to help the president’s 2020 reelection bid.”

Two NSC co-workers told RCI that they overheard Ciaramella and Misko—who was also working at the NSC as an analyst—making anti-Trump remarks to each other while attending a staff-wide NSC meeting called by then-National Security Adviser Michael Flynn, which they sat together in the south auditorium of the Eisenhower Executive Office Building, part of the White House complex.

The “all hands” meeting, held about two weeks into the new administration, was attended by hundreds of NSC employees.

“They were popping off about how they were going to remove Trump from office. No joke,” said one ex-colleague, who spoke on condition of anonymity to discuss sensitive matters.

A military staffer detailed to the NSC, who was seated directly in front of Ciaramella and Misko during the meeting, confirmed hearing them talk about toppling Trump during their private conversation, which the source said lasted about one minute. The crowd was preparing to get up to leave the room at the time.

“After Flynn briefed [the staff] about what ‘America first’ foreign policy means, Eric and Sean were high on anti-Trump comment,” the source said. “We need to take him out,” the staffer recalled. “And Misko replied, ‘Yeah, we need to do everything we can to take out the president’.”

Added the military detailee, who spoke on condition of anonymity: “By ‘taking him out,’ they meant removing him from office by any means necessary. They were triggered by Trump’s and Flynn’s vision for the world. This was the first ‘all hands’ staff meeting where they got to see Trump’s nationalist agenda side hustling and puffing throughout the briefing any time Flynn said something they didn’t like about America’s position in the world.”

He said he also overheard Ciaramella telling Misko, referring to Trump, “We can’t let him enact this foreign policy.”

Also during the meeting, the military staffer immediately reported what he heard to his superiors.

“It was so shocking that they were so blunt and outspoken about their opinion,” he recalled. “They weren’t shouting it, but they didn’t seem to feel the need to hide it.”

Attempts to reach Vindman through his lawyer were unsuccessful.

A CIA alumnus, Misko had previously as-sisted Biden’s top national security aide Jake Sullivan. Former NSC staffs said Misko was Ciaramella’s closest, and most trusted ally in the Trump White House.

And Misko was quoted by several of his former colleagues as being avoiding the whistleblower complaint since it was made public in September. Ciaramella’s social media postings and profiles were scrubbed from the Internet.

**‘They were thick as thieves,’ added the first NSC source. “They sat next to each other and complained about Trump all the time. They were buddies. They weren’t just colleagues. They were buddies outside the White House.”

The February 2017 incident wasn’t the only time the pair exhibited open hostility toward the president. During the following months, both were accused internally of leaking negative information about Trump to the media. At one point, Trump’s controversial call to the new president of Ukraine this past summer—in which he asked the foreign leader for help with domestic investigations involving the administration—gave them the opening they were looking for.

A mutual ally in the National Security Council who was one of the White House officials authorized to listen in on Trump’s July 25 conversation with Ukraine’s president said it referred to Ciaramella and Misko—July 26—according to former NSC co-workers and congressional sources. The friend, Ukraine-born Lt. Col. Alexander Vindman, held Ciaramella’s old position at the NSC as director for Ukraine. Although Ciaramella had left the White House to return to the CIA in mid-2017, the two officials continued to collaborate through interagency meetings.

Vindman leaked what he’d heard to Ciaramella by phone that afternoon, the sources said. In their conversation, which was over the phone in about 15 minutes, Trump’s call as “crazy,” and speculated he had “committed a criminal act.” Neither reviewed the transcript of the call before the White House released it months later.

NSC co-workers said that Vindman, like Ciaramella, openly expressed his disdain for Trump whose foreign policy was often at odds with the recommendations of the “interagency”—a network of agency working groups comprised of intelligence bureaucrats, experts and diplomats who regularly meet to draft and consider policy positions inside the federal government.

Before he was detailed to the White House, Vindman served in the U.S. Army, where he “performed a remarkable service” from a superior officer for badmouthing and ridiculing America in front of Russian soldiers his unit was training with during a joint 2012 exercise in Germany.

His commanding officer, Army Lt. Col. Jim Hickman, complained that Vindman, then a civilian, had “misprouned” American culture, laughed about Americans not being educated or worldly and really talked up Obama and globalism to the point of [It being] uncomfortable to others.”

“Vindman was a partisan Democrat at least as far back as 2012,” Hickman, now retired, asserted. “Do not let the uniform fool you: Vindman is a political activist in uniform.”

Attempts to reach Vindman through his lawyer were unsuccessful.
July 26 was also the day that Schiff hired Misko to head up the investigation of Trump, congressional employment records show. Misko, in turn, secretly huddled with the whistleblower to help fill his complaint, according to multiple congressional sources, and shared what he told him with Schiff, who initially denied the contacts and later removed them from writing.

Schiff’s office has also denied helping the whistleblower prepare his complaint, while rejecting a Republican subpoena for documents violating to it. But Brill Hill attorneys who had worked on the complaint, according to multiple congressional sources, and shared what he told him with Schiff, who initially denied the contacts and later removed them from writing.

Laufman could not be reached for comment.

Laufman and Zaid are old friends who have worked together on legal matters in the past. “I would not hesitate to join forces with Zaid,” Laufman said in a recommendation posted on his LinkedIn page.

Laufman recently defended Zaid on Twitter after another whistleblower attacked him for advocating a “coup” against him. “These attacks on Mark Zaid’s patriotism are baseless, irresponsible and dangerous,” Laufman tweeted.

“Mark is an ardent advocate for his clients.”

After the CIA analyst was coached on how to file a complaint under Intelligence Community whistleblower protections, his case appeared to have steered to another Obama holdover—former Justice Department attorney-turned-inspector general Michael Atkinson, who facilitated the processing of his complaint, despite the late August date.

The department’s Office of Legal Counsel that handled the case invoked “foreign intelligence,” not intelligence, contained “hearsay” evidence based on “secondhand information,” and did not meet the definition of an “original information” case.

A complaint referred to Congress, it could not have made the complaint public due to classified concerns. But a complaint referred by the IG to Congress gave it more latitude over what it could make public.

OMITTED CONTACTS WITH SCHIFF

The whistleblower complaint was publicly released Sept. 26 after a barrage of letters and a subpoena from Schiff, along with a flood of information from the intelligence community and a regular agitator for his impeachment on CNN.

HIDDEN POLITICAL AGENDA?

Atkinson also repeatedly refused to answer Senate Intelligence Committee questions about the political bias of the whistleblower. Republican members of the panel called his Sept. 26 testimony “evasive.” Senate investigators told Atkinson that Schiff refuses to release it.

The transcript is classified “Secret” so Schiff can prevent you from seeing the answers to my questions,” Ratcliffe told RCI. Atkinson replaced Charles McCullough as the intelligence community’s IG.

Atkinson also repeatedly refused to answer Senate Intelligence Committee questions about the political bias of the whistleblower. Republican members of the panel called his Sept. 26 testimony “evasive.” Senate investigators told Atkinson that Schiff refuses to release it.

McCullough is now a partner in the same law firm for which Bakaj and Zaid work. McCullough formerly reported directly to the Obama Justice Department IG, James Clapper, derived from the whistleblower’s complaint, including evidence and “indicia” of the whistleblower’s “political bias” in favor of Biden.

Republicans point out that Atkinson was the top national security lawyer in the Office of the Director of National Intelligence, or DNI, when it was investigating Trump campaign aides and Trump himself in 2016 and 2017. He worked closely with Schiff, the department’s chief who’s now aligned with the whistleblower’s attorneys. Also, Atkinson served as senior counsel to Mary McCord, the senior Justice Department IG, who’s now aligned with the whistleblower’s attorneys. McCord was also someone who helped convince the FBI’s Russia “collusion” probe, and who personally pressured the White House to fire then National Security Adviser John Bolton. She and Atkinson worked together on the Russia case. Closing the circle tighter, McCord was Laufman’s boss at Justice.

As it happens, all three are now involved in the whistleblower case or the impeachment process.

After leaving the department, McCord joined the stable of attorneys Democrats recruited last year to help impeach Trump. She is listed as a top outside counsel for the House in key legal battles tied to impeachment, including trying to convince federal judges to block White House witnesses and documents.

“Michael Atkinson is a key anti-Trump conspirator who played a central role in creating the whistleblower complaint and the current impeachment proceedings,” said Bill Marshall, a senior investigator for Judicial Watch, the conservative government watchdog group that is watching the Justice Department for Atkinson’s internal communications regarding impeachment.

Hidden political agenda?

Atkinson also repeatedly refused to answer Senate Intelligence Committee questions about the political bias of the whistleblower. Republican members of the panel called his Sept. 26 testimony “evasive.” Senate investigators told Atkinson that Schiff refuses to release it.

McCullough is now a partner in the same law firm for which Bakaj and Zaid work. McCullough formerly reported directly to the Obama Justice Department IG, James Clapper, one of Trump’s biggest critics in the intelligence community and a regular agitator for his impeachment on CNN.

Hidden political agenda?

Atkinson also repeatedly refused to answer Senate Intelligence Committee questions about the political bias of the whistleblower. Republican members of the panel called his Sept. 26 testimony “evasive.” Senate investigators told Atkinson that Schiff refuses to release it.

McCullough is now a partner in the same law firm for which Bakaj and Zaid work. McCullough formerly reported directly to the Obama Justice Department IG, James Clapper, one of Trump’s biggest critics in the intelligence community and a regular agitator for his impeachment on CNN.

Hidden political agenda?

Atkinson also repeatedly refused to answer Senate Intelligence Committee questions about the political bias of the whistleblower. Republican members of the panel called his Sept. 26 testimony “evasive.” Senate investigators told Atkinson that Schiff refuses to release it.

McCullough is now a partner in the same law firm for which Bakaj and Zaid work. McCullough formerly reported directly to the Obama Justice Department IG, James Clapper, one of Trump’s biggest critics in the intelligence community and a regular agitator for his impeachment on CNN.

Hidden political agenda?

Atkinson also repeatedly refused to answer Senate Intelligence Committee questions about the political bias of the whistleblower. Republican members of the panel called his Sept. 26 testimony “evasive.” Senate investigators told Atkinson that Schiff refuses to release it.

McCullough is now a partner in the same law firm for which Bakaj and Zaid work. McCullough formerly reported directly to the Obama Justice Department IG, James Clapper, one of Trump’s biggest critics in the intelligence community and a regular agitator for his impeachment on CNN.

Hidden political agenda?
Atkinson’s office declined comment. Another ‘co-conspirator’? During closed-door depositions taken in the impeachment inquiry, Claramella’s confederate Misko was observed handing notes to Schiff’s staff counsel for the impeachment inquiry, Daniel Goldman—another Obama Justice attorney and a former Democratic donor—as he asked questions of Trump administration officials. With full knowledge of the proceedings told RealClearInvestigations, Misko also was observed sitting on the dais behind Democratic members during the meetings. Another Schiff recruit believed to part of the clandestine political operation against Trump, Jason King, who also worked closely with Claramella at the NSC, both before and after Trump was elected. During the Obama administration, Grace was an assistant to Obama national security aide Ben Rhodes. Last February, Schiff recruited this other White House friend of the whistleblower to work as an impeachment investigator. Grace is listed alongside Sean Misko as senior staffers in the House Intelligence Committee’s “The Trump-Ukraine Impeachment Inquiry.”

Republican Rep. Louie Gohmert, who served on one of the House impeachment panels, singled out Grace and Misko as Claramella’s “co-conspirators” in a recent House floor speech arguing for their testimony. “These people are at the heart of everything about this whole Ukrainian hoax,” Gohmert said. “We need to be able to talk to these people.”

A Schiff spokesman dismissed Gohmert’s allegation. Those allegations about our dedicated and professional staff members are patently false and are based off false smears from a congressional staffer with a personal vendetta from a previous job,” said Patrick Boland, spokesman for the House Intelligence Committee. “It’s shocking that members of Congress would repeat them and other false conspiracy theories, rather than focusing on the facts of the president’s misconduct.”

Boland declined to identify “the congressional staffer with a personal vendetta.”

Schiff’s counsel Rudy Giuliani said in a September 18th tweet that he was considering legal action against Grace since at least January, 2019. Days after the announcement of an investigation into his political enemies clearly to obstruct the impeachment inquiry compels us to conclude that the evidence he is hiding would provide further proof of his guilt.

I. The President committed the federal crime of bribery

There is no question—based on the original meaning of the Constitution, the elaboration of the impeachment clause in the Federalist Papers, historical precedent, and common sense—that the President violated the provision of any criminal code in order to warrant removal from office. The President’s argument that he must violate “established law” to be impeached would be laughable if its implications were not so dangerous.

But there is no reasonable doubt that the President committed the crime of bribery as it existed at the time of the framers and now. Therefore, even using the President’s own standard, the Senate has no choice but to find him guilty.

The evidence shows that the President solicited interference in the 2020 election for his own benefit by pressuring Ukraine to announce an investigation into his political opponents in return for releasing nearly $400 million in taxpayer-funded military aid Ukraine desperately needed, as well as a meeting with the President at the White House. He sought, indeed demanded, a personal benefit in exchange for an official act.

Section 201 of Title 18 of the U.S. Code criminalizes “bribery of public officials and witnesses.” A public official is guilty under this section whenever he “accepts or solicits” “anything of value” in exchange for any “official act” and do so with corrupt intent. The code even specifies that punishment for this crime may include disqualification “from holding any office, of honor, trust, or profit under the United States.”

A. The requested investigations constitute “things of value”

The investigations that President Trump requested into his political enemies and to undermine claims that Russia illegally helped him get elected are clearly “things of value.” By all accounts, he was obsessed with them. According to multiple reports, Trump cared more about the investigations than he did about defending Ukraine from Russia. Ambassador Gordon Sondland even testified that the President “doesn’t give a s**t” about Ukraine and only cares about “big stuff” like the announcement of the investigations. Courts have consistently applied a broad and subjective understanding of the phrase “anything of value.” All that matters is that the thing is given directly to the Secretary and was not taken for another item. The investigations also count as “things of value,” even contributions made to Super PACs, despite Supreme Court precedent holding that independent expenditures do not have sufficient value to candidates to justify placing limits on them. In other contexts, the courts have interpreted the phrase “thing of value” to encompass a tip about the whereabouts of a witness, information about government informants, and the testimony of a government witness. The President’s argument that he is not guilty of the crime of bribery because he did not give any other “tangible thing of value” is patently false.

During closed-door depositions taken in the impeachment inquiry, Claramella’s confederate Misko was observed handing notes to Schiff’s staff counsel for the impeachment inquiry, Daniel Goldman—another Obama Justice attorney and a former Democratic donor—as he asked questions of Trump administration officials. With full knowledge of the proceedings told RealClearInvestigations, Misko also was observed sitting on the dais behind Democratic members during the meetings. Another Schiff recruit believed to part of the clandestine political operation against Trump, Jason King, who also worked closely with Claramella at the NSC, both before and after Trump was elected. During the Obama administration, Grace was an assistant to Obama national security aide Ben Rhodes. Last February, Schiff recruited this other White House friend of the whistleblower to work as an impeachment investigator. Grace is listed alongside Sean Misko as senior staffers in the House Intelligence Committee’s “The Trump-Ukraine Impeachment Inquiry.”

