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House of Representatives

Mr. LARSON of Connecticut. Madam Speaker, this year, our nation finds itself in the midst of historic turmoil. President Donald J. Trump's defiance of the Constitution and disregard for the rule of law have given Congress no other choice but to proceed with impeachment. The President has brought this on himself through his actions. As instructed by H. Res. 660, on November 19, 2019, the House Permanent Select Intelligence Committee began conducting open public hearings to ensure the American people were able to hear directly from witnesses as the committee collects and examines evidence in a fair and professional manner. This was followed by public hearings in the House Committee on the Judiciary, which allowed for an examination of the constitutional grounds for impeachment and an airing of evidence against the President.

After weeks of depositions, public hearings and a thorough review of evidence, the House Judiciary Committee concluded that President Trump violated his oath of office and, on December 11th, 2019, approved H. Res. 755, which set forth two articles of impeachment: Abuse of Power and Obstruction of Congress. As the House today deliberates and decides on these articles, it is important to lay the full scope of the President's misconduct before the American people.

My constituent and authentic American leader, Ralph Nader, a consumer advocate, renowned attorney, author, and a respected voice in American politics and good governance, has partnered with constitutional scholars, Bruce Fein and Louis Fisher, to assess the President's misconduct and whether it meets the Constitutional standard for "...Bribery, or other High Crimes and Misdemeanors."

I include in the RECORD his thinking and those of others in our nation, in the hopes that it will help the public further understand the significance of this vote.

ARTICLE OF IMPEACHMENT

(By Ralph Nader, Bruce Fein, and Louis Fisher)

ARTICLE OF IMPEACHMENT

Resolved. That Donald J. Trump, President of the United States, is impeached for bribery and high crimes and misdemeanors in violation of his constitutional oath of office and that the following article of impeachment be exhibited to the Senate:

Article of Impeachment Exhibited by the House of Representatives of the United States of America and of All the People of the United States of America, Against Donald J. Trump, President of the United States of America, in Maintenance and Support of its Impeachment Against Him for Bribery and High Crimes and Misdemeanors in Violation of his Constitutional Oath of Office To Preserve, Protect and Defend the Constitution of the United States.

ARTICLE 1

In his conduct of the office of President of the United States, Donald J. Trump, in violation of his constitutional duty faithfully to execute the office of the President of the United States, and, to the best of his ability, preserve, protect and defend the Constitution of the United States, Article 1, section 1, clause 6, and, contrary to his public trust, has systematically scorned the letter and spirit of the Constitution on a scale vastly beyond any previous occupant of the White House in doing the following:

I. CONTEMPT OF CONGRESS. President Trump has notoriously boasted, "Then I have Article II, where I have the right to do whatever I want as President." He has chronically acted in violation the Constitution accordingly.

The informing or oversight powers of Congress are even more important than its legislative prerogatives. The United States

Supreme Court has repeatedly affirmed the plenary authority of Congress to investigate the executive branch for abuses, irregularities, illegalities or the need for new laws. Supreme Court Justice Louis D. Brandeis famously lectured, sunshine is said to be the best of disinfectants; electric light the most efficient policeman. The House Judiciary Committee voted an article of impeachment against President Richard M. Nixon for defying a congressional subpoena that compromised the ability of Congress to investigate impeachable offenses.

President Trump has repeatedly and unconstitutionally systematically undermined the congressional oversight power, including the ongoing congressional impeachment inquiry of the President himself, by instructing numerous current and former White House staff and members of the executive branch to defy congressional subpoenas on an unprecedented scale far beyond any previous President. Without congressional authority, he has secretly deployed special forces abroad and employed secret guidelines for targeted killings, including American citizens, based on secret unsubstantiated information. He has unconstitutionally endeavored to block private persons or entities from responding to congressional requests or subpoenas for information, e.g., Deutsche Bank. He has refused to provide Congress information about nepotistic or other security clearances he granted in opposition to his own FBI security experts. He has refused to disclose his tax returns to the Chairman of the Ways and Means Committee contrary to a 1924 law, 26 U.S.C. 6103(f).

