Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget.

Mitch McConnell, John Boozman, James M. Inhofe, John Barrasso, Roy Blunt, Todd Young, Shelley Moore Capito, Michael B. Enzi, Lisa Murkowski, John Cornyn, Steve Daines, Lindsey Graham, Chuck Grassley, Josh Hawley, Roger F. Wicker, Marsha Blackburn.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Paul J. Ray, of Tennessee, to be Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Kansas (Mr. MORAN), and the Senator from Georgia (Mr. PERDUE).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted ''yea'' and the Senator from Kansas (Mr. MORAN) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER) and the Senator from Massachusetts (Ms. WARREN) are necessarily absent.

The yeas and nays resulted—yeas 50, nays 45, as follows:

[Rollcall Vote No. 9 Ex.]

YEAS—50

Barrasso	Fischer	Portman
Blackburn	Gardner	Risch
Blunt	Graham	Roberts
Boozman	Grassley	Romney
Braun	Hawley	Rounds
Burr	Hoeven	Rubio
Capito	Hyde-Smith	Sasse
Cassidy	Inhofe	Scott (FL)
Collins	Johnson	Scott (SC)
Cornyn	Kennedy	Shelby
Cotton	Lankford	Sullivan
Cramer	Lee	Thune
Crapo	Loeffler	Tillis
Cruz	McConnell	Toomey
Daines	McSally	Wicker
Enzi	Murkowski	Young
Ernst	Paul	

NAYS—45

Baldwin	Hassan	Reed
Bennet	Heinrich	Rosen
Blumenthal	Hirono	Sanders
Brown	Jones	Schatz
Cantwell	Kaine	Schumer
Cardin	King	Shaheen
Carper	Klobuchar	Sinema
Casey	Leahy	Smith
Coons	Manchin	Stabenow
Cortez Masto	Markey	Tester
Duckworth	Menendez	Udall
Durbin	Merkley	Van Hollen
Feinstein	Murphy	Warner
Gillibrand	Murray	Whitehouse
Harris	Peters	Wyden

NOT VOTING—5

Alexander	Moran	Warren
Booker	Perdue	

The PRESIDING OFFICER. The yeas are 50 and the nays are 45.

The motion is agreed to.

The Senator from Texas.

IMPEACHMENT

Mr. CORNYN. Mr. President, it has now been more than 3 weeks since the House passed two Articles of Impeachment against the President of the United States. It was a big day for them at the time and one they have been dreaming of and speaking of since the President was inaugurated nearly 3 years ago.

For as long as the House Democrats have been wanting to impeach the President, they spent only a short time on the impeachment inquiry itself. As a matter of fact, they rushed headlong into the impeachment process, and now they are trying to make up for the mistakes that Chairman SCHIFF and Speaker PELOSI made when proceeding in the first place.

For example, now they want to relitigate things like executive privilege and whether the testimony of other witnesses should be included in the Senate impeachment trial. In other words, the House wants to tell the Senate how to conduct the trial.

Well, the House had its job to do—and, frankly, I think mishandled it—but now they have no say in the way the Senate conducts the impeachment trial, when and if Speaker PELOSI decides to send the articles over here. Twelve weeks was all it took for House Democrats to come up with what they believed was enough evidence to warrant a vote on Articles of Impeachment. I think they are experiencing some buyers' remorse. During that 12 weeks, we repeatedly heard House Democrats say how urgent the matter was, seemingly using urgency as an excuse for the slapdash investigation that they did and that they now regret. When the House concluded their rushed investigation and passed two Articles of Impeachment, we expected those articles to be sent to the Senate promptly.

This will be only the third time in American history where the Senate has actually convened a trial on Articles of Impeachment, so this is kind of a new, novel process for most of us here in the Senate. I think there are only 15 Senators who were here during the last impeachment trial of President Bill Clinton. Most of us are trying to get up to speed and figure out how to discharge our duty under the Constitution as a jury that will decide whether to convict or acquit and, if convicted, whether the President should be removed. This is serious.

