

votes are specified in the underlying resolution.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. McCONNELL. Mr. Chief Justice, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 4:48 p.m., the Senate, sitting as a Court of Impeachment, recessed until 5:16 p.m.; whereupon the Senate reassembled when called to order by the CHIEF JUSTICE.

The CHIEF JUSTICE. The amendment is arguable by the parties for 2 hours equally divided.

Mr. Manager SCHIFF, are you a proponent or an opponent?

Mr. Manager SCHIFF. Proponent, Mr. Chief Justice.

The CHIEF JUSTICE. Thank you.

And Mr. Cipollone?

Mr. Counsel CIPOLLONE. Opponent.

The CHIEF JUSTICE. Mr. SCHIFF, you have an hour, and you will be able to reserve time for rebuttal.

Mrs. Manager DEMINGS. Chief Justice Roberts, Senators, counsel for the White House, I am VAL DEMINGS from the State of Florida.

The House managers strongly support the amendment to issue a subpoena for documents to the State Department.

As we explained, the first Article of Impeachment charges the President with using the power of his office to solicit and pressure Ukraine to announce investigations that everyone in this Chamber knows to be bogus. The President didn't even care if an investigation was actually conducted, just that it was announced. Why? Because this was for his own personal and political benefit. The first article further charges that the President did so with corrupt motives and that his use of power for personal gain harmed the national security of the United States.

As the second Article of Impeachment charges, the President sought to conceal evidence of this conduct. He did so by ordering his entire administration—every office, every agency, every official—to defy every subpoena served in the House impeachment inquiry. No President in history has ever done anything like this. Many Presidents have expressly acknowledged that they couldn't do anything like this.

President Trump did not take these extreme steps to hide evidence of his innocence or to protect the institution of the Presidency. As a career law enforcement officer, I have never seen anyone take such extreme steps to hide evidence allegedly proving his innocence, and I do not find that here today. The President is engaged in this coverup because he is guilty, and he knows it. And he knows that the evidence he is concealing will only further demonstrate his culpability.

Notwithstanding this effort to stonewall our inquiry, the House amassed

powerful evidence of the President's high crimes and misdemeanors—17 witnesses, 130 hours of testimony, combined with the President's own admissions on phone calls and in public comments, confirmed and corroborated by hundreds of texts, emails, and documents.

Much of that evidence came from patriotic, nonpartisan, decorated officials in the State Department. They are brave men and women who honored their obligations under the law and gave testimony required by congressional subpoena in the face of the President's taunts and insults. These officials described the President's campaign to induce and pressure Ukraine to announce political investigations; his use of \$391 million of vital military aid—taxpayer money appropriated on a bipartisan basis by Congress—as leverage to force Ukraine to comply; and his withholding of a meeting desperately sought by the newly-elected President of Ukraine.

This testimony was particularly compelling because the State Department is at the very center of President Trump's wrongdoing. We heard firsthand from diplomatic officials who saw up close and personal what was happening and who immediately—immediately—sounded the alarms.

Ambassador William Taylor, who returned to Ukraine in June of last year as Acting Ambassador, texted other State Department officials: "I think it's crazy to withhold security assistance for help with a political campaign."

Ambassador to the European Union Gordon Sondland, who was delegated authority over Ukraine matters by none other than President Trump, testified: "We knew these investigations were important to the President" and "we followed the President's orders."

David Holmes, a senior official at the U.S. Embassy in Kyiv, said: "[I]t was made clear that some action on a Burisma/Biden investigation was a precondition for an Oval Office meeting."

During their testimony, many of these State Department officials described specific documents—including text messages, emails, former diplomatic cables, and notes—that would corroborate their testimony and shed additional light on President Trump's corrupt scheme.

For instance, Ambassador Taylor, who raised concerns that military aid had been conditioned on the President's demand for political investigations, described a "little notebook" in which he would "take notes on conversations" he had with key officials.

Ambassador Sondland referred by date and recipient to emails regarding the President's demand that Ukraine announce political investigations. As we will see, those emails were sent to some of President Trump's top advisers, including Acting White House Chief of Staff Mick Mulvaney, Secretary of State Michael Pompeo, and Secretary of Energy Rick Perry.

Deputy Assistant Secretary of State George Kent, who oversaw Ukraine policy matters in Washington for the State Department, wrote at least four memos to file to document concerning conduct he witnessed or heard.

Ambassador Kurt Volker, the Special Representative for Ukraine Negotiations, provided evidence that he and other American officials communicated with high-level Ukrainian officials—including President Zelensky himself—via text message and WhatsApp about the President's improper demands and how Ukrainian officials would respond to them.

Based on the testimony we received and on evidence that has since emerged, all of these documents and others that we will describe bear directly on the allegations set forth in the first Article of Impeachment. They would help complete our understanding of how the President's scheme unfolded in real time. They would support the conclusion that senior Ukrainian officials understood the corrupt nature of President Trump's demand. They would further expose the extent to which Secretary Pompeo, Acting Chief of Staff Mick Mulvaney, and other senior Trump administration officials were aware of the President's plot and helped carry it out.

We are not talking about a burdensome number of documents; we are talking about a specific, discrete set of materials held by the State Department—documents the State Department has already collected in response to our subpoena but has never produced. We know these materials exist, we know they are relevant, and we know the President is desperately trying to conceal them.

As I will describe, the Senate should subpoena the following: No. 1, WhatsApp and other text message communications; 2, emails; 3, diplomatic cables; and 4, notes.

Given the significance and relevance of these documents, the House requested that they be provided. When these requests were denied—when our requests were denied—the House issued subpoenas commanding that the documents be turned over, but at the President's direction, the Department of State unlawfully defied that subpoena.

As I stand here now, the State Department has all these documents in its possession but refuses, based on the President's order, to let them see the light of day. This is an affront to the House, which has full power to see these documents. It is an affront to the Senate, which has been denied a full record on which to judge the President's guilt or innocence. It is an affront to the Constitution, which makes clear that nobody, not even the President, is above the law. It is an affront to the American people, who have a right to know what the President and his allies are hiding from them and why it is being hidden.

In prior impeachment trials, this body has issued subpoenas requiring

the recipient to hand over relevant documents. It must do so again here, and it must do so now at the beginning of the trial, not the end.

Of course the need for a Senate subpoena arises because, as I have noted, the President ordered the State Department to defy a subpoena from the House. At this point, I would like to briefly describe our own efforts to get those materials. I will then address in a more detailed fashion exactly what documents the State Department has hidden from the American people and why the Senate should require it to turn them over.

On September 9, exercising their article I oversight authority, the House investigating committee sent a document request to the State Department. The committee sought materials related to the President's effort to pressure Ukraine to announce investigations into his political rival, as well as his dangerous, unexplained withholding of millions of dollars in vital military aid.

After the State Department failed to produce any documents, the House Committee on Foreign Affairs issued a subpoena to the State Department on September 27.

In a letter on October 1, Secretary Pompeo acknowledged receipt of the subpoena. At that time, he stated that he would respond to the committee's subpoena for documents by the return date, October 4, but his response never came.

Instead, on October 8, President Trump's lawyer—writing on the President's behalf—issued a direction confirming that the administration would stonewall the impeachment inquiry.

To date, the State Department has not produced a single document—not a single document—in response to the congressional subpoena, but witnesses who testified indicated that the State Department had gathered all of the records and was prepared to provide them before the White House directed it to defy the subpoena.

Notwithstanding this unlawful obstruction, through the testimony of brave State Department employees, the House was able to identify, with remarkable precision, several categories of documents relevant to the first Article of Impeachment that are sitting right now—right now—the documents are sitting right now at the State Department.

I would like to walk you through four key categories of documents that should be subpoenaed and which illustrate the highly relevant documents the State Department could produce immediately to this trial.

The first category consists of WhatsApp and other text messages from State Department officials caught up in these events, including Ambassadors Sondland and Taylor and also Deputy Assistant Secretary George Kent, all three of whom confirmed in their testimony that they regularly use WhatsApp to commu-

nicate with each other and foreign government officials.

As Deputy Assistant Secretary Kent explained, WhatsApp is the dominant form of electronic communication in certain parts of the world. We know that the State Department possesses records of WhatsApp and text messages from critical eyewitnesses to these proceedings, including from Ambassadors Sondland and Taylor and Deputy Assistant Secretary Kent.

We know that the Department is deliberately concealing these records at the direction of the President, and we know that they could contain highly relevant testimony about the President's plan to condition official Presidential acts on the announcement of investigations for his own personal and political gain.

We know this not only from testimony but also because Ambassador Volker was able to provide us with a small but telling selection of his WhatsApp messages. Those records confirm that a full review of these texts and WhatsApp messages from relevant officials would help to paint a vivid, firsthand picture of statements, decisions, concerns, and beliefs held by important players unfolding in real time.

For example, thanks to Ambassador Volker's messages, we know that Ambassador Sondland—a key player in the President's pressure campaign who testified in the House about a quid pro quo arrangement—texted directly with the Ukrainian President, President Volodymyr Zelensky. This image produced by Ambassador Volker appears to be a screenshot of a text message that Ambassador Sondland exchanged with President Zelensky about plans for a White House visit—the very same visit that President Zelensky badly needed and that President Trump later withheld as part of the quid pro quo described by Ambassador Sondland in his testimony.

