

WHY THIS IMPEACHMENT IS A SHAM

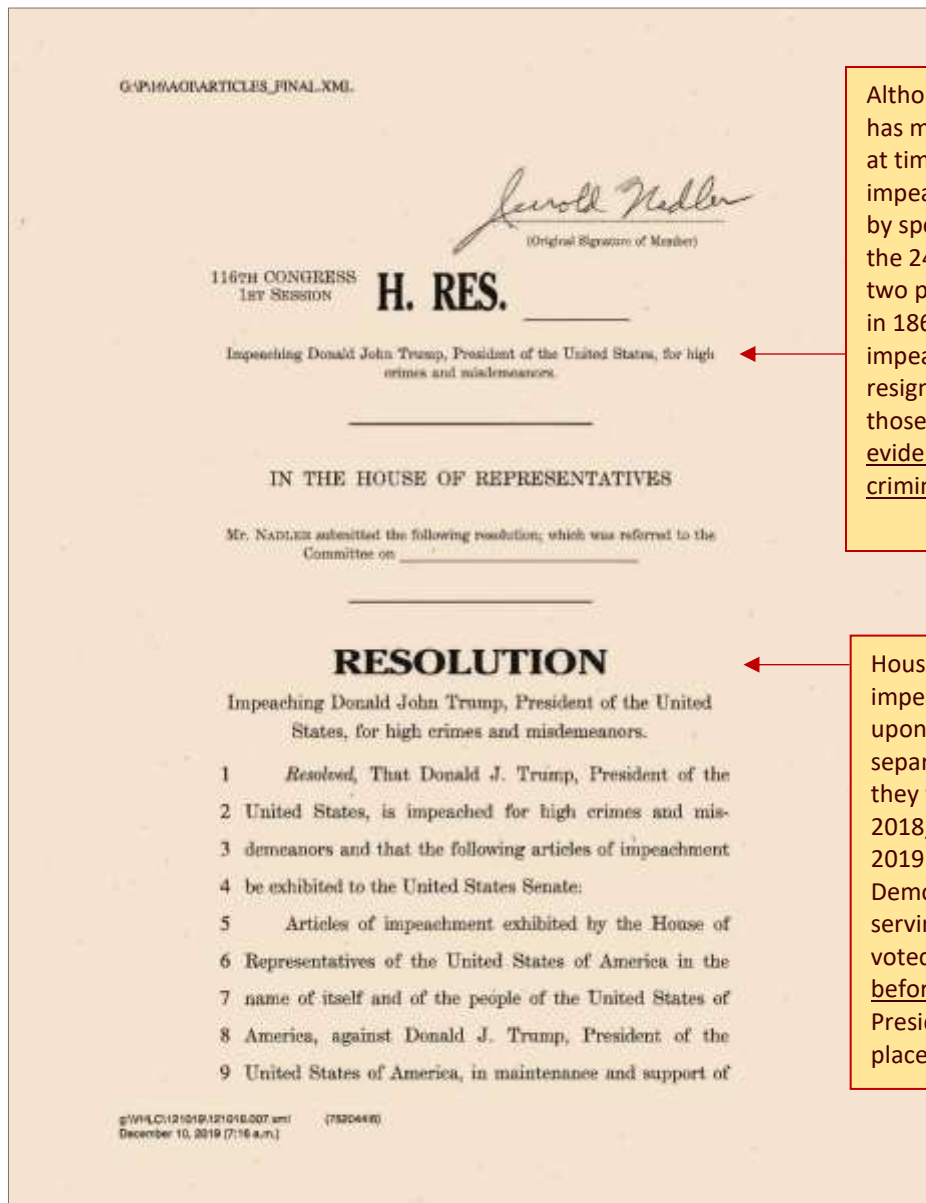
CONGRESSMAN MIKE JOHNSON (LA-04)

Chairman, REPUBLICAN STUDY COMMITTEE

HOUSE COMMITTEE ON THE JUDICIARY

Ranking Member, SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND CIVIL LIBERTIES