Here we are, about 11 months before the next general election. It strikes me as a serious matter to ask 535 Members of the U.S. Congress to remove a President who was voted into office with about 63 million votes. This is very serious.

Well, despite the House leadership and Members stating time and again before the Christmas holidays how pressing the matter of impeachment was, there hasn't been an inch of movement in the House since those Articles of Impeachment were voted on. Here we are, more than 3 weeks later, and Speaker PELOSI is still playing her cat-and-mouse game with these Articles of Impeachment.

Last night, the Speaker appeared to have dug in her heels even deeper when she sent a letter to our Democratic colleagues about the delay. Following the majority leader's announcement that every Republican Senator supports using exactly the same framework that was used during the Clinton impeachment trial, the Speaker, as you might imagine, was not particularly happy because her gambit obviously didn't work. She has zero leverage and zero right to try to dictate to the Senate how we conduct the Senate trial, just as we had zero leverage and zero input into how the House conducted its responsibilities.

Speaker PELOSI told her caucus that the process is both unfair and ''designed to deprive Senators and the American people of crucial documents and testimony.'' Clearly, she doesn't think those documents and testimony were crucial enough to be included in the House investigation in the first place, but I digress.

The Speaker is trying to make the most out of a very bad situation of her own creation and intentionally trying to mislead the American people into thinking this framework prevents any witnesses from testifying, which is a false impression. It is demonstrably false. These are the same parameters that guided the Clinton impeachment process, during which witnesses were presented by deposition, giving sworn testimony that was then presented by the parties.

In 1999, 100 Senators agreed to this model. You would think if this was fair enough for President Clinton, it would be fair enough for President Trump. To apply a different standard would be just that—a double standard.

All 100 Senators agreed during the Clinton impeachment trial to allow the impeachment managers to present their case, to allow the President's lawyers to present their case, and then to permit the Senators to ask questions through the Chief Justice and to get additional information, and then—and only then—decide whether additional witnesses would be required.

Under the Clinton model, and now under the model that will be used—the Clinton model that we will be using in the Trump impeachment trial—if Members felt like they needed more information, they could vote to hear from additional witnesses. That opportunity is still available to them under the Clinton precedent that will be applied in the Trump impeachment trial. That is exactly what happened in the Clinton impeachment trial. After the arguments and evidence were presented, Senators voted to hear from three additional witnesses who were then deposed and whose sworn testimony was then offered.

You know, it makes me a little crazy when people say that this is a question

of witnesses or no witnesses. There were about 17 witnesses, as I count them, who testified in the House impeachment inquiry. All of that evidence, such as it is, is available to the impeachment managers to offer here in the Senate. If, in fact, the Senate decides to do as the Senate did in the Clinton impeachment, authorize subpoenas for three additional witnesses or more, that still is the Senate's prerogative, which is not foreclosed in the least by this resolution.

Well, the Intelligence Committee alone held 7 public hearings with 12 witnesses that totaled more than 30 hours. Presumably, they are proud of the product—the evidence—that was produced during the course of those hearings or else they wouldn't have conducted them in the first place. This isn't a matter of witnesses or no witnesses, as some of our Democratic colleagues and the media attempts to characterize it; this is a matter of letting the parties to the impeachment decide how to try their case.

I had the great honor, over a period of 13 years, to serve as a State court judge. I presided over hundreds of jury trials during the course of my experience as a district judge. Never have I seen a model where the jury decides how to try the case. The jury sits there and listens to the evidence presented by the parties, and that is exactly what we are proposing here. So this idea of letting Senators decide how to try the impeachment managers' case or the President's case is something totally novel and unheard of.

Setting the rules on whom we hear from, when, and how—as the Speaker wants to do—on the front end makes no sense. Let me try an analogy. It would be like asking an NFL coach to outline every play in the Super Bowl—in order—before the game actually starts. Well, that is not possible. Having this discussion over Speaker PELOSI's demands on witnesses completely ignores the fact that this is simply not her prerogative.