This body and the American people have a right to know what else Ambassador Sondland and President Zelensky said in this and other relevant exchanges about the White House meeting or about the military aid and the President's demands, but we don't know exactly what was conveyed and when. We don't know it because President Trump directed the State Department to conceal these vital records. These are records that the State Department would have otherwise turned over if not for the President's direction and desire to cover up his wrongdoing.

To get a sense of why texts and WhatsApp messages are so vital, just consider yet another piece of evidence we have gleaned from Ambassador Volker's partial production.

On July 10, after the White House meetings at which Ambassador Sondland pressured Ukrainian officials to announce investigations of President Trump's political opponents, a Ukraine official texted Ambassador Volker: "I feel that the key for many

things is Rudi and I ready to talk with him at any time."

This is evidence that, immediately following Ambassador Sondland's ultimatum, Ukrainian officials recognized that they needed to appease Rudy Giuliani by carrying out the investigations. Of course, Mr. Giuliani had publicly confirmed that he was not engaged in "foreign policy" but was instead advancing his client's—the President's—own personal interests.

Further, in another text message exchange provided by Ambassador Volker, we see evidence that Ukraine understood President Trump's demands loud and clear.

On the morning of July 25, half an hour before the infamous call between President Trump and President Zelensky, Ambassador Volker wrote to a senior Ukrainian official:

Heard from White House—assuming President Z convinces trump he will investigate/ "get to the bottom of what happened" in 2016, we will nail down date for visit to Washington. Good luck! See you tomorrow—Kurt.

Ambassador Sondland confirmed that this text accurately summarized the President's directive to him earlier that morning.

After the phone call between President Trump and President Zelensky, the Ukrainian official responded, pointedly: "Phone call went well." He then discussed potential dates for a White House meeting.

Then, the very next day, Ambassador Volker wrote to Rudy Giuliani: "Exactly the right messages as we discussed."

These messages confirm Mr. Giuliani's central role, the premeditated nature of President Trump's solicitation of political investigations, and the pressure campaign on Ukraine waged by Mr. Giuliani and senior officials at President Trump's direction.

Again, this is just some of what we learned from Ambassador Volker's records. As you will see during this trial presentation, there were numerous WhatsApp messages in August while Ambassadors Volker and Sondland and Mr. Giuliani were pressuring President Zelensky's top aide to issue a statement announcing the investigation that President Trump wanted. Ambassador Taylor's text that you saw earlier about withholding the aid further reveals how much more material there likely is that relates to the Articles of Impeachment.

There can be no doubt that a full production of relevant texts and WhatsApp messages from other officials involved in Ukraine and in touch with Ukrainian officials—including Ambassador Sondland, Ambassador Taylor, and Deputy Assistant Secretary Kent—would further illuminate the malfeasance addressed in our first article.

This leads to the second category of documents that the State Department is unlawfully withholding—emails involving key State Department officials

concerning interactions with senior Ukrainian officials and relating to military aid, a White House meeting, and the President's demand for an investigation into his rivals.

For example, on July 19, Ambassador Gordon Sondland spoke directly with President Zelensky about the upcoming July 25 call between President Trump and President Zelensky.

Ambassador Sondland sent an email updating key officials, including Secretary Pompeo, Acting White House Chief of Staff Mulvaney, and his senior adviser, Robert Blair. In this email, he noted that he "prepared" President Zelensky, who was willing to make the announcements of political investigations that President Trump desired. Secretary Perry and Mick Mulvaney then responded to Sondland, acknowledging they received the email and recommending to move forward with the phone call that became the July 25 call between the Presidents of the United States and Ukraine.

We know all of this not because the State Department provided us with critical documents but, instead, because Ambassador Sondland provided us a reproduction of the email.

In his further testimony, Ambassador Sondland quite correctly explained that this email demonstrated "everyone was in the loop."

(Text of Videotape presentation:)

Everyone was in the loop. It was no secret. Everyone was informed via email on July 19th, days before the Presidential call. As I communicated to the team, I told President Zelensky in advance that assurances to run a fully transparent investigation and turn over every stone were necessary in his call with President Trump.

Mrs. Manager DEMINGS. Even viewed alone, this reproduced email is damning. It was sent shortly after Ambassador Sondland personally conveyed the President's demand for investigations to Ukrainians at the White House, leading several officials to sound alarms. It was said just a few days before the July 25 call, where President Trump asked for a "favor," and, by itself, this email shows who was involved in President Trump's plan to pressure the Ukrainian President for his own political gain.

But it is obvious that the full email chain and other related emails to this key time period would also be highly relevant. We don't have those emails because the State Department is hiding them, at the direction of the President. The Senate should issue the proposed subpoena to ensure a complete record of these and other relevant emails.

Any doubt that the State Department is concealing critical evidence from this body was resolved when the State Department was recently ordered to release documents, including emails, pursuant to a lawsuit under the Freedom of Information Act. These documents are heavily redacted and are limited to a very narrow time period, but, nevertheless, despite the heavy redactions, this highly limited glimpse

into the State Department's secret records demonstrates that those records are full of information relevant to this trial.

For example, several of these newly released emails show multiple contacts between the State Department, including Secretary Pompeo, and Mr. Giuliani throughout 2019. This is an important fact.

Mr. Giuliani served as the President's point person and executed his corrupt scheme. Mr. Giuliani repeatedly emphasized that his role was to advance the President's personal agenda—the President's political interests, not to promote the national security interests of the United States. The fact that the President's private attorney was in contact at key junctures with the Secretary of State, whose senior officials were directed by the President to support Mr. Giuliani's efforts in Ukraine, is relevant, disturbing, and telling.

For example, we know that on March 26, as Mr. Giuliani was pursuing the President's private agenda in Ukraine, and just 1 week after The Hill published an article featuring Mr. Giuliani's Ukraine conspiracy theories, Secretary Pompeo and Mr. Giuliani spoke directly on the phone.

That same week, President Trump's former personal secretary was asked by Mr. Giuliani's assistant for a direct connection to Secretary Pompeo.

Based on these records, it is also clear that Secretary Pompeo was already actively engaged with Mr. Giuliani in early spring of 2019. It also appears that these efforts were backed by the White House, given the involvement of President Trump's personal secretary.

This body and the American people need to see these emails and other files at the State Department, flushing out these exchanges and the details surrounding Mr. Giuliani's communications with Secretary Pompeo. Moreover, based on call records lawfully obtained by the House from this period, we know that from March 24 to March 30, Mr. Giuliani called the White House several times and also connected with an unidentified number numerous times.

These records show that on March 27, Mr. Giuliani placed a series of calls—series of calls—to the State Department switchboard, Secretary Pompeo's assistant, and the White House switchboard in quick succession, all within less than 30 minutes.

Obtaining emails and other documents regarding the State Department leadership's interaction with President Trump's private lawyer in this period, when Mr. Giuliani was actively orchestrating the pressure campaign in Ukraine related to the sham investigation into Vice President Biden and the 2016 election, would further clarify the President's involvement and direction at this key juncture in the formation of a plot to solicit foreign interference in our election.

We also know, based on recently obtained documents from Lev Parnas, an

associate of Rudy Giuliani who assisted him in his representation of President Trump, that Giuliani likely spoke with Secretary Pompeo about Ukraine matters even earlier than previously understood.

According to documents obtained from Mr. Parnas, Mr. Giuliani wrote in early February of 2019 that he apparently spoke with Secretary Pompeo about the removal of the U.S. Ambassador in Ukraine, Marie Yovanovitch. Mr. Giuliani viewed her as an impediment to implementing the President's corrupt scheme and orchestrated a long-running smear campaign against her. Here is what Mr. Parnas said about this just last week.

(Text of Videotape presentation:)

Ms. MADDOW. Do you believe that part of the motivation to get rid of Ambassador Yovanovitch, to get her out of post, was she was in the way of this effort to get the government of Ukraine to announce investigations of Joe Biden?

Mr. PARNAS. That was the only motivation.

Ms. MADDOW. That was the only motivation?

Mr. PARNAS. There was no other motivation.

Mrs. Manager DEMINGS. These are just some of the email communications that we know to exist, but there are undoubtedly more, including, for example, Ambassador Yovanovitch's request for the State Department to issue a statement of support of her around the time that Mr. Giuliani was speaking directly with Secretary Pompeo, but that statement never came.

The State Department has gathered these records, and they are ready to be turned over pursuant to a subpoena from the Senate. It would not be a time-consuming or lengthy process to obtain them, and there are clearly—clearly—important and relevant documents to the President's scheme. If we want the full and complete truth, then we need to see those emails.

The Senate should also seek a third item that the State Department has refused to provide, and that is Ambassador Taylor's extraordinary first-person diplomatic cable to Secretary Pompeo, dated August 29 and sent at the recommendation of the National Security Advisor, John Bolton, in which Ambassador Taylor strenuously objected to the withholding of military aid from Ukraine, as Ambassador Taylor recounted in his deposition.

(Text of Videotape presentation:)

Ambassador TAYLOR. Near the end of Ambassador Bolton's visit, I asked to meet him privately, during which I expressed to him my serious concern about the withholding of military assistance to Ukraine while the Ukrainians were defending their country from Russian aggression. Ambassador Bolton recommended that I send a first-person cable to Secretary Pompeo directly relaying my concerns.