Republican Rep. Louie Gohmert, who served on one of the House impeachment panels, singled out Grace and Misko as Claramella’s “co-conspirators” in a recent House floor speech arguing for their testimony. “These people are at the heart of everything about this whole Ukrainian hoax,” Gohmert said. “We need to be able to talk to these people.”

A Schiff spokesman dismissed Gohmert’s allegation. Those allegations about our dedicated and professional staff members are patently false and are based off false smears from a congressional staffer with a personal vendetta from a previous job,” said Patrick Boland, spokesman for the House Intelligence Committee. “It’s shocking that members of Congress would repeat them and other false conspiracy theories, rather than focusing on the facts of the president’s misconduct.”

Boland declined to identify “the congressional staffer with a personal vendetta.”

Schiff’s counsel Rudy Giuliani said in a September 18th tweet that he was considering legal action against Grace since at least January, 2019. Days after the announcement of an investigation into his political enemies clearly to obstruct the impeachment inquiry compels us to conclude that the evidence he is hiding would provide further proof of his guilt.

I. The President committed the federal crime of bribery

There is no question—based on the original meaning of the Constitution, the elaboration of the impeachment clause in the Federalist Papers, historical precedent, and common sense—that the President violated the provision of any criminal code in order to warrant removal from office. The President’s argument that he must violate “established law” to be impeached would be laughable if its implications were not so dangerous.

But there is no reasonable doubt that the President committed the crime of bribery as it existed at the time of the framers and now. Therefore, even using the President’s own standard, the Senate has no choice but to find him guilty.

The evidence shows that the President solicited interference in the 2020 election for his own benefit by pressuring Ukraine to announce an investigation into his political opponents in return for releasing nearly $400 million in taxpayer-funded military aid Ukraine desperately needed, as well as a meeting with the President at the White House. He sought, indeed demanded, a personal benefit in exchange for an official act.

Section 201 of Title 18 of the U.S. Code criminalizes “bribery of public officials and witnesses.” A public official is guilty under this section whenever he “accepts or solicits” “anything of value” in exchange for any “official act” and do so with corrupt intent. The code even specifies that punishment for this crime may include disqualification “from holding any office, of honor, trust, or profit under the United States.”

A. The requested investigations constitute “things of value”

The investigations that President Trump requested into his political enemies and to undermine claims that Russia illegally helped him get elected are clearly “things of value.” By all accounts, he was obsessed with them. According to multiple reports, Trump cared more about the investigations than he did about defending Ukraine from Russia. Ambassador Gordon Sondland even testified that the President “doesn’t give a s**t” about Ukraine and only cares about “big stuff” like the announcement of the investigations. Courts have consistently applied a broad and subjective understanding of the phrase “anything of value.” All that matters is that the thing is given directly to the Secretary and was not taken for another item. The investigations also count as “things of value,” even contributions made to Super PACs, despite Supreme Court precedent holding that independent expenditures do not have sufficient value to candidates to justify placing limits on them. In other contexts, the courts have interpreted the phrase “thing of value” to encompass a tip about the whereabouts of a witness, information about government informants, and the testimony of a government witness. The President’s argument that he is not guilty of the crime of bribery because he did not give any other “tangible thing of value” is patently false.

The President’s counsels claim that Trump’s counsels claim that Trump asked for investigations of his political rival as part of a perfectly legitimate anti-
corruption effort. In short, they want the Senate to leave our common sense at the door. At least four undisputed facts decisively disprove the claim that President Trump was motivated by the public interest and not his own.

First, as one of my colleagues has put it, it “stands to suggest that President Trump was pursuing the public interest and not his own...” President Trump’s counsel have claimed throughout this trial that the President believed corruption in Ukraine to be widespread and suggested a singular investigation or programmatic action other than the two investigations of his political rivals.

Second, President Trump did not actually want to get to the bottom of the investigation. He only wanted Zelensky to announce them.

If he really did want to get to the bottom of the investigation, he would have wanted Zelensky to investigate a U.S. citizen and not committed to, an official White House visit with Ukraine’s new president, Volodymyr Zelensky. When Trump and Zelensky spoke on July 23, Trump set the terms of the conversation by making clear that he was not interested in obedience and the promised White House visit contingent on Zelensky investigating the Biden conspiracy theory and alleged Ukrainian interference in the 2016 election. As soon as Zelensky appeared to agree to open the requested investigations, Trump almost immediately asked Zelensky to “get over it.” Trump’s actions clearly qualify as a quid pro quo.

Third, President Trump never sought the investigations through ordinary, official channels, or if he did seek them the Justice Department declined to pursue them. If President Trump wanted bona fide investigations, as opposed to politically-motivated announcements, he would have made known to the Department of Justice with conducting an official investigation, and the Department would have sought cooperation from the Ukrainian government through the U.S.-Ukraine Mutual Legal Assistance Treaty (MLAT). Legitimate requests made pursuant to an MLAT allow DOJ to take testimony, obtain records, locate persons, serve documents, transfer persons into U.S. custody, execute searches and seizures, freeze assets, and engage in any of the lawful actions that the statute grants to federal officials. Trump claimed he just wanted to root out criminality and corruption. But he did not ask domestic U.S. law enforcement to look into the matter. Instead, Trump tried to coerce a foreign government to investigate a U.S. citizen without any formal coordination with the U.S. Justice Department. In other words, there was not a sufficient basis for a bona fide, domestic criminal investigation, so Trump had to go elsewhere. The fact that Trump asked a foreign government to investigate Hunter Biden is not evidence he cared about corruption; it is evidence that he was acting in corrupt motivations.

In fact, Ukraine ultimately resisted President Trump’s requests for investigations precisely because the President had failed to rely on ordinary, official channels, or if he did seek them the Justice Department declined to pursue them. If Trump actually wanted a legitimate investigation, and wanted to ensure that the investigation would be thorough, he would have sought formal assistance through the U.S.-Ukraine MLAT, DOJ has confirmed that he did no such thing.

Instead, Trump acted through his personal attorney, Rudy Giuliani, a man who made clear that he was duty bound to pursue his boss’s personal interests and not those of the public interest. In short, the investigation for the President’s decision to completely bypass the Justice Department is that he knew that his conspiracy theories could not withstand scrutiny and he set out to circumvent law enforcement officials. They were solely intended to serve Trump’s personal, political interests.

Finally, as the American Intelligence Community has unanimously concluded, the CrowdStrike conspiracy is not supported by any evidence and it emanates from how propagating Russian-generated propaganda that implicates American public figures and companies is in the national interest of the United States. The facts were mixed, and he cared parenthetically about corruption generally, his predominant goal was to smear a political opponent.

B. The release of military aid and the promised White House visit constitute “official acts.”

The two acts the President agreed to perform—releasing the hold on military aid and setting up an official White House meeting with Zelensky—constitute “official acts.” The bribery statute defines “official act” broadly to include “any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official’s official capacity, or in such official’s place of trust or profit.” Military assistance and an official White House visit were within his official capacity, and not just wanted to root out criminality and corruption.

In fact, both receiving foreign dignitaries and providing foreign assistance are in the President’s official, constitutional job description.

Actions authorized by statute, such as the ones President Trump took here, are particularly clear examples of official acts. Congress has specialized and circumscribed, the President’s ability to award military assistance to foreign countries. This process has been codified since the early 1960s through federal apparatus devoted to evaluating the needs of foreign nations, how those needs intersect with legitimate U.S. foreign policy interests, and how to award foreign aid in line with those interests. Further, when the President placed a hold on the aid, he was acting on behalf of the United States, not in his personal capacity, reflecting that the President’s decision to award, or fail to execute, a foreign aid determination is not an “official act” under the bribery statute.

Similarly, a vice president’s 1995 meeting is an “official act” because the President is specifically “assigned by law”—in both the Constitution and numerous statutes—to make foreign policy. Indeed, the authority to receive ambassadors and recognize foreign governments is considered so core to the office of the President that the Supreme Court has struck down statutes that interfere with it.

C. The President corruptly sought a quid pro quo.

President Trump’s decision to conclude an agreement with the specific intent to be influenced in his decision whether to lift the hold on the military aid and to host a White House meeting.

In United States v. Sun-Diamond Growers of California, the Supreme Court held that a bribe made or solicited “in return for” an official act entails an exchange, a quid pro quo. In a seminal case of the D.C. Circuit reasoned that the term “corruptly” means that the official act would not be undertaken (or undertaken in a particular way) without the thing of value.

Department of Justice guidance on the issue, citing the standard jury instructions that numerous courts have upheld, indicates that a quid pro quo exists when an official offers or receives anything of value not merely to achieve some unlawful end.” The guidance further explains that, ordinarily, this “bad purpose” is “a hope or expectation of either financial gain or other benefit to one’s self, or some aid or profit or benefit to another. In other words, this is the purpose to influence the way prohibited by the bribery statute itself is sufficient to find that the defendant acted “corruptly.”

The American Intelligence Community, which has unanimously held in 2016 that the quid pro quo demand “need not be explicit,” the official “need not specify the means that he will use to perform the act or the purpose of the act,” actually intended to follow through for a prosecutor to succeed in making her case that the defendant is guilty of bribery. In a severability test, the context of the act of corruption is a good indicator of whether the context of a communication can be determined: evidence of a quid pro quo can emerge from “the often clandestine atmosphere of corruption with a simple wink and a nod if the surrounding circumstances make it clear that something of value will pass to a public official if he takes improper, or withholds proper, action.” While the defendant in that case never made an explicit offer and never relayed a specific amount of money, the court nonetheless upheld his conviction for bribery.

Trump’s actions clearly qualify as a quid pro quo. Less than a month prior to this alleged quid pro quo, President Trump had held on hundreds of millions of dollars in military aid to Ukraine and had previously set in motion, but not committed to, an official White House visit with the President-elect Volodymyr Zelensky. When Trump and Zelensky spoke on July 23, Trump set the terms of the conversation by making clear that he would “get over it.” The defendant in that case never made an explicit offer and never relayed a specific amount of money, the court nonetheless upheld his conviction for bribery.

Trump’s actions clearly qualify as a quid pro quo. Less than a month prior to this alleged quid pro quo, President Trump had held on hundreds of millions of dollars in military aid to Ukraine and had previously set in motion, but not committed to, an official White House visit with the President-elect Volodymyr Zelensky. When Trump and Zelensky spoke on July 23, Trump set the terms of the conversation by making clear that he would “get over it.” The defendant in that case never made an explicit offer and never relayed a specific amount of money, the court nonetheless upheld his conviction for bribery.

Trump’s actions clearly qualify as a quid pro quo. Less than a month prior to this alleged quid pro quo, President Trump had held on hundreds of millions of dollars in military aid to Ukraine and had previously set in motion, but not committed to, an official White House visit with the President-elect Volodymyr Zelensky. When Trump and Zelensky spoke on July 23, Trump set the terms of the conversation by making clear that he would “get over it.” The defendant in that case never made an explicit offer and never relayed a specific amount of money, the court nonetheless upheld his conviction for bribery.

Trump’s actions clearly qualify as a quid pro quo. Less than a month prior to this alleged quid pro quo, President Trump had held on hundreds of millions of dollars in military aid to Ukraine and had previously set in motion, but not committed to, an official White House visit with the President-elect Volodymyr Zelensky. When Trump and Zelensky spoke on July 23, Trump set the terms of the conversation by making clear that he would “get over it.”

The implication of Trump’s message to Zelensky on the July 23 phone call is that Trump would not lift the hold or have the White House meet with Zelensky only opened the requested investigations. The obvious political value to the President of opening these investigations constitutes sufficient grounds for a jury to find that he had a “bad motive” in making this request. Trump is guilty of quid pro quo bribery.

D. Trump’s defenses are not persuasive.

Trump attempts to absolve his behavior by arguing that his subjective intent is irrelevant to whether he committed an impeachable offense, that there is no quid pro quo beyond the one he allegedly offered, and that even if he did commit a quid pro quo, he cannot be impeached...
because the articles do not accuse him of bribery. Even setting aside that these defenses ignore the fact that Trump still has not held a White House meeting with Zelensky, arguments are wholly unpersuasive in their own right.

1. Trump’s subjective intent is eminently relevant

Trump claims that his subjective intent is irrelevant, because he could not have been impeached based on the reasons for which he sought the investigations.52 This argument is specious for at least three reasons. First, the two offenses invoked in the impeachment articles need to have violated ‘‘established law’’ in order to be impeached.53 Using the President generally has the authority to dismiss investigations as requiring removal from office—treason and bribery—hinge on the subjective reasons that the official acted. If the Commander-in-Chief orders the military to take certain actions with the purpose of benefiting an enemy of the United States, then the President has committed treason, even if the President generally has the authority to veto laws. When we are prohibited from scrutinizing the President’s reasons for acting, we lose the ability to protect our democracy from specific threats.

Second, the President maintains that he needs to have violated ‘‘established law’’ in order to be impeached.54 Using the President’s own standard, then, in evaluating whether he violated the federal bribery statute, we must evaluate whether he acted with corrupt intent. If the President wants to be scrutinized using the standards of the federal criminal code, then he must concede that his subjective intent is at issue.

Third, even if Trump had other reasons for releasing the aid, it was still a crime for him to even ask for the investigations. Section 201(c) of Title 18 prohibits public officials from demanding or accepting anything of value ‘‘for or because of any official act.’’55 The courts have been clear that even if the official act ‘‘might have been done without’’ the bribe, the defendant is still guilty under section 201(c).56 Even if Trump never actually intended to maintain a hold on the aid, even if he decided to release the aid for entirely legitimate but corrupt reasons, and if he was unaware of the investigations as a ‘‘favor’’—because of which referenced any provisions of any criminal code—the public does not have a hold on the aid—means that the President committed a crime.

Even if a legislator would have voted for a piece of legislation because he thinks it is in the public interest, he still commits bribery if he takes a payoff to do it. As the courts have made clear, an illegal bribe under this section may take the form of ‘‘a reward [.. .] for a past act that has already been taken.’’57 Thus, the fact that the President continued to ask for the investigations after the hold was released does not abolve him; it further incriminates him.

2. Trump completed his crime the moment he solicited the bribe

It is undisputed that the President, either directly or through his agents, demanded and received communications into Joe Biden and a conspiracy theory targeting his preexisting inference,56 the House Judiciary Committee report aptly explained why the President, whether or not the term ‘‘bribery’’ appears in the articles, must be held criminally responsible for his role in this scheme. We know, at the very least, of the communications—both directly and through his agents—with Ukraine regarding his illegal scheme. We know, at the very least, of the communications with the State Department about the hold.62 The head of the agency that placed the hold on the military refused to respond to a lawful subpoena, under the instruction of the White House.63 As discussed below, when a party fails to produce or object, as described in the article, clearures ‘‘gives rise to an inference that the evidence is unfavorable to him.’’64 In this case, although the evidence already presented to the Senate should infer that the evidence that the executive branch has hidden about these communications would provide further evidence that Trump acted for an improper exchange.

3. Senators must convict if they conclude that the President committed the crime of bribery, whether or not the term ‘‘bribery’’ appears in the articles

The first article of impeachment accuses the President of ‘‘corruptly solicit[ing]’’ the public announcement of investigations that were in his ‘‘personal political benefit,’’ in exchange for ‘‘two official acts.’’65 In response to questions from Senators, Trump’s counsel has argued that because the article did not explicitly refer to the crime of bribery, Trump was not subject to impeachment. This argument is absurd.