The founders of this country warned against a single party impeachment because they feared it would bitterly, and perhaps irreparably, divide our nation. This risk was openly acknowledged in years past by the very Democrats who are leading the single party impeachment charade today. Our radical liberal colleagues have vowed to impeach President Donald J. Trump since the day of his election, they have desperately created a fraudulent, unprecedented process to pursue that goal, and now they are pulling the trigger on what was described by the Minority's expert witness in our House Judiciary Committee as *"the shortest proceeding, with the thinnest evidentiary record, and the narrowest grounds ever used to impeach a president."* This impeachment is a sham, and here is why.



Although every previous U.S. President has made unpopular decisions and even, at times, infuriated his political opponents, impeachments are—for good reason and by specific design—*exceedingly rare*. In the 243-year history of our nation, only two previous presidents (Andrew Johnson in 1868 and Bill Clinton in 1998) have been impeached by the House. Richard Nixon resigned in 1974 to avoid it. In each of those three previous impeachments, evidence clearly established that specific criminal acts were committed. ***That is NOT the case here.***

House Democrats began efforts to impeach President Trump immediately upon his election. They introduced four separate impeachment resolutions while they were in the minority in 2017 and 2018, and a new resolution in January 2019. In all, as many as 95 House Democrats—including 17 of 24 Democrats serving on the Judiciary Committee—had voted to proceed with impeachment well before the famous phone call between Presidents Trump and Zelensky ever took place on July 25, 2019.

1 its impeachment against him for high crimes and mis-
2 demeanors.

3 ARTICLE I: ABUSE OF POWER

4 The Constitution provides that the House of Rep-
5 resentatives "shall have the sole Power of Impeachment"
6 and that the President "shall be removed from Office on
7 Impeachment for, and Conviction of, Treason, Bribery, or
8 other high Crimes and Misdemeanors". In his conduct of
9 the office of President of the United States—and in viola-
10 tion of his constitutional oath faithfully to execute the of-
11 fice of President of the United States and, to the best of
12 his ability, preserve, protect, and defend the Constitution
13 of the United States, and in violation of his constitutional
14 duty to take care that the laws be faithfully executed—
15 Donald J. Trump has abused the powers of the Presi-
16 dency, in that:

17 Using the powers of his high office, President Trump
18 solicited the interference of a foreign government,
19 Ukraine, in the 2020 United States Presidential election.
20 He did so through a scheme or course of conduct that
21 included soliciting the Government of Ukraine to publicly
22 announce investigations that would benefit his reelection,
23 harm the election prospects of a political opponent, and
24 influence the 2020 United States Presidential election to
25 his advantage. President Trump also sought to pressure
26 the Government of Ukraine to take these steps by condi-

This is indeed the relevant language of U.S. CONST., Art. II, Sec. 4, and it shows the inherent weakness of the current case.

Because Democrats found no evidence of treason or bribery against President Trump, but had already promised his impeachment to their liberal base, they felt they had no choice but to default to two amorphous articles: "abuse of power" and "obstruction of Congress."

"Abuse of power" is a non-criminal act, and it is significant that Democrats made this their first article. As Prof. Turley testified to Judiciary: "[This country] has never impeached a president solely or even largely on the basis of a non-criminal abuse of power allegation. There is good reason for that unbroken record. Abuses of power tend to be even less defined and more debatable as a basis for impeachment than [specified] crimes. ...In this case, there needs to be clear and unequivocal proof of a *quid pro quo*." ***That does NOT exist here.***

Democrats know there is **zero direct evidence** in the record of these proceedings to show that President Trump engaged in any "scheme" of any kind, or that he intended in his dealings with Ukraine to "influence the 2020 United States Presidential election to his advantage." No impeachment should ever proceed on the basis of mere hearsay, speculation and conjecture that would not even be admissible in a local traffic court.