Now, I know the Speaker is a powerful political figure. She rules the House with an iron fist, but her views simply have no weight whatsoever, in terms of how the Senate conducts its business, including an impeachment trial under the Constitution.

This has all been diversion and, frankly, a lot of dissembling and misleading arguments about things that just simply aren't true. The Constitution outlines a bicameral impeachment process, with each Chamber having its separate and independent responsibilities.

As I said, just as the Constitution gives the House ''the sole power of impeachment''—that is a quote from the Constitution—it also gives the Senate ''the sole power to try all impeachments.'' Nowhere is found a clause granting the Speaker of the House of Representatives supreme authority to decide this process. Yes, she has been very influential leading up to the vote of the Articles of Impeachment, over which the Senate had no voice and no vote. Now her job is done, such as it is, but for sending the Articles of Impeachment to the Senate.

Speaker PELOSI's refusal to transmit the articles unless her demands are met is a violation of the separation of powers, and it is an unprecedented power grab. I must say, I have some sympathy with the Speaker's position. Last March, she said that impeachment was a bad idea because it was so divisive, and unless the evidence was compelling and the support for the Articles of Impeachment was bipartisan, it wasn't worth it. Well, that was in March of 2019. Obviously, things changed, and the best I can tell is she was essentially forced by the radical Members of the House Democratic Caucus to change her position, and now she finds herself in an embarrassingly untenable and unsustainable position. This isn't entirely her fault.

While she has been playing games, though, with the Articles of Impeachment, she has been infringing, I believe, on the President's constitutional right to due process of law. Due process is based on the fundamental notions of fairness. That is what we accord everybody in a civil or criminal proceeding—due process of law. The Sixth Amendment, for example, guarantees the right to a speedy trial for every American, and it doesn't exempt certain cases no matter how high- or low-profile they may be. Now, while the Sixth Amendment right to a speedy trial may not, strictly speaking, apply to an impeachment trial because this isn't a civil or criminal case, the whole fundamental notion of fairness does apply: a right to a speedy trial.

It is clear that while Speaker PELOSI dangles these Articles of Impeachment over the President like a sword of Damocles, this is not fair to the President. It is not fair to the Senate. It is not fair, most importantly, to the American people. This distraction—this impeachment mania—has consumed so much oxygen and attention here in Washington, DC, that it has prevented us from doing other things we know we can and should be doing that would benefit the American people.

I came here on two occasions to offer a piece of bipartisan legislation that would lower out-of-pocket costs for prescription drugs by eliminating some of the gamesmanship in the patent system, only to find—even though it is a bipartisan bill, voted unanimously out of the Judiciary Committee—that the only person who objected to us taking it up and passing it was the Democratic minority leader. Those are the sort of games that, unfortunately, give Washington and Congress a bad name and a bad reputation.

I must say this is not just this side of the aisle that thinks the time is up for Speaker PELOSI to send the Articles of Impeachment over here. There is bipartisan agreement here in the Senate that it is time to fish or cut bait.

Speaker PELOSI's California colleague, our friend, Senator FEINSTEIN from California, said:

> If we're going to do it, she should send them over. I don't see what good delay does.

Well, good for Senator FEINSTEIN.

Our friend and colleague from Connecticut, Senator BLUMENTHAL, said:

> We are reaching a point where the articles of impeachment should be sent.

Senator MURPHY, his colleague from Connecticut, said:

> I think the time has passed. She should send the articles over.

I think we all share the sentiment expressed by Senator ANGUS KING from Maine. He said:

> I do think we need to get this thing going.

He has a gift for understatement.