Trump has received plenty of notice that he stands accused of bribery. Trump’s answers were designed to align with the elements of the federal crime of bribery: he solicited a thing of value in exchange for official acts and did so with corrupt intent.66 Further, the House Judiciary Committee report aptly explained why the President is guilty of bribery under the criminal code.67 Lawmakers have been directed to instruct the President to disavow any claims in terms of bribery for months now.68 His lack of a defense is due not to lack of notice but to lack of facts.

The historical record confirms the commonsense notion that the articles need not name specific crimes. In 1974, the House Judiciary Committee adopted articles of impeachment against President Nixon, none of which referenced any provisions of any criminal code.69 Many of my colleagues were presented with articles of impeachment against Judge Porteous in 2010. In that instance, the House adopted four articles of impeachment, none of which explicitly referenced a crime.70 The first article described conduct that amounts to bribery—claiming that Judge Porteous ‘‘solicited and accepted things of value’’ in exchange for ruling in favor of a particular party—but never used the term ‘‘bribe’’ or mentioned the federal bribery statute.71 The Senate unanimously convicted Judge Porteous on this article and voted to forever disqualify him from holding office.72 No one seriously entertained the notice argument then, and there is no good reason to do so now. As the facts of the White House matter, and we must not let it distract us from the issue before us: the President’s crimes.

Trump’s claim that he cannot be removed for a refusal to answer questions is wholly unpersuasive in the articles. We have not been called to sit in judgment of the House of Representatives’ dictum; we sit in judgment of the President’s conduct. The articles do not demand that the President’s refusal to answer questions be impeachable. Without question, the House has not held the investigations.73

II. The President’s unprecedented campaign to obstruct access to evidence compels us to conclude that the evidence is unfavorable to him

The House of Representatives has made a very strong case that the President’s refusal to cooperate is an obstruction to a fair investigation. Multiple divisions of the House of Representatives classified the investigation as unlawful and constitutionally offensive. But make no mistake—this conflict is more than a dispute between the branches of government. The House of Representatives and a number of Senators have raised the alarm bells not for our own sake, but because when the President hides from Congress, he hides from the American people. The separation of powers does not exist to benefit members of Congress; it exists to curb the exercise of enormously powerful government that others would not have.

Throughout this entire ordeal—from the moment the call transcript was improperly classified to the time when Trump threatened to unlawfully assert executive privilege over any testimony requested by the Senate74—the President has sought to keep his illegal scheme secret from the very people the scheme was designed to manipulate: the American electorate.

Indeed, the withholding of aid itself was complacent, unlike with other evidentiary pauses or suspensions of military assistance.

The law and historical precedent are clear—when the President stifies Congress’ investigative authority, whether involving an impeachment inquiry or when Congress is exercising its broader mandate to investigate the executive branch, he has exceeded the bounds of the law. Because Trump has flouted congressional inquiry in such a brazen and unhinged manner, this violation alone requires us to vote to remove him from office.

Separately, this egregious campaign of obfuscation strengthens the case against the President for abuse of power even beyond impeachment law, when a party to a case improperly withholds relevant evidence, courts can instruct juries to make an adverse inference—to assume the evidence is unfavorable to the withholding party.75 In this case, Trump has withheld every single piece of evidence that the House requested. The facts before us confirm the underlying logic of the adverse inference rule—that when a party hides something, it is because they have something to hide. Applying that rule here, the House is able to overwhelmingly determine that evidence against Trump becomes an avalanche.

A. Trump’s obstruction requires us to infer that all the evidence is against him, which only strengthens the case for removal for abuse of power

It is a long-established rule of law that when a party ‘‘has relevant evidence within his control which he fails to produce, that party may be adjudged to have an inference that the evidence is unfavorable to him.’’76 Importantly, this rule applies even in the absence of a subpoena and, in fact, ‘‘the willingness of a party to defy a subpoena in order to suppress the evidence strengthens the force of the preexisting inference,’’ because in that scenario ‘‘it can hardly be doubted he has some knowledge of the evidence the opposition possesses.’’77 Indeed, the courts have recognized that the adverse inference rule is essential to
proven intragovernmental and intrainsitent parties from abusing "costly and time consuming" court proceedings to subvert their legal duty to produce relevant evidence.7 The Supreme Court has long recognized that the production of documents in civil litigation when strong is available can lead only to the conclusion that the strong would have been adverse.58 As the Court put it, in circuitous fashion, "the absence of evidence is evidence of the most convincing character."59

We know that the Trump administration has not required evidence that it is withholding. As an initial matter, the President has failed to comply with a single request from the House of Representatives, and, following the President's orders, the White House, the office of the Vice President, the Office of Management and Budget, the State Department, the Department of Defense, and the Department of Energy refused to produce a single document in response to 71 specific requests issued by the House of Representatives.60

But we also know of specific pieces of evidence that go to the heart of the House's case and that Trump is concealing. Mark Sandy, the deputy assistant secretary of defense for policy, has testified that he sent a second email warning that the funds—that this rationale was premature and that they demonstrate that there was no withholding. Laura K. Cooper, the American security adviser in August that he wanted to gauge the level of American support for the Ukraine affair.89 This tape suggests an earlier defense by the White House that Trump wasn't aware of what was taking place in the early phase of the Ukraine affair. It only undermines "earlier defenses by the White House that Trump wasn't aware of what was taking place in the early phase of the Ukraine affair." This tape suggests that Trump not only knew about the Ukraine affair, but also that "he may have been directing events" as early as April 2018.

The steady drip of damning evidence leak- ing from the President's associates, combined with Trump's own public confession to obstruction, compels us to conclude what the law already instructs us to infer: that the mountain of evidence Trump is hiding proves his guilt.

Conclusion

It is clear to me that Trump is guilty of bribery and that his campaign to obstruct any investigation into his wrongdoing only strengthens the case against him. Trump's actions clearly evince a campaign of intimidation and threats against those who resist him. If Trump is guilty of bribery, he is also guilty of a high crime and misdemeanor.88

ENDNOTES

1. U.S. CONST. art. II. § 4 ("The President [. . .] shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors").

2. See generally, JARED P. COLE & TODD STERLING, THE CRUNCH: BUREAUCRACY AND REMOVAL (2015); see also Paul Kiel, Democrats Push 1999 Video of Lindsay Graham Talking About Impeachment to Bolster Case Against Trump, CNN, Jan. 23, 2020, available at https://www.cnn.com/2020/01/23/politics/lindsay-graham-trump-impeachment/index.html (quoting then-Representative Graham's statement during the Clinton impeachment proceedings that "[d]oesn't even have to be a crime. It's just when you start using your office and you're acting in a way that hurts people, you have committed a high crime.

3. See generally, JARED P. COLE & TODD STERLING, THE CRUNCH: BUREAUCRACY AND REMOVAL (2015); see also Paul Kiel, Democrats Push 1999 Video of Lindsay Graham Talking About Impeachment to Bolster Case Against Trump, CNN, Jan. 23, 2020, available at https://www.cnn.com/2020/01/23/politics/lindsay-graham-trump-impeachment/index.html (quoting then-Representative Graham's statement during the Clinton impeachment proceedings that "[d]oesn't even have to be a crime. It's just when you start using your office and you're acting in a way that hurts people, you have committed a high crime.


5. The President does not contest that he is a "public official," and the law confirms that it would be foolish to claim otherwise. The courts have agreed that a wide array of official positions is subject to the bribery statute: from independent public corporation, U.S. v. Payne, 312 F.3d 725, 728 (5th Cir. 2002), to a private firm in the United States army, U.S. v. Kidd, 734 F.2d 469, 411–12 (9th Cir. 1984), to a housing technician employed by an independent public corporation, U.S. v. Hang, 75 F.3d 1275, 1280 (8th Cir. 1996). It would defy reason to argue that a cook at a federal prison is a public official but the President of the United States is not.


7. United States v. Williams, 705, F.2d. 603, 602–23 (2d Cir. 1983) ("Corruption of office occurs when the officer or agent makes use of his office in the expectation of gain, whether or not he has correctly assessed the worth of the bribe.").

8. U.S. v. Gorman, 807 F.2d 1299, 1304–05 (6th Cir. 1986) (explaining that "anything of value" should be "broadly construed") with a caveat that "the government may not rely on "subjectively attachments to the claimant" ("subjectively").
President Trump’s political past and future.

They of conspiring with the Democratic National Committee and did not suggest any il-

tional he said. But the

was accusing

of China investigate the Bidens. But the


eybody Knows It ‘Is Wrong’ to Ask a Foreign

and other public

sponsibilities explicitly assigned by law,’’

and

in place of


7. See U.S. Const. art. II § 2 (The President

mitment to make public statements about on-

safety.

29. Treaty of Mutual Legal Assistance, Ukraine-


30. The Trump-Ukraine Impeachment In-

quiry Report: Report for the H. Ferm. Select

Committee on Intelligence, H. Rept. 600 in

Consultation with the H. Comm. On

Overight and Reform and the H. Comm. On

Foreign Affairs at 222, 116th Cong. (2019).


25, 2019 (”The President has not asked the

Attorney General to contact Ukraine—

on this or any other matter. The Attorney

General has not communicated with

Ukraine—on this or any other subject.”).

32. e Kenneth F. Vogel, Rudy Giuliani Plans

Ukraine Trips that Could Help Trump, N.Y. Times, May 9, 2019, available


(quot ing Giuliani, in response to questions

about his travel to Ukraine, noting that

“This isn’t foreign policy—I’m asking them to do an investigation [...] because

that information self-evidently is very helpful to my cli-

cent (Donald Trump), and may turn out to be

helpful to my government.”) (emphasis added).

33. Miles Parks & Brian Naylor, Trump Did

‘Nothing Wrong,’ His Legal Team Says in First


nytimes.com/2020/01/25/us/politics/rudy-giuliani-trump-impeachment-hear-

ings.html (quoting Giuliani, in response to

questions about his travel to Ukraine, noting that

“This isn’t foreign policy—I’m asking them to do an investigation [...] because

that information self-evidently is very helpful to my cli-
cent (Donald Trump), and may turn out to be

helpful to my government.”) (emphasis added).

34. In U.S. Const. art. II § 2 (The President

‘shall receive ambassadors and other public

ministers’’); Zivotofsky ex rel. Zivotofsky v.

Kerry, 576 U.S. 1, 135 S. Ct. 2076, 2066

(2015) (the Reception Clause ‘‘assigns the

President means to effect recognition on his

own initiative’’).


36. U.S. Const. art. II § 2 (The President

‘shall receive ambassadors and other public

ministers’’); Zivotofsky ex rel. Zivotofsky v.

Kerry, 576 U.S. 1, 135 S. Ct. 2076, 2066

(2015) (the Reception Clause ‘‘assigns the

President means to effect recognition on his

own initiative’’).

37. See MARIAN L. LAWSON & EMILY M.

MORGENSTERN, CONG. RES. SERV., R4323, FOR-

EIGN AID: A N INTRODUCTION TO U.S. P RO-

GRAMS AND POLICY (2019).


The meetings that the Court considered in

MDC no. 515 cases are not comparable. Nowhere

in Virginia’s constitution or statutes is the

governor tasked with arranging meetings,

hosting parties, or engaging in unofficial

treasure of the government officials.

The Court took issue with a jury

instruction which stated that an official act

need not have been taken ‘‘pursuant to re-

ponsibilities prescribed by law’’, whereas

the President’s actions here clearly are

assigned by law.

39. See U.S. Const. art. II § 2 (The President

‘shall receive ambassadors and other public

ministers’’); Zivotofsky, 135 S. Ct. at 2086

(2015) (the Reception Clause ‘‘assigns the

President means to effect recognition on his


§2311(a).

40. See Zivotofsky 135 S. Ct. at 2086.


1974). In contrast, with a bribe under

20(c), the thing of value need not be a rea-

son for which the official performed the act at

all. See infra 14-15.

43. DEPARTMENT OF JUSTICE, CRIMINAL


44. McDonnell, 138 S. Ct. at 2371.

45. United States v. Synowiec, 333 F. 3d 786, 789 (7th Cir. 2003).

46. Id. at 789-90.

47. MEMORANDUM OF TELEPHONE CONVERSA-

TION, supra n. 21 at 3.

48. Click the link for details.

49. Miles Parks & Brian Naylor, Trump Did

‘Nothing Wrong,’ His Legal Team Says in First


nytimes.com/2020/01/25/us/politics/rudy-giuliani-trump-impeachment-hear-

ings.html (quoting Giuliani, in response to

questions about his travel to Ukraine, noting that

“This isn’t foreign policy—I’m asking them to do an investigation [...] because

that information self-evidently is very helpful to my cli-
cent (Donald Trump), and may turn out to be

helpful to my government.”) (emphasis added).

50. See U.S. Const. art. II § 2 (The President

‘shall receive ambassadors and other public

ministers’’); Zivotofsky ex rel. Zivotofsky v.

Kerry, 576 U.S. 1, 135 S. Ct. 2076, 2066

(2015) (the Reception Clause ‘‘assigns the

President means to effect recognition on his

own initiative’’).

51. 18 U.S.C. § 201(c).

52. Brezner, 506 F. 2d at 72.

53. See Memorandum of Telephone

Conversation, supra n. 21 at 3.

54. Xbox Diamond Growers, 526 U.S. at 404.

55. See Kevin Breuninger, Trump Says China

Should Investigate the Bidens, Doubles Down on Ukraine Probe, CNBC, Oct. 3, 2019, available

at https://www.cnbc.com/2019/10/03/trump-talks-for-china-ukraine-china-to-inves-
tigate-the-bidens.html (quoting President

Trump, in response to a question about what

to Ukraine to do, stating that ‘‘[i]f they were honest about it, they would start a

major investigation into the Bidens’’).


(2016).

57. Id. at 2370-71 (2016); see also United States v. Hawkins, 37 F. Supp. 3d 964 (N.D. Ill. 2014), aff’d in part, vacated in part on other grounds, remanded, 2015 WL 3909520 (7th Cir. 2015) (‘‘What is required to make the act corrupt is not an intent to take a specific

action, but the holding out of the performance of the duties of one’s office for sale.’’).

58. Andrew E. Kramer, Ukraine Knew of Aid


Transcript: Laura Cooper and David Hale’s Nov. 20 Testimony to House Intelligence


any statement to the contrary by

Zelensky is not reliable for the simple

reason that Ukraine’s future depends on

rebuilding the economy of the country.

The

President

and

his

administration

have

noted

that

Ukraine

knew

about the hold much earlier than

February 5, 2020 — CONGRESSIONAL RECORD — SENATE S929
she expected to, stated, the Ukrainians did not want the hold publicized because it “would be a really big deal in Ukraine, and an expression of declining U.S. support for Ukraine.”

The Constitution gives the Senate the sole power to conduct impeachment trials. A fair trial is one in which Senators are allowed to see and hear all of the relevant information needed to decide the issues at the heart of the trial, even as more evidence continued to come to light and as Bolton repeatedly volunteered to share what he knows.

