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## Senate

The Senate met at 11:05 a.m. and was called to order by the Chief Justice of the United States.

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

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

The Chaplain will lead us in prayer.

#### PRAYER

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

Let us pray.

Arise, O Lord, as we enter the final arguments phase of this impeachment trial. Mighty God, we continue to keep our eyes on You, on whom our faith depends from start to finish. May our Senators embrace Your promise to do for them immeasurably, abundantly, above all that they can ask or imagine.

Lord, help our lawmakers to store Your promises in their hearts and permit You to keep them from stumbling. Grant that they will leave a legacy of honor as they seek Your will in all they do.

We pray in Your amazing Name. Amen.

#### PLEDGE OF ALLEGIANCE

The Chief Justice led the Pledge of Allegiance, as follows:

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

#### THE JOURNAL

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

The Deputy Sergeant at Arms will make the proclamation.

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

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles

of impeachment exhibited by the House of Representatives against Donald John Trump, President of the United States.

The CHIEF JUSTICE. The majority leader is recognized.

#### ORDER OF PROCEDURE

Mr. McCONNELL. Mr. Chief Justice, colleagues.

Today the Senate will hear up to 4 hours of closing statements by the two sides. We will take a 30-minute lunch break after the House has made its initial presentation. Then we will come back and finish this afternoon.

The CHIEF JUSTICE. Pursuant to the provisions of S. Res. 488, the Senate has provided for up to 4 hours of closing arguments, equally divided between the managers on the part of the House of Representatives and the counsel for the President. Pursuant to rule XXII of the rules of procedure and practice of the Senate when sitting on impeachment trials, the arguments shall be opened and closed on the part of the House of Representatives.

The Presiding Officer recognizes Mr. Manager SCHIFF to begin the presentation on the part of the House of Representatives.

Mr. Manager CROW. Mr. Chief Justice, Members of the U.S. Senate, counsel for the President.

Almost 170 years ago, Senator Daniel Webster of Massachusetts took to the well of the Old Senate Chamber, not far from where I am standing. He delivered what would become perhaps his most famous address, the "Seventh of March" speech. Webster sought to rally his colleagues to adopt the Compromise of 1850, a package of legislation that he and others hoped would forestall a civil war brewing over the question of slavery.

He said:

It is fortunate that there is a Senate of the United States; a body not yet moved from its propriety, not lost to a just sense of its own dignity, and its own high responsibilities, and a body to which the country looks with confidence, for wise, moderate, patriotic, and healing counsels. It is not to be denied that

we live in the midst of strong agitations and are surrounded by very considerable dangers to our institutions and our government. The imprisoned winds are let loose . . . but I have a duty to perform, and I mean to perform it with fidelity—not without a sense of surrounding dangers, but not without hope.

Webster was wrong to believe that the Compromise of 1850 could prevent secession of the South, but I hope he was not wrong to put his faith in the Senate because the design of the Constitution and the intention of the Framers was that the Senate would be a Chamber removed from the sway of temporary political winds.

In Federalist 65, Hamilton wrote:

Where else than in the Senate could have been found a tribunal sufficiently dignified, or sufficiently independent? What other body would be likely to feel confidence enough in its own situation, to preserve, unawed and uninfluenced, the necessary impartiality between an individual accused, and the representatives of the people, his accusers?

In the same essay, Hamilton explained this about impeachment:

The subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated political, as they relate chiefly to injuries done immediately to the society itself.

The prosecution of them, for this reason, will seldom fail to agitate the passions of the whole community, and to divide it into parties more or less friendly or inimical to the accused . . . in such cases there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt.

Daniel Webster and Alexander Hamilton placed their hopes in you, the Senate, to be the court of greatest impartiality, to be a neutral representative of the people in determining—uninfluenced by party or preexisting faction—the innocence or guilt of the President of the United States.

Today you have a duty to perform, with fidelity, not without a sense of surrounding dangers, but also not without hope.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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I submit to you, on behalf of the House of Representatives, that your duty demands that you convict President Trump. Now, I don't pretend that this is an easy process. It is not designed to be easy. It shouldn't be easy to impeach or convict a President. Impeachment is an extraordinary remedy, a tool only to be used in rare instances of grave misconduct, but it is in the Constitution for a reason. In America, no one is above the law, even those elected President of the United States. I would say especially those elected President of the United States.

You have heard arguments from the President's counsel that impeachment would overturn the results of the 2016 election. You have heard that, in seeking the removal and disqualification of the President, the House is seeking to interfere in the next elections. Senators, neither is true, and these arguments demonstrate a deeply misguided or, I think, intentional effort to mislead about the role that impeachment plays in our democracy.

If you believe—as we do and as we have proven—that the President's efforts to use his official powers to cheat in the 2020 election jeopardized our national security and are antithetical to our democratic tradition, then you must come to no other conclusion but that the President threatens the fairness of the next election and risks putting foreign interference between the voters and their ballots.

Professor Dershowitz and the other counselors to the President have argued that if the President thinks that something is in his interest, then it is, by definition, in the interest of the American people. We have said throughout this process that we cannot and should not leave our common sense at the door. The logical conclusion to this argument is that the President is the State; that his interests are the Nation's interests; that his will is necessarily ours. You and I and the American people know otherwise; that we do not have to be constitutional scholars to understand that this is a position deeply at odds with our Constitution and our democracy; that believing in this argument or allowing the President to get away with misconduct based on this extreme view would render him above the law.

But we know that this cannot be true. What you decide on these articles will have lasting implications for the future of the Presidency, not only for this President but for all future Presidents. Whether or not the office of the Presidency of the United States of America is above the law, that is the question.

As Alexis de Tocqueville wrote in his 1855 work, "Democracy in America," "The greatness of America lies not in being made more enlightened than any other nation, but rather in her ability to repair her faults."

In May of 1974, Barry Goldwater and other Republican congressional leaders went to the White House to tell Presi-

dent Nixon that it was time for him to resign and that they could no longer hold back the tide of impeachment over Watergate.

Now, contrary to popular belief, the Republican Party did not abandon Nixon as the Watergate scandal came to light. It took years of disclosures and crises and court battles. The party stood with Nixon through Watergate because he was a popular, conservative President, and his base was with him, so they were, too. But, ultimately, as Goldwater would tell Nixon, "There are only so many lies you can take, and now there has been one too many."

The President would have us believe that he did not withhold aid to coerce these sham investigations; that his July 25 call with the Ukrainian President was "perfect"; that his meeting with President Zelensky on the sidelines of the U.N. was no different than a head-of-state meeting in the Oval Office; that his only interest in having Ukraine announce investigations into the Bidens was an altruistic concern against corruption; that the Ukrainians interfered in our 2016 election, not Russia; that Putin knows better than our own intelligence agencies. How many falsehoods can we take? When will it be one too many?

Let us take a few minutes to remind you one last time of the facts of the President's misconduct as you consider how you will vote on this important matter for our Nation. Those facts compel the President's conviction on the two Articles of Impeachment.

Mrs. Manager DEMINGS. Mr. Chief Justice and Senators, over the past 2 weeks, the House has presented to you overwhelming and uncontroverted evidence that President Trump has committed grave abuses of power that harm our national security and were intended to defraud our elections.

President Trump abused the extraordinary powers he alone holds as President of the United States to coerce an ally to interfere in our upcoming Presidential election for the benefit of his own reelection. He then used those unique powers to wage an unprecedented campaign to obstruct Congress and cover up his wrongdoing.

As the President's scheme to corrupt our election progressed over several months, it became, as one witness described, more "insidious." The President and his agents wielded the powers of the Presidency and the full weight of the U.S. Government to increase pressure on Ukraine's new President to coerce him to announce two sham investigations that would smear his potential election opponent and raise his political standing.

By early September of last year, the President's pressure campaign appeared on the verge of succeeding—until, that is, the President got caught, and the scheme was exposed. In response, President Trump ordered a massive coverup—unprecedented in American history. He tried to conceal the facts from Congress, using every

tool and legal window dressing he could to block evidence and muzzle witnesses. He tried to prevent the public from learning how he placed himself above country.

Yet, even as President Trump has orchestrated this coverup and obstructed Congress's impeachment inquiry, he remains unapologetic, unrestrained, and intent on continuing his sham to defraud our elections. As I stand here today delivering the House's closing argument, President Trump's constitutional crimes—his crimes against the American people and the Nation—remain in progress.

As you make your final determination on the President's guilt, it is therefore worth revisiting the totality of the President's misconduct. Doing so lays bare the ongoing threat President Trump poses to our democratic system of government, both to our upcoming election that some suggest should be the arbiter of the President's misconduct and to the Constitution itself that we all swore to support and defend.

Donald Trump was the central player in this corrupt scheme, assisted principally by his private attorney, Rudy Giuliani.

Early in 2019, Giuliani conspired with two corrupt former Ukrainian prosecutors to fabricate and promote phony investigations of wrongdoing by former Vice President Joe Biden as well as the Russian propaganda that it was Ukraine, not Russia, that hacked the DNC in 2016.

In the course of their presentation to you, the President's counsel have made several remarkable admissions that affirm core elements of this scheme, including specifically about Giuliani's role and representation of the President.

The President's counsel have conceded that Giuliani sought to convince Ukraine to investigate the Bidens and have alleged Ukraine election interference on behalf of his client, the President, and that the President's focus on these sham investigations was significantly informed by Giuliani, whose views the President adopted.

Compounding this damning admission, the President's counsel have also conceded that Giuliani was not conducting foreign policy on behalf of the President. They have confirmed that, in pursuing these two investigations, Giuliani was working solely in the President's private, personal interest, and the President's personal interest is now clear—to cheat in the next election.

As Giuliani would later admit, for the President's scheme to succeed, he first needed to remove the American Ambassador to Ukraine, Marie Yovanovitch—an anti-corruption champion Giuliani viewed as an obstacle who "was going to make the investigations difficult for everybody." In working with now-indicted associates Lev Parnas and Igor Fruman, Giuliani orchestrated a bogus, monthslong

smear campaign against the Ambassador that culminated in her removal in April.

The President's sudden order to remove our Ambassador came just 3 days after Ukraine's Presidential elections in late April, which saw a reformer, Volodymyr Zelensky, sweep into office on an anti-corruption platform. President Trump called to congratulate Zelensky right after his victory. He invited President Zelensky to the White House, and he agreed to send Vice President PENCE to his inauguration. But 3 weeks later, after Rudy Giuliani was denied a meeting with President Zelensky, President Trump abruptly ordered Vice President PENCE to cancel his trip. Instead, a lower level delegation, led by three of President Trump's political appointees—Secretary of Energy Rick Perry, Ambassador to the European Union Gordon Sondland, and Special Representative for Ukraine Negotiations Kurt Volker—attended Zelensky's inauguration the following week.

These three returned from Ukraine and were impressed with President Zelensky. In a meeting shortly thereafter with President Trump in the Oval Office, they relayed their positive impression of the new Ukrainian President and encouraged President Trump to schedule the White House meeting he promised in his first call, but President Trump reacted negatively. He railed that Ukraine “tried to take me down” in 2016, and in order to schedule a White House visit for President Zelensky, President Trump told the delegation that it would have to “talk to Rudy.”

It is worth pausing here to consider the importance of this meeting in late May. This is the moment when President Trump successfully hijacked the tools of our government to serve his corrupt personal interests—when the President's “domestic political errand,” as one witness famously described it, began to overtake and subordinate U.S. foreign policy and national security interests.

By this point in the scheme, Rudy Giuliani was advocating very publicly for Ukraine to pursue the two sham investigations, but his request to meet with President Zelensky was rebuffed by the new Ukrainian President. According to reports about Ambassador Bolton's account—soon to be available if not to this body then to bookstores near you—the President also unsuccessfully tried to get Bolton to call the new Ukrainian President to ensure he would meet with Giuliani.

The desire for Ukraine to announce these phony investigations was for a clear and corrupt reason—because President Trump wanted the political benefit of a foreign country's announcing that it would investigate his rival. That is how we know without a doubt that the object of the President's scheme was to benefit his reelection campaign—in other words, to cheat in the next election.

Ukraine resisted announcing the investigations throughout June, so the President and his agent, Rudy Giuliani, turned up the pressure—this time, by wielding the power of the U.S. Government.

In mid-June, the Department of Defense publicly announced that it would be releasing \$250 million of military assistance to Ukraine. Almost immediately after seeing this, the President quietly ordered a freeze on the assistance to Ukraine. None of the 17 witnesses in our investigation were provided with a credible reason for the hold when it was implemented, and all relevant agencies opposed the freeze.

In July, Giuliani and the President's appointees made it clear to Ukraine that a meeting at the White House would only be scheduled if Ukraine announced the sham investigations. According to a July 19 email the White House has tried to suppress, this “drug deal,” as Ambassador Bolton called it, was well known among the President's most senior officials, including his Chief of Staff, Mick Mulvaney, and Secretary of State Mike Pompeo, and it was relayed directly to senior Ukrainian officials by Gordon Sondland on July 10 at the White House. “Everyone was in the loop.”

Although President Zelensky explained that he did not want to be a “pawn” in Washington politics, President Trump did not care. In fact, on July 25, before President Trump spoke to President Zelensky, President Trump personally conveyed the terms of this quid pro quo to Gordon Sondland, who then relayed the message to Ukraine's President.

Later that morning, during the now-infamous phone call, President Trump explicitly requested that Ukraine investigate the Bidens and the 2016 election. Zelensky responded as President Trump instructed: He assured President Trump that he would undertake these investigations. After hearing this commitment, President Trump then reiterated his invitation to the White House at the end of the call.