I wrote and transmitted such a cable on August 29th, describing the folly I saw in withholding military aid to Ukraine at a time when hostilities were still active in the east and when Russia was watching closely to gauge the level of American support for

the Ukrainian Government. The Russians, as I said at my deposition, would love to see the humiliation of President Zelensky at the hands of the Americans. I told the Secretary that I could not and would not defend such a policy.

Although I received no specific response, I heard that soon thereafter the Secretary carried the cable with him to a meeting at the White House focused on security assistance for Ukraine.

Mrs. Manager DEMINGS. While we know from Ambassador Taylor and Deputy Assistant Secretary Kent that the cable was received, we do not know whether or how the State Department responded, nor do we know if the State Department possesses any other internal records relating to this cable.

This cable is vital for three reasons. First, it demonstrates the harm that President Trump did to our national security when he used foreign policy as an instrument of his own personal, political gain. Second, on the same day the cable was sent, President Zelensky's senior aide told Ambassador Taylor that he was "very concerned" about the hold on military assistance. He added that the Ukrainians were "just desperate" for it to be released. In other words, President Trump's effort to use military aid to apply additional pressure on Ukraine was working.

Finally, based on reporting by the New York Times, we now know that within days of Ambassador Taylor sending this cable, President Trump discussed Ukrainian security assistance with Secretary Pompeo, Defense Secretary Esper, and National Security Advisor Bolton. The investigation uncovered testimony that Secretary Pompeo brought Ambassador Taylor's cable to the White House; perhaps it was during this meeting. There, perhaps prodded by Ambassador Taylor's cable, all three of them pleaded—pleaded—with the President to resume the crucial military aid. Yet the President refused.

This body has a right to see Ambassador Taylor's cable, as well as the other State Department records addressing the official response to it. Although it may have been classified at the time, the State Department could no longer claim that the topic of security assistance remains classified today in light of the President's decision to declassify his two telephone calls with President Zelensky and Mr. Mulvaney's public statements about security assistance.

The fourth category of documents that the Senate should subpoena are contemporaneous, first-person accounts from State Department officials who were caught up in President Trump's corrupt scheme. These documents, which were described in detail by Deputy Assistant Secretary Kent, Ambassador Taylor, and political officer David Holmes, would help complete the record and clarify how the President's scheme unfolded in realtime and how the Ukrainians reacted.

Mr. Kent wrote notes or memos to file at least four times, according to

his testimony. Ambassador Taylor took extensive notes of nearly every conversation he had—some in a little notebook. David Holmes, the Embassy official in Ukraine, was a consistent notetaker of important meetings with Ukrainian officials.

(Text of Videotape presentation:)

Mr. GOLDMAN. Did you take notes of this conversation on September 1st with Ambassador Sondland?

Ambassador TAYLOR. I did.

Mr. GOLDMAN. And did you take notes related to most of the conversations, if not all of them, that you recited in your opening statement?

Ambassador TAYLOR. All of them, Mr. Goldman.

Mr. GOLDMAN. And you are aware, I presume, that the State Department has not provided those notes to the committee. Is that right?

Ambassador TAYLOR. I am aware.

Mr. GOLDMAN. So we don't have the benefit of reviewing them to ask you these questions.

Ambassador TAYLOR. Correct. I understand that they may be coming, sooner or later.

Mr. GOLDMAN. Well, we would welcome that.

Mrs. Manager DEMINGS. The State Department never produced those notes.

As another example, Deputy Assistant Secretary Kent testified about a key document that he drafted on August 16, describing his concerns that the Trump administration was attempting to pressure Ukraine into opening politically motivated investigations.

(Text of Videotape presentation:)

[Ms. SPEIER.] I'd like to start with you, Mr. Kent. In your testimony, you said that you had—"In mid-August, it became clear to me that Giuliani's efforts to gin up politically motivated investigations were now infecting U.S. engagement with Ukraine, leveraging President Zelensky's desire for a White House meeting." Mr. Kent, did you actually write a memo documenting your concerns that there was an effort under way to pressure Ukraine to open an investigation to benefit President Trump?

Mr. KENT. Yes, ma'am. I wrote a memo to the file on August 16th.

Ms. SPEIER. But we don't have access to that memo, do we?

Mr. KENT. I submitted it to the State Department, subject to the September 27th subpoena.

Ms. SPEIER. And we have not received one piece of paper from the State Department relative to this investigation.

Mrs. Manager DEMINGS. Deputy Assistant Secretary Kent also memorialized a September 15 conversation in which Ambassador Taylor described a Ukrainian official accusing America of hypocrisy for advising President Zelensky against investigating a prior Ukrainian president. Mr. Kent described that conversation during his testimony. He said:

But the more awkward part of the conversation came after Special Representative Volker made the point that the Ukrainians,

who had opened their authorities under Zelensky, had opened investigations of former President Poroshenko. He didn't think that was appropriate.

And then Andriy Yermak said: What? You mean the type of investigations you're pushing for us to do on Biden and Clinton?

The conversation makes clear the Ukrainian officials understood the corrupt nature of President Trump's request and therefore doubted American credibility on anti-corruption measures.

Records of these conversations—and other notes and memorandum by senior American officials in Ukraine—would flesh out and help complete the record for the first Article of Impeachment. They would tell the whole truth to the American people and to this body. You should require the State Department to provide them.

To summarize, the Senate should issue the subpoena proposed and the amendment requiring the State Department to turn over relevant text messages and WhatsApp messages, emails, diplomatic cables, and notes. These documents bear directly on the trial of this body—the trial that this body is required by the Constitution to hold. They are immediately relevant to the first Article of Impeachment. Their existence has been attested to by credible witnesses in the House, and the only reason we don't already have them is that the President has ordered his administration, including Secretary Pompeo, to hide them.

The President's lawyers may suggest that the House should have sought these materials in court or awaited further lawsuits under the Freedom of Information Act, a.k.a. FOIA lawsuits. Any such suggestion is meritless.

To start, the Constitution has never been understood to require such lawsuits, which has never occurred—never occurred—in any previous impeachment.

Moreover, the President has repeatedly and strenuously argued that the House is not even allowed to file a suit to enforce its subpoenas.

In the Freedom of Information Act cases, the administration has only grudgingly and slowly produced an extremely small set of materials but has insisted on applying heavy and dubious redactions.

FOIA lawsuits filed by third parties cannot serve as a credible alternative to congressional oversight. In fact, it is still alarming that the administration has produced more documents pursuant to Freedom of Information Act lawsuits by private citizens and entities than congressional subpoenas.

Finally, as we all know, litigation would take an extremely long time—likely years, not weeks or months—while the misconduct of this President requires immediate attention. The misconduct of this President requires immediate attention.

If this body is truly committed to a fair trial, it cannot let the President play a game of "keep away" and dictate what evidence the Senators can

and cannot see bearing on his guilt or innocence. This body cannot permit him to hide all the evidence while disingenuously insisting on lawsuits that he doesn't actually think we can file—ones that he knows will not be resolved until after the election he is trying to cheat to win. Instead, to honor your oaths to do impartial justice, we urge each Senator to support a subpoena to the State Department. And that subpoena should be issued now, at the beginning of the trial, rather than at the end so these documents can be reviewed and their importance weighed by the parties, by the Senate, and by the American people. That is how things work in every courtroom in the Nation, and it is how they should work here, especially because the stakes, as you all know, are so high.

The truth is there. Facts are stubborn things. The President is trying to hide it. This body should not surrender to his obstruction by refusing to demand a full record. That is why the House managers support this amendment.

Mr. Chief Justice, the House managers reserve the balance of our time.

The CHIEF JUSTICE. Mr. Cipollone.

Mr. Counsel CIPOLLONE. Thank you, Mr. Chief Justice.

In the interest of time, I will not repeat all of the arguments we have made already with respect to these motions. I would say one thing before I turn it over to my cocounsel. Mr. SCHIFF came here and said he is not asking you to do something he wouldn't do for himself, and the House manager said: We were not asking you to do our jobs for us.

Mr. SCHIFF came up here and said: "I call Ambassador Bolton." Remember Paul Harvey? It is time for the rest of the story. He didn't call him in the House. He didn't subpoena Ambassador Bolton in the House.

I have a letter here from Ambassador Bolton's lawyer. He is the same lawyer that Charlie Kupperman hired. It is dated November 8. He said: I write as counsel to Dr. Charles Kupperman and to Ambassador John Bolton in response to, one, the letter of November 5 from Chairman SCHIFF, Chairman ENGEL, and Acting Chair MALONEY, the House chairs, withdrawing the subpoena to Dr. Kupperman—I mentioned that earlier—and to recent published reports announcing that the House chairs do not intend to issue subpoenas to Ambassador Bolton.

He goes on to say: "We are dismayed that committees have chosen not to join in seeking resolution from the Judicial Branch of this momentous Constitutional question." He ends the letter by saying: "If the House chooses not to pursue through subpoena the testimony of Dr. Kupperman and Ambassador Bolton, let the record be clear: that is the House's decision."

They made that decision. They never subpoenaed Ambassador Bolton. They didn't try to call him in the House. They withdrew the subpoena for

Charles Kupperman before the judge could rule, and they asked that the case be mooted. Now they come here, and they ask you to issue a subpoena for John Bolton. It is not right.

I yield the remainder of my time to Mr. Sekulow.