The trial boils down to one word: corruption—the corruption of a President who has repeatedly put his interests ahead of the interests of the American people and violated the Constitution in the process; the corruption of this President’s political appointees, including individuals like U.S. Ambassador to the European Union Gordon Sondland, who paid $1 million for an ambassadorship; the corruption running throughout our government that protects and defends the interests of the wealthy and powerful to the detriment of everyone else.

Americans have a right to hear and see information that further exposes the gravity of the President’s actions and the unprecedented steps he and his agents took to hide it from the American people. But more importantly, Americans deserve to know that the President of the United States is using the power of his office to work in the Nation’s interest, not his own personal interest.

I voted to convict and to remove the President from office in order to stand up to the corruption that has permeated our government and to make this government work not just for the wealthy and well-connected but to make it work for everyone.

Mr. PETERS. Mr. President, I swore an oath to defend the Constitution of the United States. Every U.S. Senator takes the same oath. The Constitution makes clear that no one is above the law, not even the President of the United States.

Over the past 2 weeks, the Senate has heard overwhelming evidence showing that the President of the United States, Donald J. Trump, abused the power of his office to pressure the President of Ukraine to dig up dirt on a political rival to help President Trump in the next election. The President then executed an unprecedented campaign to cover up his actions, including a wholesale obstruction of Congress’s effort to investigate his abuse of power.

The Constitution’s effort to investigate his abuse of power.
The President’s conduct is unacceptable for any official, let alone the leader of our country. Our Nation’s Founders feared unchecked and unlimited power by the President. They rebelled against an abuse of power and instead created a republic that distributed power across different branches of government.

They were careful students of history: they knew unchecked power would destroy a democratic republic. They were especially fearful of an unchecked Executive and specifically granted Congress the power of impeachment to check a President who thought of themselves as above the law.

Two years ago, I had the privilege of participating in an annual bipartisan Senate tradition reading President George Washington’s farewell address on the Senate floor. In that address, President Washington warned that unchecked power, the rise of partisan factions, and foreign influence, if left unchecked, would undermine our young Nation and allow for the rise of a tyrant. He warned that we could become so divided and so entrenched in the beliefs of our particular partisan group that “cunning, ambitious and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of government.”

I am struck by the contrast of where we are today and where our Founders were more than 200 years ago. George Washington was the ultimate rock star of his time. He was beloved, and when he announced he would leave the Presidency and return to Mount Vernon, people begged him to stay. There was a call to make him a King, and he said no. He reminded folks that he had just fought against a monarch so that the American people could enjoy the liberties of a free people.

George Washington, a man of integrity and an icon, refused to be anointed King when it was offered to him by his adoring countrymen. He chose a republic over a monarchy.

But tomorrow, by refusing to hold President Trump accountable for his abuses, Republicans in the Senate are offering him unbridled power without accountability, and he will gleefully seize that power. And when he does, our Republic will face an existential threat. A vote against the Articles of Impeachment will set a dangerous precedent and will be used by future Presidents to act with impunity.

Given what we know, that the President could be held accountable for his actions by attempting to extort a foreign government to interfere with an American election, that he willfully obstructed justice at every turn, and that his actions run counter to our Nation’s most cherished and fundamental values, it is clear that the Vice President has the trust of the American public placed in him to fully execute his constitutional responsibilities.

This betrayal is by definition a high crime and misdemeanor. If it does not rise to the level of impeachment and removal, I am not sure what would.

The Senate has a constitutional responsibility to hold him accountable. We do not stand up and defend our democracy during this fragile period, we will be allowing this President and future Presidents to have unchecked power.

This is not what our Founders intended. The oath I swore to protect and defend the Constitution demands that I vote to preserve the future of our Republic. I will faithfully execute my oath and vote to hold this President accountable for his actions.

Mr. COTTON, Mr. President, I will soon join a majority of the Senate in voting down the Articles of Impeachment brought against the President by his partisan opponents. The time has come to end a spectacle that has incarcerated and demonized the President’s political class over the concerns and interests of the American people.

This round of impeachment is just the latest Democratic scheme to bring down the President. I say “this round” because House Democrats have tried to impeach President Trump at least four times—first, for being mean to football players; then for his transgender military policy; next for his immigration policy. And those are just the impeachment attempts. Along the way, Democrats also proclaimed that Robert Mueller would drive the President from office. Some even speculated that the Vice President and the Cabinet would invoke the 25th amendment to seize power from the President—a theory that sounds more like resistance fan fiction than reality.

What is behind this fanaticism? Simply put, the Democrats have never accepted that Donald Trump won the 2016 election, and they will never forgive him under any circumstances. It is time for the Democrats to get some perspective. They are claiming that we ought to impeach and remove a President from office for the first time in our history for briefly pausing aid to Ukraine and rescheduling a meeting with the Ukrainian President, allegedly in return for a corruption inquiry. But the aid was released after a few weeks and the meeting occurred, yet the inquiry did not—even though, I might add, it remained shrouded in ambiguity by the Trump administration.

It is time for the Democrats to get some perspective. They are claiming that we ought to impeach and remove a President from office for the first time in our history for briefly pausing aid to Ukraine and rescheduling a meeting with the Ukrainian President, allegedly in return for a corruption inquiry. But the aid was released after a few weeks and the meeting occurred, yet the inquiry did not—even though, I might add, it remained shrouded in ambiguity by the Trump administration.

Just how badly have the Democrats lost perspective? The House managers have argued that we ought to impeach and remove the President because his meeting with the Ukrainian President happened in New York, not Washington.

When most Americans think about why a President ought to be impeached and removed from office for the first time in our history, and they do so only if it is clearly established that pausing aid to Ukraine for a few weeks is pretty far down the list. That is not exactly “treason, bribery, or other crimes.” Nonetheless, the House managers claim to be impeaching for abuse of power. But this round of impeachment is just the latest Democratic scheme to bring down the President. I say “this round” because House Democrats have tried to impeach President Trump at least four times—first, for being mean to football players; then for his transgender military policy; next for his immigration policy. And those are just the impeachment attempts. Along the way, Democrats also proclaimed that Robert Mueller would drive the President from office. Some even speculated that the Vice President and the Cabinet would invoke the 25th amendment to seize power from the President—a theory that sounds more like resistance fan fiction than reality.

What is behind this fanaticism? Simply put, the Democrats have never accepted that Donald Trump won the 2016 election, and they will never forgive him under any circumstances. It is time for the Democrats to get some perspective. They are claiming that we ought to impeach and remove a President from office for the first time in our history for briefly pausing aid to Ukraine and rescheduling a meeting with the Ukrainian President, allegedly in return for a corruption inquiry. But the aid was released after a few weeks and the meeting occurred, yet the inquiry did not—even though, I might add, it remained shrouded in ambiguity by the Trump administration.

It is time for the Democrats to get some perspective. They are claiming that we ought to impeach and remove a President from office for the first time in our history for briefly pausing aid to Ukraine and rescheduling a meeting with the Ukrainian President, allegedly in return for a corruption inquiry. But the aid was released after a few weeks and the meeting occurred, yet the inquiry did not—even though, I might add, it remained shrouded in ambiguity by the Trump administration.
high crimes and misdemeanors.” And that is especially true when we are just months away from the election that will let Americans make their own choice. Indeed, Americans are already voting to select the President’s Democratic challenger. Why not let the voters decide whether the President ought to be removed?

The Democrats’ real answer is that they are afraid they will lose again in 2020, so they designed impeachment to hurt the President before the election. As one Democratic congressman said last year, “I’m concerned that if we don’t impeach this president, he will get reelected.” Or, as minority leader CHUCK SCHUMER claimed earlier this month, impeachment is a “win-win” for Democrats: either it will lead to the President’s defeat or it will hurt enough Republican Senators in tough races to hand Democrats the majority. Or maybe both.

The political purpose of impeachment was clear from the manner in which House Democrats conducted their proceedings. If impeachment was indeed the high-minded, somber affair that Speaker NANCY PELOSI claimed, House Democrats would have taken their time to clear all the facts from all relevant witnesses. Instead, they barred ahead with a slipshod and secretive process, denying the President’s due-process rights, gathering testimony behind closed doors, leaking their findings selectively to the press, and ignoring constitutional concerns such as executive privilege.

The impeachment vote itself contradicted the pretensions of House Democrats. Speaker PELOSI said last year that she wouldn’t support impeachment unless there was something “so compelling and overwhelming and bipartisan” that it demanded a response. Likewise, Congressman JERRY NADLER said that the House had to “persuade enough to take all the facts from all relevant witnesses.” Instead, they barred ahead with a slipshod and secretive process, denying the President’s due-process rights, gathering testimony behind closed doors, leaking their findings selectively to the press, and ignoring constitutional concerns such as executive privilege.

The impeachment vote itself contradicted the pretensions of House Democrats. Speaker PELOSI said last year that she wouldn’t support impeachment unless there was something “so compelling and overwhelming and bipartisan” that it demanded a response. Likewise, Congressman JERRY NADLER said that the House had to “persuade enough to take all the facts from all relevant witnesses.” Instead, they barred ahead with a slipshod and secretive process, denying the President’s due-process rights, gathering testimony behind closed doors, leaking their findings selectively to the press, and ignoring constitutional concerns such as executive privilege.

The impeachment vote itself contradicted the pretensions of House Democrats. Speaker PELOSI said last year that she wouldn’t support impeachment unless there was something “so compelling and overwhelming and bipartisan” that it demanded a response. Likewise, Congressman JERRY NADLER said that the House had to “persuade enough to take all the facts from all relevant witnesses.” Instead, they barred ahead with a slipshod and secretive process, denying the President’s due-process rights, gathering testimony behind closed doors, leaking their findings selectively to the press, and ignoring constitutional concerns such as executive privilege.

The reason for this “greatest danger” of partisan impeachment is watching. That is true. Every action taken by the House and the Senate during this impeachment sets a precedent for our country and our institutions of government, whether good or bad.

The reason for this “greatest danger” of partisan impeachment is watching. That is true. Every action taken by the House and the Senate during this impeachment sets a precedent for our country and our institutions of government, whether good or bad.

For that reason, it is our job as Senators to look at the entire record of this proceeding—from what happened in the House to final arguments made here in the Senate. It is our duty to look at the whole picture, the flawed process in the House, the purely partisan nature of the articles of impeachment, the President’s actions that led to his impeachment, and the impact of all of this on our constitutional norms.

Most importantly, we must weigh the impact on our Nation and on the legitimacy of our institutions of government, if the Senate were to agree with the House managers’ demands to overturn President Trump’s victory in the 2016 election and remove the President from the 2020 ballot. This has never happened in our country’s 243-year history.

It is also our job as Senators during an impeachment trial to be guided by “a deep responsibility to future times.” This is a quote from U.S. Supreme Court Justice Joseph Story, two centuries ago, but it couldn’t be more relevant today. With this grave constitutional responsibility in mind, and considering the important factors listed above, I will vote to acquit the President on both charges brought against him.

It may surprise some, but if you listened to all the witnesses in this trial and you examine the sweep of American history, one strong bipartisan point of consensus has emerged: Purely partisan impeachments are not in the country’s best interest. In fact, they are a danger which the framers of the Constitution clearly feared.

Alexander Hamilton’s warning from Federalist No. 65 bears repeating: “In many cases [impeachment] will confound the country into the political parties, unite them in factions, and will inlist all their animosities, partialities, influence, and interest on one side or on the other; and in such cases there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt . . . Yet it ought not to be forgotten that the demon of faction will, at certain seasons, extend his sceptre over all numerous bodies, and all departments of Government. . . . That is true. Every action taken by the House and the Senate during this impeachment sets a precedent for our country and our institutions of government, whether good or bad.

The reason for this “greatest danger” is obvious: the weaponization of impeachment as a regular tool of partisan warfare will incapacitate our government, undermine the legitimacy of our institutions, and tear the country apart. Until this impeachment, our country’s representatives largely understood this. During the Clinton impeachment—Democrats, including Minority Leader SCHUMER and House Managers LOPES and NADLER, argued that a purely partisan impeachment would be “divisive,” “lack the legitimacy of a national consensus,” and
Less than a year ago, Speaker Pelosi said: “Impeachment is so divisive to the country that unless there’s something so compelling and overwhelming and how could I. I don’t think we should go down that path because it divides the country.”

Yet here we are. Against the weight of bipartisan consensus and the wisdom of the Framers, the House still took this dramatic and consequential step, the first purely partisan impeachment in U.S. history. Only Democrats in the House voted to impeach the President, while a bipartisan group of House members opposed.

This was done through rushed House proceedings that lacked the most basic due process procedures afforded Presidents Clinton and Nixon during their impeachment investigations. A significant portion of the House proceedings last fall took place in secret, where the President was not afforded the ability to call his own witnesses, or cross-examine those of the House Democrats. Certain testimonies from these secret hearings were then selectively leaked to a pro-impeachment press in America. In my view, it sounds like something more worthy of the Soviet Union, not the world’s greatest constitutional republic.

Yet here we are. A new precedent has been set in the House. When asked several times if these precedents and the partisan nature of this impeachment should concern us, the House managers dodged the questions, and my Senate colleagues, who in 1999 were so strong and correctly and vocally against the House’s impeachment investigation and constitutional demolition. And as the trial proceeded, it became apparent that it was more than just claims of efficiency in the pursuit of the country’s will, but a profound and likely very negative.

Similarly concerning were the attempts, both subtle and not so subtle, to inject Chief Justice Roberts of the U.S. Supreme Court into this trial. The smooth siren song of House Manager Nadler described on day 1 of the trial as “executive privilege, and other nonsense.”

Moreover, the Chief Justice could do this all within a week, Schiff told us. It all seemed so simple, rational, and efficient. But our Constitution doesn’t work this way. The Chief Justice, in an impeachment of the President, sits as the Presiding Officer over the Senate, not as an article III judge. And while the Senate can delegate certain trial powers to him, it cannot delegate matters, such as a President’s claims of executive privilege, what House Manager Nadler described on day 1 of the trial as “executive privilege, and other nonsense.”

The quick and efficient fix Schiff was tempting the Senate with might have ended up as a form of constitutional demolition. And as the trial proceeded, it became apparent that it was more than just claims of efficiency behind the invitation to draw the Chief Justice fully into the trial.

There was something else afoot, a subtle and not so subtle attempt by the House to inject the Chief Justice Roberts of the U.S. Supreme Court into this trial. The Senate managers claim that, by not doing so, we are undermining a “fair trial” in the Senate. The irony of such a claim should not be lost on the American people.

Throughout this trial, and in their briefs, the House managers have claimed dozens of times that they have “overwhelming evidence” on the current record to impeach the President, thereby undermining their own rationale for more evidence. And in terms of fairness, it is well documented that the Democratic leadership in the House just conducted the most rushed, partisan, and fundamentally unfair House impeachment proceedings in U.S. history.

A Senate vote to pursue additional evidence and witnesses would have turned the article I constitutional impeachment responsibilities of the House and Senate on their heads. It would have required the Senate to do the House’s investigatory work, even when the House affirmatively declined to seek additional evidence last fall, such as subpoenaing Ambassador John Bolton, because of Speaker Pelosi’s artificial deadline to impeach the President.

A vote by the Senate to pursue additional evidence that the House consciously chose not to obtain would incentivize less thorough and more frequent partisan impeachments in the future, a danger that should concern us all.