No later than a few days after the call, the highest levels of the Ukrainian Government learned about the hold on military assistance. Senior Ukrainian officials decided to keep quiet, recognizing the harm it would cause to Ukraine's defense, to the new government's standing at home, and to its negotiating posture with Russia. Officials in Ukraine and the United States hoped the hold would be reversed before it became public. As we now know, that was not to be.

As we have explained during the trial, the President's scheme did not begin with the July 25 call, and it did not end there either. As instructed, a top aide to President Zelensky met with Giuliani in early August, and they began working on a press statement for Zelensky to issue that would announce the two sham investigations and lead to a White House meeting.

Let's be very clear here. The documentary evidence alone—the text mes-

sages and the emails that we have shown you—confirms definitively the President's corrupt quid pro quo for the White House meeting. Subsequent testimony further affirms that the President withheld this official act—this highly coveted Oval Office meeting—to apply pressure on Ukraine to do his personal bidding.

The evidence is unequivocal.

Despite this pressure, by mid-August President Zelensky resisted such an explicit announcement of the two politically motivated investigations desired by President Trump. As a result, the White House meeting remained unscheduled, just as it remains unscheduled to this day.

During this same timeframe in August, the President persisted in maintaining the hold on the aid, despite warnings that he was breaking the law by doing so, as an independent watchdog recently confirmed that he did.

According to the evidence presented to you, the President's entire Cabinet believed he should release the aid because it was in the national security interest of our country. During the entire month of August, there was no internal review of the aid. Congress was not notified, nor was there any credible reason provided within the executive branch.

With no explanation offered and with the explicit, clear, yet unsuccessful quid pro quo for the White House meeting in the front of his mind, Ambassador Sondland testified that the only logical conclusion was that the President was also withholding military assistance to increase the pressure on Ukraine to announce the investigations. As Sondland and another witness testified, this conclusion was as simple as two plus two equals four. If the White House meeting wasn't sufficient leverage to extract the announcement he wanted, Trump would use the frozen aid as his hammer.

Secretary Pompeo confirmed Sondland's conclusion in an August 22 email. It is also clear that Vice President PENCE was aware of the quid pro quo over the aid and was directly informed of such in Warsaw on September 1, after the freeze had become public and Ukraine became desperate. Sondland pulled aside a top aide in Warsaw and told him that everything—both the White House meeting and also the security assistance—were conditioned on the announcement of the investigations that Sondland, Giuliani, and others had been negotiating with the same aide earlier in August.

This is an important point. The President claims that Ukraine did not know of the freeze in aid, though we know this to be false. As the former Deputy Foreign Minister has admitted publicly, they found out about it within days of the July 25 call and kept it quiet. But no one can dispute that even after the hold became public on August 28, President Trump's representatives continued their efforts to secure

Ukraine's announcement of the investigations. This is enough to prove extortion in court, and it is certainly enough to prove it here.

If that wasn't enough, however, on September 7, more than a week after the aid freeze became public, President Trump confirmed directly to Sondland that he wanted President Zelensky in a "public box" and that his release of the aid was conditioned on the announcement of the two sham investigations. Having received direct confirmation from President Trump, Sondland relayed the President's message to President Zelensky himself.

President Zelensky could resist no longer. America's military assistance makes up 10 percent of his country's defense budget, and President Trump's visible lack of support for Ukraine harmed his leverage in negotiations with Russia. President Zelensky affirmed to Sondland on that same telephone call that he would announce the investigations in an interview on CNN. President Trump's pressure campaign appeared to have succeeded.

Two days after President Zelensky confirmed his intention to meet President Trump's demands, the House of Representatives announced its investigation into these very issues. Shortly thereafter, the inspector general of the intelligence community notified the communities that the whistleblower complaint was being improperly handled—or was improperly withheld from Congress with the White House's knowledge.

In other words, the President got caught, and 2 days later, on September 11, the President released the aid. To this day, however, Ukraine still has not received all of the money Congress has appropriated and the White House meeting has yet to be scheduled.

The identity of the whistleblower, moreover, is irrelevant. The House did not rely on the whistleblower's complaint, even as it turned out to be remarkably accurate. It does not matter who initially sounded the alarm when they saw smoke. What matters is that the firefighters—Congress—were summoned and found the blaze, and we know that we did.

The facts about the President's misconduct are not seriously in dispute. As several Republican Senators have acknowledged publicly, we have proof that the President abused his power in precisely the manner charged in article I. President Trump withheld the White House meeting and essential, congressionally appropriated military assistance from Ukraine in order to pressure Ukraine to interfere in the upcoming Presidential election on his behalf.

The sham investigations President Trump wanted announced had no legitimate purpose and were not in the national interest, despite the President's counsel's troubling reliance on conspiracy theories to claim the President acted in the public interest.

The President was not focused on fighting corruption. In fact, he was try-

ing to pressure Ukraine's President to act corruptly by announcing these baseless investigations. And the evidence makes clear that the President's decision to withhold Ukraine's military aid is not connected in any way to purported concerns about corruption or burden-sharing.

Rather, the evidence that was presented to you is damning, chilling, disturbing, and disgraceful. President Trump weaponized our government and the vast powers entrusted to him by the American people and the Constitution to target his political rival and corrupt our precious elections, subverting our national security and our democracy in the process. He put his personal interests over those of the country, and he violated his oath of office in the process.

But the President's grave abuse of power did not end there. In conduct unparalleled in American history, once he got caught, President Trump engaged in categorical and indiscriminate obstruction of any investigation into his wrongdoing. He ordered every government agency and every official to defy the House's impeachment inquiry, and he did so for a simple reason: to conceal evidence of his wrongdoing from Congress and the American people.

The President's obstruction was unlawful and unprecedented, but it also confirmed his guilt. Innocent people don't try to hide every document and witness, especially those that would clear them. That is what guilty people do. That is what guilty people do. Innocent people do everything they can to clear their name and provide evidence that shows that they are innocent.

But it would be a mistake to view the President's obstruction narrowly, as the President's counsel have tried to portray it. The President did not defy the House's impeachment inquiry as part of a routine interbranch dispute or because he wanted to protect the constitutional rights and privileges of his Presidency. He did it consistent with his vow to "fight all subpoenas."

The second article of impeachment goes to the heart of our Constitution and our democratic system of government. The Framers of the Constitution purposefully entrusted the power of impeachment in the legislative branch so that it may protect the American people from a corrupt President.

The President was able to undertake such comprehensive obstruction only because of the exceptional powers entrusted to him by the American people, and he wielded that power to make sure Congress would not receive a single record or a single document related to his conduct and to bar his closest aides from testifying about his scheme. Throughout the House's inquiry, just as they did during the trial, the President's counsel offered bad-faith and meritless legal arguments as transparent window dressing intended to legitimize and justify the President's efforts to hide evidence of his misconduct.

We have explained why all of these legal excuses hold no merit, why the House's subpoenas were valid, how the House appropriately exercised its impeachment authority, how the President's strategy was to stall and obstruct. We have explained how the President's after-the-fact reliance on unfounded and, in some cases, brand-new legal privileges are shockingly transparent cover for a President's dictate of blanket obstruction. We have underscored how the President's defiance of Congress is unprecedented in the history of our Republic, and we all know that an innocent person would eagerly provide testimony and documents to clear his name, as the President apparently thought he was doing, mistakenly, when he released the call records of his two telephone calls with President Zelensky.

And even as the President has claimed to be protecting the Presidency, remember that the President never actually invoked executive privilege throughout this entire inquiry, a revealing fact, given the law's prohibition on invoking executive privilege to shield wrongdoing.

And yet, according to the President's counsel, the President is justified in resisting the House's impeachment inquiry. They assert that the House should have taken the President to court to defy the obstruction. The President's argument is as shameless as it is hypocritical. The President's counsel is arguing in this trial that the House should have gone to court to enforce its subpoenas, while at the same time, the President's own Department of Justice is arguing in court that the House cannot enforce the subpoenas through the courts. And you know what remedy they say in court is available to the House? Impeachment for obstruction of Congress.

This is not the first time this argument has been made. President Nixon made it too, but it was roundly rejected by the House Judiciary Committee 45 years ago, when the committee passed an article for obstruction of Congress for a far less serious objection than we have here. The committee concluded that it was inappropriate to enforce its subpoenas in court and, as the slide shows:

The Committee concluded that it would be inappropriate to seek the aid of the courts to enforce its subpoenas against the President. This conclusion is based on the constitutional provision vesting the power of impeachment solely in the House of Representatives and the express denial by the Framers of the Constitution of any role for the courts in the impeachment process.

Again, the committee report on Nixon's Articles of Impeachment.

Mr. Manager JEFFRIES. Once we strip the President's obstruction of this legal window dressing, the consequences are as clear as they are dire for our democracy. To condone the President's obstruction would strike a deathblow to the impeachment clause in the Constitution. And if the Congress cannot enforce this sole power

vested in both Chambers alone, the Constitution's final line of defense against a corrupt Presidency will be eviscerated.

A President who can obstruct and thwart the impeachment power becomes unaccountable. He or she is effectively above the law. And such a President is more likely to engage in corruption with impunity. This will become the new normal with this President and for future generations.

So where does this leave us? As many of you in this Chamber have publicly acknowledged in the past few days, the facts are not seriously in dispute. We have proved that the President committed grave offenses against the Constitution. The question that remains is whether that conduct warrants conviction and removal from office.

Should the Senate simply accept or even condone such corrupt conduct by a President? Absent conviction and removal, how can we be assured that this President will not do it again? If we are to rely on the next election to judge the President's efforts to cheat in that election, how can we know that the election will be free and fair? How can we know that every vote will be free from foreign interference solicited by the President himself?

With President Trump, the past is prologue. This is neither the first time that the President solicited foreign interference in his own election, nor is it the first time that the President tried to obstruct an investigation into his misconduct. But you will determine—you will determine—you will determine whether it will be his last.

As we speak, the President continues his wrongdoing unchecked and unashamed. Donald Trump hasn't stopped trying to pressure Ukraine to smear his opponent, nor has he stopped obstructing Congress. His political agent, Rudolph Giuliani, recently returned to the scene of the crime in Ukraine to manufacture more dirt for his client, the President of the United States.

President Trump remains a clear and present danger to our national security and to our credibility around the world. He is decimating our global standing as a beacon of democracy while corrupting our free and fair elections here at home.

What is a greater protection to our country than ensuring that we, the American people, alone, not some foreign power, choose our Commander in Chief? The American people alone should decide who represents us in any office without foreign interference—particularly the highest office in the land. And what could undermine our national security more than to withhold from a foreign ally fighting a hot war against our adversary hundreds of millions of dollars of military aid to buy sniper rifles, rocket-propelled grenade launchers, radar and night vision goggles, so that they may fight the war over there, keeping us safe here?

If we allow the President's misconduct to stand, what message do we

send? What message do we send to Russia, our adversary intent on fracturing democracy around the world?

What will we say to our European allies, already concerned with this President, about whether the United States will continue to support our NATO commitments that have been a pillar of our foreign policy since World War II? What message do we send to our allies in the free world?

If we allow this President's conduct to stand, what will we say to the 68,000 men and women in uniform in Europe right now who courageously and admirably wake up every day ready and willing to fight for America's security and prosperity, for democracy in Europe and around the world? What message do we send them when we say America's national security is for sale?

That cannot be the message we want to send to our Ukrainian friends or our European allies or to our children and our grandchildren who will inherit this precious Republic, and I am sure it is not the message that you wish to send to our adversaries.

The late Senator John McCain was an astounding man—a man of great principle, a great patriot. He fought admirably in Vietnam and was imprisoned as a POW for over 5 years, refusing an offer by the North Vietnamese to be released early because his father was a prominent admiral. As you all are aware, Senator McCain was a great supporter of Ukraine, a great supporter of Europe, a great supporter of our troops. Senator McCain understood the importance of this body—this distinguished body—and serving the public, once saying: "Glory belongs to the act of being constant to something greater than yourself, to a cause, to your principles, to the people on whom you rely and who rely on you."

The Ukrainians and the Europeans and the Americans around the world and here at home are watching what we do. They are watching to see what the Senate will do, and they are relying on this distinguished body to be constant to the principles America was founded on and which we tried to uphold for more than 240 years.

Doing the right thing and being constant to our principles requires a level of moral courage that is difficult but by no means impossible. It is that moral courage shown by public servants throughout this country and throughout the impeachment inquiry in the House.

People like Ambassador Marie Yovanovitch—her decades of non-partisan service were turned against her in a vicious smear campaign that reached all the way to the President. Despite this effort, she decided to honor a duly authorized congressional subpoena and to speak the truth to the American people. For this, she was the subject of yet more smears against her career and her character even as she testified in a public hearing before Congress. Her courage mattered.

People like Ambassador Bill Taylor, a West Point graduate who wears a

Bronze Star and an Air Medal for valor and, his proudest honor, the Combat Infantryman Badge. When his country called on him, he answered again and again and again, in battle and foreign affairs and in the face of a corrupt effort by the President to extort a foreign country into helping his reelection campaign—an effort that Ambassador Taylor rightly believed was "crazy." His courage mattered.

People like LTC Alexander Vindman, who came to this country as a young child fleeing authoritarianism in Eastern Europe—he could have done anything with his life, but he, too, chose public service, putting on a uniform and receiving a Purple Heart after being wounded in battle fighting courageously in Iraq. When he heard that fateful July 25 call, in which the President sold out our country for his own personal gain, Lieutenant Colonel Vindman reported it and later came before Congress to speak the truth about what happened. Lieutenant Colonel Vindman's courage mattered.