Mr. Counsel SEKULOW. Mr. Chief Justice, Members of the Senate, the managers said facts are a stubborn thing. Let me give you some facts. It is from the transcripts.

Ambassador Sondland actually testified unequivocally that the President did not tie aid to investigations. Instead, he acknowledged that any leak he had suggested was based entirely on his own speculation, unconnected to any conversation with the President.

Here is the question:

What about the aid? Ambassador Volker says that the aid was not tied.

Answer. I didn't say that they were conclusively tied either. I said I was presuming it.

Question. OK. And so the President never told you they were tied?

Answer. That is correct.

Question. So your testimony and Ambassador Volker's testimony is consistent, and the President did not tie investigations, aid to investigations?

Answer. That is correct.

Ambassador Sondland also testified that he asked President Trump directly about these issues, and the President explicitly told him that he did not want anything from Ukraine. He said:

I want nothing. I want nothing. I want no quid pro quo. Tell Zelensky to do the right thing.

Similar comments were made to Senator JOHNSON.

Those are the facts—stubborn, but those are the facts.

No one is above the law. Here is the law. As every Member of Congress knows and is undoubtedly aware, separate from even state sacred privileges is the Presidential communication executive privilege to communications in performance of a President's responsibilities. The Presidential communication privilege has constitutional origins. Courts have recognized a great public interest in preserving the confidentiality of conversations that take place in the President's performance of his official duties because such confidentiality is needed to protect the effectiveness of the Executive decision-making process. That is In re Sealed Case, which was decided in the District of Columbia Court of Appeals.

The Supreme Court found such a privilege necessary to guarantee the candor of Presidential advisers and to provide a President and those who assist him with freedom to explore alternatives in the process of ultimately shaping policies and making decisions and to do so in a way many would be unwilling to express except in private. For these reasons, Presidential conversations are presumptively privileged.

There is something else about this privilege. Communications made by Presidential advisers—again quoting

courts—and by the way, lawyer lawsuits? Lawyer lawsuits? We are talking about the impeachment of a President of the United States, duly elected, and the Members and the managers are complaining about lawyer lawsuits? The Constitution allows lawyer lawsuits. It is disrespecting the Constitution of the United States to even say that in this Chamber, "lawyer lawsuits."

Here is the law. Communications made by Presidential advisers in the course of preparing advice for the President come under the Presidential communications privilege even when these communications are not made directly to the President—even when they are not made directly to the President—adviser to adviser. Given the need to provide sufficient elbow room for advisers to obtain information from all knowledgeable sources, the privilege must apply both to communications which these advisers solicited and received from others, as well as those they authorized themselves.

The privilege must also extend to communications authored or received in response to solicitation by members of a Presidential adviser's staff since in many instances advisers must rely on their staffs to investigate an issue and formulate advice given to the President.

Lawsuits, the Constitution—it is a dangerous moment for America when an impeachment of a President of the United States is being rushed through because of lawyer lawsuits. The Constitution allows it, if necessary. The Constitution demands it, if necessary.

Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. Mrs. DEMINGS, you have 13 minutes for rebuttal, or Mr. SCHIFF.

Mr. Manager SCHIFF. Thank you, Mr. Chief Justice.

Let me respond to some of my colleague's points, if I can.

First, counsel said: Well, the House would like to call John Bolton, but the House did not seek his testimony during its investigation.

Well, first of all, we did. We invited John Bolton to testify. Do you know what he told us? He said:

I am not coming. And if you subpoena me, I will sue you.

That was his answer: "I will sue you."

Mr. Bolton is represented by the same lawyer who represents Dr. Kupperman, who actually did sue us when he was subpoenaed. So we knew that John Bolton would make good on that threat.

Mr. Sekulow said something about lawyer lawsuits. I have to confess, I wasn't completely following the argument, but he said something about lawyer lawsuits and that we are against lawyer lawsuits. I don't know what that means, but I can tell you this: The Trump Justice Department is in court in that case and in other cases arguing that Congress cannot go to court to enforce its subpoenas. So when they say

something about lawyer lawsuits and they say there is nothing wrong with the House suing to get these witnesses to show up and they should have sued to get them to show up, their own lawyers are in court saying that the House has no such right. They are in court saying that you can't have lawyer lawsuits. That argument cannot be made in both directions.

What is more, in the McGahn issue, which tested this same bogus theory of absolute immunity—once again, that lawsuit involving the President's lawyer, Don McGahn, the one who was told to fire the special counsel and then to lie about it, that lawsuit to get his testimony—Judge Jackson ruled on that very recently when they made the same bogus claim, saying that he is absolutely immune from showing up.

The judge said:

That is nonsense. There is no support for that—not in the Constitution, not in the case. That is made out of whole cloth.

But the judge said something more that was very interesting. What we urged John Bolton's lawyer was, you don't need to file a lawsuit. Dr. Kupperman, you don't need to file a lawsuit. There is one already filed involving Don McGahn that is about to be decided. So unless your real purpose here is delay, unless your real purpose here is to avoid testimony and you just wish to give the impression of a willingness to come forward, you just want to have the court's blessing—if that is really true, agree to be bound by the McGahn decision.

Well, of course, they were not willing because they didn't want to testify. Now, for whatever reason, John Bolton is now willing to testify. I don't know why that is. Maybe it is because he has a book coming out. Maybe it is because it would be very hard to explain why he was unwilling to share important information with the Senate; that he couldn't show up for a House deposition or interview because he would need court permission to do it, but he could put it in the book. I don't know. I can't speak to his motivation. I can tell you he is willing to come now, if you are willing to hear him.

Of course, they weren't willing to be bound by that court decision in McGahn, but the court said something very interesting, because one of the arguments they happened to make—one of the arguments that John Bolton's lawyer had been making as to why they needed their own separate litigation was, well, John Bolton and Dr. Kupperman, they are national security people, and Don McGahn is just a White House Counsel. No offense to the White House Counsel, but apparently it had nothing to do with the national security so they couldn't be bound by what the court in the McGahn case said. Well, the judge in the McGahn case said this applies to national security stuff too.

So we do have the court decision. What is more, we have the court decision in the Harriet Miers case, in the

George W. Bush administration, where, likewise, the court made short shrift of this claim of absolute, complete, and total immunity.

Now, there were also comments made about Ambassador Volker's testimony by Mr. Cipollone, and they were along these lines: Ambassador Volker said the President never told him that the aid was being conditioned or that the meeting was being conditioned on Ukraine doing the sham investigation. So I guess that is case closed—unless the President told everyone, called them into the office and said: Hey, I am going to tell you now; and then: I am going to tell you now. If he didn't tell everyone, I guess it is case closed.

Well, you know who the President did tell, among others? He told Mick Mulvaney. Mick Mulvaney went out on national television and said, yes, they discussed it, this investigation, this Russian narrative that it wasn't Ukraine that intervened in 2016; it was Russia. I am sorry. It wasn't Russia; it was Ukraine. Yes, that bogus 2016 theory; yes, they discussed it; yes, it was part of the reason why they withheld the money.

When a reporter said: Well, you are kind of describing a quid pro quo, his answer was: Yes, get used to it—or get over it. We do it all the time.

Now, they haven't said they want to hear from Mick Mulvaney. I wonder why. The President did talk to Mick Mulvaney about it. Wouldn't you like to hear what Mick Mulvaney has to say? If you really want to get to the bottom of this, if they are really challenging the fact that the President conditioned \$400 million in military aid to an ally at war, if Mick Mulvaney has already said publicly that he talked to the President about it, and this is part of the reason why, don't you think we should hear from him? Wouldn't you think impartial justice requires you to hear from him?

Now, counsel also referred to Ambassador Sondland and Sondland saying: Well, the President told me there was no quid pro quo. Now, of course, at the time the President said to Sondland no quid pro quo, he became aware of the whistleblower complaint, presumably by Mr. Cipollone. So the President knew that this was going to come to light. On the advice, apparently, of Mr. Cipollone, or maybe others, the Director of National Intelligence, for the first time in history, withheld a whistleblower complaint from Congress, its intended recipient. Nonetheless, the White House was aware of that complaint. We launched our own investigations.

Yes, they got caught. In the midst of being caught, what does he say? It is called a false exculpatory. For those people at home, that is a fancy word of saying it is a false, phony alibi. No quid pro quo. He wasn't even asked the question was there a quid pro quo. He just blurted it out. That is the defense? The President denies it? What is more interesting, he didn't tell you about

the other half of that conversation where the President says no quid pro quo. He says: No quid pro quo, but Zelensky needs to go to the mike, and he should want to do it, which is the equivalent of saying no quid pro quo, except the quid pro quo, and here is what it is. The quid pro quo is he needs to go to the mike, and he should want to do it. That is their alibi?

They didn't also mention, of course—and you will hear about this during the trial, if we have a real trial. Ambassador Sondland also said: We are often asked was there a quid pro quo, and the answer is, yes, there was a quid pro quo. There was an absolute quid pro quo.

What is more, when it came to the military aid, it was as simple as two plus two. Well, I will tell you something. We are not the only people who can add up two plus two. There are millions of people watching this who can add up two plus two also. When the President tells his Chief of Staff: We are holding up the aid because of this, as the Chief of Staff admitted; when the President gives no plausible or other explanation for holding up aid that you all and we all supported and voted on in a very bipartisan way, has no explanation for it; when in that call he never brings up corruption except the corruption he wants to bring about, it doesn't take a genius, it doesn't take Albert Einstein to add up two plus two. It equals four. In this case, it equals guilt.

