

IN THE SENATE OF THE UNITED STATES
Sitting as a Court of Impeachment

In re

**IMPEACHMENT OF
PRESIDENT DONALD J. TRUMP**

**REPLICATION
OF THE UNITED STATES HOUSE OF REPRESENTATIVES
TO THE ANSWER OF PRESIDENT DONALD J. TRUMP
TO THE ARTICLES OF IMPEACHMENT**

United States House of Representatives

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U.S. House of Representatives Managers

The House of Representatives, through its Managers and counsel, replies to the Answer of President Donald J. Trump as follows:

PREAMBLE

The House denies each and every allegation and defense in the Preamble to the Answer.

The American people entrusted President Trump with the extraordinary powers vested in his Office by the Constitution, powers which he swore a sacred Oath to use for the Nation's benefit. President Trump broke that promise. He used Presidential powers to pressure a vulnerable foreign partner to interfere in our elections for his own benefit. In doing so, he jeopardized our national security and our democratic self-governance. He then used his Presidential powers to orchestrate a cover-up unprecedented in the history of our Republic: a complete and relentless blockade of the House's constitutional power to investigate high Crimes and Misdemeanors.

President Trump maintains that the Senate cannot remove him even if the House proves every claim in the Articles of impeachment. That is a chilling assertion. It is also dead wrong. The Framers deliberately drafted a Constitution that allows the Senate to remove Presidents who, like President Trump, abuse their power to cheat in elections, betray our national security, and ignore checks and balances. That President Trump believes otherwise, and insists he is free to engage in such conduct again, only highlights the continuing threat he poses to the Nation if allowed to remain in office.

Despite President Trump's stonewalling of the impeachment inquiry, the House amassed overwhelming evidence of his guilt. It did so through fair procedures rooted firmly in the Constitution and precedent. It extended President Trump protections equal to, or greater than, those afforded to Presidents in prior impeachment inquiries. To prevent President Trump's obstruction from delaying justice until after the very election he seeks to corrupt, the House moved

decisively to adopt the two Articles of impeachment. Still, new evidence continues to emerge, all of which confirms these charges.

Now it is the Senate's duty to conduct a fair trial—fair for President Trump, and fair for the American people. Only if the Senate sees and hears all relevant evidence—only if it insists upon the *whole* truth—can it render impartial justice. That means the Senate should require the President to turn over the documents he is hiding. It should hear from witnesses, as it has done in every impeachment trial in American history; it especially should hear from witnesses the President blocked from testifying in the House. President Trump cannot have it both ways. His Answer directly disputes key facts. He must either surrender all evidence relevant to the facts he has disputed or concede the facts as charged. Otherwise, this impeachment trial will fall far short of the American system of justice.

President Trump asserts that his impeachment is a partisan “hoax.” He is wrong. The House duly approved Articles of impeachment because its Members swore Oaths to support and defend the Constitution against all threats, foreign and domestic. The House has fulfilled its constitutional duty. Now, Senators must honor their own Oaths by holding a fair trial with all relevant evidence. The Senate should place truth above faction. And it should convict the President on both Articles.

ARTICLE I

The House denies each and every allegation in the Answer to Article I that denies the acts, knowledge, intent, or wrongful conduct charged against President Trump. The House states that each and every allegation in Article I is true, and that any affirmative defenses set forth in the Answer to Article I are wholly without merit. The House further states that Article I properly alleges an impeachable offense under the Constitution, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment.

Article I charges President Trump with Abuse of Power. The President solicited and pressured a foreign nation, Ukraine, to help him cheat in the next Presidential election by announcing two investigations: the first into an American citizen who was also a political opponent of his; the second into a baseless conspiracy theory promoted by Russia that Ukraine, not Russia, interfered in the 2016 election. President Trump sought to coerce Ukraine into making these announcements by withholding two official acts: the release of desperately needed military aid and a vital White House meeting. There is overwhelming evidence of the charges in Article I, as set forth in the 111-page brief and statement of material facts that the House submitted on January 18, 2020.