To the other public servants who came forward and told the truth in the face of vicious smears, intimidation, and White House efforts to silence you, your courage mattered. You did the right thing. You did your duty. No matter what happens today or from this day forward, that courage mattered.

Whatever the outcome in this trial, we will remain vigilant in the House. I know there are dedicated public servants who know the difference between right and wrong. But make no mistake, these are perilous times if we determine that the remedy for a President who cheats in an election is to pronounce him vindicated and attack those who expose his misconduct.

Mr. Manager SCHIFF, Senators, before we break, I want to take a moment to say something about the staff who have worked tirelessly on the impeachment inquiry and this trial for months now. There is a small army of public servants down the hall from this Chamber, in offices throughout the House, and, yes, in that windowless bunker in the Capitol, who have committed their lives to this effort because they, like the managers and the American people, believe that a President free of accountability is a danger to the beating heart of our democracy.

I am grateful to all of them, but let me mention a few: Daniel Goldman, Maher Bitar, Rheanne Wirkkala, Patrick Boland, William Evans, Patrick Fallon, Sean Misko, Nicolas Mitchell, Daniel Noble, Diana Pilipenko, Emilie Simons, Susanne Grooms, Krista Boyd, Norm Eisen, Barry Berke, Joshua Matz, Doug Letter, Sarah Istel, Ashley Etienne, Terri McCullough, Dick Meltzer, and Wyndee Parker. Some of those staff, including some singled out in this Chamber, have been made to endure the most vicious false attacks to the point where they feel their lives have been put at risk.

The attacks on them degrade our institution and all who serve in it. You



have asked me why I hired certain of my staff, and I will tell you—because they are brilliant, hard-working, patriotic, and the best people for the job, and they deserve better than the attacks they have been forced to suffer.

Members of the Senate, Mr. Chief Justice, I want to close this portion of our statement by reading you the words of our dear friend and former colleague in the House, the late Elijah Cummings, who said this on the day the Speaker announced the beginning of the impeachment inquiry:

As elected Representatives, [he said], of the American people, we speak not only for those who are here with us now, but for generations yet unborn. Our voices today are messages to a future we may never see. When the history books are written about this tumultuous era, I want them to show that I was among those in the House of Representatives who stood up to lawlessness and tyranny.

We, the managers, are not here representing ourselves alone or even just the House, just as you are not here making a determination as to the President's guilt or innocence for yourselves alone. No, you and we represent the American people, the ones at home and at work who are hoping that their country will remain what they have always believed it to be: a beacon of hope, of democracy, and of inspiration to those striving around the world to create their own more perfect unions—for those who were standing up to lawlessness and to tyranny.

Donald Trump has betrayed his oath to protect and defend the Constitution, but it is not too late for us to honor ours and to wield our power to defend our democracy. As President Abraham Lincoln said at the close of his Cooper Union Address on February 27, 1860, “[n]either let us be slandered from our duty by false accusations against us, nor frightened from it by menaces of destruction to the Government nor of dungeons to ourselves. Let us have faith that right makes might, and in that faith, let us, to the end, dare to do our duty as we understand it.”

Today, we urge you—in the face of overwhelming evidence of the President's guilt and knowing that, if left in office, he will continue to seek foreign interference in the next election—to vote to convict on both Articles of Impeachment and to remove from office, Donald J. Trump, the 45th President of the United States.

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

The CHIEF JUSTICE. The majority leader is recognized.

RECESS

Mr. McCONNELL. Mr. Chief Justice, colleagues, we will take a 30-minute break for lunch.

There being no objection, at 12:02 p.m., the Senate, sitting as a Court of Impeachment, recessed until 12:51 p.m.; whereupon the Senate reassembled when called to order by the CHIEF JUSTICE.

The CHIEF JUSTICE. The Senate will come to order.

Mr. Counsel CIPOLLONE. Thank you, Mr. Chief Justice, Majority Leader McCONNELL, Democratic Leader SCHUMER, Senators. Thank you very much, on behalf of all of us, for your continued attention. Today we are going to complete our argument and finish our closing argument. We will complete that in a very efficient period of time.

You understand the arguments that we have been making, and at the end of the day, the key conclusion—we believe, the only conclusion—based on the evidence and based on the Articles of Impeachment themselves and the Constitution is that you must vote to acquit the President. At the end of the day, this is an effort to overturn the results of one election and to try to interfere in the coming election that begins today in Iowa. And we believe that the only proper result, if we are applying the golden rule of impeachment, if we are applying the rules of impeachment that were so eloquently stated by Members of the Democratic Party the last time we were here—the only appropriate result here is to acquit the President and to leave it to the voters to choose their President.

With that, I will turn it over to Judge Ken Starr, and we will move through a series of short presentations. Thank you.

Mr. Counsel STARR. Mr. Chief Justice, Members of the Senate, Majority Leader McCONNELL, Democratic Leader SCHUMER, House impeachment managers and their very able staff, as World War I, the war to end all wars, was drawing to a close, an American soldier sat down at a piano and composed a song. It was designed to be part of a musical review for his Army camp out on Long Island, Suffolk County.

The song was “God Bless America.” The composer, of course, was Irving Berlin, who came here at the age of 5, the son of immigrants who came to this country for freedom.

As composers are wont to do, Berlin worked very carefully with the lyrics. The song needed to be pure. It needed to be above politics, above partisanship. He intended it to be a song for all America, but he intended it to be more than just a song. It was to be a prayer for the country.

As your very distinguished Chaplain, RADM Barry Black, has done in his prayers on these long days that you have spent as judges in the High Court of Impeachment, we have been reminded of what our country is all about and that it stands for one nation under God. Nation is about freedom.

And we hear the voice of Martin Luther King, Jr., and his dream-filled speech about freedom echoing the great passages inscribed on America's temple of justice, the Lincoln Memorial, which stood behind Dr. King as he spoke on that historic day. Dr. King is gone, felled by an assassin's bullet, but his words remain with us. And during his magnificent life, Dr. King spoke not only about freedom, freedom standing

alone; he spoke frequently about freedom and justice. And in his speeches he summoned up regularly the words of a Unitarian abolitionist from the prior century, Theodore Parker, who referred to the moral arc of the universe—the long moral arc of the universe points toward justice—freedom and justice—freedom, whose contours have been shaped over the centuries in the English-speaking world by what Justice Benjamin Cardozo called the authentic forms of justice through which the community expresses itself in law. Authentic. Authenticity.

And at the foundation of those authentic forms of justice is fundamental fairness. It is playing by the rules. It is why we don't allow deflated footballs or stealing signs from the field. Rules are rules. They are to be followed.

And so I submit that a key question to be asked as you begin your deliberations: Were the rules here faithfully followed? If not, if that is your judgment, then, with all due respect, the prosecutors should not be rewarded, just as Federal prosecutors are not rewarded. You didn't follow the rules. You should have.

As a young lawyer, I was blessed to work with one of the great trial lawyers of his time, and I asked him: Dick, what's your secret?

He had just defended, successfully, a former United States Senator who was charged with a serious offense—perjury before a Federal grand jury. His response was simple and forthright. His words could have come from prairie lawyer Abe Lincoln: I let the judge and the jury know that they can believe and trust every word that comes out of my mouth. I will not be proven wrong.

So here is a question, as you begin your deliberations: Have the facts as presented to you as a court, as the High Court of Impeachment, proven trustworthy? Has there been full and fair disclosure in the course of these proceedings? Fundamental fairness?

I recall these words from the podium last week. A point would be made by one of the President's lawyers, and then this would follow: The House managers didn't tell you that. Why not? And again: The House managers didn't tell you that. Why not?

At the Justice Department, on the fifth floor of the Robert F. Kennedy Building, is this simple inscription: “The United States wins its point whenever justice is done its citizens in the courts.” Not did we win, not did we convict; rather, the moral question: Was justice done?

Of course, as has been said frequently, the House of Representatives does, under our Constitution, enjoy the sole power of impeachment. No one has disputed that fact. They have got the power, but that doesn't mean that anything goes. It doesn't mean that the House cannot be called to account in the High Court of Impeachment for its actions in exercising that power.

A question to be asked: Are we to countenance violations of the rules and

traditional procedures that have been followed scrupulously in prior impeachment proceedings? And the Judiciary Committee, the venerable Judiciary Committee of the House of Representatives—compare and contrast the thoroughness of that committee in the age of Nixon, its thoroughness in the age of Clinton with all of its divisiveness within the committee in this proceeding.

A question to be asked: Did the House Judiciary Committee rush to judgment in fashioning the Articles of Impeachment? Did it carefully gather the facts, assess the facts before it concluded? We need nothing more than the panel of very distinguished professors and the splendid presentations by both the majority counsel and the minority counsel.

We asked some questions. The Republicans asked some questions. We heard their answers. We are ready to vote. We are ready to try this case in the High Court of Impeachment.

What was being said in the sounds of silence was this: We don't have time to follow the rules. We won't even allow the House Judiciary minority members, who have been beseeching us time and again, to have their day—just one day—to call their witnesses. Oh yes, that is expressly provided for in the rules, but we will break those rules.

That is not liberty and justice for all.

The great political scientist of yesteryear, Richard Neustadt of Columbia, observed that the power of the President is ultimately the power to persuade—oh yes, the Commander in Chief, and, yes, charged with the conduct and authority to guide the Nation's foreign relations, but ultimately it is the power to persuade.

I suggest to you that so, too, the House's sole power to impeach is likewise ultimately a power to persuade over in the House.

A question to be asked: In the fast-track impeachment process in the House of Representatives, did the House majority persuade the American people—not just partisans; rather, did the House's case win over the overwhelming majority of consensus of the American people?

The question fairly to be asked: Will I cast my vote to convict and remove the President of the United States when not a single member of the President's party—the party of Lincoln—was persuaded at any time in the process?

In contrast, and when I was here last week, I noted for the record of these proceedings that in the Nixon impeachment, the House vote to authorize the impeachment inquiry was 410 to 4. In the Clinton impeachment—divisive, controversial—31 Democrats voted in favor of the impeachment inquiry. Here, of course, and in sharp contrast, the answer is, none.

It is said that we live in highly and perhaps hopelessly partisan times. It is said that no one is open to persuasion anymore. They are getting their news

entirely from their favorite media platform, and that platform of choice is factually deterministic.

Well, at least the decision of decision makers under oath, who are bound by sacred duty, by oath, or affirmation to do impartial justice, leaves the platforms out. Those modern-day intermediaries and shapers of thought, of expression, of opinion, are outside these walls where you serve.

Finally, does what is before this court—very energetically described by the able House managers but fairly viewed—rise to the level of a high crime or misdemeanor, one so grave and so serious to bring about the profound disruption of the article II branch, the disruption of the government, and to tell the American people—and, yes, I will say this is the way it would be read—“Your vote in the last election is hereby declared null and void. And by the way, we are not going to allow you, the American people, to sit in judgment on this President and his record in November”? That is neither freedom, nor is it justice. It is certainly not consistent with the most basic freedom of “we the people,” the freedom to vote.

I thank the court.

I yield to my colleague, Mr. Purpura.

Mr. Counsel PURPURA. Mr. Chief Justice, Members of the Senate, good afternoon. I will be relatively brief today and will not repeat the arguments that we have made throughout, but I want to highlight a few things.

There are a number of reasons why the Articles of Impeachment are deficient and must fail. My colleagues have spent the past week describing those reasons. In my time today, I would like to review just a few core facts, which, again, remember, are all drawn from the record on which the President was impeached in the House and that the House managers brought to this body in support of the President's removal.

First, the President did not condition security assistance or a meeting on anything during the July 25 call. In fact, both Ambassador Yovanovitch and Mr. Tim Morrison confirmed that the Javelin missiles and the security assistance were completely unrelated.

The concerns that Lieutenant Colonel Vindman expressed on the call were, by his own words and admission, based on deep policy concerns.

And remember, as we said before and everyone in this room knows, the President sets the foreign policy; the unelected staff implements the foreign policy.

Others on the call, including Lieutenant Colonel Vindman's boss, Mr. Morrison, as well as LTG Keith Kellogg, had no such concerns and have stated that they heard nothing improper, unlawful, or otherwise troubling on the July 25 call.

Second, President Zelensky and his top advisers agreed that there was nothing wrong with the July 25 call and that they felt no pressure from President Trump. President Zelensky

said that the call was “good,” “normal,” and “no [one] pushed me.”

President Zelensky's top adviser, Andriy Yermak, was asked if he had ever felt there was a connection between the U.S. military aid and the request for investigations. He was adamant that “we never had that feeling. . . . We did not have the feeling that this aid was connected to any one specific issue.” Several other top Ukrainian officials have said the same both publicly and in readouts of the July 25 call to Ambassador Taylor, Ambassador Volker, and others.

Third, President Zelensky and the highest levels of the Ukrainian Government did not learn of the pause until August 28, 2019—more than a month after the July 25 call between President Trump and President Zelensky.

President Zelensky himself said:

I had no idea the military aid was held up. When I did find out, I raised it with Pence at a meeting in Warsaw.

Referring to the Vice President.

The meeting in Warsaw took place 3 days after the POLITICO article was published, on September 1, 2019.

Mr. Yermak likewise said that President Zelensky and his key advisers learned of the pause only from the August 28 POLITICO article.

Just last week, while we were in this trial, Oleksandr Danylyuk, former chairman of Ukraine's National Security and Defense Council, said he first found out that the United States was withholding aid to Ukraine by reading POLITICO's article published August 28. Mr. Danylyuk also said there was panic within the Zelensky administration when they found out about the hold from the POLITICO article, indicating that the highest levels of the administration were unaware of the pause until the article was published.