Now, you are going to have 16 hours to ask questions. You are going to have 16 hours. That is a long time to ask questions. Wouldn't you like to be able to ask about the documents in that 16 hours? Would you like to be able to say: Counsel for the President, what did Mick Mulvaney mean when he emailed so-and-so and said such and such? What is your explanation for that because that seems to be pretty damning evidence of exactly what the House is saying. What is your explanation of that? Mr. Sekulow, what is your explanation?

Wouldn't you like to be able to ask about the documents or ask the House: Mr. SCHIFF, what about this text message? Doesn't that suggest such—what the President is arguing? Wouldn't you like to be able to ask me that question, or one of my colleagues? I think you would. I think you should.

But the backward way this resolution is drafted, you get 16 hours to ask questions about documents you have never seen. You know what is more? If you do decide at that point, after the trial is essentially over, that you do want to see the documents after all and the documents are produced, you don't get another 16 hours. You don't get 16 minutes. You don't get 16 seconds to ask about those documents. Does that make any sense to you? Does that make any sense at all?

I will tell you something I would like to know that may be in the documents. You probably heard before about the

three amigos. My colleague has mentioned two of the three amigos: Amigo Volker and Amigo Sondland. These are two of the three people whom the President put in charge of Ukraine policy. The third amigo is Secretary Rick Perry, former Secretary of Energy. We know from Amigo Sondland's testimony that he was certainly in the loop, knew exactly all about this scheme, and we knew from Ambassador Volker's testimony and his text messages and his WhatsApps that that amigo was in the loop.

What about the third amigo? Wouldn't you like to know if the third amigo was in the loop? Now, as my colleagues will explain when we get to the Department of Energy records, well, surprisingly, we didn't get those either. Any communication between the Department of Energy and the Department of State is covered by this amendment. Wouldn't you like to know? Don't you think the American people have a right to know what the third amigo knew about this scheme? I would like to know. I think you should be able to ask questions about it in your 16 hours.

At the end of the day, I guess I will finish with something Mr. Sekulow said. He said this was a dangerous moment because we are trying to rush through this somehow. It is a dangerous moment, but we are not trying to rush through this trial. We are actually trying to have a real trial here. It is the President who is trying to rush through this.

I have to tell you that whatever you decide here—maybe this is a waste of breath and maybe it is already decided, but whatever you decide here—I don't know who the next President is going to be; maybe it will be someone in this Chamber, but I guarantee you this: Whoever that next President is, whether they did something right or they did something wrong, there is going to come a time where you, in this body, are going to subpoena that President and that administration. You are going to want to get to the bottom of serious allegations. Are you prepared to say that that President can simply say: I am going to fight all the subpoenas. Are you prepared to say and accept that President saying: I have absolute immunity. You want me to come testify? Senator, do you want me to come testify? No, no. I have absolute immunity. You can subpoena me all you like. I will see you in court. And when you get to court, I am going to tell you, you can't see me in court.

Are you prepared for that? That is what the future looks like. Don't think this is the last President, if you allow this to happen, who is going to allow this to take place.

Mr. Chief Justice, I yield back.

The CHIEF JUSTICE. The majority leader is recognized.

MOTION TO TABLE

Mr. McCONNELL. Mr. Chief Justice, I send a motion to the desk to table the amendment.

The CHIEF JUSTICE. The question is on agreeing to the motion to table.

Mr. McCONNELL. I ask for the yeas and nays.

The CHIEF JUSTICE. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

(Rollcall Vote No. 16)

YEAS—53

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

NAYS—47

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

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

The CHIEF JUSTICE. The Democratic leader is recognized.

AMENDMENT NO. 1286

Mr. SCHUMER. Mr. Chief Justice, I send an amendment to the desk to subpoena certain Office of Management and Budget documents, and I ask that it be read.

The CHIEF JUSTICE. The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 1286.

(Purpose: To subpoena certain Office of Management and Budget documents and records)

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

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

(1) the Chief Justice of the United States, through the Secretary of the Senate, shall issue a subpoena to the Acting Director of the Office of Management and Budget commanding him to produce, for the time period from January 1, 2019, to the present, all documents, communications, and other records within the possession, custody, or control of

the Office of Management and Budget, referring or relating to—

(A) the actual or potential suspension, withholding, delaying, freezing, or releasing of United States foreign assistance, military assistance, or security assistance of any kind to Ukraine, including but not limited to the Ukraine Security Assistance Initiative (referred to in this section as "USAI") and Foreign Military Financing (referred to in this section as "FMF"), including but not limited to—

(i) communications among, between, or referring to Director Michael John "Mick" Mulvaney, Assistant to the President Robert Blair, Acting Director Russell Vought, Associate Director Michael Duffey, or any other Office of Management and Budget employee;

(ii) communications related to requests by President Trump for information about Ukraine security or military assistance and responses to those requests;

(iii) communications related to concerns raised by any Office of Management and Budget employee related to the legality of any hold on foreign assistance, military assistance, or security assistance to Ukraine;

(iv) communications sent to the Department of State regarding a hold or block on congressional notifications regarding the release of FMF funds to Ukraine;

(v) communications between—

(I) officials at the Department of Defense, including but not limited to Undersecretary of Defense Elaine McCusker; and

(II) Associate Director Michael Duffey, Deputy Associate Director Mark Sandy, or any other Office of Management and Budget employee;

(vi) all draft and final versions of the August 7, 2019, memorandum prepared by the National Security Division, International Affairs Division, and Office of General Counsel of the Office of Management and Budget about the release of foreign assistance, security assistance, or security assistance to Ukraine;

(vii) the Ukrainian government's knowledge prior to August 28, 2019, of any actual or potential suspension, withholding, delaying, freezing, or releasing of United States foreign assistance, military assistance, or security assistance to Ukraine, including all meetings, calls, or other engagements with Ukrainian officials regarding potential or actual suspensions, holds, or delays in United States assistance to Ukraine;

(B) communications, opinions, advice, counsel, approvals, or concurrences provided by any employee in the Office of Management and Budget regarding the actual or potential suspension, withholding, delaying, freezing, or releasing of security assistance to Ukraine including legality under the Impoundment Control Act;

(C) Associate Director Michael Duffey taking over duties related to apportionments of USAI or FMF from Deputy Associate Director Mark Sandy or any other Office of Management and Budget employee;

(D) all meetings related to the security assistance to Ukraine including but not limited to interagency meetings on July 18, 2019, July 23, 2019, July 26, 2019, and July 31, 2019, including any directions provided to staff participating in those meetings and any readouts from those meetings;

(E) the decision announced on or about September 11, 2019, to release appropriated foreign assistance, military assistance, or security assistance to Ukraine, including but not limited to any notes, memoranda, documentation or correspondence related to the decision;

(F) all draft and final versions of talking points related to the withholding or release of foreign assistance, military assistance, or security assistance to Ukraine, including

communications with the Department of Defense related to concerns about the accuracy of the talking points; and

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

(2) the Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or any other employee of the Senate in serving the subpoena authorized to be issued by this section.

The CHIEF JUSTICE. The majority leader is recognized.

PROGRAM

Mr. McCONNELL. Mr. Chief Justice, first a scheduling note: As the parties are ready to debate this amendment, I suggest we go ahead, get through the debate, and vote before we take a 30-minute recess for dinner.

I remind everyone that I will be moving to table the amendment. It is also important to remember that both the evidence and witnesses are addressed in the underlying resolution.

The CHIEF JUSTICE. The amendment is arguable by the parties for 2 hours, equally divided.

Mr. Manager SCHIFF, are you a proponent or opponent of this motion?

Mr. Manager SCHIFF. Proponent, Mr. Chief Justice.

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

Mr. Counsel CIPOLLONE. Mr. Chief Justice, we are an opponent.

The CHIEF JUSTICE. Mr. SCHIFF, your side will proceed first, and you will be able to reserve time for rebuttal.

Mr. Manager CROW. Mr. Chief Justice, before I begin, the House managers will reserve the balance of our time to respond to the counsel for the President.

Mr. Chief Justice, Senators, counsel for the President, and the American people, I am JASON CROW from the great State of Colorado.

The House managers strongly support this amendment to subpoena key documents from the Office of Management and Budget, or OMB. These documents go directly to one of President Trump's abuses of power: his decision to withhold vital military aid from a strategic partner that is at war to benefit his own personal reelection campaign. Why should that matter? Why should anybody care? Why should I care?

Before I was a Member of Congress, I was an American soldier serving in Iraq and Afghanistan. Although some years have passed since that time, there is still some memories that are seared in my brain. One of those memories was scavenging scrap metal on the streets of Baghdad in the summer of 2003, which we had to bolt onto the side of our trucks because we had no armor to protect against roadside bombs.

When we talk about troops not getting the equipment they need, when

they need it, it is personal to me. To be clear here, we are talking of \$391 million of taxpayer money intended to protect our national security by helping our strategic partner, Ukraine, fight against Vladimir Putin's Russia, an adversary of the United States.

The President could not carry out this scheme alone. He needed a lot of people to help him. That is why we know as much about it as we do today. But there is much more to know. That is what trials are for, to get the full picture.

We know there is more because President Trump needed the Office of Management and Budget to figure out how to stop what should have been a routine release of funds mandated by Congress—a release of funds that was already under way.