It is high time for the Speaker to quit using these Articles of Impeachment as a way to pander to the most radical fringes of her party. The Members of the House have completed their constitutional role. They launched their inquiry. They did their investigation, such as it was, and they held a partisan vote. That is their prerogative. I don't agree with it, but that is their prerogative, and they have done it. The Speaker should send the Articles of Impeachment to the Senate without further delay so we can perform our responsibilities under the Constitution in a trial.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, this is an interesting time. I was thinking that over the holiday break. I was home, and I talked to many Vermonters. These are Vermonters who are Republicans, Democrats, Independents, and across the political spectrum. All of them expressed concerns about how the Senate will handle the impeachment of President Trump or the trial. He has been impeached, but now it is the trial. I suspect that all 100 Senators had similar conversations.

I have been asked not just about President Trump's actions in Ukraine but also about how the Senate will conduct a trial and whether the Senate is even capable of holding a genuine, fair trial worthy of our constitutional responsibilities.

I would remind Senators that at the start of an impeachment trial, we each swear an oath to do impartial justice according to the Constitution and laws. During my 45 years in this Chamber, I have taken this oath six times, and I take this oath extraordinarily seriously. But I fear the Senate may be on the verge of abandoning what this oath means.

The majority leader has vowed a quick acquittal before we hear any witnesses. He has boasted that he is ''not an impartial juror,'' and he has pledged ''there will be no difference between the President's position and our position as to how to handle this.'' He ignores the fact that the U.S. Senate is a separate and independent body. Actually, what the majority leader said is

tantamount to a criminal defendant being allowed to set the rules for his own trial, while the judge and jury promise him a quick acquittal. That is a far cry from the ''impartial justice'' required by our oaths and the U.S. Constitution.

Given this, I understand why Speaker PELOSI did not rush to send the Articles of Impeachment to the Senate. A sham trial is in no one's interest. I would say a sham trial is not even in the President's interest. A choreographed acquittal exonerates no one. It serves only to deepen rifts within the country, and eviscerates the Senate's constitutional role.

Now, how the Senate conducts the trial will be up to each of us. It is not up to one or two Senators, and it is certainly not up to the President. The duration and scope of the trial, including whether to call witnesses or compel document production, will be decided by a simple majority of the U.S. Senate.

I know many on the Republican side have said we should postpone any agreement on witnesses. They argue that the Senate did that for President Clinton's trial, so why not now. That argument sounds reasonable—until you look at the facts. You know, facts are always troublesome things.

Today, following President Trump's instruction, nine key witnesses—key witnesses—with firsthand knowledge of the allegations have refused to cooperate with the House investigation. Because of President Trump, they are told they are not allowed to testify. Now, compare that to the Clinton trial. Then, every key witness, including President Clinton, provided testimony under oath before the trial. Indeed, we had a massive record from the independent counsel to consider: 36 boxes of material covering the most intimate details of the President's life. Just think of that, every witness testifying, as compared to the Trump impeachment, where he wouldn't allow any key witness to testify, and even though he said he wanted to testify, of course he never did.

Now, even with all that, even with those 36 boxes of material, the Senate did end up hearing from three witnesses during the Clinton trial. Let me tell you how that worked. These are three witnesses who already had given extensive, voluminous testimony: Sidney Blumenthal, he testified before the grand jury for three days; Vernon Jordan, he testified before the grand jury for five days and was deposed by independent counsel; and Monica Lewinsky had testified for two days before the grand jury, was deposed by independent counsel, and was interviewed by the independent counsel 20 times.

Let's be clear: Even Republicans, at the time, acknowledged they did not expect to learn new information from these witnesses. I know that Republicans and Democrats picked a small group of Senators to be there for their depositions. I was one of them. In fact, I presided over the Lewinsky deposition. One of the House managers—Republican managers—said that ''if [the witnesses] are consistent, they'll say the same that's in here,'' referring to their previous testimony already before the Senate. Another told Ms. Lewinsky: ''Obviously, you testified extensively in the grand jury, so you're going to obviously repeat things today.'' And the third House manager told Mr. Jordan, ''I know that probably about every question that could be asked has been asked''—and, I might say, answered.