The informing or oversight powers of Congress are even more bedrock than legislation. Without information, Congress cannot enact informed legislative bills, repeal inadequate laws, or prevent maladministration of good ones. The Supreme Court of the United States has repeatedly affirmed the authority of Congress to investigate the executive branch for abuses, irregularities, illegalities or the need for new laws. Transparency, not secrecy, is the coin of the realm.

Congress possesses plenary authority independent of the federal judiciary to determine whether presidential defiance or obstruction of a congressional subpoena warrants impeachment for destroying the rule of law in favor of raw presidential power. A court order is unnecessary. Under the Constitution, the Supreme Court held impeachment questions are assigned to the House and Senate to the exclusion of federal courts in *Nixon v. United States*, 506 U.S. 224 (1993).

2. ABUSE OF THE POWERS OF THE PRESIDENT AND ABUSE OF PUBLIC TRUST. President Abraham Lincoln famously declared that, "A house divided against itself cannot stand." The nation's motto is E Pluribus Unum. President Trump, however, has fostered combustible division

and rancor among "We the people of the United States" by inciting violence and threatening civil war if removed from office. Unlike prior presidents, he has made presidential lies as routine as the rising and setting of the sun, confounding civil discourse, truth and public trust. He has disrespected, belittled, and serially preyed upon women, mocked the disabled, incited violence against the mainstream media and critics, and encouraged and displayed bigotry towards minorities and minority Members of Congress, including intercession with Israel in serious violation of the Speech or Debate Clause, Article I, section 6, clause 1, to deny two Members visitor visas.

Mr. Trump has failed to superintend or check the chronic lawlessness of his subordinates, a dereliction of duty which James Madison characterized as an impeachable offense. In the very first Congress, Mr. Madison elaborated:

"I think it absolutely necessary that the President should have the power of removing his subordinates from office; it will make him, in a peculiar manner, responsible for their conduct, and subject him to impeachment himself, if he suffers them to perpetrate with impunity high crimes or misdemeanors against the United States, or neglects to superintend their conduct, so as to check their excesses."

George Washington when presiding over the constitutional convention instructed, "Let us raise a standard to which the wise and honest can repair." Mr. Trump has so disrespected that standard. No other President has so consistently voiced extremist and inflammatory views across the board and so grossly neglected the duties of the Oval Office.

3. APPROPRIATIONS CLAUSE, REVENUE CLAUSE.

Article I, section 9, clause 7 prohibits federal government expenditures "but in consequence of appropriations made by law." Congress has consistently voted much less money than President Trump requested to build an extensive, multibillion-dollar wall with Mexico. In violation of the Clause and the criminal prohibition of the Anti-Deficiency Act, President Trump has committed to spending billions of dollars far in excess of what Congress has appropriated for the wall. The congressional power of the purse is a cornerstone of the Constitution's separation of powers. James Madison in *Federalist 58* explained, "This power over the purse may . . . be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining redress of every grievance, and to carrying into effect every just and salutary measure."

Article I, section 7, clause 1 requires all revenue measures to originate in the House of Representatives. In violation of the Clause, President Trump has raised tens of billions of dollars by unilaterally imposing tariffs with limitless discretion under section 232 of the Trade Expansion Act of 1962. He has become a Foreign Trade Czar in imposing tariffs or quotas or granting exemptions from his trade restrictions in his unbridled discretion to assist political friends and punish political enemies. Literally trillions of dollars in international trade have been affected. Riches are made and livelihoods destroyed overnight with the capricious stroke of President Trump's pen.

4. EMOLUMENTS CLAUSE. Article I, section 9, clause 8 prohibits the President (and other federal officers), without the consent of Congress, from accepting any "present, emolument, office, or title, of any kind whatsoever, from any King, Prince, or foreign state." The President should be above suspicion. The clause aims to prohibit dual loyalties or its appearance because of financial conflicts of interests. President Trump has notoriously refused to place his assets in a blind trust. Instead, he continues to profit from opulent hotels heavily patronized by foreign governments. He has permitted his family to commercialize the White House. He has compromised the national interest to enrich family wealth on a scale unprecedented in the history of the presidency.