The people in this Chamber don't need me to tell you that because 87 of you in this room voted for those vital funds to support our partner Ukraine.

Witnesses before the House testified extensively about OMB's involvement in carrying out the hold. It was OMB that relayed the President's instructions and implemented them. It was OMB that scrambled to justify the freeze.

OMB has key documents that President Trump has refused to turn over to Congress. It is time to subpoena those documents. These documents would provide insight into critical aspects of the military aid hold. They would show the decision-making process and motivations behind President Trump's freeze. They would reveal the concerns expressed by career OMB officials, including lawyers, that the hold was violating the law. They would expose the lengths to which OMB went to justify the President's hold. They would reveal concerns about the impact of the freeze on Ukraine and U.S. national security. They would show that senior officials repeatedly attempted to convince President Trump to release the hold.

In short, they would show exactly how the President carried out the scheme to use our national defense funds to benefit his personal political campaign.

We are not speculating about the existence of these documents. We are not guessing what the documents might show. During the course of the investigation in the House, witnesses who testified before the committees identified multiple documents directly relevant to the impeachment inquiry that OMB continues to hold to this day.

We know these documents exist, and we know that the only reason we do not have them is because the President directed OMB not to produce them because he knows what they would show.

To demonstrate the significance of the OMB documents and the value they would provide in this trial, I would like to walk you through some of what we know exists for which the Trump administration has refused to turn over.

As we have discussed, the Trump administration has refused to turn over

any documents to the House in response to multiple subpoenas and requests. Based on what is known from the testimony and the few documents that have been obtained through public reporting and lawsuits, it is clear that the President is trying to hide this evidence because he is afraid of what it would show. The documents offer stark examples of the chaos and confusion that the President's scheme set off across our government and made clear the importance of the documents that are still being concealed by the President.

We know that OMB has documents that reveal that as early as June, the President was considering holding military aid for Ukraine. The President began questioning military aid to Ukraine after Congress appropriated and authorized the money—\$250 million in DOD funds and \$140 million in State Department funds. This funding had wide bipartisan support because, as many witnesses testified, providing military aid to Ukraine to defend itself against Russian aggression also benefits our own national security. Importantly, the President's questions came weeks after the Department of Defense already certified that Ukraine had undertaken the anti-corruption reforms and other measures mandated by Congress as a condition for receiving that aid. There is a process for making sure that the funds make it to the right place and to the right people—a process that has been followed every year that we have been providing that security assistance to Ukraine, including the first 2 years under the Trump administration.

Nonetheless, the President's questions came days after DOD issued a press release on June 18, announcing they would provide its \$250 million portion of the taxpayer-funded military aid to Ukraine. According to public reporting, the day after DOD's press release, a White House official named Robert Blair called OMB's Acting Director, Russell Vought, to talk about the military aid to Ukraine. According to public reports, Mr. Blair told Vought: "We need to hold it up."

OMB has refused to produce any documents related to this conversation. The Senate can get them by passing the amendment and issuing a subpoena.

But there is more. The same day Blair told Vought to hold up the aid, Michael Duffey, a political appointee at OMB who reports to Vought, emailed Deputy Under Secretary of Defense Elaine McCusker and told her that the President had questions about the aid. Duffey copied Mark Sandy, a career official at OMB, who told us about the email in his testimony before the House.

Like all others, that email was not produced by the Trump administration in the House impeachment investigation. We know this email exists, however, because in response to a Freedom of Information Act lawsuit, the Trump

administration was forced to release a redacted email consistent with Sandy's description.

But OMB provided none of those documents to the House. With this proposed amendment, the Senate has an opportunity to obtain and review the full record that can further demonstrate how and why the President was holding the aid. These documents would also shed light on the President's order to implement the hold.

On July 3, the State Department told various officials that OMB blocked it from dispensing \$141 million in aid. OMB had directed the State Department not to send a notification to Congress about spending the money, and without that notification, the aid was effectively blocked. Why did OMB block the congressional notification? Who told them to do it? What was the reason? The Senate would get those answers if it issued this subpoena.

But there is more. On July 12, Blair—the White House official who had called Vought on June 19 and said “We need to hold it up”—sent an email to Duffey at OMB. Blair said: “The President is directing a hold on military support funding for Ukraine.”

We haven't seen this email. The only reason we know about it is from the testimony of Mark Sandy, the career OMB official who followed the law and complied with his subpoena. As you can see from the transcript excerpt in front of you, Sandy testified that the July 12 email did not mention concerns about any other country or any other aid packages, just Ukraine. So of the dozens of countries we provide aid and support for, the President was only concerned about one of them—Ukraine. Why? Well, we know why. But OMB has still refused to provide a copy of this July 12 email and has refused to provide any documents surrounding it, all because the President told OMB to continue to hide the truth from Congress and the American people.

What was he afraid of? A subpoena issued by the Senate would show us.

OMB also has documents about a key series of meetings triggered by the President's order to hold military aid. In the second half of July, the National Security Council convened a series of interagency meetings about the President's hold on military aid. OMB documents would show what happened during those meetings. For example, on July 18, the National Security Council staff convened a routine interagency meeting to discuss Ukraine policy. During the meeting, it was the OMB representative who announced that President Trump placed a hold on all military aid to Ukraine.

Ambassador Bill Taylor, our most senior diplomat to Ukraine, participated in that meeting, and he described his reaction at his own hearing.

(Text of Videotape presentation:)

Mr. TAYLOR. In a regular NSC secure video conference call on July 18, I heard a staff person from the Office of Management and Budget say that there was a hold on se-

curity assistance to Ukraine but could not say why. Toward the end of an otherwise normal meeting, a voice on the call—the person was off-screen—said that she was from OMB and her boss had instructed her not to approve any additional spending on security assistance for Ukraine until further notice.

I and others sat in astonishment. The Ukrainians were fighting the Russians and counted on not only the training and weapons but also the assurance of U.S. support. All that the OMB staff person said was that the directive had come from the President, to the Chief of Staff, to OMB. In an instant, I realized that one of the key pillars of our strong support for Ukraine was threatened.

Mr. Manager CROW. It is hard to believe OMB would not have any documents following this bombshell announcement. It surely does. It was the agency that delivered the shocking news to the rest of the U.S. Government that the President was withholding the vital military aid from our partner, and we would see these documents if the Senate issued a subpoena.

The July 18 meeting was just the first in a series of meetings where OMB held the line and enforced the President's hold on the aid. But there was a second meeting on July 23, where we understood agencies raised concerns about the legality of OMB's hold on the aid and then a third meeting, at a more senior level, on July 26. Witnesses testified that at that meeting, OMB struggled to offer an explanation for the President's hold on the aid. Then there was a fourth meeting on July 31, where the legal concerns about the hold were raised. At each of these meetings, there was confusion about the scope and the reasons for the hold. Nobody seemed to know what was going on. But that was exactly the point.

All of the agencies—except OMB, which was simply conveying the President's order—supported the military aid and argued for lifting the hold. OMB did not produce a single document providing information about his participation, preparation, or followup from any of these meetings.

Did these OMB officials come prepared with talking points for these meetings? Did OMB officials take notes during any of these meetings? Did they exchange emails about what was going on? Did OMB discuss what reasons they could give everyone else for the hold? By issuing this subpoena, the Senate can find out the answers to all of those questions and others like them. The American people deserve answers.

OMB documents would also reveal key facts about what happened on July 25. On July 25, President Trump conducted his phone call with President Zelensky, during which he demanded “a favor.” This favor was for Ukraine to conduct an investigation to benefit the President's reelection campaign. That call was at 9 a.m. Just 90 minutes after President Trump hung up the phone, Duffey, the political appointee at OMB who is in charge of national security programs, emailed DOD to “formalize” the hold on the military aid, just 90 minutes after President Trump's call—a call in which the President had asked for “a favor.”

That email is on the screen in front of you. We have a redacted copy of this email because it was recently released through the Freedom of Information Act. It was not released by the Trump administration in response to the House's subpoena.

In this email, Duffey told DOD officials that, based on the guidance it received, they should “hold off on any additional DOD obligations of these funds.” He added that the request was “sensitive” and that they should keep this information “closely held,” meaning, don't tell anybody about it.

Why did Duffey consider the information sensitive? Why didn't he want anyone to learn about it? Answers to those questions may be found in OMB emails—emails that we could all see if you issue a subpoena.

But there is more. Remember, the administration needed to create a way to stop funding that was already underway. The train had already left the station and something like this had never been done before. Later in the evening of July 25, OMB found a way, even though DOD had already notified Congress that the funds would be released.

Here is how this scheme worked. OMB sent DOD a funding document that included a carefully worded footnote directing DOD to hold off on spending the funds “to allow for an interagency process to determine the best use.” Remember that language, “to allow for an interagency process to determine the best use.”

Let me explain that. The footnote stated that this “brief pause” would not prevent DOD from spending the money by the end of the fiscal year, which was coming up on September 30. OMB had to do this because it knew that not spending the money was illegal, and they knew that DOD would be worried about that. And they were right; DOD was worried about it. Mr. Sandy testified that in his 12 years of experience at OMB, he could not recall anything like this ever happening before. The drafting of this unusual funding document and the issuance of the document must have generated a significant amount of email traffic, memos, and other documentation at OMB—memos, email traffic, and documentation that we would all see if the Senate issued a subpoena.