Another example of the House’s attempt to erode long-standing constitutional norms is found in its second Article of Impeachment, obstruction of Congress. This article claims that the President committed an impeachable offense by resisting House subpoenas for witnesses and documents, even though the House didn’t attempt to negotiate, accommodate, or litigate the President’s asserted defenses, such as executive privilege and immunity, to provide such evidence.

These defenses have been utilized by administrations, Democrat and Republican, for decades and go to the heart of the separation of powers within the articles I and II branches of the Federal Government and even implicate a defendant’s right to vigorously defend oneself in court. Indeed, the Supreme Court acknowledged in United States v. Nixon that the President has the right to assert executive privilege.

Nevertheless, the House managers argued that the mere assertion of these constitutional rights is an impeachable offense, in essence claiming the unilateral power to define the limits and scope of executive privilege, while simultaneously usurping that power from the courts, where it has existed for centuries.

Indeed, the House managers even argued that merely defending these defenses demonstrates a lack of understanding of basic constitutional norms. As U.S. Supreme Court Justice Brandeis stated in his famous dissent in Myers v. United States, “The doctrine of the separation of powers was adopted by the convention of 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy.”

If allowed to proceed by the Senate, the implications of these House precedents for our Nation and the individual liberties of the people we represent are difficult to discern, but would be profound and likely very negative.

February 5, 2020

CONGRESSIONAL RECORD — SENATE

S933
the Senate during Presidential impeachments. Chief Justice Roberts’ co-
gen, historically accurate, and constitutionally, based answer to this in-
quity will set an important precedent on this impeachment issue for genera-
tions to come.

Perhaps it is all a coincidence, but as these attempts to diminish the Chief
Justice’s credibility by more fully dragging him into this impeachment
trial were ongoing, much more harsh political ads immediately attacking him in
this regard were also launched across the country. Members of the Senate
noticed, and we were not impressed.

The independence of the Federal judi-
ciciary as established in our Constitu-
tion is a gift to our Nation that has
taken centuries to develop. The over-
reach of the House managers and cer-
tain Democratic Senators seeking to
undermine this essential constitutional
norm was a disappointing and even
dangerous aspect of this impeachment
trial.

When historians someday write about
this divisive period of American his-
tory, they would do well to focus on
these subtle and not so subtle attacks
on the Chief Justice’s credibility—and by extension the credibility of the Su-
preme Court—for it was clearly one of
the important reasons why the Senate
voted last week, 51 to 49, to no longer
prolong the trial phase of this impeach-
ment.

The impeachment articles do not
charge the President with a crime. Al-
though there was much debate in the
trial on whether this is required, it is
undisputed that in all previous presi-
dential impeachments—Johnson,
Nixon, and Clinton—the President was
charged with having violated a crimi-
nal statute. And there was little dis-
pute that these charges were accurate.
Lowering the bar to non-criminal of-
fenses has set a new precedent. How-
ever, whether a crime is required is still
debatable. Instead, the House im-
peachment charged the President with
an abuse of power based on speculative
interpretation of his intent.

So what about the President’s ac-
tions that were the primary focus of
this impeachment trial and the basis of
the House’s first Article of Impeach-
ment claim that he abused his power?
The House managers argued that the
President abused his power by taking
actions that on their face appeared
valid—denying aid to a foreign country and investigating corruption—but
were motivated by “corrupt in-
tent.”

One significant problem with this ar-
gument is that it is vague and hinges
on deciphering the President’s intent
and motives, a difficult feat because it
is subjective and could be—and was in-
deed in this case—defined by a partisan
House. Further, the House managers
argued essentially that there could be
no legitimate national interest in pur-
suing investigations into interference
of the U.S. 2016 elections by Ukraine
and corruption involving Burisma.

I believe all Presidents have the right
to investigate interference in U.S. elec-
tions and credible claims of corruption
and conflicts of interest, particularly
in countries where America sends sig-
ificant amounts of foreign aid, like
Ukraine, and where corruption is en-
demic, as is true in Ukraine. And I have
to admit that I have had similar fears
these past weeks.

But I look around me, on this floor,
and I continue to see hope for our Na-
tion. I see my colleagues on the other
side of the aisle—my friends—who are will-
ing to work with me on so many issues
to find solutions sorely needed for the
country.

And back home, I see my fellow Alas-
kins, some of them fearful, but also so
hungry to do their part to help heal the
divides.

We should end this chapter, and we
should take our cues from them, the
people whose spirit and character
shape the great State of Nevada. They want us
to protect our Constitution. They need
us to work together to do that and ad-
dress America’s challenges.

It’s time to get back to the work
Alaskans want the Congress to focus
on: growing our economy, improving
our infrastructure, rebuilding our mili-
tary, cleaning up our oceans, lowering
healthcare costs and drug prices, open-
ing markets for our fishermen, and
taking care of our most vulnerable in
society like survivors of sexual assault
and domestic violence and those strug-
gling with addiction.

That is what I am committed to do.
Ms. CORTEZ MASTO. Mr. President,
the decision I make today is not an
easy one, nor should it be.

I have approached this serious task
with an open and impartial mind, as
my trial oath required. I have studied
the facts and the evidence of the case
before me.

I have been an attorney for over two
decades, and I was the attorney general
of Nevada for 8 years. And I keep com-
ing back to what I learned in the court-
room. The law is a technical field, but
it is also based on common sense.

You don’t have to study the law for
years to know that stealing and cheat-
ing are wrong. It is one of the first
things we learn in our formative years.

And you don’t have to be a law school
professor to realize that a President
cannot be using the job the Ameri-
can people gave him to benefit himself
personally.

Abraham Lincoln reminded us that
our Nation was founded on the essen-
tial idea of government “of the people,
by the people, for the people.”

As I sat on the Senate floor thinking
about President Lincoln and listening
to the arguments in President Trump’s
impeachment trial, I thought of the
awesome responsibility our Founding
Fathers entrusted to each Senator.

I thought about all of the Nevad-
ans I represent—those who voted for
President Trump and those who did
not. For those who did, I put myself in

February 5, 2020
their shoes and considered how I would respond if the President were from my political party.

The removal of a sitting President through impeachment is an extraordinary remedy. It rarely occurs, and no Senator should want another one.

Yet impeachment is a key part of our constitutional order. When our Founding Fathers designed the Office of the Presidency, the Framers of the Constitution had just gotten rid of a King, and they didn't want another one.

They were afraid that the President might use his extensive powers for his own benefit.

To prevent this, the Framers provided for impeachment by the House and trial by the Senate for "treason, bribery, or other high crimes and misdemeanors."

They didn't have to do things this way. They could have left it up to the courts, but they wanted the trial of a President accused of wrongdoing.

But they wanted to make sure each branch of government could be a check on the other, which would bring balance to our system of government.

And so they were particularly concerned with the idea of an all-powerful Executive who might abuse his power and invite foreign interference in our elections.

The concern is reflected in the Articles of Impeachment laid out by the House managers.

Putting aside the biases I heard coming from both political parties, I focused on getting to the truth of the case—on getting to the truth of the case.

The truth in any case that I have been involved with starts with the facts.

For 2 weeks I listened to the arguments presented by both sides, took notes, posed questions, and identified the facts that were supported and substantiated and those that were not.

With a heavy heart and great sadness, I became convinced by the evidence presented by the House managers, and I voted to impeach him. The impeachments of Presidents Nixon and Clinton allowed us to fight against corruption in American history. Even Presidents Nixon and Clinton allowed House investigators to publicly announce investigations that would influence the 2020 elections in his favor.

We also know through testimony provided during the House investigation that President Trump tried to pressure Ukraine to announce those investigations, first by conditioning a visit by President Zelensky to the White House on them and later by denying $391 million in security assistance to Ukraine.

Some of my colleagues don’t dispute these facts.

President Trump’s actions interfere with the fundamental tenets of our Constitution. Citizens do not get to govern themselves if the officials who get elected seek their own benefit to the detriment of the public good.

The Framers knew this. They were very aware that officials could leverage their office to benefit themselves.

In Federalist No. 65, Alexander Hamilton explained why we had the impeachment power in the first place: it was to respond to "those offenses which proceed from the misconduct of public men, or in other words, from the abuse or violation of some public trust."

With the undisputed facts condemning the president, I listened to the President’s counsel argue that the Articles of Impeachment were defective because abuse of power and obstruction of Congress are not crimes.

However, many constitutional scholars soundly refuted this argument, and precedent supports them. The Impeachment Articles in President Nixon’s case included abuse of power and obstruction of Congress.

During this impeachment investigation, the President blocked all members of his administration from testifying in response to congressional committee requests and withheld all documents.

This action is absolutely unprecedented in American history. Even Presidents Nixon and Clinton allowed staff to testify to Congress during impeachment investigations and provided some documents.

The executive branch has no blanket claim to secrecy. It works for the American people, as do Members of Congress.

In the Senate, the President’s counsel argued that the House investigators should have fought this wholesale obstruction in court. Yet at the same time, in a court down the street, other administration lawyers contended that the courts should stay out of disputes between Congress and the President.

The President’s counsel also argued that the American people should decide in the next election whether to remove President Trump for his actions. But if this were the standard, then the impeachment clause could only ever be used in the second term of a Presidency, when no upcoming election would preserve the country.

Most importantly, isn’t the impeachment clause pointless if a president can abuse his power in office and then come into the next election and refuse to comply with a House impeachment investigation and a Senate trial in order to delay until the next election?

The Framers themselves actually argued about whether Americans could rely on elections to get rid of bad presidents. They decided that if they didn’t put the impeachment power into the Constitution, a corrupt President might be willing to do anything to get himself reelected.

James Madison said that without impeachment, a corrupt President “might be fatal to the Republic.”

And through my oath of office as a Senator, I swore to protect not just Nevadans but also our great Republic.

Our country, unfortunately, has never been more divided along party lines. It played out in the House impeachment investigation and in the Senate trial. The Senate rules for the trial were not written by all of the Senators with bipartisan input. Instead, they were written behind closed doors by one man in coordination with the President. In so doing, the Senate has abdicated its powerful check on the executive branch.

Without this important check, I am concerned about what the President will do next to put our Republic in jeopardy.

We have seen that President Trump is willing to violate our Constitution in order to get himself reelected. He has disregarded norms and worked to divide our country for his own political gain. He has undermined our standing in the world and put awesome pressure on foreign leaders to benefit himself rather than to advance the interests of our country.

I have also learned from this trial that the President is willing to take any action, including cheating in the next election, to serve his personal interest.

No act in our country is more sacred and solemn for democracy than voting, and nothing in our system of government is more vital to the continued health of our democracy than elections. No American should stand for foreign election interference, much less invite it.

American elections are for Americans.

That is why I cannot condone this President’s actions by acquitting him.

Finding the President guilty of abuse of power and obstruction of Congress marks a sad day for our country and not something I do with a light heart.

But I was sent to Congress to fight for all Nevadans but also to fight for our children and their future. To leave them with a country that still believes in right and wrong, that exposes corruption in government and holds it accountable, that stands up to tyranny at home and abroad.

In my view, President Trump has fallen far, far short of those lofty ideals and of the demands of our Constitution.

That requires the rest of us, regardless of party, creed, or ethnicity, to work together all the more urgently to defend our democracy, our elections, and our national security.
I have faith in Americans because I have seen time and time again in Nevada our ability to come together and work with one another for our common good. America is more than just one person, and like President Lincoln’s, my faith will always lie with the people.

Ms. ROSEN. Mr. President, I didn’t come to the Senate expecting to sit as a juror in an impeachment trial. I have participated in this trial with an open mind, determined to evaluate using President’s actions outside of any partisan lens, and with a focus on my constitutional obligations. I listened to the arguments, took detailed notes, asked questions, and heard both sides answer questions from my colleagues. After thorough consideration, based on the evidence presented, sadly, I find I have no choice but to vote to remove the President from office.

The first Article of Impeachment charges the President with abuse of power, specifically alleging that the President used the powers of his public office to obtain an improper political benefit. I can now conclude the evidence shows that this is exactly what the President did when he withheld critically important security assistance from Ukraine in order to persuade the Ukrainian Government to investigate his political rival. I understand that foreign policy involves negotiations, advantages, and using all the powers at our disposal to advance U.S. national security goals. But this was different. The President sent his personal attorney, whose obligation is to protect the personal interests of the President, not the United States, to meet and negotiate with foreign government officials from Ukraine to get damaging information about the President’s rivals, culminating in the July 25 phone call between the U.S. and Ukrainian Presidents, during which the President asked his personal attorney to withhold aid until a political favor was completed. In doing so, the President used U.S. national security and a key alliance against Russian aggression at risk, all so he could benefit politically from the potential fallout from an investigation into a possible opponent.

While I would like to hear more from witnesses and see the documents the administration is withholding, the evidence presented is compelling and not in doubt. I cannot in good conscience vote to withhold aid until a political favor was completed. In doing so, the President used U.S. national security and a key alliance against Russian aggression at risk, all so he could benefit politically from the potential fallout from an investigation into a possible opponent.

More importantly, it suggests that he will continue to operate outside the law, and if he believes he can ignore lawful subpoenas from Congress, it will be impossible to hold him accountable. For these reasons, I will vote to convict the President of obstruction of Congress, as delineated in article II. Impeachment is a constitutional remedy, not a partisan exercise. To fulfill my constitutional role as a juror, I asked myself how I would view the evidence if I were any President accused of this conduct. Based on the facts and arguments presented, I conclude that no President of the United States, regardless of party, can trade congressionally approved and legally mandated military assistance for personal political favors. No one is above the law, not this President or the next President. Having exercised my constitutional duty, I will continue what I have been doing over the course of this trial and have done since I first came to Congress, to look past partisanship and develop bipartisan solutions that help hard-working families in Nevada and across the country.

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

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

The JOURNAL

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

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

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence in the Court of Impeachment, 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.

As a reminder to everyone in the Chamber, as well as those in the Galleries, demonstrations of approval or disapproval are prohibited.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. MCCONNELL. Mr. Chief Justice, the Senate is now ready to vote on the Articles of Impeachment, and after that is done, we will adjourn the Court of Impeachment.

ARTICLE I

The CHIEF JUSTICE. The clerk will now read the first Article of Impeachment.

The senior assistant legislative clerk read as follows:

ARTICLE I: ABUSE OF POWER

The Constitution provides that the House of Representatives “shall have the sole Power of Impeachment” and that the President “shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors”. In his conduct of the office of President of the United States—and in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, through his constitutional duty to take care that the laws be faithfully executed—Donald J. Trump has abused the powers of the Presidency in that:

Using the powers of his high office, President Trump solicited the interference of a foreign government, Ukraine, in the 2020 United States Presidential election. He did so through a scheme or course of conduct that included soliciting the Government of Ukraine to publicly announce investigations that would benefit his reelection, harm the election prospects of a political opponent, and influence the 2020 United States Presidential election to his advantage. President Trump also sought to undermine the Government of Ukraine to take these steps by conditioning official United States Government

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senator stand in recess subject to the call of the Chair.

The PRESIDING OFFICER. Without objection, the Senate stands in recess subject to the call of the Chair.

Thereupon, the Senate at 4:00 p.m., recessed subject to the call of the Chair and reassembled at 4:04 p.m., when called to order by the Chief Justice.

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

The JOURNAL

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

The Deputy Sergeant at Arms, Jennifer Hemingway, will make proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence in the Court of Impeachment, 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.

