

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 Sen-

ate’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.”

It also happens to describe the choice before President Trump a few days ago. You wouldn't know that from listening to some of the rhetoric I see on television. The Speaker of the House just held a press conference in which the messaging implies that the strike on the terrorist, Soleimani, was the act of a reckless madman—a reckless and irresponsible escalation. The alternative argument is that, by the way, he should have consulted with us before doing it.

I reiterate: The entire national security team of the President, including the Chairman of the Joint Chiefs, General Milley, has been unequivocal, both privately and publicly, that he agreed with the assessment and he believed that this strike was necessary in order to protect the lives of Americans from a near-term attack.

I want to be frank. Anyone who left a briefing or goes around saying: Well, I don't think that that was true, frankly, is not questioning the President. They are questioning the 40 years of military service that General Milley has rendered this Nation and, frankly, questioning the judgment of the entire national security apparatus—all of the leadership of the national apparatus—of the United States of America. That question has been clearly answered by them.

It is interesting, too, that had the President not acted and, God forbid, American lives had been lost, we could very easily have been here this week talking about how the President should be removed. There would be a third article of impeachment for refusing to listen to the experts, for refusing to listen to his military advisers.

Ironically enough, just yesterday, before this entire Senate had the opportunity to be briefed by the national security team, I had a colleague of mine from across the aisle say: Everything is going to be fine if the President will just listen to General Milley and the military experts. But he did. Isn't that, ironically, at the crux of a lot of these arguments about Ukraine, that all of the experts—the career experts, the uniformed experts—disagreed with what the President was doing? Yet when he listens to what they say, somehow it is the act of a reckless madman. I think that speaks more to the hysteria that has overcome our politics and has now reached into the realm of national security.

It is also important to note when people say these things, that those who walk around talking about intelligence sometimes are not consumers of it on a regular basis or don't understand how it works. It is never about one piece. It is about patterns and trends and known capabilities and known intentions and about windows of opportunity. That is an important point to make.

As far as consulting with congressional leadership before taking this action, that is not how things like this develop. Very rarely do you have the luxury of time.

No. 1, I would start out by saying that there is no legal requirement. The President of the United States has no legal requirement, and, in fact, I believe has an imperative, inherent in the Office, to act swiftly and appropriately to the threat against the lives of Americans, especially American troops that he or she has sent abroad to defend this country's interests.

No. 2, it is unrealistic and not possible. Oftentimes, these windows of opportunity do not allow you the luxury of reaching some congressional leader in the middle of their ski trip or Christmas break, and even if you could, there is always the risk that the information would be disseminated and the window would close. So I am not sure if what they are asking for is even possible.

The other thing that is troubling is, if you listen to some of the rhetoric out there, you would think that the only two options with Iran are a full-scale diplomacy and capitulation to what they are doing or an all-out war. That is absurd, a false choice. It is a false choice.

The President has argued—he said it again clearly yesterday—that he is ready for serious—serious—and real talks toward how Iran becomes a normal nation and its clerical nation behaves in a normal and civilized way. In the meantime, he has an obligation—this President, a future President, and past Presidents—to protect America's interests and, more importantly, American lives and to do so through a concept of active deterrence.

What does that mean? Active deterrence means that the people who want to harm you decide not to because the cost of harming you is higher than the benefit of harming you. That is an important point here. The strike on Soleimani was not just about preventing an imminent attack. That, in and of itself, alone was reason to act, but the second thing that was important was reestablishing active deterrence.

For whatever reason, the Iranians have concluded that they could go further than they have ever gone before in directly attacking Americans or using their proxies to attack Americans. So much so that they tried—they failed, but they tried—and could have breached our Embassy compound in Baghdad and killed Americans, civilians, and diplomats, and our military personnel stationed there. They tried to. And they could have and want to launch lethal attacks to kill as many Americans as they possibly can because, for whatever reason, they concluded they could get away with it, that we would tolerate it. It was critical to the defense of this country, to our national interests, and to the lives of our men and women in uniform deployed abroad that we restore active deterrence.

Now, time will tell how much was restored, but, clearly, I believe some of it was restored. Even the comments

today of an Iranian commander—“Well, we shot missiles, but we didn't try to kill anybody”—are indicative of a desire to deescalate, at least for the time being.