What was the result from this series of events on July 25? Where was Mr. Duffey's guidance to implement the hold coming from? Why was the request “sensitive”? What was the connection between OMB's direction to DOD and the call President Trump had with President Zelensky just 90 minutes before? Did agency officials communicate about the questions coming from Ukrainian officials?

The American people deserve answers. A subpoena would provide those answers.

OMB documents also would reveal information about the decision to have a political appointee take over Ukraine funding responsibility. The tensions

and chaos surrounding the freeze escalated at the end of July, when Duffey, a political appointee at OMB with no relevant experience in funding approvals, took authority for releasing military aid to Ukraine away from Sandy, a career OMB official. Sandy could think of no other explanation of a political appointee's taking on this responsibility. Sandy was given no reason other than Mr. Duffey wanted to be "more involved in daily operations."

During his deposition, Sandy confirmed that he was removed from the funding approval process after he had raised concerns to Duffey about whether the hold was legal under the Impoundment Control Act. Needless to say, OMB has refused to turn over any documents or communications involving that decision to replace Mr. Sandy.

Why did Duffey—a political appointee with no relevant experience in this area—take over responsibility for Ukraine's funding approval? Was the White House involved in that decision? Was Sandy removed because he had expressed concerns about the legality of the hold?

By August 7, people in our government were worried, and when people in the government get worried, sometimes what they do is they draft memos, because when they are concerned about getting caught up in something that doesn't seem right, they don't want to be a part of it.

So, on that day, Mark Sandy and other colleagues at the OMB drafted and sent a memo about Ukraine military aid to Acting Director Vought. According to Sandy, the memo advocated for the release of the funds. It said that the military aid was consistent with American national security interests, that it would help to oppose Russian aggression, and that it was backed by strong bipartisan support. But President Trump did not lift the hold.

Over the next several weeks, the OMB continued to issue funding documents that kept kicking the can down the road, supposedly to allow for more of this "interagency process" while inserting those footnotes throughout the apportionment documents, stating that the delay wouldn't affect the funding. But here is the really shocking part: There was no interagency process. They made it up. It had ended months before. They made it up because nobody could say the real reason for the hold. In total, the OMB issued nine of these documents between July 25 and September 10.

Did the White House respond to the OMB's concerns and recommendation to release the aid? Did the White House instruct the OMB to continue creating a paper trail in an effort to justify the hold? Who knew what and when the OMB documents would shed light on the OMB's actions as the President's scheme unraveled? Did the White House direct the OMB to continue issuing the hold? What was OMB told about the President's reasons for re-

leasing the hold? What communications did the OMB officials have with the White House around the time of the release? As the President's scheme unraveled, did anyone at the OMB connect the dots for the real reason for the hold? The OMB documents would shed light on all of these questions, and the American people deserve answers.

I remember what it feels like to not have the equipment you need when you need it. Real people's lives are at stake. That is why this matters. We need this information so we can ensure that this never happens again. Eventually, this will all come out. We will have answers to these questions. The question now is whether we will have them in time and who here will be on the right side of history.

I reserve the balance of our time for an opportunity to respond to the President's argument.

The CHIEF JUSTICE. Thank you.

Mr. Sekulow.

Mr. Counsel SEKULOW. Thank you, Mr. Chief Justice and Members of the Senate.

Manager CROW, you should be happy to know that the aid that was provided to Ukraine over the course of the present administration included lethal weapons. Those were not provided by the previous administration. The suggestion that Ukraine failed to get any equipment is false. The security assistance was not for funding Ukraine over the summer of 2019. There was no lack of equipment due to the temporary pause. It was for future funding.

Ukraine's Deputy Minister of Defense, who oversaw the U.S. aid shipment, said: "The hold went and came so quickly they did not notice any change."

Under Secretary of State David Hale explained: "The pause to aid was for future assistance, not to keep the army going now."

So the made-up narrative that security assistance was conditioned on Ukraine's taking some action on investigations is further disproved by the straightforward fact that the aid was delivered on September 11, 2019, without Ukraine's taking any action on any investigation.

It is interesting to note that the Obama administration withheld \$585 million of promised aid to Egypt in 2013, but the administration's public message was that the money was not officially on hold as, technically, it was not due until September 30—the end of the fiscal year—so that then they didn't have to disclose the halt to anyone.

It sounds like this may be a practice of a number of administrations. In fact, this President has been concerned about how aid is being put forward, so there have been pauses on foreign aid in a variety of contexts.

In September of 2019, the administration announced that it was withholding over \$100 million in aid to Afghanistan over concerns about government corruption. In August of 2019, President

Trump announced that the administration and Seoul were in talks to substantially increase South Korea's share of the expense of U.S. military support for South Korea. In June, President Trump cut or paused over \$550 million in foreign aid to El Salvador, Honduras, and Guatemala because those countries were not fairly sharing the burden of preventing mass migration to the United States.

It is not the only administration. As I said, President Obama withheld hundreds of millions of dollars of aid to Egypt.

To be clear—and I want to be clear—Ambassador Yovanovitch herself testified that our policy actually got stronger under President Trump, largely because, unlike the Obama administration, "this administration made the decision to provide lethal weapons to Ukraine to help Ukraine fend off Russian aggression." She testified in a deposition before your various committees that it actually had felt, "in the 3 years that I was there, partly because of my efforts but also the interagency team and President Trump's decision to provide lethal weapons to Ukraine, that our policy actually got stronger."

Deputy Assistant Secretary Kent, whose name has come up a couple of times, agrees that Javelins are incredibly effective weapons at stopping advance and that the Russians are scared of them.

Ambassador Volker explained that President Trump approved each of the decisions made along the way, and as a result, America's policy toward Ukraine strengthened.

So when we want to talk about facts, go to your own discovery and your own witnesses that you called.

This all supposedly started because of a whistleblower. Where is that whistleblower?

The CHIEF JUSTICE. The House managers have 35 minutes remaining.

Mr. Manager CROW. Mr. Chief Justice, in war, time matters; minutes and hours can seem like years. So the idea that, well, it made it there eventually just doesn't work. And, yes, the aid was provided. It was provided by Congress—this Senate and the House of Representatives—with the President's signature. The Congress is the one that sends the aid, and millions of dollars of this aid would have been lost because of the delay had Congress not actually passed another law that extended that deadline to allow the funds to be spent. Let me repeat that. The delay had jeopardized the expenditure of the money to such an extent that Congress had to pass another law to extend the deadline so that the money and the equipment got to the people on the frontlines.

Need I also reiterate, as to the supposed interagency process—the concerns that the President and his counsel continue to raise about corruption and making sure that the process went right—there was no interagency process. The whole thing was made up. It

was a phantom. There was a delay, and delays matter.

Mr. Chief Justice, I reserve the balance of my time for Mr. SCHIFF.

The CHIEF JUSTICE. Mr. SCHIFF.

Mr. Manager SCHIFF. Thank you, Mr. Chief Justice.

There are just a few additional points I would like to make on this amendment and on my colleagues' arguments.

First of all, Mr. Sekulow makes the point that the aid ultimately got released. They ultimately got the money, right? Yes, they got the money after the President got caught, after the President was forced to relieve the hold on the aid. After he got caught, yes, but even then, they had held on to the aid so long that it took a subsequent act of Congress to make sure it could all go out the door.

So, what, is the President supposed to get credit for that—that we had to intervene because he withheld the aid for so long and that this is the only reason Ukraine got all of the aid we had approved in the first place?

My colleagues have glossed over the fact that what they did was illegal, that the GAO—independent watchdog agency—found that that hold was illegal. So it not only violated the law, it not only took an act of Congress to make sure they ultimately got the aid, but this is supposed to be the defense as to why you shouldn't see the documents? Is that what we are to believe?

Now, counsel also says, well, he is not the first President to withhold aid. And that is true. After all, counsel says: Well, President Obama withheld aid to Egypt. Yes. It was at the urging of the Members of Congress. Senators McCain and GRAHAM urged that that aid be withheld. And why? Because there was a revolution in Egypt after it was appropriated. It was not something that was hidden from Congress. That was a pretty darned good reason to think, do we still want to give aid to this government after this revolution?

We are not saying that aid has never been withheld—that is absurd—but I would hope and expect this is the first time aid has been withheld by a President of the United States to coerce an ally at war to help him cheat in the next election. I think that is a first, but what we do here may determine whether it is the last.

There is one other thing about this pause in aid, right? It is the argument: Well, no harm, no foul. OK. You got caught. They got the aid. What is the big deal?

Well, as we heard during the trial, it is not just the aid. Aid is obviously the most important thing, as Mr. CROW mentioned—you know, without it, you can't defend yourself—and we will have testimony as to just what kind of military aid the President was withholding. But we also had testimony that it was the fact of the aid itself that was so important to Ukraine, the fact that the United States had Ukraine's back. And why? Because this

new President of Ukraine—this new, untested, former comedian President of Ukraine who was at war with Russia was going to be going into a negotiation with Vladimir Putin with an eye to ending that conflict, and whether he went into that negotiation from a position of strength or a position of weakness would depend on whether we had his back.

And so when the Ukrainians learned and the Russians learned that the President of the United States did not have his back, was withholding this aid, what message do you think that sent to Vladimir Putin? What message do you think it sent to Vladimir Putin when Donald Trump wouldn't let Volodymyr Zelensky, our ally, in the door at the White House but would let the Russian Foreign Minister? What message does that send?