As a reminder to everyone in the Chamber, as well as those in the Galleries, demonstrations of approval or disapproval are prohibited.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. McCONNELL. Mr. Chief Justice, the Senate is now ready to vote on the Articles of Impeachment, and after that is done, we will adjourn the Court of Impeachment.

ARTICLE I

The CHIEF JUSTICE. The clerk will now read the first Article of Impeachment.

The senior assistant legislative clerk read as follows:

ARTICLE I: ABUSE OF POWER

The Constitution provides that the House of Representatives “shall have the sole Power of Impeachment” and that the President “shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors”. In his conduct of the office of President of the United States—and in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, through his constitutional duty to take care that the laws be faithfully executed—Donald J. Trump has abused the powers of the Presidency in that:

Using the powers of his high office, President Trump solicited the interference of a foreign government, Ukraine, in the 2020 United States Presidential election. He did so through a scheme or course of conduct that included soliciting the Government of Ukraine to publicly announce investigations that would benefit his reelection, harm the election prospects of a political opponent, and influence the 2020 United States Presidential election to his advantage. President Trump also sought to undermine the Government of Ukraine to take these steps by conditioning official United States Government

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senator stand in recess subject to the call of the Chair.

The PRESIDING OFFICER. Without objection, the Senate stands in recess subject to the call of the Chair.

Thereupon, the Senate at 4:00 p.m., recessed subject to the call of the Chair and reassembled at 4:04 p.m., when called to order by the Chief Justice.
acts of significant value to Ukraine on its public announcement of the investigations. President Trump engaged in this scheme or course of conduct for corrupt purposes in pursuit of his personal political benefit. In so doing, President Trump used the powers of the Presidency in a manner that compromised the national security of the United States and undermined the integrity of the United States democratic process. He thus ignored and injured the interests of the Nation.

President Trump engaged in this scheme or course of conduct through the following means:

1. President Trump—acting both directly and through his agents within and outside the United States Government—corruptly solicited the Government of Ukraine to publicly investigate and provide documents and testimony that would serve the President's personal political benefit. In so doing, President Trump used the powers of the Presidency to solicit and orchestrate actions by Ukraine that were contrary to American law and the Constitution and that were intended to serve the President's personal political benefit.

2. With the same corrupt motives, President Trump—acting both directly and through his agents within and outside the United States Government—corruptly solicited the Government of Ukraine to take action in furtherance of his personal political benefit. In so doing, President Trump used the powers of the Presidency to solicit and orchestrate actions by Ukraine that were contrary to American law and the Constitution and that were intended to serve the President's personal political benefit.

3. Faced with the public revelation of his actions, President Trump ultimately re-leased the military and security assistance to the Government of Ukraine, but has persisted in openly and corruptly urging and soliciting Ukraine to undertake investigations for his personal political benefit.

These actions were consistent with President Trump’s previous invitations of foreign actors to disrupt United States elections. In August 2017, President Trump invited a foreign leader to disrupt United States elections, and this relationship continued thereafter and persisted as the President acted in a manner contrary to his trust as President and as a threat to the safety of the Nation in office, and has acted in a manner grossly incompatible with self-governance and the rule of law. President Trump thus interposed the powers of the Presidency against the lawful subpoenas of the House of Representatives, and assumed to himself judicial functions necessary to the exercise of the “sole Power of Impeachment” vested in the Constitution in the House of Representatives.
Senators, how say you? Is the Respondent, Donald John Trump, guilty or not guilty? The clerk will call the roll. The senior assistant legislative clerk called the roll. The result was announced—guilty 47, not guilty 53, as follows:

<table>
<thead>
<tr>
<th>Roll Call Vote No. 34</th>
</tr>
</thead>
<tbody>
<tr>
<td>GUILTY—47</td>
</tr>
<tr>
<td>Baldwin</td>
</tr>
<tr>
<td>Bennet</td>
</tr>
<tr>
<td>Blumenthal</td>
</tr>
<tr>
<td>Booker</td>
</tr>
<tr>
<td>Brown</td>
</tr>
<tr>
<td>Cantwell</td>
</tr>
<tr>
<td>Cardin</td>
</tr>
<tr>
<td>Casey</td>
</tr>
<tr>
<td>Coons</td>
</tr>
<tr>
<td>Cortez Masto</td>
</tr>
<tr>
<td>Duckworth</td>
</tr>
<tr>
<td>Durbin</td>
</tr>
<tr>
<td>Gillibrand</td>
</tr>
<tr>
<td>Grassley</td>
</tr>
<tr>
<td>Barrasso</td>
</tr>
<tr>
<td>Blackburn</td>
</tr>
<tr>
<td>Blumenthal</td>
</tr>
<tr>
<td>Blumenthal</td>
</tr>
<tr>
<td>Boozman</td>
</tr>
<tr>
<td>Braun</td>
</tr>
<tr>
<td>Burr</td>
</tr>
<tr>
<td>Capito</td>
</tr>
<tr>
<td>Cassidy</td>
</tr>
<tr>
<td>Collins</td>
</tr>
<tr>
<td>Cooney</td>
</tr>
<tr>
<td>Cotton</td>
</tr>
<tr>
<td>Cramer</td>
</tr>
<tr>
<td>Crapo</td>
</tr>
<tr>
<td>Cruz</td>
</tr>
<tr>
<td>Daines</td>
</tr>
<tr>
<td>Emi</td>
</tr>
<tr>
<td>Ernst</td>
</tr>
<tr>
<td>Ernst</td>
</tr>
</tbody>
</table>

NOT GUILTY—53

The CHIEF JUSTICE. On this Article of Impeachment, 47 Senators have pronounced Donald John Trump, President of the United States, guilty as charged; 53 Senators have pronounced him not guilty as charged; two-thirds of the Senators present not having pronounced him guilty, the Senate adjourns. The Presiding Officer directs judgment to be entered in accordance with the judgment of the Senate as follows: The Senate, having tried Donald John Trump, President of the United States, is not guilty and adjudged in the second Article of Impeachment. The Presiding Officer directs judgment to be entered in accordance with the judgment of the Senate as follows: The Senate, having tried Donald John Trump, President of the United States, upon two articles of impeachment exhibited against him by the House of Representatives, and two-thirds of the Senators present not having pronounced him guilty of the charges contained therein, it is, therefore, ordered and adjudged that the said Donald John Trump be, and he is hereby, acquitted of the charges in said articles.

The Chair recognizes the majority leader.

COMMUNICATION TO THE SECRETARY OF STATE AND TO THE HOUSE OF REPRESENTATIVES

Mr. MCCONNELL. Mr. Chief Justice, I send an order to the desk.

The CHIEF JUSTICE. The clerk will report the order.

The legislative clerk read as follows:

Ordered, that the Secretary be directed to communicate to the Secretary of State, as provided by Rule XXII of the Rules of Procedure and Practice of the Senate when sitting on impeachment trials, and also to the House of Representatives, the judgment of the Senate in the case of Donald John Trump, and transmit a certified copy of the judgment to each.

The CHIEF JUSTICE. Without objection, the order will be entered.

The majority leader is recognized.

EXPRESSION OF GRATITUDE TO THE CHIEF JUSTICE OF THE UNITED STATES

Mr. MCCONNELL. Mr. Chief Justice, before this process fully concludes, I want to very quickly acknowledge a few of the people who helped the Senate fulfill its duties over the past weeks...

First and foremost, I know my colleagues join me in thanking Chief Justice Roberts for presiding over the Senate trial with a clear head, steady hand, and the forbearance that this rare occasion demands. (Applause.)

We know full well that his presence as our Presiding Officer came in addition to, not instead of, his day job across the street, so the Senate thanks the Chief Justice and his staff who helped him perform this unique role. Like his predecessor, Chief Justice Rehnquist, the Senate will be awarding Chief Justice Roberts the golden gavel to commemorate his time presiding over this body. We typically award this to new senators after about 100 hours in the chair, but I think we can agree that the Chief Justice has put in his due and then some.

The page is delivering the gavel. The CHIEF JUSTICE. Thank you very much.

Mr. MCCONNELL. Of course, there are countless Senate professionals whose efforts were essential, and I will have more thorough facts to offer next week to all of those teams, from the Secretary of the Senate’s office, to the Architect of the Capitol, to the Sergeant at Arms team, and beyond.

But there are two more groups I would like to single out now. First, the two different classes of Senate pages who performed the trial, their footwork and cool under pressure kept the floor running. Our current class came on board right in the middle of the third Presidential impeachment trial in American history and quickly found themselves hand-delivering question cards from Senators’ desks to the dais. No pressure, right, guys? So thank you all very much for your good work.

Second, the fine men and women of the Capitol Police, we know that the safety of our democracy literally rests in their hands every single day, but the heightened measures surrounding the trial meant even more hours and even more work and even more vigilance. Thank you all very much for your service to this body and to the country. (Applause.)

The CHIEF JUSTICE. The Chair recognizes the leader.

Mr. SCHUMER. Mr. Chief Justice, I join the Republican leader in thanking the personnel who aided the Senate over the past several weeks. The Capitol Police do an outstanding job, day in and day out, to protect the Members of this Chamber, their staffs, the press, and everyone who works in and visits this Capitol. They were asked to work extra shifts and greater numbers, provide additional security over the past 3 weeks. Thank you to every one of them.

I, too, would like to thank those wonderful pages. I so much enjoyed you with your serious faces walking down the halls and providing the Chief Justice our questions. As the leader noted, the new class of pages started midway in this impeachment trial. When you take a new job, you are usually given a few days to take stock of things and get up to speed.

This class was given no such leeway, but they stepped right in and didn’t miss a beat. Carrying hundreds of questions from U.S. Senators to the Chief Justice on national television is not how most of us spend our first week at work, but they did it with aplomb.

I would also like to extend my personal thank you to David Hauck, Director of the Office of Accessibility Services; Tyler Pumphrey, supervisor; and Grace Ridgeway, wonderful Director of Capitol Police who helped the Senate understand our questions. As the leader noted, the new class of pages started midway in this impeachment trial. When you take a new job, you are usually given a few days to take stock of things and get up to speed.

This class was given no such leeway, but they stepped right in and didn’t miss a beat. Carrying hundreds of questions from U.S. Senators to the Chief Justice on national television is not how most of us spend our first week at work, but they did it with aplomb.

Everyone on Grace’s team worked so hard to make sure we were ready for impeachment: Gary Richardson, known affectionately to us as “Tiny,” the chief Chamber attendant; Jim Hoover and whoever else was there who helped Grace work, but they stepped right in and didn’t miss a beat. Carrying hundreds of questions from U.S. Senators to the Chief Justice on national television is not how most of us spend our first week at work, but they did it with aplomb.
long tradition and in memory of the 135 years we sat in this building, we keep the front row of the gallery in our courtroom open for Members of Congress who might want to drop by to see an argument—or to escape one.

I also depart with sincere good wishes as we carry out our common commitment to the Constitution through the distinct roles assigned to us by that charter. You have been generous hosts, and I look forward to seeing you again under happier circumstances.

The Chair recognizes the majority leader.

**ADJOURNMENT SINE DIE OF THE COURT OF IMPEACHMENT**

Mr. McCONNELL. Mr. Chief Justice, I move that the Senate, sitting as a Court of Impeachment on the Articles against Donald John Trump adjourn sine die.

The motion was agreed to, and at 4:31 p.m., the Senate, sitting as a Court of Impeachment, adjourned sine die.

**LEGISLATIVE SESSION**

**ESCORTING OF THE CHIEF JUSTICE**

Whereupon, the Committee of Escort: Mr. BLUNT of Missouri, Mr. LEAHY of Vermont, Mr. GRAHAM of South Carolina, and Mrs. FEINSTEIN of California, escorted the Chief Justice from the Chamber.

The PRESIDING OFFICER (Mrs. BLACKBURN). The Sergeant at Arms will escort the House managers out of the Senate Chamber.

Whereupon, the Sergeant at Arms escorted the House managers from the Chamber.

The PRESIDING OFFICER. The majority leader.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAMER). Without objection, it is so ordered.

**EXECUTIVE SESSION**

**EXECUTIVE CALENDAR**

Mr. McCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 562.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Andrew Lynn Brasher, of Alabama, to be United States Circuit Judge for the Eleventh Circuit.

**CLOTURE MOTION**

Mr. McCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The senior assistant legislative clerk read as follows:

The legislative clerk read the nomination of Andrew Lynn Brasher, of Alabama, to be United States Circuit Judge for the Eleventh Circuit.

**EXECUTIVE SESSION**

**EXECUTIVE CALENDAR**

Mr. McCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 563.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of John Fitzgerald Kness, of Illinois, to be United States District Judge for the Northern District of Illinois.

**CLOTURE MOTION**

Mr. McCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The senior assistant legislative clerk read as follows:

The legislative clerk read the nomination of Matthew Thomas Schelp, of Missouri, to be United States District Judge for the Eastern District of Missouri.

**EXECUTIVE SESSION**

**EXECUTIVE CALENDAR**

Mr. McCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Matthew Thomas Schelp, of Missouri, to be United States District Judge for the Eastern District of Missouri.

**CLOTURE MOTION**

Mr. McCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The senior assistant legislative clerk read as follows:

The legislative clerk read the nomination of Matthew Thomas Schelp, of Missouri, to be United States District Judge for the Eastern District of Missouri.

**EXECUTIVE SESSION**

**EXECUTIVE CALENDAR**

Mr. McCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 461.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Matthew Thomas Schelp, of Missouri, to be United States District Judge for the Eastern District of Missouri.

**CLOTURE MOTION**

Mr. McCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented
under rule XXII, the Chair directs the clerk to read the motion.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of John Fitzgerald Kness, of Illinois, to be United States District Judge for the Northern District of Illinois.

Mitch McConnell, Mike Crapo, Thom Tillis, Mike Rounds, Lamar Alexander, John Hoeven, Roger F. Wicker, Pat Roberts, John Thune, Cindy Hyde-Smith, John Boozman, Tom Cotton, Chuck Grassley, Kevin Cramer, Steve Daines, Todd Young, John Cornyn.

LEGISLATIVE SESSION

Mr. McCONNELL. Mr. President, I ask unanimous consent to move to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I move to proceed to executive session for the consideration of Calendar No. 535.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Philip M. Halpern, of New York, to be United States District Judge for the Southern District of New York.

CLOTURE MOTION

Mr. McCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of John Fitzgerald Kness, of Illinois, to be United States District Judge for the Northern District of Illinois.

Mitch McConnell, Mike Crapo, Thom Tillis, Mike Rounds, Lamar Alexander, John Hoeven, Roger F. Wicker, Pat Roberts, John Thune, Cindy Hyde-Smith, John Boozman, Tom Cotton, Chuck Grassley, Kevin Cramer, Steve Daines, Todd Young, John Cornyn.

Mr. McCONNELL. I ask unanimous consent that the mandatory quorum call for these cloture motions be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate resume legislative session and be in a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO DONNA PASQUALINO

Mr. GRASSLEY. Mr. President, I would like to recognize a remarkable Senate career that has drawn to a close after nearly 30 years. Donna Pasqualino began her career with the Office of the Legislative Counsel in May of 1990. Donna came to the office having spent several years at the Naval Research Lab. Hired to serve as a staff assistant in the office Donna quickly mastered the job and became a valuable asset to the office attorneys as they worked to produce draft legislation for the Senate. In 2001, Donna was promoted to office manager. She flourished in that position, carrying out her duties with the highest degree of professionalism keeping the office running smoothly.