In his Answer, the President describes “several simple facts” that prove he “did nothing wrong.” This is false. President Trump cites the record of his July 25, 2019 phone call with President Volodymyr Zelensky of Ukraine. But we have read the transcript and it *confirms* his guilt. It shows, first and foremost, that he solicited a foreign power to announce two politically motivated investigations that would benefit him personally. It also indicates that he linked these investigations to the release of military assistance: on the call, he responded to President Zelensky’s inquiries about U.S. military support by pressing him to “do us a favor though” and pursue President Trump’s desired political investigations. Astoundingly, the Answer claims that President Trump raised the issue of “corruption” during the July 25 call, but that word appears nowhere in the record of the call, despite the urging of his national security staff. In fact, President Trump did not care at all about Ukraine; he only cared about the “big stuff” that affected him personally, specifically the Biden investigation.

President Trump also points to statements by “President Zelensky and other Ukrainian officials” denying any impropriety. Yet there is clear proof that Ukrainian officials felt pressured by President Trump and grasped the corrupt nature of his scheme. For example, a Ukrainian national security advisor stated that President Zelensky “is sensitive about Ukraine being taken seriously, not

merely as an instrument in Washington domestic, reelection politics.” As experts testified in the House, President Zelensky remains critically dependent on continued United States military and diplomatic support. He has powerful incentives to avoid angering President Trump.

President Trump places great weight on two of his own statements denying a *quid pro quo*. These are hardly convincing. One denial the President blurted out, unprompted, to Ambassador Gordon Sondland, but only after the White House had learned about a whistleblower complaint and the *Washington Post* had reported the President’s corrupt scheme—in other words, after President Trump got caught. President Trump then demanded to Ambassador Sondland that Ukraine execute the very this-for-that corrupt exchange that is alleged in Article I. As to the second denial cited in the Answer, President Trump made this statement to Senator Ron Johnson also after having learned of the whistleblower complaint, while inexplicably refusing the Senator’s urgent plea to release the military aid. In any event, these self-serving false statements are contradicted by all of the other evidence. They show a cover-up and consciousness of guilt, not a credible defense for the President.

Lastly, the President notes that he met with President Zelensky at the U.N. General Assembly and released the aid without Ukraine announcing the investigations. But he did so only after he was caught red-handed. And he *still* has not met with President Zelensky at the White House, which Ukraine has long sought to demonstrate United States support in the face of Russian aggression.

The Answer offers an unconvincing and implausible defense against the factual allegations in Article I. The “simple facts” that it recites confirm President Trump’s guilt, not his innocence. Moreover, fairness demands that if the President wants to put the facts at issue, he must end his cover-up and provide the Senate with all of the relevant documents and testimony. He cannot deny facts established by overwhelming evidence while concealing additional relevant evidence.

The President also asserts that Article I does not state an impeachable offense. In his view, the American people are powerless to remove a President for corruptly using his Office to cheat in the next election by soliciting and coercing a foreign power to sabotage a rival and spread conspiracy theories helpful to the President. This is the argument of a monarch, with no basis in the Constitution.

Abuse of Power is an impeachable offense. The Framers made this clear, including Alexander Hamilton, James Madison, James Iredell, and Edmund Randolph. The Supreme Court has recognized as much, as did the House Judiciary Committee in President Richard Nixon's case.

When the Framers wrote the Impeachment Clause, they aimed it squarely at abuse of office for personal gain, betrayal of the national interest through foreign entanglements, and corruption of elections. President Trump has engaged in the trifecta of constitutional misconduct warranting removal. He is the Framers' worst nightmare come to life.

ARTICLE II

The House denies each and every allegation in the Answer to Article II that denies the acts, knowledge, intent, or wrongful conduct charged against President Trump. The House further states that each and every allegation in Article II is true, and that any affirmative defenses set forth in the Answer to Article II are wholly without merit. The House further states that Article II properly alleges an impeachable offense under the Constitution, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment.