And indeed those Republicans were correct. We did not learn anything material from these depositions.

Now, unlike the claims made on the other side, the situation today could not be more different. The Senate does not have any prior testimony or documents from four key witnesses: John Bolton, Mick Mulvaney, Robert Blair, and Michael Duffey—all people who have significant information about what Donald Trump has been charged with. We don't have a single document. We don't have a single amount of testimony under oath. Why? Because the President directed them not to cooperate with the House, not to testify under oath, and not to say anything. If these witnesses had performed their legal duty, having been subpoenaed, and if they had cooperated with the House's inquiry, we wouldn't be in this position.

There is no question that all Senators—Republicans and Democrats alike—will benefit from hearing what those witnesses have to say. All of them have direct and relevant information about President Trump's actions with respect to Ukraine. There is no good reason to postpone their testimony.

Take just one, the President's former National Security Advisor, John Bolton. My question for all the Senators is this: We already know that, according to Mr. Bolton's lawyer, ''he was personally involved in many of the events, meetings, and conversations . . . that have not yet been discussed in the testimonies thus far.'' We already know that includes a one-on-one conversation with the President about Ukraine aid. We already know that Mr. Bolton described the President's aide's efforts as ''a drug deal.'' And we now know that Mr. Bolton is willing to talk to us for the first time if asked. How can we say we are fulfilling our constitutional duty if we don't even ask? How can we ignore such critical, firsthand testimony?

No matter how each side ultimately votes on guilt or innocence, the decision of whether to keep both the Senate and the American people in the dark would effectively make the Senate complicit in a cover-up. That would fall on the Senate, and that will shape our system of checks and balances for decades to come. It will haunt both Democrats and Republicans. Senate Republicans must not close the Senate's eyes and cover its ears. We should be Senators. We should follow our oath to uphold justice.

I recognize, of course, that this is an era of deep partisan acrimony. But that was true during the Clinton impeachment trial, and it was true during the Johnson impeachment trial. The question that each of us has to answer now is whether we will allow the label of Democrat or Republican to matter more than our constitutional role as Senators. We are first and foremost U.S. Senators. There are only 100 of us to represent over 300 million Americans. That is why I believe the Senate itself is now on trial.

I have never seen a trial without witnesses when the facts are in dispute. I have tried many, many, many cases, both in private practice and as a prosecutor. I have never tried a case where there are no witnesses. More to the point, the Senate has never held a Presidential impeachment trial without hearing from witnesses. The Senate and the American people deserve, to have the full story. We shouldn't be complicit in a cover-up.

I would not suggest to any Senator that his or her oath requires at this time a specific verdict—that is going to depend on the trial. But I strongly believe that our oath requires that all Senators behave impartially and that all Senators support a fair trial, one that places the pursuit of truth above fealty to this or any other President, setting the rules for the time to come.

The Senate has a job to do. It is not to rig the trial in favor of—or against—President Trump. Impeachment is the only constitutional mechanism that Congress has to hold Presidents accountable. Whether or not the Senate ultimately votes to convict, if the Senate first enables a cover-up with a sham trial, then it means it is placing one President above the Constitution. In doing so, the Senate would eviscerate a foundation of our democracy that has thus far survived 240 years. No one—no one—is above the law.

I see other Senators waiting to speak.

I yield the floor.

The PRESIDING OFFICER (Mrs. FISCHER). The Senator from Florida.

IRAN

Mr. RUBIO. Madam President, a President of the United States is summoned by his or her national security team and informed that he or she has a limited window of opportunity in which to potentially prevent an attack that could cost the lives of dozens, if not hundreds, of Americans or U.S. troops. They are advised this by their national security team—the entire team—in unanimity. What would you do?

That is the most fundamental and difficult question that should be asked of anyone who seeks the Office of the Presidency. It is one of the most important things we need to know about those who seek the office and those who occupy it. It is the proverbial ''3 a.m. call.''