Donna is a people person. While working for the office, she was frequently seen in the halls of the Senate office buildings, bustling to the Disbursing Office to drop off vouchers and other important papers for the office, just doing her daily walk during her lunch break to get in some exercise. Whether she was on official office business or just getting in some exercise, Donna always had a smile on her face or a kind word for the many Senators and Senate staff that she met along the way.

Donna is now moving on to a well-earned retirement. She has relocated to the Eastern Shore of Maryland with her husband Frank and plans to learn to quilt, spend more time with her four grandchildren. She departs with the immeasurable thanks and gratitude of the staff of the Office of Legislative Counsel and the Senate and with our best wishes for her and for her family.

VOTE EXPLANATION

Mr. BOOKER. Mr. President, throughout my time in Congress, I have worked to address our Nation’s most pressing environmental issues and have supported aggressive action to protect our environment, address climate change, and reduce air and water pollution. Although I was not present for the votes on the following nominees and legislation on the floor, I did vote no on the nomination of Aurelia Skipwith to be Director of the U.S. Fish and Wildlife Service during her Senate Environment and Public Works Committee markup. In addition, if I had been present for the floor vote on her nomination and the additional votes outlined below, I would have voted in the following way: no on 2/7/19 for vote No. 19, motion to table amendments to the National Resources Management Act, S. 47, PL 116-9.

Throughout my time in Congress, I have worked to address our Nation’s most pressing environmental issues and have supported aggressive action to protect our environment, address climate change, and reduce air and water pollution. Although I was not present for the votes on the following nominees and legislation on the floor, I did vote no on the nomination of Aurelia Skipwith to be Director of the U.S. Fish and Wildlife Service during her Senate Environment and Public Works Committee markup. In addition, if I had been present for the floor vote on her nomination and the additional votes outlined below, I would have voted in the following way: yes on 2/7/19 for vote No. 19, motion to table amendments to the National Resources Management Act, S. 47, PL 116-9.

Throughout my time in Congress, I have worked to address our Nation’s most pressing environmental issues and have supported aggressive action to protect our environment, address climate change, and reduce air and water pollution. Although I was not present for the votes on the following nominees and legislation on the floor, I did vote no on the nomination of Aurelia Skipwith to be Director of the U.S. Fish and Wildlife Service during her Senate Environment and Public Works Committee markup. In addition, if I had been present for the floor vote on her nomination and the additional votes outlined below, I would have voted in the following way: no on 2/7/19 for vote No. 19, motion to table amendments to the Natural Resources Management Act, S. 47, PL 116-9.

Throughout my time in Congress, I have worked to address our Nation’s most pressing environmental issues and have supported aggressive action to protect our environment, address climate change, and reduce air and water pollution. Although I was not present for the votes on the following nominees and legislation on the floor, I did vote no on the nomination of Aurelia Skipwith to be Director of the U.S. Fish and Wildlife Service during her Senate Environment and Public Works Committee markup. In addition, if I had been present for the floor vote on her nomination and the additional votes outlined below, I would have voted in the following way: yes on 2/7/19 for vote No. 19, motion to table amendments to the National Resources Management Act, S. 47, PL 116-9.

Throughout my time in Congress, I have worked to address our Nation’s most pressing environmental issues and have supported aggressive action to protect our environment, address climate change, and reduce air and water pollution. Although I was not present for the votes on the following nominees and legislation on the floor, I did vote no on the nomination of Aurelia Skipwith to be Director of the U.S. Fish and Wildlife Service during her Senate Environment and Public Works Committee markup. In addition, if I had been present for the floor vote on her nomination and the additional votes outlined below, I would have voted in the following way: yes on 2/7/19 for vote No. 19, motion to table amendments to the National Resources Management Act, S. 47, PL 116-9.
Throughout my time in Congress, I have worked to address our Nation’s most pressing environmental issues and have supported aggressive action to protect our environment, address climate change, and reduce air and water pollution. Although I was not present for the votes on the following nominees and legislation on the floor, I did vote no on the nomination of Aurelia Skipwith to be Director of the U.S. Fish and Wildlife Service during her Senate Environment and Public Works Committee markup. In addition, if I had been present for the floor vote on her nomination and the additional votes outlined below, I would have voted in the following way: no on 9/26/19 for vote No. 310, amendment to continuing appropriations, 2020/health extenders, H.R. 4378, PL 116-59.

Throughout my time in Congress, I have worked to address our Nation’s most pressing environmental issues and have supported aggressive action to protect our environment, address climate change, and reduce air and water pollution. Although I was not present for the votes on the following nominees and legislation on the floor, I did vote no on the nomination of Aurelia Skipwith to be Director of the U.S. Fish and Wildlife Service during her Senate Environment and Public Works Committee markup. In addition, if I had been present for the floor vote on her nomination and the additional votes outlined below, I would have voted in the following way: yes on 10/31/19 for vote No. 340, amendment to further continuing appropriations, 2020, H.R. 3055.

Throughout my time in Congress, I have worked to address our Nation’s most pressing environmental issues and have supported aggressive action to protect our environment, address climate change, and reduce air and water pollution. Although I was not present for the votes on the following nominees and legislation on the floor, I did vote no on the nomination of Aurelia Skipwith to be Director of the U.S. Fish and Wildlife Service during her Senate Environment and Public Works Committee markup. In addition, if I had been present for the floor vote on her nomination and the additional votes outlined below, I would have voted in the following way: yes on 10/31/19 for vote No. 341, passage of further continuing appropriations, 2020, H.R. 3055.

Throughout my time in Congress, I have worked to address our Nation’s most pressing environmental issues and have supported aggressive action to protect our environment, address climate change, and reduce air and water pollution. Although I was not present for the votes on the following nominees and legislation on the floor, I did vote no on the nomination of Aurelia Skipwith to be Director of the U.S. Fish and Wildlife Service during her Senate Environment and Public Works Committee markup. In addition, if I had been present for the floor vote on her nomination and the additional votes outlined below, I would have voted in the following way: yes on 10/31/19 for vote No. 341, passage of further continuing appropriations, 2020, H.R. 3055.

Throughout my time in Congress, I have worked to address our Nation’s most pressing environmental issues and have supported aggressive action to protect our environment, address climate change, and reduce air and water pollution. Although I was not present for the votes on the following nominees and legislation on the floor, I did vote no on the nomination of Aurelia Skipwith to be Director of the U.S. Fish and Wildlife Service during her Senate Environment and Public Works Committee markup. In addition, if I had been present for the floor vote on her nomination and the additional votes outlined below, I would have voted in the following way: yes on 10/31/19 for vote No. 351, confirmation of Aurelia Skipwith to be Director of the U.S. Fish and Wildlife Service.

ADDITIONAL STATEMENTS

REMEMBERING DENMAN WOLFE

• Mr. COTTON. Mr. President, Denman Wolfe of Scottsville, AR, was called home to be with the Lord last Thursday at age 98. He was Arkansas’s last surviving Army Ranger who served in the Second World War.

Denman’s whole life was a portrait of heroism and love that will be remembered especially for his heroic actions at age 23, when he took part in the invasion of Normandy—one of many thousands of American troops who stormed the beaches that morning to free Europe from Nazi tyranny.

Private Wolfe was part of the elite 5th Ranger Battalion charged with silencing the guns atop Pointe du Hoc, a dagger-like cliff well-guarded by German gun emplacements. His force landed at Omaha Beach amid intense artillery fire, sustaining casualties amid the fighting on the beachhead. He was still on the beach with his fellow Rangers when MG Norman Cota shouted the order that has now become part of Ranger lore: "Rangers, lead the way!"

Denman Wolfe obeyed this order with distinction over the course of his military service. In addition to fighting on D-day, Wolfe led the way during the Allied invasions of North Africa and Sicily during World War II and later in Asia during the Korean war. In total, he served in the Army for more than 20 years, remaining on Active Duty until 1964 and attaining the rank of sergeant first class. For his military service, Wolfe was awarded the Bronze Star, Purple Heart, and many other combat decorations.

Denman’s service to his country didn’t end once he left the military, however. Once marked, a Ranger serves for life. After settling in Arkansas after the war, Denman was called to work for his adopted State as a correctional officer, deputy sheriff, and election judge.

His heart was always with the land, where he worked for many years as a rancher. Denman’s many friends and relatives remember him as an avid outdoorsman who spent his free time fishing, hunting, gardening, foraging—even winemaking. Denman took special joy in sharing these hobbies with his family, including his wife, Kay, his two daughters, Lesa and Lori, and his many grandchildren and great-grandchildren. Denman Wolfe was a great example of a great generation. It is fitting we honor him for his bravery at age 23 as a young private but also for a lifetime of service to his country and community. We honor him for his sake but also to hold up his life as an example of life well-lived. It is worth noting that Denman has already inspired others to follow his lead: his daughter, Lesa, served in the U.S. Army just like he did. Let’s hope that many others are inspired to serve by his example.

In every aspect of life, Rangers lead the way. Denman Wolfe took this motto to heart during his long life. Now he is leading the way again, going ahead of us to our eternal home. May he rest in peace.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were made before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3922. A communication from the Acting Director, Office of Management and Budget,
Executive Office of the President, transmitting, pursuant to law, a report entitled "OMB Final Sequestration Report to the President and Congress for Fiscal Year 2020"; to the Select Committee on Agriculture, Nutrition, and Forestry; Appropriations; Armed Services; Banking, Housing, and Urban Affairs; the Budget; Commerce, Science, and Transportation; Energy and Natural Resources; Environment and Public Works; Select Committee on Ethics; Finance; Foreign Relations; Health, Education, Labor, and Pensions; Homeland Security and Governmental Affairs; Indian Affairs; Select Committee on Intelligence; the Judiciary; Rules and Administration; Small Business and Entrepreneurship; and Veterans' Affairs.

EC–3923. A communication from the Assistant Secretary, Office of Electricity, Department of Energy, pursuant to law, a report entitled, "Potential Benefits of High-Power, High-Capacity Batteries"; to the Committee on Appropriations.

EC–3924. A communication from the Assistant Secretary of the Navy (Research, Development, and Acquisition), transmitting, pursuant to law, a report entitled, "Repair of Naval Vessels in Foreign Shipyards"; to the Committee on Armed Services.

EC–3925. A communication from the Acting Associate General Counsel for Legislation and Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, pursuant to law, the report of a rule entitled "Conforming the Acceptable Separation Distance (ASD) Standards for Residential Propane Tanks to Industry Standards" (RIN2506–AC45) received in the Office of the President of the Senate on February 4, 2020; to the Committee on Banking, Housing, and Urban Affairs.

EC–3926. A communication from the White House Liaison, Department of Education, pursuant to law, a report relative to a vacancy in the position of Assistant Secretary, Office of Legislation and Congressional Affairs, Department of Education, received in the Office of the President of the Senate on February 4, 2020; to the Committee on Health, Education, Labor, and Pensions.

EC–3927. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report entitled "Prevailing Rate Systems: Redefinition and Reallocation of the Federal Wage System Federal Wage System Wage Areas" (RIN3206–AN93) received in the Office of the President of the Senate on February 4, 2020; to the Committee on Homeland Security and Governmental Affairs.

EC–3928. A communication from the General Counsel, Office of Management and Budget, transmitting, pursuant to law, a report relative to a vacancy in the position of Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, received in the Office of the President of the Senate on February 4, 2020; to the Committee on Homeland Security and Governmental Affairs.

EC–3929. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report entitled "Prevailing Rate Systems: Redefinition of Certain Appropriated Fund Federal Wage System Wage Areas" (RIN3206–AN87) received in the Office of the President of the Senate on February 4, 2020; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MORAN, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:
S. 450. A bill to require the Secretary of Veterans Affairs to carry out a pilot program to expedite the boarding process for new medical providers of the Department of Veterans Affairs for the transportation of highly rural veterans.

By Mr. MORAN, from the Committee on Veterans' Affairs, with an amendment:
S. 450. A bill to extend the authorization of appropriations to the Department of Veterans Affairs for purposes of awarding grants to veterans service organizations for the transportation of highly rural veterans.

By Mr. MORAN, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute:
S. 2864. A bill to require the Secretary of Veterans Affairs to carry out a pilot program on information sharing between the Department of Veterans Affairs and designated relatives and friends of veterans regarding the assistance and benefits available to the veterans, and for other purposes.

By Mr. MORAN, from the Committee on Veterans' Affairs, with an amendment and an amendment to the title:
S. 3182. A bill to direct the Secretary of Veterans Affairs to conduct the Women’s Health Transition Training pilot program through at least fiscal year 2020, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. WARREN (for herself, Mr. MARKY, Mr. MENENDEZ, and Mr. BOOKER):
S. 3254. A bill to end the epidemic of gun violence and build safer communities by strengthening Federal firearms laws and supporting gun violence research, intervention, and prevention initiatives; to the Committee on Finance.

By Ms. WARREN (for herself, Mr. BROWN, Mrs. GILLIBRAND, Ms. BALDWIN, Mr. DURBIN, Mr. HARRIS, Mr. MARKY, Ms. HASSAN, Mr. SANDERS, Ms. HIRONO, Mr. PETERS, Ms. STABENOW, Ms. HARRIS, Mr. BOOKER, Mr. BLUMENTHAL, Mr. CARDIN, Ms. SMITH, and Ms. KLOBUCHAR):
S. 3255. A bill to require the Secretary of Veterans Affairs, with an amendment in the nature of a substitute and an amendment to the title:
By Mr. SCHUMER (for himself, Mr. MARKEY, Mr. MENENDEZ, and Mr. BOOKER):
S. 3255. A bill to require the Secretary of Veterans Affairs, with an amendment in the nature of a substitute and an amendment to the title:
By Ms. WARREN (for herself, Mr. BROWN, Mrs. GILLIBRAND, Ms. BALDWIN, Mr. DURBIN, Mr. HARRIS, Mr. MARKY, Ms. HASSAN, Mr. SANDERS, Ms. HIRONO, Mr. PETERS, Ms. STABENOW, Ms. HARRIS, Mr. BOOKER, Mr. BLUMENTHAL, Mr. CARDIN, Ms. SMITH, and Ms. KLOBUCHAR):
S. 3255. A bill to require the Secretary of Veterans Affairs, with an amendment in the nature of a substitute and an amendment to the title:

ADDITIONAL COSPONSORS

S. 170. At the request of Mr. DAINES, the name of the Senator from Maryland (Mr. VAN HOLLEN) was added as a co-sponsor of S. 170, a bill to amend the Internal Revenue Code of 1986 to limit the amount of certain qualified conservation contributions.