So it is not just the aid, and it is not just when the aid is delivered, it is not just if all of the aid is delivered, it is also what message does the freeze send to our friend and, even more importantly, to our foe, and the message it sent was a disaster—was a disaster.

Now, you might ask yourself because counselors said: Hey, President Trump has given lethal weapons to Ukraine—you might ask yourself, if the President was so concerned about corruption, why didn't he do that in 2017, and why didn't he do that in 2018? Why was it only 2019 that there was a problem? Was there no corruption in Ukraine in 2017? Was there no corruption in Ukraine in 2018?

No. Ukraine has always battled corruption. It wasn't the presence or lack of corruption in one year to another; it was the presence of Joe Biden as a potential candidate for President. That was the key change in 2019. That made all the difference.

Let's get back to one of the key moments in this saga. A lot of you are attorneys—you are probably much better attorneys than I am—and I am sure you had the experience in cases you tried where there was some vignette, some conversation, some document. It may not have been the most important on its face, but it told you something about the case that was much larger than that conversation.

For me, one of those conversations was not on July 25 between President Trump and President Zelensky but on July 26, the very next day.

Now, you may have watched some of the House proceedings or you may not have, and people watching may have seen it and maybe they didn't, but there is this scene in a Ukrainian restaurant—a restaurant in Kyiv—with Gordon Sondland. Now, bear in mind it was Gordon Sondland who said there was absolutely quid pro quo and two plus two equals four. This is not some Never Trumper. This is a million-dollar donor to the Trump inauguration. OK? If there is a bias there, it is clearly in a million-dollar bias in favor of this President, not against him.

So there is the scene in Kyiv, in this restaurant. Sondland has a cell phone,

and he is sitting with David Holmes, who is a career diplomat—U.S. diplomat—in the Ukraine Embassy. Gordon Sondland takes out his phone, and he calls the White House. Gordon Sondland calling for the White House. Gordon Sondland holding for the President. And it takes a while to be connected, but he is connected to the President. That is pretty impressive, right? This isn't some guy with no relationship to the President. The President may say: Gordon Sondland, I barely know him, or something to that effect, but this is a guy who picked up his cell phone, and he can call the President of the United States from a restaurant in Kyiv, and he does.

And the President's voice is so loud that David Holmes, this diplomat, can hear it. And what does the President say? Does he say: How is that reform coming? How is the attack on corruption going?

No. He just says: Is he going to do the investigation? Is Zelensky going to do the investigation? And Sondland says: Yes. He will do anything you want. He loves your ass.

This is the extent of the President's interest in Ukraine. They go on to talk about other things, and then they hang up. And David Holmes turns to the Ambassador and says—in language which I will have to modify to remove an expletive—says something along the lines of: Does the President give a “blank” about Ukraine? And Sondland says: No. He doesn't give a “blank” about Ukraine. He only cares about the big stuff, like the investigation of the Bidens that Giuliani wants.

This is a million-dollar donor to the Trump inaugural admitting the President doesn't care about Ukraine. He doesn't care whether they get military dollars to defend themselves. He doesn't care about what position Zelensky goes into in these negotiations with Putin. He doesn't care about that.

Isn't that clear? It is why he didn't care about corruption in 2017 or 2018, and he certainly didn't care about it in 2019. All he cared about was the big stuff that affected him personally, like this investigation that he wanted of the Bidens.

So we do ask: Do you want to see these documents? Do you want to know if these documents corroborate Ambassador Sondland? Will the documents show, as we fully expect they will, that the only thing he cared about was the big stuff that affected him?

David Holmes' response was: Well, you know, there is some big stuff going on here, like the war with Russia. This isn't withholding aid because of a revolution in Egypt. This is withholding aid from a country in which 15,000 people have died fighting the Russians, and as Ambassador Taylor said and others: You know, Russia is fighting to remake the map of Europe by dint of military force.

If we think that is just about Ukraine's security, we are very deceived. It is about our security. It is

about the tens of thousands of troops we have in Europe. And if we undercut our own ally, if we give Russia reason to believe we will not have their back, that we will use Ukraine as a play thing or worse to get them to help us cheat in an election, that will only embolden Putin to do more.

You said it as often as I have—the only thing he respects is strength. You think that looks like strength to Vladimir Putin? I think that looks like something that Vladimir Putin is only too accustomed to, and that is the kind of corruption that he finds and perpetuates in his own regime and pushes all around the world.

My colleague VAL DEMINGS made reference to a conversation which I think is one of the other key vignettes in this whole sad saga, and that is a conversation that Ambassador Volker had with Andriy Yermak, one of the top aides to President Zelensky.

This is a conversation in which Ambassador Volker is doing exactly what he is supposed to be doing, which is he is telling Yermak: You know, you guys shouldn't really do this investigation of your former President Poroshenko because it would be for a political reason. You really shouldn't engage in political investigations. And as Representative DEMINGS said: What is the response of the Ukrainians? Oh, you mean like the one you want us to do of the Bidens and the Clintons. Threw it right back in his face. Ukraine is not oblivious to that hypocrisy.

Mr. Sekulow says: What are we here for? You know, part of our strength is not only our support for our allies, it is not only our military might, it is what we stand for.

We used to stand for the rule of law. We used to champion the rule of law around the world. Part of the rule of law is, of course, that no one is above the law.

But to be out in Ukraine or anywhere else in the world championing the rule of law and saying don't engage in political prosecutions and having them throw it right back in our face: Oh, you mean like the one you want us to do—that is why we are here. That is why we are here. That is why we are here.

I yield back.

Mr. MCCONNELL. Mr. Chief Justice.

The CHIEF JUSTICE. The majority leader is recognized.

MOTION TO TABLE

Mr. MCCONNELL. Mr. Chief Justice, I send a motion to the desk to table the amendment, and I ask for the yeas and nays.

The CHIEF JUSTICE. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

[Rollcall Vote No. 17]

YEAS—53

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

NAYS—47

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

The CHIEF JUSTICE. On this vote, the yeas are 53, the nays are 47. The motion to table is agreed to; the amendment is tabled.

The CHIEF JUSTICE. The Democratic leader is recognized.

AMENDMENT NO. 1287

Mr. SCHUMER. Mr. Chief Justice, I send an amendment to the desk to issue a subpoena to John Michael “Mick” Mulvaney, and I ask that it be read.

The CHIEF JUSTICE. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 1287.

(Purpose: To subpoena John Michael “Mick” Mulvaney)

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

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

The CHIEF JUSTICE. The majority leader is recognized.

Mr. MCCONNELL. Mr. Chief Justice, I ask unanimous consent for a 30-minute recess before the parties are recognized to debate the Schumer amendment.

Following the debate time, I will once again move to table the amendment because those witnesses and evidence, as I repeatedly said, are addressed in the underlying resolution.

RECESS

Mr. MCCONNELL. Mr. Chief Justice, I ask unanimous consent that the Senate stand in recess until 8 p.m.

There being no objection, at 7:31 p.m., the Senate, sitting as a Court of Impeachment, recessed until 8:13 p.m. and reassembled when called to order by the Presiding Officer, the CHIEF JUSTICE.

The CHIEF JUSTICE. Mr. SCHIFF, are you in favor of the motion or opposed?

Mr. Manager SCHIFF. In favor, Your Honor.

The CHIEF JUSTICE. Mr. Cipollone? Mr. Counsel CIPOLLONE. We are opposed.

The CHIEF JUSTICE. Mr. SCHIFF, the managers will go first and are able to reserve time for rebuttal.

Mr. Manager JEFFRIES. Mr. Chief Justice, distinguished Members of the Senate, counsel for the President, my name is HAKEEM JEFFRIES, and I have the honor of representing the 8th Congressional District of New York, in Brooklyn and Queens. It is one of the most diverse districts in the Nation. In fact, I have been told that I have the 9th most African-American district in the country and the 16th most Jewish.

Here on the Hill, some folks have said: Hakeem, is that complicated?

But as my friend Leon Goldenberg says back at home: Hakeem, you have the best of both worlds.

You see, in America, our diversity is a strength; it is not a weakness. And one of the things that binds us together—all of us—as Americans, regardless of race, regardless of religion, regardless of region, regardless of sexual orientation, and regardless of gender is that we believe in the rule of law and the importance of a fair trial.

The House managers strongly support this amendment to subpoena witness testimony, including with respect to Mick Mulvaney.

Who has ever heard of a trial with no witnesses? But that is exactly what some are contemplating here today. This amendment would address that fundamental flaw. It would ensure that the trial includes testimony from a key witness: the President's Acting Chief of Staff and head of the Office of Management and Budget, Mick Mulvaney, and it would ensure that the Senate can consider his testimony immediately.

Let's discuss why the need to hear from Mick Mulvaney is so critical.

First, Leader MCCONNELL's resolution undercuts more than 200 years of Senate impeachment trial practice. It departs from every impeachment trial conducted to date. It goes against the Senate's own longstanding impeachment rules, which contemplate the possibility of new witness testimony. In fact, it departs from any criminal or civil trial procedure in America. Why should this President be held to a different standard?

Second, the proposed amendment for witness testimony is necessary in light of the President's determined effort to bury the evidence and cover up his corrupt abuse of power.