If that is not enough, Ambassador Volker, Ambassador Taylor, Deputy Assistant Secretary of State George Kent, and Mr. Morrison also testified that the Ukrainians did not know about the security hold until the POLITICO article on August 28. We showed you the text message from Mr. Yermak to Ambassador Volker just hours after the POLITICO article was published. You also remember all of the high-level, bilateral meetings at which the Ukrainians did not bring up the pause in the security assistance because they did not know about it. When they did find out on August 28, they raised the issue at the very next meeting in Warsaw on September 1.

This is a really important point. As Ambassador Volker testified, if the Ukrainians didn't know about the pause, then there was no leverage implied. That is why the House managers have kept claiming and continued to claim throughout the trial that the high-level Ukrainians somehow knew about the pause before late August. That is inaccurate.

We pointed out that Laura Cooper, on whom they rely, testified she didn't really know what the emails she saw

relating to security assistance were about.

We told you that Catherine Croft, who worked for Ambassador Volker, couldn't remember the specifics of when she believed the Ukrainian Embassy learned of the pause and that she didn't remember when news of the pause became public.

The House managers also mentioned Lieutenant Colonel Vindman, who claimed to have vague recollections of fielding unspecified queries about aid from Ukrainians in the mid-August timeframe. But Lieutenant Colonel Vindman ultimately agreed that the Ukrainians first learned about the hold on security assistance probably around when the first stories emerged in the open source.

Former Deputy Foreign Minister Olena Zerkal's claim that she knew about the pause in July is inconsistent with statements by her boss, the then-Foreign Minister of Ukraine, who said that he learned of the pause from a news article, of which the August 28 POLITICO article was the first, as well as those of all of the other top-level Ukrainian officials I have mentioned, the testimony of the top U.S. diplomats responsible for Ukraine, and the many intervening meetings at which the pause was not mentioned.

Fourth, none of the House witnesses testified that President Trump ever said there was any linkage between security assistance and investigations. When Ambassador Sondland asked the President on approximately September 9, the President told him:

I want nothing. I want nothing. I want no quid pro quo.

Before he asked the President, Ambassador Sondland presumed and told Ambassador Taylor and Mr. Morrison that there was a connection between the security assistance and the investigations. That was before he asked the President directly.

Even earlier, on August 31, Senator RON JOHNSON asked the President if there was any connection between security assistance and investigations. The President answered:

No way. I would never do that. Who told you that?

Under Secretary of State David Hale, Mr. Kent, and Ambassador Volker all testified that they were not aware of any connection whatsoever between security assistance and investigations.

The House managers repeatedly point to a statement by Acting Chief of Staff Mick Mulvaney during an October press conference. When it became clear that the media was misinterpreting his comments or that he had simply misspoken, Mr. Mulvaney promptly, on the very day of the press conference, issued a written statement making clear that there was no quid pro quo. Here is his statement:

Let me be clear, there was absolutely no quid pro quo between Ukrainian military aid and any investigation into the 2016 election. The president never told me to withhold any money until the Ukrainians did anything related to the server.

The only reasons we were holding the money was because of concern about lack of support from other nations and concerns over corruption. Accordingly, Mr. Mulvaney in no way confirmed the link between the paused security assistance and investigations. A garbled or misinterpreted statement or a mistaken statement that is promptly clarified on the same day as the original statement is not the kind of reliable evidence that would lead to the removal of the President of the United States from office. In any event, Mr. Mulvaney also stated during the press conference itself that the money held up had absolutely nothing to do with Biden.

Now, why does this all matter? I think Senator ROMNEY really got to the heart of this issue on Thursday evening when he asked both parties whether there is any evidence that President Trump directed anyone who tell the Ukrainians that security assistance was being held up on the condition of an investigation into the Bidens. That was the question. There is no such evidence.

Fifth, the security assistance was released when the President's concerns with burden-sharing and corruption were addressed by a number of people, including some in this Chamber today, without Ukraine ever announcing or undertaking any investigations. You have heard repeatedly that no one in the administration knew why the security assistance was paused. That is not true. Two of the House managers' own witnesses testified regarding the reason for the pause. As Mr. Morrison testified at a July meeting attended by officials throughout the executive branch agencies, the reason provided for the pause by a representative from the Office of Management and Budget was that the President was concerned about corruption in Ukraine and he wanted to make sure Ukraine was doing enough to manage that corruption. Further, according to Mark Sandy, Deputy Associate Director for National Security, Office for Management and Budget, we had received requests for additional information on what other countries were contributing to Ukraine.

We told you about the work that was being done to monitor and collect information about anti-corruption reforms in Ukraine and burden-sharing during the summer pause. We told you about how, when President Zelensky asked Vice President PENCE in Poland about the pause, Vice President PENCE asked, according to Jennifer Williams, what the status of his reform efforts were that he could then convey back to the President and also wanting to hear if there was more that European countries could do to support Ukraine. Mr. Morrison, who was actually at the Warsaw meeting, testified similarly that Vice President PENCE delivered a message about anti-corruption and burden-sharing.

We told you about the September 11 call with President Trump, Senator PORTMAN, and Vice President PENCE. Mr. Morrison testified that the entire process culminating in the September

11 call gave the President the confidence he needed to approve the release of the security sector assistance, all without any investigations being announced.

Now, I focused so far on the House managers' allegation that there was a quid pro quo for the security assistance. Let me turn very briefly to the claim that a Presidential meeting was also conditioned on investigations. Remember, by the end of the July 25 call, President Trump had personally invited President Zelensky to meet three times—twice by phone, once in a letter, without any preconditions. You heard the White House was working behind the scenes to schedule the meeting and how difficult scheduling those meetings can be. The two Presidents planned to meet in Warsaw, just as President Zelensky requested on the July 25 call. President Trump had to cancel at the last minute due to Hurricane Dorian. President Trump and President Zelensky then met 3 weeks later in New York without Ukraine announcing any investigations.

Finally, one thing that the House managers' witnesses agreed upon was that President Trump has strengthened the relationship between the U.S. and Ukraine and has been a better friend to Ukraine and a stronger opponent of Russian aggression than President Obama. Most notably, Ambassador Taylor, Ambassador Volker, and Ambassador Yovanovitch all testified that President Trump's reversal of his predecessor's refusal to send the Ukrainians lethal aid was a meaningful and significant policy development and improvement for which President Trump deserves credit.

Just last week, Ambassador Volker, who knows more about U.S.-Ukraine relationships than nearly, if not, everyone, published a piece in Foreign Policy magazine. I would like to read you an excerpt:

Beginning in mid-2017, and continuing until the impeachment investigation began in September 2019, U.S. policy toward Ukraine was strong, consistent, and enjoyed support across the administration, bipartisan support in Congress, and support upon U.S. allies and in Ukraine itself.

The Trump administration also coordinated Ukraine policy closely with allies in Europe and Canada—maintaining a united front against Russian aggression and in favor of Ukraine's democracy, reform, sovereignty, and territorial integrity. Ukraine policy is one of the few areas where U.S. and European policies have been in lockstep. The administration lifted the Obama-era ban on the sale of lethal arms to Ukraine, delivering, among other things, Javelin anti-tank missiles, coast guard cutters, and anti-sniper systems. Despite the recent furor over the pause in U.S. security assistance this past summer, the circumstances of which are the topic of impeachment hearings, U.S. defensive support for Ukraine has been and remains robust.

And more, according to Ambassador Volker:

It is therefore a tragedy for both the United States and Ukraine that U.S. partisan politics, which have culminated in the



ongoing impeachment process, have left Ukraine and its new reform-minded president, Volodymyr Zelensky, exposed and relatively isolated. The only one who benefits from this is Russian President Vladimir Putin.

Those are the words of Ambassador Volker. He was one of the House managers' key witnesses. He was the very first witness to testify in the House proceedings on October 3. So I think it is fitting that he may be the last witness we hear from. In his parting words, Ambassador Volker admonishes that it is U.S. partisan politics which have culminated in this impeachment process that have imperiled Ukraine.

In sum, the House managers' case is not overwhelming, and it is not undisputed. The House managers bear the very heavy burden of proof. They did not meet it. It is not because they didn't get the additional witnesses or documents that they failed to pursue. It is because their witnesses have already offered substantial evidence undermining their case, and, important, as you have heard from Professor Dershowitz and from Mr. Philbin, the first article does not support or allege an impeachable offense regardless of any additional witnesses or documents.

Members of the Senate, it has been an incredible honor and privilege to speak to you in this Chamber. I hope that what I have shown has been helpful to your understanding of the facts, and I respectfully ask you to vote to acquit the President of the wrongful charges against him.

I yield to Mr. Philbin.

Mr. Counsel PHILBIN. Mr. Chief Justice, Members of the Senate, we have heard repeatedly throughout the past week and a half or so that the President is not above the law, and I would like to focus in my last remarks here on an equally important principle—that the House of Representatives also is not above the law in the way they conduct the impeachment proceedings and bring a matter here before the Senate, because in very significant and important respects, they didn't follow the law.

From the outset, they began an impeachment inquiry here without a vote from the House and, therefore, without lawful authority delegated to any committees to begin an impeachment inquiry against the President of the United States. That was unprecedented in our history. The Speaker of the House does not have authority, by holding a press conference, to delegate the sole power of impeachment from the House to a committee, and the result was 23 totally unauthorized and invalid subpoenas were issued at the beginning of this impeachment hearing.

After that, the House violated every principle of due process and fundamental fairness in the way the hearings were conducted, and we have been through that. I am not going to go through the details again, but it is significant because denying the President

the ability to be present through counsel to cross-examine witnesses and present evidence fundamentally skewed the proceedings in the House of Representatives. It left the President without the ability to have a fair proceeding, and it meant it reflected the fact that those proceedings were not truly designed as a search for truth. We have procedural protections. We have the right of cross-examination as a mechanism for getting to the facts, and that was not present in the House of Representatives.

Lastly, Manager SCHIFF, as an interested witness who had been involved in—or at least his staff—discussions with the whistleblower, then guided factual inquiry in the House.

So why does all of this matter? It matters because the lack of a vote meant that there was no democratic accountability and no lawful authorization from the beginning of the process. It meant that there were procedural defects that produced a record that this Chamber can't rely on for any conclusion other than to reject the Articles of Impeachment and to acquit the President. And it matters because the President, in response to these violations of the President's rights—the failure to follow proper procedure, failure to follow the law—has rights of his own, rights of the executive branch to be asserted. And that is the President's response to the invalid subpoenas—that they are invalid, and we are not going to comply with them.

And the President asserted other rights of the executive branch. When there were subpoenas for his senior advisers to come and testify, along with virtually every President since Nixon, he asserted the principle of immunity of the senior advisers, that they could not be called to testify. And the President asserted the defects in the subpoenas that called for executive branch officials to testify without the presence of agency counsel—all established principles that have been asserted before.

What do the House managers say in response? They accuse the President in their second article of impeachment of trying to assert obstruction—that this was an unprecedented response and unprecedented refusal to cooperate. It was unprecedented the 23 subpoenas were issued in a Presidential impeachment inquiry without valid authorization from the House. The President's response was to a totally unprecedented attempt by the House to do that which it had no authority to do. They have asserted today and on other occasions that the President's legal argument in response to these subpoenas—they have said that it is indiscriminate. There was just a blanket defiance. I think I have shown that wasn't true. There were three very specific legal rationales provided by the executive branch as to different defects and different subpoenas, and there were letters explaining those defects. But there was no attempt by the House to attempt an accommodations process,

even though the White House offered to engage in an accommodations process. There was no attempt by the House to use other mechanisms to resolve the differences with the executive branch. It was just straight to impeachment.

Now, they asserted today and on other occasions that the President's counsel—that I and my colleagues—have made bad-faith legal arguments. They were just window dressings.

In an ordinary court of law, one doesn't accuse opposing counsel of making bad-faith arguments like that, and if you make that accusation, it has to be backed up with analysis, but there hasn't been analysis here. There has just been accusation.

When the President asserts the immunity of his senior advisers, that is a principle that has been asserted by virtually every President since Nixon. Let me read you what Attorney General Janet Reno, during the Clinton administration, said about this exact immunity. She said that immediate advisers to the President are immune from being compelled to testify before Congress. "The immunity such advisers enjoy from testimonial compulsion by a congressional committee is absolute and may not be overborne by competing congressional interests."

And she went onto say: "Compelling one of the President's immediate advisers to testify on a matter of executive decision-making would also raise serious constitutional problems, no matter the assertion of congressional need."

Was that bad faith? Was Attorney General Reno asserting that principle in bad faith, and President Clinton?

President Obama asserted the same principle for his senior political advisers. Was that bad faith?

Of course not.

These are principles defending the separation of powers that Presidents have asserted for decades. President Trump was defending the institutional interests of the Office of the Presidency and is asserting the same principles here. That is vital for the continued operation of the separation of powers.

The House managers have also said that, once the President asserted these defects in their subpoenas and resisted them, they had no time to do anything else. They had to go straight to impeachment. They could not accommodate. They could not go through a contempt process. They could not litigate.

The idea that there is no time for dealing with that friction with the executive branch is really antithetical to the proper functioning of the separation of powers. It goes against part of the way the separation of powers is supposed to work. That interbranch friction is meant to take time to resolve. It is meant to slow things down and to be somewhat difficult to work through and to force the branches to work together to accommodate the interests of each branch, not just to jump to the conclusion of, well, we have no

time for that. We have to assert absolute authority on one side of the equation.

This is something that Justice Brandeis pointed out in a famous dissent in *Myers v. United States*, but it has since been cited many times by the Court majority.