S. 277. At the request of Ms. HIRONO, the name of the Senator from New York (Mr. SCHUMER), the Senator from New Jersey (Mr. BOOKER), the Senator from Maryland (Mr. VAN HOLLEN) and the Senator from Wisconsin (Ms. BALDWIN) were added as cosponsors of S. 277, a bill to posthumously award the Congressional Gold Medal to Fred Korematsu, in recognition of his dedication to justice and equality.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. TESTER (for himself, Mr. DAINES, Ms. CANTWELL, Ms. SMITH, Ms. WARNER, Ms. MCSALLY, Mr. CRAMER, Ms. BALDWIN, Mr. UDALL, Ms. KLOBUCHAR, Mr. ROUNDS, Mr. HEINRICH, Mr. BARRASSO, Mr. HARKIN, Mrs. FISCHER, and Mr. THUNE):
S. Res. 491. A resolution designating the week beginning February 2, 2020, as ‘‘National Tribal Colleges and University Week’’; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mrs. MURRAY, Ms. CANTWELL, Ms. MCSALLY, Mr. BALDWIN, Ms. STABENOW, Ms. CORTEZ Masto, Ms. HIRONO, Ms. ROSIN, Ms. KLOBUCHAR, Mr. DURBIN, Mrs. GILLIBRAND, Ms. SINDMA, Ms. DUCKWORTH, Mrs. SHAREZ, Ms. COLLINS, Ms. HARRIS, Mr. LIAHAY, Ms. SMITH, Ms. HASSAN, and Ms. WARREN):
At the request of Mr. Cardin, the names of the Senator from Connecticut (Mr. Blumenthal) and the Senator from Washington (Mrs. Murray) were added as cosponsors of S. 296, a bill to amend XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program.

At the request of Mr. Moran, the names of the Senator from Indiana (Mr. Braun), the Senator from Delaware (Mr. Coons) and the Senator from Connecticut (Mr. Blumenthal) were added as cosponsors of S. 633, a bill to award a Congressional Gold Medal to the members of the Women’s Army Corps who were assigned to the 6888th Central Postal Directory Battalion, known as the “Six Triple Eight”.

At the request of Mr. Coons, the name of the Senator from Minnesota (Ms. Smith) was added as a cosponsor of S. 203, a bill to amend the Energy Conservation and Production Act to reauthorize the weatherization assistance program, and for other purposes.

At the request of Ms. Harris, the name of the Senator from Maryland (Mr. Van Hollen) was added as a cosponsor of S. 1067, a bill to provide for research to better understand the causes and consequences of sexual harassment affecting individuals in the scientific, technical, engineering, and mathematics workforce and to examine policies to reduce the prevalence and negative impact of such harassment, and for other purposes.

At the request of Mr. Casey, the names of the Senator from Illinois (Mr. Durbin), the Senator from Connecticut (Mr. Blumenthal), the Senator from New Jersey (Mr. Menendez), the Senator from Hawaii (Ms. Hirono), the Senator from Illinois (Ms. Duckworth) and the Senator from New Jersey (Mr. Booker) were added as cosponsors of S. 1352, a bill to establish a Federal Advisory Council to Support Victims of Gun Violence.

At the request of Ms. Ernst, the name of the Senator from Georgia (Mrs. Loeffler) was added as a cosponsor of S. 1757, a bill to award a Congressional Gold Medal, collectively, to the United States Army Rangers Veterans of World War II in recognition of their extraordinary service during World War II.

At the request of Mr. Case, the name of the Senator from Minnesota (Ms. Smith) was added as a cosponsor of S. 1902, a bill to require the Consumer Product Safety Commission to promulgate a consumer product safety rule for free-standing clothing storage units to protect children from tip-over related death or injury, and for other purposes.

At the request of Ms. Rosen, the name of the Senator from West Virginia (Mrs. Capito) was added as a cosponsor of S. 2385, a bill to authorize the Secretary of Education to award grants to eligible entities to carry out educational programs about the Holocaust, and for other purposes.

At the request of Ms. Warren, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 2143, a bill to amend the Food and Nutrition Act of 2008 to expand the eligibility of students to participate in the supplemental nutrition assistance program, and for other purposes.

At the request of Ms. Collins, the names of the Senator from Minnesota (Ms. Smith) and the Senator from Delaware (Mr. Coons) were added as cosponsors of S. 2232, a bill to amend the Animal Welfare Act to allow for the retirement of certain animals used in federal research.

At the request of Mr. Udall, the name of the Senator from Massachusetts (Ms. Warren) was added as a cosponsor of S. 2365, a bill to amend the Indian Health Care Improvement Act to authorize urban Indian organizations to enter into arrangements for the sharing of medical services and facilities, and for other purposes.

At the request of Mr. Kennedy, the name of the Senator from North Carolina (Mr. Tillis) was added as a cosponsor of S. 2417, a bill to provide for payment of proceeds from savings bonds to a State with title to such bonds pursuant to the judgment of a court.

At the request of Mr. Blumenthal, the name of the Senator from Delaware (Mr. Coons) was added as a cosponsor of S. 2561, a bill to amend the Lacey Act Amendments of 1981 to clarify provisions enacted by the Captive Wildlife Safety Act, to further the conservation of certain wildlife species, and for other purposes.

At the request of Mr. Ernst, the name of the Senator from Florida (Mr. Scott) was added as a cosponsor of S. 2722, a bill to prohibit agencies from using Federal funds for publicity or propaganda purposes, and for other purposes.

At the request of Ms. Warren, the name of the Senator from New York (Mrs. Gillibrand) was added as a cosponsor of S. 3095, a bill to develop voluntary guidelines for accessible postsecondary electronic instructional materials and related technologies, and for other purposes.

At the request of Mr. Cardin, the names of the Senator from Hawaii (Mr. Schatz) and the Senator from Rhode Island (Mr. Whitehouse) were added as cosponsors of S. 3146, a bill to ensure a fair process for negotiations of collective bargaining agreements under chapter 71 of title 5, United States Code.

At the request of Mr. Merkley, the name of the Senator from Rhode Island (Mr. Reed) was added as a cosponsor of S. Res. 234, a resolution affirming the United States commitment to the two-state solution to the Israeli-Palestinian conflict, and noting that Israeli annexation of territory in the West Bank would undermine peace and Israel’s future as a Jewish and democratic state.

At the request of Mr. Lankford, the name of the Senator from Texas (Mr. Cruz) was added as a cosponsor of S. Res. 458, a resolution calling for the global repeal of blasphemy, heresy, and apostasy laws.

**SUBMITTED RESOLUTIONS**

**SENATE RESOLUTION 491—DESIGNATING THE WEEK BEGINNING FEBRUARY 2, 2020, AS “NATIONAL TRIBAL COLLEGES AND UNIVERSITIES WEEK”**

Mr. Tester (for himself, Mr. Daines, Ms. Cantwell, Ms. Smith, Ms. Warren, Ms. McSally, Mr. Cramer, Ms. Baldwin, Mr. Udall, Ms. Klobuchar, Mr. Rounds, Mr. Heinrich, Mr. Barrasso, Mr. Hoeven, Mrs. Fischer, and Mr. Thune) submitted the following resolution; which was referred to the Committee on the Judiciary:

Whereas there are 37 Tribal Colleges and Universities operating on more than 75 campuses in 16 States;
Whereas Tribal Colleges and Universities are tribally chartered or federally chartered institutions of higher education and therefore have a unique relationship with the Federal Government;
Whereas Tribal Colleges and Universities serve students from more than 230 federally recognized Indian tribes;
Whereas Tribal Colleges and Universities offer students access to knowledge and skills grounded in cultural traditions and values, including indigenous languages, which—
(1) enhances Indian communities; and
(2) enriches the United States as a nation;
Whereas Tribal Colleges and Universities provide access to high-quality postsecondary educational opportunities for—
(1) American Indians; and
(2) Alaska Natives; and
Whereas Tribal Colleges and Universities are institutions of higher education that prepare students to succeed in the global and highly competitive workforce; and
Whereas Tribal Colleges and Universities have open enrollment policies, and approximately 15 percent of the students at Tribal Colleges and Universities are non-Indian individuals; and
Whereas the collective mission and the considerable achievements of Tribal Colleges and Universities deserve national recognition; Now, therefore, be it
Resolved, the Senate—
(1) designates the week beginning February 2, 2020, as “National Tribal Colleges and Universities Week’’; and
(2) calls on the people of the United States and interested groups to observe National Tribal Colleges and Universities Week with appropriate activities and programs to demonstrate support for Tribal Colleges and Universities.

SENATE RESOLUTION 492—SUPPORTING THE OBSERVATION OF “NATIONAL GIRLS & WOMEN IN SPORTS DAY” ON FEBRUARY 5, 2020, TO RAISE AWARENESS OF OPPORTUNITIES FOR GIRLS AND WOMEN; AND CELEBRATE THE ACHIEVEMENTS OF GIRLS AND WOMEN IN SPORTS

MRS. FEINSTEIN (for herself, Mrs. MURRAY, Ms. CANTWELL, Ms. MCALXY, Ms. BALDWIN, Ms. STABENOW, Ms. CORTEZ MOORE, Ms. HARRIS, Ms. KLOBUCHAR, Mr. DUNN, Mrs. GILLIBRAND, Ms. SINEMA, Ms. DUCKWORTH, Mrs. SHAHEEN, Ms. COLLINS, Ms. HARIS, Mr. LEAHY, Ms. SMITH, Ms. HASAN, and Ms. WARREN) submitted the following resolution, which was referred to the Committee on Commerce, Science, and Transportation:

S. Res. 492

Whereas athletic participation helps develop self-discipline, initiative, confidence, and leadership, and opportunities for athletic participation should be available to all individuals;
Whereas, because the people of the United States have been committed to promoting equality, it is imperative to eliminate the existing disparities between male and female youth athletic programs;
Whereas the share of athletic participation opportunities of high school girls has increased more than sixfold since the enactment of title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), (referred to in this preamble as “title IX”), but high school girls still experience—
(1) a lower share of athletic participation opportunities than high school boys; and
(2) a lower level of athletic participation opportunities than high school boys enjoyed almost 50 years ago;
Whereas female participation in college sports has nearly tripled since the enactment of title IX, but female college athletes still only comprise 44 percent of the total collegiate athlete population;
Whereas, in 1972, women coached more than 90 percent of collegiate women’s teams, but now, women coach less than 50 percent of all collegiate women teams, and there is a need to restore women to those positions to ensure fair representation and provide role models for female athletes;
Whereas the long history of women in sports in the United States—
(1) features many contributions made by female athletes that have enriched the national life of the United States; and
(2) includes inspiring figures, such as Gertrude Vahns Milford Dodson, Alice Goldstine, Mildred Ella "Babe" Didrikson Zaharias, and Patty Berg, who overcame difficult obstacles in their own lives—
(A) to advance participation by women in sports; and
(B) to set positive examples for the generations of female athletes who continue to inspire people in the United States today;
(3) calls on the people of the United States and interested groups to observe National Girls & Women in Sports Day with appropriate activities and programs to demonstrate support for Tribal Colleges and Universities.

SENATE RESOLUTION 493—TO AUTHORIZE TESTIMONY, DOCUMENTS, AND REPRESENTATION IN UNITED STATES V. STAHLNECKER

Mr. McCONNELL (for himself and Mr. SCHUMER) submitted the following resolution: which was considered and agreed to:

S. Res. 493

Whereas, in the case of United States v. Stahlnecker, Cr. No. 19–394, pending in the United States District Court for the Central District of California, the prosecution has requested the production of testimony, and, if necessary, documents from Sarah Harms, an employee of the office of Senator Sherrod Brown, Leah Uhrig, a former employee of that office, and, Kylie Rutherford, an employee of the office of Senator Shelley Moore Capito;
Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent and empower the employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;
Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and
Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it
Resolved, That Sarah Harms and Leah Uhrig, current and former employees, respectively, of Senator Brown’s office and Kylie Rutherford, a current employee of Senator Capito’s office, and any other current or former employee of the Senate’s offices from whom relevant evidence may necessarily be authorized to testify and produce documents in the case of United States v. Stahlnecker, except concerning matters for which a privilege should be asserted.

S. Res. 2. The Senate Legal Counsel is authorized to represent any current or former employee of Senators Brown and Capito in connection with the production of evidence authorized in section one of this resolution.

Mr. McCONNELL. Mr. President, on behalf of myself and the distinguished Democratic leader, Mr. SCHUMER, I send to the desk a resolution authorizing the production of testimony, documents, and representation by the Senate Legal Counsel, and ask for its immediate consideration.

Mr. President, this resolution concerns a request for evidence in a criminal action pending in California Federal district court. In this action, the defendant is charged with making threatening telephone calls last year to the Washington, D.C. offices of Senator SHERROD BROWN and Senator SHELLEY MOORE CAPITO. Trial is scheduled to commence on February 11, 2020.

The prosecution is seeking testimony at trial from three Senate witnesses who received the telephone calls at issue, current employees of Senator Brown’s and Senator Capito’s offices and a former employee of Senator Brown’s office. Senators Brown and Capito would like to cooperate with this request by providing relevant employee testimony, if necessary, documents from their offices.

The enclosed resolution would authorize those staffers, and any other
current or former employee of the Senators' offices from whom relevant evidence may be necessary, to testify and produce documents in this action, with representation by the Senate Legal Counsel.

AUTHORITY FOR COMMITTEES TO MEET

Mr. McCONNELL. Mr. President, I have 5 requests for committees to meet during today’s session of the Senate. They have the approval of the Majority and Minority leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today’s session of the Senate:

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

The Committee on Commerce, Science, and Transportation is authorized to meet during the session of the Senate on Wednesday, February 5, 2020, at 10 a.m., to conduct a hearing.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

The Committee on Environment and Public Works is authorized to meet during the session of the Senate on Wednesday, February 5, 2020, at 10 a.m., to conduct a hearing.

COMMITTEE ON FINANCE

The Committee on Environment and Public Works is authorized to meet during the session of the Senate on Wednesday, February 5, 2020, at 10 a.m., to conduct a hearing on the following nominations: Kipp Kranbuhl, of Ohio, to be an Assistant Secretary of the Treasury, Sarah C. Arbes, of Virginia, to be an Assistant Secretary of Health and Human Services, and Jason J. Fichtner, of the District of Columbia, to be a Member of the Social Security Advisory Board.

COMMITTEE ON VETERANS’ AFFAIRS

The Committee on Veterans’ Affairs is authorized to meet during the session of the Senate on Wednesday, February 5, 2020, at 9:30 a.m., to conduct a hearing.

SELECT COMMITTEE ON INTELLIGENCE

The Select Committee on Intelligence is authorized to meet during the session of the Senate on Wednesday, February 5, 2020, at 10 a.m., to conduct a closed briefing.

AUTHORIZING TESTIMONY, DOCUMENTS, AND REPRESENTATION IN UNITED STATES v. STAHLNECKER

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 493, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 493) to authorize testimony, documents, and representation in United States v. Stahlnecker.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. I ask unanimous consent that the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. 493) was agreed to.

ORDERS FOR THURSDAY, FEBRUARY 6, 2020, AND MONDAY, FEBRUARY 10, 2020

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 11:30 a.m., Thursday, February 6, for a pro forma session only, with no business being conducted; further, that when the Senate adjourns on Thursday, February 6, it next convene at 3 p.m. on Monday, February 10; further, that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; further, that following leader remarks, the Senate proceed to executive session and resume consideration of the Brasher nomination; finally, that notwithstanding the provisions of rule XXII, the cloture motions filed during today’s session ripen at 5:30 p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 11:30 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 5:15 p.m., adjourned until Thursday, February 6, 2020 at 11:30 a.m.