1 tioning official United States Government acts of signifi-
2 cant value to Ukraine on its public announcement of the
3 investigations. President Trump engaged in this scheme
4 or course of conduct for corrupt purposes in pursuit of
5 personal political benefit. In so doing, President Trump
6 used the powers of the Presidency in a manner that com-
7 promised the national security of the United States and
8 undermined the integrity of the United States democratic
9 process. He thus ignored and injured the interests of the
10 Nation.

11 President Trump engaged in this scheme or course
12 of conduct through the following means:

13 (1) President Trump—acting both directly and
14 through his agents within and outside the United
15 States Government—corruptly solicited the Govern-
16 ment of Ukraine to publicly announce investigations
17 into—

18 (A) a political opponent, former Vice Presi-
19 dent Joseph R. Biden, Jr.; and

20 (B) a discredited theory promoted by Rus-
21 sia alleging that Ukraine—rather than Rus-
22 sia—interfered in the 2016 United States Pres-
23 idential election.

24 (2) With the same corrupt motives, President
25 Trump—acting both directly and through his agents

Once again, Democrats include bold allegations that are completely unsupported by the evidentiary record. For example, Article I alleges “corrupt purposes” or intent at least eight times, but presents **zero proof** for the claim. There is also zero proof that, for example, President Trump was pursuing “personal benefit” or “ignored and injured the interests of the Nation.” To the contrary, the record is clear that he had exactly the opposite in mind.

As summarized in the Minority Staff Report of Dec. 2: “The evidence shows that President Trump holds a deep-seated, genuine, and reasonable skepticism of Ukraine due to its history of pervasive corruption. . . and his Administration sought proof that newly-elected President Zelensky was a true reformer.” President Trump wanted to ensure that American taxpayer-funded security assistance would not be squandered by what is reported to be the third most corrupt nation in the world. A glaring example that still concerns the president, and millions of Americans, is what who meddled with our 2016 elections, and how. The Trump/Ukraine discussions were never about what will happen in 2020, but rather what already happened in 2016.

1 within and outside the United States Government—
2 conditioned two official acts on the public announce-
3 ments that he had requested—

4 (A) the release of \$391 million of United
5 States taxpayer funds that Congress had appro-
6 priated on a bipartisan basis for the purpose of
7 providing vital military and security assistance
8 to Ukraine to oppose Russian aggression and
9 which President Trump had ordered suspended;
10 and

11 (B) a head of state meeting at the White
12 House, which the President of Ukraine sought
13 to demonstrate continued United States support
14 for the Government of Ukraine in the face of
15 Russian aggression.

16 (3) Faced with the public revelation of his ac-
17 tions, President Trump ultimately released the mili-
18 tary and security assistance to the Government of
19 Ukraine, but has persisted in openly and corruptly
20 urging and soliciting Ukraine to undertake investiga-
21 tions for his personal political benefit.

22 These actions were consistent with President
23 Trump's previous invitations of foreign interference in
24 United States elections.

There is zero evidence for any "condition."
To the contrary, **four indisputable facts** in
the record clearly destroy the Democrats'
case theory:

- 1) Both President Trump and President Zelensky say there was no pressure exerted.
- 2) The July 25 call transcript shows no conditionality between aid funding and an investigation.
- 3) Ukraine was not aware that aid was delayed when the presidents spoke.
- 4) Ukraine never opened an investigation, but still received aid and a meeting with President Trump.

1 In all of this, President Trump abused the powers
2 of the Presidency by ignoring and injuring national secu-
3 rity and other vital national interests to obtain an im-
4 proper personal political benefit. He has also betrayed the
5 Nation by abusing his high office to enlist a foreign power
6 in corrupting democratic elections.

7 Wherefore President Trump, by such conduct, has
8 demonstrated that he will remain a threat to national se-
9 curity and the Constitution if allowed to remain in office,
10 and has acted in a manner grossly incompatible with self-
11 governance and the rule of law. President Trump thus
12 warrants impeachment and trial, removal from office, and
13 disqualification to hold and enjoy any office of honor,
14 trust, or profit under the United States.