The other thing I hear is this: Well, the President has no strategy. That is the problem. There is no strategy.

I think you could argue that they haven't done a good-enough job of outlining a strategy, but I don't think it is fair to say they have no strategy.

The strategy begins with a goal. The goal is pretty straightforward: a prosperous Iran that lives in harmony with its neighbors and does not have nuclear weapons or continues to support terrorism and terrorist groups. That is the goal.

How do you achieve it? By Iran's abandoning its desire for nuclear weapons and by no longer standing up these terrorist groups that, for over a decade or longer, have been killing Americans and trying to harm Americans, Israelis, and other allies.

How else do you achieve it? By imposing crushing economic sanctions, while leaving open the door for real—not fake, not talk for the sake of talk—diplomacy, but, at the same time, making it abundantly clear that you will deter, repel, and act against any effort to harm Americans.

All this talk about military conflict and U.S. actions overlooks the fundamental fact that what is happening here is that Iran has decided to respond to economic sanctions with violence. Their response to economic sanctions has been this: Can we get one of these terrorist groups using weapons that we give them to kill Americans? Can we put limpet mines on merchant ships? Can we attack the Saudis? That has been their response to economic sanctions: violence.

Presidents don't have the luxury of bluffing. You can't go around saying “If you kill Americans, there will be consequences,” and then they try to kill Americans—or, in the case of Iran, did—and do nothing about it because now what you have done is you have invited a committed adversary to do more of it—not just to tragically kill one brave American contractor but to kill dozens or hundreds of Americans in various spots throughout the world.

The last point I want to make is all this talk about an authorization for use of force. I want to begin by sharing my personal view. I believe the War Powers Resolution is unconstitutional. I think the power of Congress resides in the opportunity to declare war and to fund it. Every Presidential administration, Republican and Democrat alike, has taken the same position.

That doesn't mean we should never have an AUMF. I think our actions are stronger when it is clear that they have strong bipartisan support from both Houses of Congress. I also think all this talk about AUMFs is completely and utterly irrelevant to the case in point.

No. 1, under the Constitution of the United States—and the War Powers

Resolution, by the way—the President of the United States not only has the authority to act in self-defense but an obligation to do so. An obligation to do so. That is No. 1.

No. 2, it is especially true in this case, where the lives and the troops he sought to protect were deployed to Iraq on an anti-ISIS, anti-terrorism mission approved by Congress through an AUMF, an AUMF that states very clearly that one of the reasons we are allowed to use military force, as authorized by Congress, is to defend against attacks.

I don't believe there is a single Member of Congress who has the willingness to stand before the American people and say: I think, when we deploy troops abroad, they should not be allowed to defend themselves.

Not only do you not need an AUMF or congressional authority to act in self-defense, but the troops who were defending themselves here—and the troops we were defending in the Soleimani strike and preventing an attack against—are deployed pursuant to a congressional authorization.

Honestly, what I see here, in addition to the arguments I have already discussed about how ridiculous it is to portray this as the actions of a reckless madman who is escalating things, is an argument about when might you need an AUMF. Give us some theoretical, hypothetical scenario in which you might need an AUMF. The hypotheticals they are posturing are ones that this administration has never, never proposed and, frankly, haven't even contemplated.

No one is talking about an all-out invasion of Iran. If you were telling me the President is putting together plans to invade Iran, to go in and capture territory, to remove the Ayatollah and install a new government, I would say: All right, that is something that there should be a debate about.

Who is talking about that? I haven't heard anybody propose that. Yet, somehow, the House today is going to spend time on this. People have filed bills on this. Look, we can debate anything we want. People can file any bill they want. That is a privileged motion. It comes to the floor. Great.

By the way, no one said: Don't go around talking about this; just be quiet.

Perhaps it should have been stated more artfully, but the point that was being made, which is a valid point, is that, when the Iranians analyze responses to the United States, one of the things they look at is this: Do domestic politics and differences of opinion and divisions among American officials restrain what the President can do against us? You may not like it, but I want to be frank with you. They believe that our political differences in this country and that our disagreements constrain the President's ability to respond to attacks. They believe it limits his ability to deter. Now, hopefully the strike on Soleimani may have

reset that a little bit. That doesn't mean we shouldn't debate it, and I don't think you should ever tell Congress not to discuss these things. We have a right to. Frankly, everybody here has been elected by a constituency, so people can choose to raise whichever issue they want.