Article II charges President Trump with directing the categorical and indiscriminate defiance of every single subpoena served by the House in its impeachment inquiry. No President or other official in the history of the Republic has ever ordered others to defy an impeachment subpoena; Presidents Andrew Johnson, Richard Nixon, and Bill Clinton all allowed their most senior advisors to give testimony to Congressional investigators. Nor has any President or other official himself

defied such a subpoena—except for President Nixon, who, like President Trump, faced an article of impeachment for Obstruction of Congress. Instead, Presidents have recognized that Congressional power is at its apex in an impeachment. As President James Polk stated: the “power of the House” in cases of impeachment “would penetrate into the most secret recesses of the Executive Departments.”

President Trump’s defenses are wrong. At his personal direction, nine officials refused subpoenas to testify and the White House, Office of Management and Budget, and Departments of State, Defense, and Energy all defied valid subpoenas for documents. The fact that President Trump caved to public pressure and released two call transcripts—which, in fact, expose his guilt—hardly amounts to “transparency” and does not mitigate his obstruction.

Nor is President Trump’s Obstruction of Congress excused by his incorrect legal arguments.

First, the impeachment inquiry was properly authorized and Congressional subpoenas do not require a vote of the full House.

Second, President Trump’s blanket and categorical defiance of the House stemmed from his unilateral decision not to “participate” in the impeachment investigation, not from any legal assertion.

Third, President Trump never actually asserted executive privilege, a limited doctrine that has never been accepted as a basis for defying impeachment subpoenas. The foreign affairs and national security setting of this impeachment does not require a different result here; it makes the President’s obstruction all the more alarming. The Framers explicitly stated that betrayal involving foreign powers is a core impeachable offense. It follows that the House is empowered to investigate such abuses, as all 17 current and former Executive Branch officials who testified about these matters recognized.

Fourth, the President's invocation of "absolute immunity" fails because this fictional doctrine has been rejected by every court to consider it in similar circumstances; President Trump extended it far beyond any understanding by prior Presidents; and it offers no explanation for his across-the-board refusal to turn over every single document subpoenaed.

Finally, the President's lawyers have argued in court that it is constitutionally forbidden for the House to seek judicial enforcement of its subpoenas, even as they now argue in the Senate that the House is required to seek such enforcement. Again, President Trump would have it both ways: he argues simultaneously that the House *must* use the courts and that it is *prohibited* from using the courts. This duplicity is poor camouflage for the weakness of President Trump's legal arguments. More significantly, any judicial enforcement effort would have taken years to pursue. In granting the House the "sole Power of Impeachment," along with the power to investigate grounds for impeachment, the Framers did not require the House to exhaust all alternative methods of obtaining evidence, especially when those alternatives would fail to deal with an immediate threat. To protect the Nation, the House had to act swiftly in addressing the clear and present danger posed by President Trump's misconduct.

President Trump engaged in a cover-up that itself establishes his consciousness of guilt. Innocent people seek to bring the truth to light. In contrast, President Trump has acted in the way that guilty people do when they are caught and fear the facts. But the stakes here are even higher than that. In completely obstructing an investigation into his own misconduct, President Trump asserted the prerogative to nullify Congress's impeachment power itself. He placed himself above the law and eviscerated the separation of powers. This claim evokes monarchy and despotism. It has no place in our democracy, where even the highest official must answer to Congress and the Constitution.

CONCLUSION

The House denies each and every allegation and defense in the Conclusion to the Answer.

President Trump did not engage in this corrupt conduct to uphold the Presidency or protect the right to vote. He did it to cheat in the next election and bury the evidence when he got caught. He has acted in ways that prior Presidents expressly disavowed, while injuring our national security and democracy. And he will persist in that misconduct—which he deems “perfect”—unless and until he is removed from office. The Senate should do so following a fair trial.

Respectfully submitted,

United States House of Representatives

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