15 ARTICLE III: OBSTRUCTION OF CONGRESS

16 The Constitution provides that the House of Rep-
17 resentatives "shall have the sole Power of Impeachment"
18 and that the President "shall be removed from Office on
19 Impeachment for, and Conviction of, Treason, Bribery, or
20 other high Crimes and Misdemeanors". In his conduct of
21 the office of President of the United States—and in viola-
22 tion of his constitutional oath faithfully to execute the of-
23 fice of President of the United States and, to the best of
24 his ability, preserve, protect, and defend the Constitution
25 of the United States, and in violation of his constitutional
26 duty to take care that the laws be faithfully executed—

Two bases are summarized for the claim that President Trump abused his powers:

- 1) He "ignored and injured" the interests of the country "to obtain an improper personal political benefit;" and
- 2) He "betrayed the nation" to "enlist" Ukraine "in corrupting democratic elections."

Neither of those allegations is true or supported by a scintilla of evidence in the record.

The Democrats' second claim is that President Trump "obstructed Congress" by simply doing what virtually every other President in the modern era has ALSO done—to assert a legitimate executive privilege and legal immunity to avoid subpoenas issued to various White House officials. THERE IS NO EVIDENCE OF ANY IMPEACHABLE OFFENSE HERE. On every previous occasion of this assertion in the past, that natural impasse between the executive and legislative branches in our constitutional system has been easily and calmly resolved by either a good faith negotiation—or a simple filing with the THIRD branch of our government—the judicial branch.

1 Donald J. Trump has directed the unprecedented, categor-
2 ical, and indiscriminate defiance of subpoenas issued by
3 the House of Representatives pursuant to its “sole Power
4 of Impeachment”. President Trump has abused the pow-
5 ers of the Presidency in a manner offensive to, and subver-
6 sive of, the Constitution, in that:

7 The House of Representatives has engaged in an im-
8 peachment inquiry focused on President Trump’s corrupt
9 solicitation of the Government of Ukraine to interfere in
10 the 2020 United States Presidential election. As part of
11 this impeachment inquiry, the Committees undertaking
12 the investigation served subpoenas seeking documents and
13 testimony deemed vital to the inquiry from various Execu-
14 tive Branch agencies and offices, and current and former
15 officials.

16 In response, without lawful cause or excuse, Presi-
17 dent Trump directed Executive Branch agencies, offices,
18 and officials not to comply with those subpoenas. Presi-
19 dent Trump thus interposed the powers of the Presidency
20 against the lawful subpoenas of the House of Representa-
21 tives, and assumed to himself functions and judgments
22 necessary to the exercise of the “sole Power of Impeach-
23 ment” vested by the Constitution in the House of Rep-
24 resentatives.

Again, the presidential assertion of executive privilege and legal immunity to Congressional subpoenas is quite common in the modern era, and not “unprecedented.”

In spite of their allegation, Democrats know the President Trump has “lawful cause” to challenge their subpoenas in this matter. In this case, House Democrats are trying to impeach President Trump instead of simply seeking judicial review over whether the direct communications between high-ranking advisors and a president under these circumstances are privileged or must be disclosed. That case would be expedited in the courts, but Democrats said they “don’t have time for that.” Why? Because they promised their base they would deliver an impeachment by Christmas!

1 President Trump abused the powers of his high office
2 through the following means:

3 (1) Directing the White House to defy a lawful
4 subpoena by withholding the production of docu-
5 ments sought therein by the Committees.

6 (2) Directing other Executive Branch agencies
7 and offices to defy lawful subpoenas and withhold
8 the production of documents and records from the
9 Committees—in response to which the Department
10 of State, Office of Management and Budget, Depart-
11 ment of Energy, and Department of Defense refused
12 to produce a single document or record.

13 (3) Directing current and former Executive
14 Branch officials not to cooperate with the Commit-
15 tees—in response to which nine Administration offi-
16 cials defied subpoenas for testimony, namely John
17 Michael “Mick” Mulvaney, Robert B. Blair, John A.
18 Eisenberg, Michael Ellis, Preston Wells Griffith,
19 Russell T. Vought, Michael Duffey, Brian McCor-
20 mack, and T. Ulrich Brechbuhl.