He said: "The doctrine of the separation of powers was adopted by the Convention of 1787, not to promote efficiency"—so he is saying not to make government move quickly—"but to preclude the exercise of arbitrary power. The purpose was not to avoid friction but, by means of the inevitable friction incident to the distribution of the governmental powers among the three departments, to save the people from autocracy."

That is a vitally important principle. The friction between the branches, even if it means taking longer, even if it means not jumping straight to impeachment, is part of the constitutional design, and it is required to force the branches to determine incrementally where their interests lie, to resolve disputes incrementally, and not to jump straight to the ultimate nuclear weapon of the Constitution.

We have also heard from the House managers that everything the President did here in asserting the prerogatives of his office—in asserting the principles of immunity—must be wrong, must be rejected because only the guilty will assert a privilege; only the guilty will not allow evidence.

That is definitely not a principle of American jurisprudence. It is antithetical to the fundamental principles of our system of laws. As we have pointed out in our trial memorandum in *Bordenkircher v. Hayes* and in other decisions, the Supreme Court has made clear that the very idea of punishing someone for asserting rights or privileges or suggesting that asserting the right or privilege is evidence of guilt is contrary to basic principles of due process.

It takes on an even more malignant tenor to it when that principle is asserted in the context of a dispute between the branches relating to the boundaries of their relative powers, because what the House is essentially asserting in this case is that any assertion of the prerogatives of the Office of the President—any attempt to maintain the principles of separation of powers of executive confidentiality that have been asserted by past Presidents—can be treated by the House as evidence of guilt. And here, their entire second Article of Impeachment is structured on the assumption that the House can treat the assertion of principles grounded in the separation of powers as an impeachable offense.

Boiled down to its essence, it is an assertion that defending the separation of powers—if the President does it in a way that they don't like and in a time that they don't like—can be treated as an impeachable offense. That is an incredibly dangerous assertion because,

if it were accepted, it would fundamentally alter the balance between the different branches of our government.

It would suggest—and Professor Turley explained this, and Professor Dershowitz explained it here—that, if Congress makes a demand on the executive and the executive resists based on separation of powers principles that past Presidents have asserted, Congress can nonetheless say: We have decided to proceed by impeachment.

This is the principle they assert in the House Judiciary Committee's report: We have the sole power of impeachment. That means we are the sole judge of our own actions. There is no need for accommodation, and there is no need for the courts. We will determine that any resistance you provide is itself impeachable.

That would fundamentally transform our government by essentially giving the House the same sort of power as a parliamentary system—to use impeachment as an effective vote of "no confidence" against a Prime Minister. This is not the way the Framers set up our three-branch system of government with a powerful Executive who would be independent from the legislature. That is why Professor Turley explained that the second Article of Impeachment here would be an abuse of power by Congress. It would make the Executive dependent on Congress in a manner antithetical to the system that the Framers had envisioned.

So why is it that there are all of these defects in the House managers' case for impeachment? Why are they asserting principles like "only the guilty would assert privileges"? That is not a part of our system of law. Why are they asserting that, if the Executive resists, the House has the sole power to determine the boundaries of its own power in relation to the Executive? That is also not something that is in our system of jurisprudence. And why the lack of due process in the proceedings below?

I think, as we have explained, it is because this was a purely partisan impeachment from the start. It was purely partisan and purely political, and that is something that the Framers foresaw.

I will point to one passage from *Federalist No. 65*. There are a number of different passages from that which have been cited over the course of the past week, but I don't think this one has. It is just after Hamilton points out—he warns—that an impeachment in the House could be the result of the "persecution of an intemperate or designing majority in the House of Representatives."

Then he goes on: "Though this latter supposition may seem harsh, and might not be likely often to be verified, yet it ought not to be forgotten that the demon of faction will, at certain seasons, extend his sceptre over all numerous bodies of men."

Now, that is very 18th century language. We don't talk about demons ex-

tending their scepters over men, but it is prescient nonetheless. We might not be comfortable with the terms, but it is accurate for what can happen, and that is what has happened in this impeachment.

This was a purely partisan, political process. It was opposed bipartisanly in the House. It was done by a process that was not designed to persuade anyone or to get to the truth or to provide process and abide by past precedents. It was done to get it finished by Christmas, on a political timetable, and it is not something that this Chamber should condone. That in itself provides a sufficient and substantial reason for rejecting the Articles of Impeachment.

Members of the Senate, it has been an honor to be able to address you over the past week and a half or 2 weeks, and I thank you for your attention.

I yield to Mr. Sekulow.

Mr. Counsel SEKULOW. Mr. Chief Justice, Majority Leader MCCONNELL, Democratic Leader SCHUMER, House managers, I want to join my colleagues in thanking you for your patience over these 2 weeks.

I want to focus on one last point. We believe that we have established overwhelmingly that both Articles of Impeachment have failed to allege impeachable offenses and that, therefore, both articles—I and II—must fail.

This entire campaign of impeachment—that started from the very first day the President was inaugurated—is a partisan one, and it should never happen again. For 3 years, this push for impeachment came straight from the President's opponents, and when it finally reached a crescendo, it put this body—the U.S. Senate—into a horrible position.

I want to start by taking a look back.

On the screen is a graphic of a Washington Post headline on January 20, 2017: "The Campaign to impeach President Trump has begun." This was posted 19 minutes after he was sworn in.

I also want to play a video in which Members, as early as January 15, 2017—before the President was sworn into office—were calling for his impeachment. (Text of Videotape presentation:)

Mr. RASKIN. Let me say this for Donald Trump, whom I may well be voting to impeach.

Mr. ELLISON. I think that Donald Trump has already done a number of things which have legitimately raised a question of impeachment.

Ms. WATERS. And I will fight every day until he is impeached.

Mr. GREEN of Texas. I rise today, Mr. Speaker, to call for the impeachment of the President of the United States of America.

Mr. COHEN. The main reason I'm interested is not so much to win the Senate, which is a byproduct, but it's because I think he has committed impeachable offenses.

Mr. CASTRO of Texas. But if we get to that point, then, yes, I think that's grounds to start impeachment.

Mr. COHEN. So we're calling upon the House to begin impeachment hearings immediately.

Question. Why do you think specifically he should be impeached?

Mr. ESPAILLAT. Well, there are five reasons why we think he should be impeached.

Question. On the impeachment of Donald Trump, how would you vote?

Ms. OMAR. I would vote yes.

Ms. OCASIO-CORTEZ. I would vote to impeach.

Ms. TLAIB. Because we're going to impeach the [bleep].

Mr. SHERMAN. I introduced the Articles of Impeachment in July of 2017. All I did yesterday was make sure that those articles did not expire.

Mr. GREEN of Texas. I am concerned that, if we don't impeach this President, he will get reelected.

Ms. WARREN. It is time to bring impeachment charges against him.

Mr. NADLER. My personal view is that he richly deserves impeachment.

Mr. Counsel SEKULOW. One of the Members of the House of Representatives said that we are bringing these Articles of Impeachment so he doesn't get elected again.

Here we are, 10 months before an election, doing exactly what they predicted. The whistleblower's lawyer, Mr. Zaid, sent out a tweet on January 30, 2017.

Let me put that up on the screen:

The #coup has started. First of many steps. #rebellion. #impeachment will follow ultimately.

And here we are.

What this body, what this Nation, and what this President have just endured—what the House managers have forced upon this great body—is unprecedented and unacceptable. This is exactly and precisely what the Founders feared. This was the first totally partisan Presidential impeachment in our Nation's history, and it should be our last.

What the House Democrats have done to this Nation, to the Constitution, to the Office of the President, to the President himself, and to this body is outrageous. They have cheapened the awesome power of impeachment, and, unfortunately, of course, the country is not better for that.

We urge this body to dispense with these partisan Articles of Impeachment for the sake of the Nation, for the sake of the Constitution.

As we have demonstrably proved, the articles are flawed on their face. They were the product of a reckless impeachment inquiry that violated all notions of due process and fundamental fairness. Then incredibly—incredibly—when these articles were finally brought to this Chamber without a single Republican vote, the managers then claimed that now—now—they needed more process; that now they needed more witnesses; that all of the witnesses that they compiled and all of the testimony that you heard was not enough; that your job was to do their job—the one, frankly, they failed to do.

We have already said, many times, the charges themselves do not allege a crime or a misdemeanor, let alone a high crime or a misdemeanor. There is nothing in the charges that could permit the removal of a duly elected President or warrant the negation of

an election and the subversion of the American people's will. That should be whatever party you are affiliated with. You are being asked to do this when, tonight, the citizens of Iowa are going to be caucusing for the first caucus of the Presidential election season for the Democratic Party—tonight.

I think there is one thing that is clear. The President has had a concern about other countries' carrying their fair share of burden of financial aid. No one can doubt—and I think we have clearly set forth—the issue of corruption in Ukraine.

The President's and the administration's policy on evaluating foreign aid and the conditions upon which it is given have been clear. Mr. Purpura laid that out in great detail.

The bottom line is that the President's opponents don't like the President, and they really don't like his policies. They objected to the fact that the President chose not to rely each and every time on the advice of some of his subordinates, even though he, not those unelected bureaucrats who work for him, were elected to office.

The President, under our constitutional structure, is the one who decides our Nation's foreign policy. Here is a perfect example—the House managers brought this up frequently: Lieutenant Colonel Vindman. He admitted on page 155 of his transcript testimony that he “did not know if there was a crime or anything of that nature”—that is his quote—but that he “had deep policy concerns.” So there you have it. The real issue is policy disputes.

Elections have consequences. We all know that. And if you do not like the policies of a particular administration or a particular candidate, you are free and welcome to vote for another candidate. But the answer is elections, not impeachment.

To be clear, in our country, in the United States, the President, elected by the American people, is, in the words of the Supreme Court, “the sole organ of the federal government in the field of international relations” and foreign policy for our government—no unelected bureaucrats, not unhappy Members of the House of Representatives. And however you were to define “high crimes and misdemeanors,” there is no definition that includes disagreeing with a policy decision as an acceptable ground for removal of a President of the United States. None.

The first Article of Impeachment is, therefore, constitutionally invalid and should be immediately rejected by the Senate.

Now, as to the second Article of Impeachment, President Trump in no way obstructed Congress. The President acted with extraordinary transparency by declassifying and releasing the transcript for the July 25 call and the earlier call. It is that July 25 call which is purportedly at the heart of the Articles of Impeachment. He did so soon after the inquiry was announced.

And despite the fact that privileges apply that could have been asserted, he

released them anyway in order to facilitate the House's inquiry and cut through all of it—all of the hearsay, all of the histrionics—to get the transcript out.

Now, I want to take a moment because my colleague Deputy White House Counsel Pat Philbin addressed this idea of privilege. I have heard over and over again—and you have, too—phrases like: coverup; that the assertion of a privilege is a coverup.

Here is what the Supreme Court of the United States has said about privileges in a variety of contexts:

To punish a person because he has done what the law allows him to do is a due process violation of the [basic order]—the . . . basic sort, and for an agent of the state to pursue a course of action whose objective is to penalize a person's reliance on his constitutional rights is patently unconstitutional.

And how much more so when you are talking about the President of the United States.

How about this? And this goes to the context of assertions of privilege and other constitutional privileges. The allegation has been that if you assert a privilege, you are assumed to be guilty. That has been the assertion.

Why would you do that? We have explained at great length—and I do not want to go over that again—the importance of the executive privilege and what it means to separation of powers and the functioning of our government, but I will say this: As the Supreme Court has recognized in other contexts with other privileges, the privilege serves to protect the innocent who otherwise might be ensnared by ambiguous circumstances.

In another Supreme Court case, *Quinn v. The United States*: “The privilege, this Court has stated, was generally regarded then, as now, as a privilege of great value, a protection to the innocent . . .” The opinion goes on to say that “safeguard against heedless, unfounded or tyrannical prosecutions.”

I traced for you, and I am not going to do it again, how all of this started all those years ago, 3 years ago—how all of this began. There is no point to go over that because that evidence is undisputed, and the FISA Court's most recent orders put that into fair play.

We have talked about the fact that the House violated its own fundamental rules in a series of unlawful subpoenas. I won't go over that again. Mr. Philbin laid that out in great detail.

But I do think it is important to note that, when seeking the advice of the President's closest advisers, despite the well-known, bipartisan guidance from the Department of Justice regarding immunity, the House managers act as if it does not exist. They sought testimony on matters from the executive branch's confidential, internal decision-making process on matters of foreign relations and national security, and that is when protections are at their highest level.

Let's not forget that the House barred the attendance of executive branch counsel at witness proceedings when executive branch members were being examined.

Notwithstanding these substantial abuses of process, the executive branch responded to each and every subpoena and identified the specific deficiencies found in each. You cannot just remove constitutional violations by saying you didn't comply.

You have heard that one recipient of a subpoena, and this is—in fact, we have talked about it a number of times, but I think as we wrap up, I think it is worth saying again.

One subpoena recipient did seek a declaratory judgment as to the validity of the subpoena that he had received. It was set up to go to court. A judge was going to make a decision. The House withdrew the subpoena and mooted the recipient's case before the court could rule.

Now, was that because they didn't like the judge that was selected? Was it because they didn't like the way the ruling was going to go? Was it they didn't mean to have that witness in the first place?

Whatever the reason, there is one undisputed fact: As the case was in court, they mooted it out by removing the subpoena.

The assertion of valid constitutional privileges cannot be an impeachable offense, and that is what article II is based on, the obstruction of Congress.

For the sake of the Constitution, for the sake of the Office of the President, this body must stand as a steady bulwark against this reckless and dangerous proposition. It doesn't just affect this President; it affects every man or woman who occupies that high office.

So as we said with the first Article of Impeachment, we believe the second Article of Impeachment is invalid and should also be rejected.