I also don't think it is invalid to point out that these internal debates we have in this country do have an impact on what our adversaries think they can get away with. It doesn't make anyone an appeaser or a traitor, but it is a factor I think people should recognize. That is all.

In closing, I would say, look, there was a time—I am not one of these people who pine for the golden era. It is funny. I hear people talking about the Clinton impeachment trial. Oftentimes people come to me and say: In the good old days, back in the nineties, when everybody got together and Congressmen were all friends—and I don't know what it was like then because I wasn't here, but I remind them that, in the golden days about which they often talk, we were impeaching Bill Clinton around here. They didn't do it on social media and Twitter and 24-hour cable news at the time, but there has always been friction in American politics.

One thing I can say that is evident is that there was a time in American politics that I hope we can return to, and that is a time which, when it came to issues of national security, there was some level of restraint because we understood, when it came to that, the people who would ultimately pay the price for overpoliticizing any issue, for reckless talk, and for unnecessary accusations were not the political figures. Presidents and Ayatollahs don't die in conflicts like these. Do you know who dies? The young men and women we send abroad, the innocent civilians caught in the middle, and the refugees who are forced to leave their homes as a result.

There are real-world, life-and-death implications. That is why it has long been American tradition that, when it comes to issues of foreign policy and national security, they were always treated just a little bit differently, with some deference. Even if you disagreed, you sort of tailored it in a way that you thought would not harm those interests.

I think that has been lost, probably, on both sides. I still make it a habit when I travel abroad not to discuss or criticize U.S. leaders at home, but I understand times have changed.

I would just say, in this particular case, I know that this Nation remains conflicted about the conflicts that led us into Iran and Afghanistan and that keep us in the region to this day. That is a valid, valid debate. I just don't think this looks anything like it. This is about a strike that every single member of the President's national security team, including the chairman of the Joint Chiefs, believes was necessary in order to prevent a near-term

attack against Americans that could be lethal and catastrophic.

This is about restoring active deterrents, effective deterrents, against future strikes, and I hope that we can bring that debate back to where it belongs so that, on matters of such importance, we can figure out solutions and not simple rhetoric.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

RECOGNIZING THE NSA

Mr. CARDIN. Madam President, I want to extend the thanks of all Members of the U.S. Senate and the American people to the men and women who are serving our Nation at the National Security Agency based at Fort Meade, MD, the Defense Special Missile and Astronautics Center. It has been in existence since 1964. It is a 24/7 operation. I mention that because it was the work done here in the State of Maryland—and I am proud to represent that State—that gave the early warning information that allowed us to get information to our American forces in Iraq and to the Iraqis that, literally, saved lives.

I want to thank them for their dedicated service. We have the best intelligence information and the best trained people protecting our Nation, and I just wanted to pause for one moment to thank those who are serving at the National Security Agency who are keeping us safe.

UNITED STATES-MEXICO-CANADA TRADE AGREEMENT

Madam President, shortly we will be considering the United States-Mexico-Canada Agreement, the USMCA. It updates and replaces the North American Free Trade Agreement, NAFTA. I support the USMCA and supported it earlier this week, when it passed the Senate Finance Committee on a strong 25-to-3 vote. This strong vote was possible because of the hard work of Democrats in the House and Senate to make this agreement the strongest, fully enforceable, pro-environment, pro-labor trade agreement the United States has ever entered into.

First let me talk about why I think trade is important. I would point out to my colleagues that the maiden speech I gave in the House of Representatives when I was first elected was on trade and the importance of trade agreements. I recognized how important the Port of Baltimore was to our economy and how important free trade and trade was to the Port of Baltimore. So, clearly, trade agreements are critically important to the people of Maryland, and they are important to this country.

First, international trade can lead to better economic outcomes. From leveling the playing field for American businesses to ensuring our trading partners have adequate labor standards to make competition fair, trade can be the catalyst for these outcomes. Second, trade can raise the standard of living for citizens in this country.