21 These actions were consistent with President
22 Trump’s previous efforts to undermine United States Gov-
23 ernment investigations into foreign interference in United
24 States elections.

It should be noted that President Trump has consistently cooperated with Congress in fulfilling its oversight and investigation responsibilities.

For example, over 25 Administration officials have testified before the House Oversight Committee this year, and over 20 have testified before the House Judiciary Committee. At the start of the Democrat’s impeachment inquiry, the White House also produced more than 100,000 pages of documents to the Oversight Committee.

In spite of their allegation, Democrats know the President Trump has “lawful cause” to challenge these subpoenas because they involve direct communications between high-ranking advisors and a president, and most of these individuals are not related to the Ukraine matter at hand. Any objective observer would regard this as a mere “fishing expedition” and harassment of the Administration by Democrat committee chairs with a political agenda. That agenda does not allow them to proceed to a court to get this simple disagreement appropriately resolved.

1 Through these actions, President Trump sought to
2 arrogate to himself the right to determine the propriety,
3 scope, and nature of an impeachment inquiry into his own
4 conduct, as well as the unilateral prerogative to deny any
5 and all information to the House of Representatives in the
6 exercise of its "sole Power of Impeachment". In the his-
7 tory of the Republic, no President has ever ordered the
8 complete defiance of an impeachment inquiry or sought
9 to obstruct and impede so comprehensively the ability of
10 the House of Representatives to investigate "high Crimes
11 and Misdemeanors". This abuse of office served to cover
12 up the President's own repeated misconduct and to seize
13 and control the power of impeachment—and thus to nul-
14 lify a vital constitutional safeguard vested solely in the
15 House of Representatives.

16 In all of this, President Trump has acted in a manner
17 contrary to his trust as President and subversive of con-
18 stitutional government, to the great prejudice of the cause
19 of law and justice, and to the manifest injury of the people
20 of the United States.

21 Wherefore, President Trump, by such conduct, has
22 demonstrated that he will remain a threat to the Constitu-
23 tion if allowed to remain in office, and has acted in a man-
24 ner grossly incompatible with self-governance and the rule
25 of law. President Trump thus warrants impeachment and

Democrats know this is an absurd charge. The *truth* is, in the history of the Republic, there has never been a single party, fraudulent impeachment process deployed against a president like the one being used against Donald Trump.

Democrats are the ones here seeking to nullify our vital constitutional safeguards with this sham. Their ultimate objective is to nullify the votes of the 63 million Americans who voted to elect Donald Trump the President.

The "manifest injury to the people" and "threat to the Constitution" is what is being perpetuated by the House Democrats engaged in this charade.

- 1 trial, removal from office, and disqualification to hold and
- 2 enjoy any office of honor, trust, or profit under the United
- 3 States.

The REAL abuse of power here is on the part of the House Democrats, as they have recklessly pursued this impeachment—*20 times faster* than the impeachment investigation of Bill Clinton—to reach their predetermined political outcome. Along the way, they have steamrolled over constitutionally-guaranteed due process, House Rules and the Federal Rules of Civil Procedure. They have: ignored or blocked exculpatory evidence; intimidated witnesses; restricted Republican lines of questioning; denied defense witnesses and involvement of the president’s counsel; restricted Republican review of evidence; denied a Minority hearing; and violated proper Minority notice and fairness at all stages.

Ironically, during the Clinton impeachment, the Democrats published a report which read: “As Rep. Barbara Jordan (D-Tx.) observed during the Watergate inquiry, impeachment not only mandates due process, but ‘due process *quadrupled*.’” The Democrats of this Congress have done exactly the opposite—and everyone in this country can see that clearly. This impeachment will fail, and the Democrats will justly pay a heavy political price for it. But the Pandora’s Box they have opened today will do irreparable damage to our country in the years ahead. God help us.