In passing the first Article of Impeachment, the House attempted to usurp the President's constitutional power to determine policy, especially foreign policy.

In passing the second Article of Impeachment, the House attempted to control the constitutional privileges and immunities of the executive branch—all of this while simultaneously disrespecting the Framers' system of checks and balances, which designate the judicial branch as the arbiter of interbranch disputes.

By approving both articles, the House of Representatives violated our constitutional order, illegally abused our power of impeachment in order to obstruct the President's ability to faithfully execute the duties of his office.

These articles fail on their face as they do not meet the constitutional standard for impeachable offenses. No amount of testimony could change that fact.

We have already discussed some of the specifics. I think Alexander Ham-

ilton has been quoted a lot, and there is a reason. What has occurred over the past 2 weeks—really, the past 3 months—is exactly what Alexander Hamilton and other Founders of our great country feared.

I believe that Hamilton was prophetic in Federalist 65 when he warned how impeachment had the ability to “agitate”—his words—“the passions of the whole community, and . . . divide it into parties more or less friendly or inimical to the accused.

He warned that impeachment would “connect itself with the pre-existing factions, and will enlist all their animosities, partialities, influence, and interest on one side or on the other.”

He continued:

The convention, it appears, thought the Senate—

This body—

[the] most fit depositary of this important trust. Those who can best discern the intrinsic difficulty of the thing, will be least hasty in condemning that opinion, and will be most inclined to allow due weight to the arguments which may be supposed to have produced it.

In the same Federalist 65, Hamilton regarded the Members of this Senate not only as the inquisitors for the Nation but as the representatives of the Nation as a whole.

He said these words:

Where else than in the Senate could have been found a tribunal sufficiently dignified or significantly independent? What other body would be likely to feel confident enough in its own situation to preserve, unawed and uninfluenced, the necessary impartiality between an individual accused, and the representatives of the people, his accusers.

You took an oath. They questioned the oath. You are sitting here as the trier of fact. They said the Senate is on trial.

Based on all of the presentations that we made in our trial brief, in the arguments that we have put forward today, again, we believe both articles should be immediately rejected.

Now, our Nation's representatives holding office in this great body must unite today to protect our Constitution and the separation of powers. And, you know, there was a time, not that long ago, even within this administration, where bipartisan agreements could be reached to serve the interests of the American people.

Take a listen to this.

(Text of Videotape presentation:)

Senator MARKEY. Today we had a beautiful, bipartisan moment where Democrats and Republicans, working together, to keep that fentanyl out of our country, to use these devices to accomplish that goal. It is not perfect. We need to do a lot more, but today was a very good start, and I want to praise all of the people—Democrats and Republicans and the President—for working together on this bill.

Senator SHAHEEN. As has been said, and we can see by the people assembled here, if we work together in a bipartisan way, we can get things done. This is a place where we can all agree that we've got to do more and where we can work together. So I applaud everyone's efforts.

President TRUMP. We are proudly joined today by so many Members of Congress—Republicans, Democrats—who worked very, very hard on this bill. This was really an effort of everybody. It was a bipartisan success—something you don't hear too much about, but I think you will be. I actually believe we may be—will be over the coming period of time. I hope so. I think so. It is so good for the country.

President TRUMP. Thank you, everybody. This was an incredible bipartisan support. We passed this in the Senate 87 to 12. That's unheard of. And then in the House we passed it 358 to 36.

Senator COONS. . . . be here to help celebrate your signing of this next step in the critical Women's Global and Prosperity Development Initiative. It dovetails nicely with the bill—the bipartisan bill you signed into law with the WEEE Act, which recognizes this as a critical strategy. So I think this is a tremendous initiative. Thank you, Mr. Trump.

President TRUMP. Thank you very much. I appreciate it.

Mr. Counsel SEKULOW. This is what the American people expect.

I simply ask this body to stand firm today to protect the integrity of the U.S. Senate, stand firm today to protect the Office of the President, stand firm today to protect the Constitution, stand firm today to protect the will of the American people and their vote, stand firm today to protect our Nation.

And I ask that this partisan impeachment come to an end to restore our constitutional balance, for that is, in my view and in our view, what justice demands and the Constitution requires.

With that, Mr. Chief Justice, I yield my time to the White House Counsel, Mr. Pat Cipollone.

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

I will leave you with just a few brief points:

First, I want to express on behalf of our entire team our gratitude—our gratitude to you, Mr. Chief Justice, for presiding over this trial; our gratitude to you, Leader MCCONNELL; our gratitude to you, Democratic Leader SCHUMER; and all of you on both sides of the aisle for your time and attention.

I also want to express my gratitude to our team. It is large, and with the large number of people who have helped in this effort—I won't name them all—but I want to thank them for their effort and their hard work in the defense of the Constitution, in defense of the President, in defense of the American people's right to vote. I want to thank, as Members of that team, the Republican Members of the House of Representatives who have also been engaged in that effort throughout this entire period of time and the Democrats in the House who voted against this partisan impeachment. I also want to thank the President of the United States for his confidence in us to send us here to represent him to all of you in this great body and for all he has done on behalf of the American people.

I would make just a couple of additional points. No. 1, as we have said repeatedly, we have never been in a situation like this in our history. We have

an impeachment that is purely partisan and political. It is opposed by bipartisan Members of the House. It does not even allege a violation of law. It is passed in an election year, and we are sitting here on the day that election season begins in Iowa. It is wrong. There is only one answer to that, and the answer is to reject those Articles of Impeachment, to have confidence in the American people, to have confidence in the result of the upcoming election, to have confidence and respect for the last election and not throw it out and to leave the choice of the President to the American people and to leave to them also the accountability to the Members of the House of Representatives who did that. That is what the Constitution requires, and I think that should be done on a bipartisan basis, and that is what I ask you to do.

Point No. 2: I believe the American people are tired of the endless investigations and false investigations that have been coming out of the House from the beginning, as my colleague Mr. Sekulow pointed out. It is a waste of tax dollars. It is a waste of the American people's time and, I would argue, more importantly—most importantly—the opportunity cost of that—the opportunity cost of that—what you could be doing, what the House could be doing. Working with the President to achieve those things on behalf of the American people is far more important than the endless investigations, the endless false attacks, the besmirching of the names of good people. This is something we should reject together, and we should move forward in a bipartisan fashion and in a way that this President has done successfully.

He has achieved successful results in the economy and across so many other areas, working with you on both sides of the aisle, and he wants to continue to do that. That is what I believe the American people want those of you elected to come here to Washington to focus on, to spend your time on—to unify us, as opposed to the bitter division that is caused by these types of proceedings.

So at the end of the day, we put our faith in the Senate. We put our faith in the Senate because we know you will put your faith in the American people. You will leave this choice to them, where it belongs. We believe that they should choose the President. We believe that this President, day after day, has put their interests first, has achieved successful results, has fulfilled the promises he made to them, and he is eager to go before the American people in this upcoming election.

At the end of the day, that is the only result; it is a result, I believe, guided by your wise words from the past that we can, together, end the era of impeachment; that we can, together, put faith in the American people, put faith in their wisdom, put faith in their judgment. That is where our Founders put the power. That is where it belongs.

I urge you, on behalf of those Americans—of every American—on behalf of all of your constituents, to reject these Articles of Impeachment. It is the right thing for our country. The President has done nothing wrong, and these types of impeachments must end.

You will vindicate the right to vote, you will vindicate the Constitution, you will vindicate the rule of law by rejecting these articles. I ask you to do that on a bipartisan basis this week and end the era of impeachment once and for all.

I thank you from the bottom of my heart for listening to us, for your attention, and for considering our case on behalf of the President.

I come here today to ask you to reject these Articles of Impeachment. Reject these Articles of Impeachment.

Thank you for granting us the permission to appear here at the Senate on behalf of this President, and I ask you on his behalf, on behalf of the American people to reject these articles.

Thank you.

Ms. Manager LOFGREN. Mr. Chief Justice and Senators, it is a problem that here at the end of the trial the President's lawyers still dispute the meaning of high crimes and misdemeanors. Some say it requires an ordinary crime or that if the President misbehaves when he thinks it is good for the country, it is OK. Neither is correct. We need to clear this up by looking at what the Founders said.

When the Founders created the Presidency, they gave the President great power. They had just been through a war to get rid of a King with too much power, and they needed a check on the great power given to the President. It was late in the Constitutional Convention that they turned to the impeachment clause. Madison argued in favor of impeachment. He said it was indispensable.

Mason asked:

Shall any man be above Justice? Above all shall that man be above it, who can commit the most extensive injustice?

Randolph defended "the propriety of impeachments," saying: "The Executive will have great opportunities of abusing his power."

The initial draft of the Constitution provided for impeachment only for treason or bribery. Mason asked:

Why is the provision restrained to Treason & bribery only? Treason as defined in the Constitution will not reach many great and dangerous offences.

And he added:

Hastings is not guilty of Treason. Attempts to subvert the Constitution may not be Treason as . . . defined.

Now Hastings' impeachment in Britain at this time was well known, and it wasn't limited to a crime.

They considered adding the word "maladministration" to capture abuse of Presidential power, but Madison objected. He said: "So a vague a term would be equivalent to a tenure during pleasure of the Senate." So maladmin-

istration was withdrawn and replaced with the more certain term "high Crimes and Misdemeanors" because the Founders knew the law.

Blackstone's *Commentary*, which Madison said was "a book in every man's hand," described high crimes and misdemeanors as offenses against King and government.

Hamilton called high crimes and misdemeanors "those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust."

During ratification, Randolph in Virginia cited the President's receipt of presents or emoluments from a foreign power as an example. And Mason's example was a President who may "pardon crimes which were advised by himself," or before indictment or conviction to "stop inquiry and prevent detection." It is clear. They knew what they wrote.

The President's lawyers tried to create a muddle to confuse you. Don't let them. High crimes and misdemeanors mean abuse of power against the constitutional order, conduct that is corrupt, whether or not a crime.

Now some say: No impeachment when there is an election coming. But without term limits when they wrote the Constitution, there was always an election coming. If impeachment in election years was not to be, our Founders would have said so.

So here we are: Congress passed a law to fund Ukraine to fight the Russians who invaded their country. President Trump illegally held that funding up to coerce Ukraine to announce an investigation to hurt his strongest election opponent. He abused his power corruptly to benefit himself personally, and then he tried to cover it up. That is impeachable.

The facts are clear, and so is the Constitution. The only question is what you, the Senate, will do.

Our Founders created a government where the tension between the three branches would prevent authoritarianism; no one of the branches would be allowed to grab all the power. Impeachment was to make sure that the President, who has the greatest opportunity to grab power, would be held in check. It is a blunt instrument, but it is what our Founders gave us.

Some of the Founders thought the mere existence of an impeachment clause would prevent misconduct by Presidents, but, sadly, they were wrong because twice in the last half century a President tried to corruptly use his power to cheat in an election—first, Nixon with Watergate, and now another President corruptly abuses his power to cheat in an election.

The Founders worried about factions—what we call political parties. They built a system where each branch of government would jealously guard their power, not one where guarding a faction was more important than guarding the government.

Opposing a President of your own party isn't easy. It wasn't easy when Republican Caldwell Butler voted to impeach Nixon in the Judiciary Committee. It wasn't easy for Senator Barry Goldwater to tell Nixon to resign. But your oath is not to do the easy thing; it is to do impartial justice. It requires conviction and removal of President Trump.

Ms. Manager GARCIA of Texas. Mr. Chief Justice, counsel for the President, Senators, since I was a little girl and started going to church, I have been inspired by the words of scripture: "[W]hatever you did for one of the least of my brothers . . . you did for me."

We are called to always look out for the most vulnerable. Sometimes fighting for the most vulnerable means holding the most powerful accountable, and that is what we are here to do today.

The American people will have to live with the decisions made in this Chamber. In fact, Senators, I believe that the decision in this case will affect the strength of democracies around the world.

Democracy is a gift that each generation gives to the next one. If we say that this President can put his own interests above all else, even when lives are at stake, then we give our Nation's children a weaker democracy than we inherited from those that came before us. The next generation deserves better. They are counting on us.

I am a Catholic, and my faith teaches me that we all need forgiveness. I have given this President the benefit of the doubt from the beginning. Despite my strong opposition to so many of his policies, I know that the success of our Nation depends on the success of our leader. But he has let us down.

Senators, we know what the President did and why he did it. This fact is seriously not in doubt. Senators on both sides of the aisle have said as much. The question for you now is, does it warrant removal from office? We say yes.

We cannot simply hope that this President will realize that he has done wrong or was inappropriate and hope that he does better. We have done that so many other times. We know that he has not apologized. He has not offered to change. We all know that he will do it again.

What President Trump did this time pierces the heart of who we are as a country. We must stop him from further harming our democracy. We must stop him from further betraying his oath. We must stop him from tearing up our Constitution.

The Founders knew that in order for our Republic to survive, we would need to be able to remove some of our leaders from office when they put their interests above the country's interests. Senators, we have proven that. This President committed what is called the ABC's of impeachable behavior—abusing his power, betraying the Nation,

and corrupting our elections. He deserves to be removed for taking the very actions that the Framers feared would undermine our country. The Framers designed impeachment for this very case.

Senators, when I was growing up poor in South Texas, picking cotton, I confess I didn't spend any time thinking about the Framers. Like me, little girls and boys across America aren't asking at home what the Framers meant by high crimes and misdemeanors, but, someday, they will ask why we didn't do anything to stop this President, who put his own interest above what was good for all of us. They will ask. They will want to understand.

Senators, we inherited a democracy. Now we must protect it and pass it on to the next generation. We simply can't give our children a democracy if a President is above the law, because in this country no one is above the law—not me, not any of you, not even this President.

(English translation of statement made in Spanish is as follows:)

Nobody is above the law—nobody.

This President must be removed. With that, I yield to my colleague Mr. CROW.

Mr. Manager CROW. Mr. Chief Justice, Members of the Senate, 2 weeks ago we started this trial promising to show you that the President withheld \$391 million of foreign military aid to force an ally at war to help him win the 2020 election. And by many of your own admissions, we succeeded in showing you that, because the facts still matter.

We also promised you that, eventually, all of the facts would come out, and that continues to be true. But we didn't just show you that the President abused his power and obstructed Congress. We painted a broader picture of President Trump—a picture of a man who thinks that the Constitution doesn't serve as a check on his power, but, rather, gives it to him in an unlimited way; a man who believes that his personal ambitions are synonymous with the good of the country; a man who, in his own words, thinks that if you are a star, they will let you do anything. In short, it is a picture of a man who will always put his own personal interests above the interests of the country that he has sworn to protect.

But what is in an oath, anyway? Are they relics of the past? Do we simply recite them out of custom? To me, an oath represents a firm commitment to a life of service, a commitment to set aside your personal interest, your comfort, and your ambition to serve the greater good, and a commitment to sacrifice.

I explained to you last week that I believe America is great not because of the ambition of any one man, not simply because we say it is true but because of our almost 250-year history. Millions of Americans have taken the oath, and they meant it. Many of them

followed through on that oath by giving everything to keep it.

But there is more to it than simply keeping your word, because an oath is also a bond between people who have made a common promise. Perhaps the strongest example is the promise between the Commander in Chief and our men and women in uniform. Those men and women took their oath with the understanding that the Commander in Chief, our President, will always put the interests of the country and their interests above his own, and understanding that his orders will be in the best interest of the country, and that their sacrifice in fulfilling those orders will always serve the common good.

But what we have clearly shown in the last few weeks and what President Trump has shown us the past few years is that this promise flows only one way. As Maya Angelou said, "When someone shows you who they are, believe them the first time."

Many of us in this room are parents. We all try to teach our kids the important lessons of life. One of those lessons is that you won't always be the strongest, you won't always be the fastest, and you won't always win. There are a lot of things outside our control, but my wife and I have tried to teach our kids that what we can always control are our choices.

It is in that spirit that hanging in my son's room is a quote from Harry Potter. The quote is from Professor Dumbledore, who said: "It is our choices . . . that show what we truly are, far more than our abilities."

This trial will soon be over, but there will be many choices for all of us in the days ahead, the most pressing of which is how each of us will decide to fulfill our oath. More than our words, our choices will show the world who we really are, what type of leaders we will be, and what type of Nation we will be.

So let me finish where I began, with an explanation of why I am here standing before you. I have been carrying my kids' Constitutions these last few weeks, and this morning I wrote a note to them to explain why I am here:

Our Founders recognized the failings of all people. So they designed a system to ensure that the ideas and principles contained in this document would always be greater than any one person. It is the idea that no one is above the law. But our system only works if people stand up and fight for it, and fighting for something important always comes with a cost.

Some day you may be called upon to defend the principles and ideas embodied in our Constitution. May the memory and spirit of those who sacrificed for them in the past guide you and give you strength as you fight for them in the future.

Thank you for your time.

Mrs. Manager DEMINGS. Mr. Chief Justice, Senators, and counsel for the President, this is a defining moment in our history and a challenging time for our Nation. A thousand things have gone through my mind since this body voted to not call witnesses in this trial. The vote was unprecedented. The



President's former National Security Advisor indicated that he was willing to testify under oath before the Senate. Yet this body did not want to hear what he had to say.

The President's lawyers have asked you to not believe your lying eyes and ears, to reinterpret the Constitution, and to believe that if the President thinks his reelection is in our national interest, then he can do whatever he wants—anything—to make it happen. And that is exactly what he was attempting to do—anything—when he illegally held much needed military aid while pressuring Ukraine's President to announce bogus investigations into his most feared political rival.

This trial is about abuse of power, obstruction, breaking the law, and our system of checks and balances, and since we are talking about the President of the United States, this trial is also most certainly about character.

I am reminded today, Senators, of my own father. He worked more than one job. He didn't have a famous last name. His name appeared on no building, but my father was rich in something no money and, apparently, no powerful position can buy. You see, my father was a man who was decent, honest, a man of integrity, and he was a man of good, moral character. The President's lawyer never spoke about the President's character during this trial, and I find that quite telling.

I joined the police department because I wanted to make a difference, and I believe I did. As a police chief, I was always concerned about the message we were sending inside the agency, especially to young recruits, especially to newly hired dedicated police officers. We had to be careful about just how we were defining what was acceptable and unacceptable behavior inside the department and out in the community. Yes, people make mistakes. Yes, individuals make mistakes. But we had to be clear about the culture inside the organization, and we had to send a strong message that the police department was not a place where corruption could reside, where corruption was normalized, and where corruption was covered up.

Today, unfortunately, I believe we are holding young police recruits to a higher standard than we are the leader of the free world. If this body fails to hold this President accountable, you must ask yourselves: What kind of Republic will we ultimately have with a President who thinks that he can really truly do whatever he wants? You will send a terrible message to the Nation that one can get away with abuse of power, obstruction, cheating, and spreading false narratives if you simply know the right people.

Well, today, Senators, I reject that because we are a nation of laws. Abraham Lincoln, the 16th President of the United States said this: "America will never be destroyed from outside. If we falter and lose our freedoms, it will be because we chose to destroy ourselves."

I urge you, Senators, to vote to convict and remove this President. Thank you so much for your time.

Mr. Manager JEFFRIES. Mr. Chief Justice, distinguished Members of the Senate, President's counsel, I mentioned on the floor last week that Alexander Hamilton has played a starring role during this impeachment trial. But Ben Franklin has only made a cameo appearance, but that cameo appearance was an important one, when he made the observation, in the aftermath of that convention in 1787, that the Framers of the Constitution had created "a Republic, if you can keep it."

Why would Dr. Franklin express ambiguity about the future of America during such a triumphant moment? Perhaps it was because the system of government that was created at that convention—checks and balances, separate and coequal branches of government, the independent judiciary, the free and fair press, the preeminence of the rule of law—all of those values, all of those ideas, all of those institutions have never before been put together in one form of government. So perhaps it was uncertain as to whether America could sustain them.

But part of the brilliance of our great country is that year after year, decade after decade, century after century, we have held this democracy thing together. But now all of those ideas, all of those values, all of those institutions are under assault, not from without but from within. We created "a Republic, if you can keep it."

House managers have proven our case against President Trump with a mountain of evidence. President Trump tried to cheat, he got caught, and then he worked hard to cover it up.

President Trump corruptly abused his power. President Trump obstructed a congressionally and constitutionally required impeachment inquiry with blanket defiance. President Trump solicited foreign interference in an American election and shredded the very fabric of our democracy. House managers have proven our case against President Trump with a mountain of evidence.

If the Senate chooses to acquit under these circumstances, then America is in the wilderness.

If the Senate chooses to normalize lawlessness, if the Senate chooses to normalize corruption, if the Senate chooses to normalize Presidential abuse of power, then America is in the wilderness.

If the Senate chooses to acquit President Trump without issuing a single subpoena, without interviewing a single witness, without reviewing a single new document, then America is truly in the wilderness.

But all is not lost. Even at this late hour, the Senate can still do the right thing. America is watching. The world is watching. The eyes of history are watching. The Senate can still do the right thing.

Scripture says—Second Corinthians, the fifth chapter and the seventh verse, encourages us to walk by faith, not by sight. Faith is the substance of things hoped for, the evidence of things not seen. We have come this far by faith.

And so I say to all of you, my fellow Americans, walk by faith. Democrats and Republicans, progressives and conservatives, the left and the right, all points in between, walk by faith. There are patriots all throughout the Chamber, patriots who can be found all throughout the land—in urban America, rural America, suburban America, smalltown America. Walk by faith. Through the ups and the downs, the highs and the lows, the peaks and the valleys, the trials and the tribulations of this turbulent moment, walk by faith—faith in the Constitution; faith in our democracy; faith in the rule of law; faith in government of the people, by the people, and for the people; faith in almighty God. Walk by faith.

The Senate can still do the right thing. And if we come together as Americans, then together we can eradicate the cancer that threatens our democracy and continue our long, necessary, and majestic march toward a more perfect union.

Mr. Manager SCHIFF. Mr. Chief Justice, I want to begin by thanking you for the distinguished way you have presided over these proceedings.

Senators, we are not enemies but friends. We must not be enemies. If Lincoln could speak these words during the Civil War, surely we can live them now and overcome our divisions and our animosities.

It is midnight in Washington. The lights are finally going out in the Capitol after a long day in the impeachment trial of Donald J. Trump. The Senate heard arguments only hours earlier on whether to call witnesses and require the administration to release documents it has withheld. Counsel for the President still maintains the President's innocence, while opposing any additional evidence that would prove otherwise.

It is midnight in Washington, but on this night, not all the lights have been extinguished. Somewhere in the bowels of the Justice Department—Donald Trump's Justice Department—a light remains on. Someone has waited until the country is asleep to hit "Send," to inform the court in a filing due that day that the Justice Department—the Department that would represent justice—is refusing to produce documents directly bearing on the President's decision to withhold military aid from Ukraine. The Trump administration has them, it is not turning them over, and it does not want the Senate to know until it is too late. Send.

That is what happened last Friday night. When you left home for the weekend, in a replay of the duplicity we saw during the trial when the President's lawyers argued here that the House must go to court and argued in court that the House must come here,

they were at it again, telling the court in a midnight filing that they would not turn over relevant documents even as they argued here that they were not covering up the President's misdeeds.

Midnight in Washington. All too tragic. A metaphor for where the country finds itself at the conclusion of only the third impeachment in history and the first impeachment trial without witnesses or documents, the first such trial—or nontrial—in impeachment history.

How did we get here? In the beginning of this proceeding, you did not know whether we could prove our case. Many Senators, like many Americans, did not have the opportunity to watch much, let alone all, of the opening hearings in the House during our investigation, and none of us could anticipate what defenses the President might offer.

Now you have seen what we promised: overwhelming evidence of the President's guilt. Donald John Trump withheld hundreds of millions of dollars from an ally at war and a coveted White House meeting with their President to coerce or extort that nation's help to cheat in our elections. And when he was found out, he engaged in the most comprehensive effort to cover up his misconduct in the history of Presidential impeachment: fighting all subpoenas for documents and witnesses and using his own obstruction as a sword and a shield; arguing here that the House did not fight hard enough to overcome their noninvocation of privilege in court, and in court that the House must not be heard to enforce their subpoenas but that impeachment is a proper remedy.

Having failed to persuade the Senate or the public that there was no quid pro quo, having offered no evidence to contradict the record, the President's team opted, in a kind of desperation, for a different kind of defense: first, prevent the Senate and the public from hearing from witnesses with the most damning accounts of the President's misconduct, and second, fall back on a theory of Presidential power so broad and unaccountable that it would allow any occupant of 1600 Pennsylvania to be as corrupt as he chooses, while the Congress is powerless to do anything about it. That defense collapsed of its own dead weight.

Presidents may abuse their power with impunity, they argued. Abuse of power is not a constitutional crime, they claimed. Only statutory crime is a constitutional crime, even though there were no statutory crimes when the Constitution was adopted. The President had to look far and wide to find a defense lawyer to make such an argument, unsupported by history, the Founders, or common sense. The Republican expert witness in the House would not make it. Serious constitutional scholars would not make it. Even Alan Dershowitz would not make it—at least he wouldn't in 1998. But this has become the President's de-

fense. Yet this defense proved indefensible.

If abuse of power is not impeachable—even though it is clear the Founders considered it the highest of all high crimes and misdemeanors—but if it is not impeachable, then a whole range of utterly unacceptable conduct of the President's would now be beyond reach. Trump could offer Alaska to the Russians in exchange for support in the next election or decide to move to Mar-a-Lago permanently and let Jared Kushner run the country, delegating to him the decision whether to go to war. Because those things are not necessarily criminal, this argument would allow that he could not be impeached for such abuses of power.

Of course, this would be absurd—more than absurd, it would be dangerous. So Mr. Dershowitz tried to embellish his legal creation and distinguish among those abuses of power which would be impeachable from those which wouldn't. Abuses of power that would help the President get elected were permissible and therefore unimpeachable, and only those for pecuniary gain were beyond the pale. Under this theory, as long as the President believed his reelection was in the public interest, he could do anything, and no quid pro quo was too corrupt, no damage to our national security too great. This was such an extreme view that even the President's other lawyers had to run away from it.

So what are we left with? The House has proven the President's guilt. He tried to coerce an ally into helping him cheat by smearing his opponent. He betrayed our national security in order to do it when he withheld military aid to our ally and violated the law to do so. He covered it up, and he covers it up still. His continuing obstruction is a threat to the oversight and investigatory powers of the House and Senate and, if left unaddressed, would permanently and dangerously alter the balance of power.

These undeniable facts require the President to retreat to his final defense. He is guilty as sin, but can't we just let the voters decide? He is guilty as sin, but why not let the voters clean up this mess? And here, to answer that question, we must look at the history of this Presidency and to the character of this President—or lack of character—and ask, can we be confident that he will not continue to try to cheat in that very election? Can we be confident that Americans and not foreign powers will get to decide and that the President will shun any further foreign interference in our democratic affairs? And the short, plain, sad, incontestable answer is, no, you can't. You can't trust this President to do the right thing, not for one minute, not for one election, not for the sake of our country. You just can't. He will not change, and you know it.

In 2016, he invited foreign interference in our election. Hey, Russia, if you are listening, hack Hillary's

emails, he said, and they did, immediately. And when the Russians starting dumping them before the election, he made use of them in every conceivable way, touting the filthy lucre at campaign stops more than 100 times.

When he was investigated, he did everything he could to obstruct justice, going so far as to fire the FBI Director and try to fire the special counsel and ask the White House Counsel to lie on his behalf.

During the same campaign, while telling the country he had no business dealings with Russia, he was continuing to actively pursue the most lucrative deal of his life—a Trump Tower in the heart of Moscow. Six close associates of the President's would be indicted or go to jail in connection with the President's campaign, Russia, and the effort to cover it up.

On the day after that tragic chapter appeared to come to an end with Bob Mueller's testimony, Donald Trump was back on the phone, this time with another foreign power—Ukraine—and once again seeking foreign help with his election, only this time, he had the full powers of the Presidency at his disposal. This time, he could use coercion. This time, he could withhold aid from a nation whose soldiers were dying every week. This time, he believed he could do whatever he wanted under article II. And this time, when he was caught, he could make sure that the Justice Department would never investigate the matter, and they didn't.

Donald Trump had no more Jeff Sessions; he had just the man he wanted in Bill Barr, a man whose view of the imperial Presidency—a Presidency in which the Department of Justice is little more than an extension of the White House Counsel—is to do the President's bidding. So Congress had to do the investigation itself, and just as before, he obstructed that investigation in every way.

He has not changed. He will not change. He has made that clear himself without self-awareness or hesitation. A man without character or ethical compass will never find his way.

Even as the most recent and most egregious misconduct was discovered, he was unapologetic, unrepentant, and more dangerous, undeterred. He continued pressing Ukraine to smear his rivals even as the investigation was underway.

He invited new countries to get involved in the act, calling on China to do the same. His personal emissary, Rudy Giuliani, dispatched himself to Ukraine, trying to get further foreign interference in our election. The plot goes on; the scheming persists; and the danger will never recede. He has done it before. He will do it again. What are the odds, if left in office, that he will continue trying to cheat? I will tell you: 100 percent. Not 5, not 10 or even 50, but 100 percent.

If you have found him guilty and you do not remove him from office, he will continue trying to cheat in the election until he succeeds. Then what shall

you say? What shall you say if Russia again interferes in our election and Donald Trump does nothing but celebrates their efforts? What shall you say if Ukraine capitulates and announces investigations into the President's rivals?

What shall you say in the future, when candidates compete for the allegiance of foreign powers in their elections, when they draft their platforms so to encourage foreign intervention in their campaign? Foreign nations, as the most super of super-PACs of them all, if not legal, somehow permissible because Donald Trump has made it so and we refused to do anything about it but wring our hands.

They will hack your opponents' emails; they will mount a social media campaign to support you; they will announce investigations of your opponent to help you—and all for the asking. Leave Donald Trump in office after you have found him guilty, and this is the future that you will invite.

Now, we have known since the day we brought these charges that the bar to conviction, requiring fully two-thirds of the Senate, may be prohibitively high. And yet, the alternative is a runaway Presidency and a nation whose elections are open to the highest bidder.

So you might ask how—given the gravity of the President's misconduct, given the abundance of evidence of his guilt, given the acknowledgement by Senators in both parties of that guilt—how have we arrived here with so little common ground? Why was the Nixon impeachment bipartisan? Why was the Clinton impeachment much less so? And why is the gulf between the parties even greater today?

It is not for the reason that the President's lawyers would have you believe. Although they have claimed many times, in many ways, that the process in the House was flawed because we did not allow the President to control it, it was, in reality, little different than the process in prior impeachments. The circumstances, of course, were different. The Watergate investigation began in the Senate and had progressed before it got moving in the House. And there, of course, much of the investigative work had been done by the special prosecutor, Leon Jaworski. In Clinton, there was likewise an independent counsel who conducted a multiyear investigation that started with a real estate deal in Arkansas and ended with a blue dress.

Nixon and Clinton, of course, played no role in those investigations before they moved to the House Judiciary Committee. But to the degree you can compare the process when it got to the Judiciary Committee in either prior and recent impeachments, it was largely the same as we have here. The President had the right to call witnesses, to ask questions, and chose not to.

The House majorities in Nixon and Clinton did not cede their subpoena power to their minorities, and neither

did we here, although then, as now, we gave the minority the right to request subpoenas and to compel a vote, and they did.

So the due process the House provided here was essentially the same and, in some ways, even greater. Nevertheless, the President's counsel hopes that, through sheer repetition, they can convert nontruth into truth. Do not let them.

Every single court to hear Mr. Philbin's arguments has rejected them:

The subpoenas are invalid—rejected by the McGahn court.

They have absolute immunity—rejected by the McGahn court.

Privilege may conceal crime or fraud—rejected by the court in Nixon.

But if the process here was substantially the same, the facts of the President's misconduct were very different from one impeachment to the next. The Republican Party of Nixon's time broke into the DNC, and the President covered it up. Nixon, too, abused the power of his office to gain an unfair advantage over his opponent, but in Watergate he never sought to coerce a foreign power to aid his reelection, nor did he sacrifice our national security in such a palpable and destructive way as withholding aid from an ally at war. And he certainly did not engage in the wholesale obstruction of Congress or justice that we have seen this President commit.

The facts of President Clinton's misconduct pale in comparison to Nixon and do not hold a candle to Donald Trump. Lying about an affair is morally wrong, and when under oath it is a crime, but it had nothing to do with his duties in office.

The process being the same, the facts of President Trump's misconduct being far more destructive than either past President, what then accounts for the disparate result in bipartisan support for his removal? What has changed?

The short answer is, we have changed. The Members of Congress have changed. For reasons as varied as the stars, the Members of this body and ours in the House are now far more accepting of the most serious misconduct of a President as long as it is a President of one's own party. And that is a trend most dangerous for our country.

Fifty years ago, no lawyer representing the President would have ever made the outlandish argument that if the President believes his corruption will serve to get him reelected, whether it is by coercing an ally to help him cheat or in any other form, that he may not be impeached, that this is somehow a permissible use of his power.

But here we are. The argument has been made, and some appear ready to accept it. And that is dangerous, for there is no limiting principle to that position.

It must have come as a shock—a pleasant shock—to this President that our norms and institutions would prove to be so weak. The independence of the

Justice Department and its formerly proud Office of Legal Counsel now are mere legal tools at the President's disposal to investigate enemies or churn out helpful opinions not worth the paper they are written on. The FBI painted by a President as corrupt and disloyal. The intelligence community not to be trusted against the good counsel of Vladimir Putin. The press portrayed as enemies of the people. The daily attacks on the guardrails of our democracy, so relentlessly assailed, have made us numb and blind to the consequences.

Does none of that matter anymore if he is the President of our party?

I hope and pray that we never have a President like Donald Trump in the Democratic Party, one who would betray the national interest and the country's security to help with his reelection. And I would hope to God that, if we did, we would impeach him, and Democrats would lead the way.

But I suppose you never know just how difficult that is until you are confronted with it. But you, my friends, are confronted with it. You are confronted with that difficulty now, and you must not shrink from it.

History will not be kind to Donald Trump—I think we all know that—not because it will be written by Never Trumpers but because whenever we have departed from the values of our Nation, we have come to regret it, and that regret is written all over the pages of our history.

If you find that the House has proved its case and still vote to acquit, your name will be tied to his with a chord of steel and for all of history; but if you find the courage to stand up to him, to speak the awful truth to his rank falsehood, your place will be among the Davids who took on Goliath. If only you will say "enough."

We revere the wisdom of our Founders and the insights they had into self-governance. We scour their words for hidden meaning and try to place ourselves in their shoes. But we have one advantage that the Founders did not. For all their genius, they could not see but opaquely into the future. We, on the other hand, have the advantage of time, of seeing how their great experiment in self-governance has progressed.

When we look at the sweep of history, there are times when our Nation and the rest of the world have moved with a seemingly irresistible force in the direction of greater freedom: more freedom to speak and to assemble, to practice our faith and tolerate the faith of others, to love whom we would and choose love over hate—more free societies, walls tumbling down, nations reborn.

But then, like a pendulum approaching the end of its arc, the outward movement begins to arrest. The golden globe of freedom reaches its zenith and starts to retreat. The pendulum swings back past the center and recedes into a dark unknown. How much farther will

it travel in its illiberal direction, how many more freedoms will be extinguished before it turns back we cannot say. But what we do here, in this moment, will affect its course and its correction.

Every single vote, even a single vote by a single Member, can change the course of history. It is said that a single man or a woman of courage makes a majority. Is there one among you who will say "enough"?

America believes in a thing called truth. She does not believe we are entitled to our own alternate facts. She recoils at those who spread pernicious falsehoods. To her, truth matters. There is nothing more corrosive to a democracy than the idea that there is no truth.

America also believes there is a difference between right and wrong, and right matters here. But there is more. Truth matters. Right matters. But so does decency. Decency matters.

When the President smears a patriotic public servant like Marie Yovanovitch in pursuit of a corrupt aim, we recoil. When the President mocks the disabled, a war hero who was a prisoner of war, or a Gold Star father, we are appalled because decency matters here. And when the President tries to coerce an ally to help him cheat in our elections and then covers it up, we must say "enough." Enough.

He has betrayed our national security, and he will do so again. He has compromised our elections, and he will do so again. You will not change him. You cannot constrain him. He is who he is. Truth matters little to him. What is right matters even less. And decency matters not at all.

I do not ask you to convict him because truth or right or decency matters nothing to him but because we have proven our case and it matters to you. Truth matters to you. Right matters to you. You are decent. He is not who you are.

In Federalist 55, James Madison wrote that there were certain qualities in human nature—qualities I believe, like honesty, right, and decency—which should justify our confidence in self-government. He believed that we possessed sufficient virtue that the chains of despotism were not necessary to restrain ourselves "from destroying and devouring one another."

It may be midnight in Washington, but the sun will rise again. I put my faith in the optimism of the Founders. You should too. They gave us the tools to do the job, a remedy as powerful as the evil it was meant to constrain: impeachment. They meant it to be used rarely, but they put it in the Constitution for a reason—for a man who would sell out his country for a political favor, for a man who would threaten the integrity of our elections, for a man who would invite foreign interference in our affairs, for a man who would undermine our national security and that of our allies—for a man like Donald J. Trump.

They gave you a remedy, and they meant for you to use it. They gave you an oath, and they meant for you to observe it. We have proven Donald Trump guilty. Now do impartial justice and convict him.

I yield back.

The CHIEF JUSTICE. The majority leader is recognized.

ADJOURNMENT OF THE COURT OF IMPEACHMENT

Mr. MCCONNELL. Mr. Chief Justice, I ask unanimous consent that the Senate, sitting as a Court of Impeachment, stand adjourned under the previous order.

There being no objection, at 2:59 p.m., the Senate, sitting as a Court of Impeachment, adjourned.

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

The CHIEF JUSTICE. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

#### LEGISLATIVE SESSION

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senate will now resume legislative session.

#### THE JOURNAL

Mr. THUNE. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

#### MORNING BUSINESS

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

Mr. THUNE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINRICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and to speak as in morning business.

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

#### IMPEACHMENT

Mr. HEINRICH. Mr. President, and all of my colleagues in the Senate, throughout this impeachment trial, I thought a lot about what this country stands for. For me, as the son of an immigrant whose family came to the United States from Germany in the 1930s, America stands as a beacon of liberty, equal justice, and democracy.

We are a nation forged by a revolution against a monarchy and its abso-

lute power. We are a nation founded by the ratification of the most radically democratic document in history, the Constitution of the United States of America.

Under the Constitution, we are governed not by monarchs—who act with impunity and without accountability—but by elected officers who answer to, and work for, "We the People."

Generations of Americans have struggled and sacrificed their lives to defend that audacious vision. The Senate has a duty and a moral responsibility to uphold that vision.

Over the last 2 weeks, I fear that the Senate has failed in that duty. I am deeply disappointed that nearly all of my Republican colleagues refused to allow for the kind of witness testimony and documentary evidence that any legitimate trial would include. You cannot conduct a fair trial without witnesses.

In my view, you also can't have a legitimate acquittal without a fair trial; that the Senate refused to shed more light on the facts is truly astonishing. Despite this, the facts as we know them are clear and plain. President Trump pressured the Government of Ukraine, an American ally, not for our national security interests but for his own selfish and corrupt political interests. When he was caught, he sought to cover it up by suppressing documents and preventing witnesses from testifying before Congress and the American people.

The President's defense team had every opportunity to present us with evidence that would explain his actions or give us reason to doubt this clear pattern of fact. Instead, they shifted their defense away from the damning facts and embraced an extreme legal philosophy that would allow any President to abuse their power and ignore the law.

This dangerous argument is not new. It was used by President Richard Nixon when he said: "Well, when the president does it, that means it is not illegal."

President Nixon also strayed far from his duties to our Nation for his own personal and political gain. It was only after courageous Members of the U.S. Senate, in his own political party, put their country first and stood up to him that President Nixon finally resigned.

We are now in yet another time when our Chief Executive has failed us, and our Nation requires more leadership and conscience from the U.S. Senate. Unfortunately, my Republican colleagues are unwilling to deliver that kind of moral leadership.

President Donald Trump has proven to be unfit for the office he occupies. He abused his powers and continues to engage in a coverup. He presents a clear and present danger to our national security and, more fundamentally, to our democracy itself.

That is why my conscience and my duty to defend our Constitution compel me to vote to convict Donald Trump. I