5. TREATY CLAUSE. Article II, section 2, clause 2 requires Senate ratification of treaties by two-thirds majorities. The text is silent as to whether treaty termination requires Senate ratification, and the Supreme Court held the issue was a nonjusticiable political question in *Goldwater v. Carter*, 444 U.S. 996 (1979). But the Treaty Clause purpose indicates Senate approval of treaty terminations. Alexander Hamilton explained in *Federalist 75* that the President would be an untrustworthy steward of the national interest in the conduct of international affairs because of the enormous temptation to betray the country to advance personal ambitions. That suspicion of presidential motives is equally implicated in treaty terminations and points to requiring Senate ratification. President Trump flouted the Treaty Clause in terminating the Intermediate-Range Nuclear Forces Treaty (INF) with Russia unilaterally. The treaty assigned the termination decision to the "United States." The President alone is not the United States under the Treaty Clause.

6. DECLARE WAR CLAUSE. Article I, section 8, clause 11 empowers Congress alone to take the nation from a state of peace to a state of war. That power is non-delegable. The Declare War Clause authors distrusted the President to preserve the peace because of the temptation to war to aggrandize executive power and earn a place in history. In violation of the Declare War Clause, President Trump has continued to wage or has initiated presidential wars in Libya,

Somalia, Yemen, Syria, Iraq, Afghanistan, and Pakistan, and has used special forces offensively in several African nations. President Trump has claimed authority to initiate war against any nation or non-state actor in the world--not in self-defense--on his say-so alone, including war against North Korea, Iran, or Venezuela.

7. TAKE CARE CLAUSE; PRESENTMENT CLAUSE. Article II, section 3 obligates the President to "take care that the laws be faithfully executed." In violation of that trust, President Donald J. Trump deliberately attempted to frustrate special counsel Robert Mueller's investigation of collaboration between the Trump 2016 campaign and Russia to influence the presidential election. Among other things, the President refused to answer specific questions relating to his presidential conduct; endeavored to fire the special counsel; dangled pardons for non-cooperating witnesses; and, urged Attorney General Jeff Sessions to reverse his recusal decision to better protect his presidency. In all these respects, the President was attempting to obstruct justice.

President Trump has also systematically declined to enforce statutory mandates of Congress by arbitrarily and capriciously revoking scores of agency rules ranging from immigration to the Consumer Financial Protection Board to the Environmental Protection Agency in violation of the Administrative Procedure Act or otherwise. He has routinely legislated by executive order in lieu of following constitutionally prescribed processes for legislation. In violation of his constitutional duty to take care that the laws be faithfully executed, Mr. Trump has dismantled and disabled scores of preventive measures to save lives, avoid injuries or disease, help families, consumers, and workers, and detect, deter, and punish tens of billions of dollars of corporate fraud. He has disputed climate disruption as a "Chinese hoax," compounded the climate crisis by overt actions that expand greenhouse gas emissions and pollution, and excluded or marginalized the influence of civil service scientists.

Article I, section 7, clause 2, as President George Washington explained, requires the President either to sign or veto a bill passed by Congress in toto. The President may not exercise a line-item veto, as the United States Supreme Court held in *Clinton v. New York*, 524 U.S. 417 (1998). President Trump, however, like several of his predecessors commonly exercises the equivalent of unconstitutional line-item vetoes through signing statements declaring his intent to leave unexecuted provisions he decrees are unconstitutional without a court test. Presidential signing statements weaken legislative power by disarming Congress from bundling in a single bill provisions both liked and disliked by the President and forcing the White House to choose between all or none. During the administration of President George W. Bush,

an American Bar Association Task Force issued a report condemning signing statements as unconstitutional sent to the President himself. ABA Task Force on Presidential Signing Statements and the Separation of Powers Doctrine, August 2006.

8. DUE PROCESS CLAUSE. The Fifth Amendment provides that no person shall “be deprived of life... without due process of law.” In violation of due process, President Trump claims power, like his immediate two predecessors, to act as prosecutor, judge, jury, and executioner to kill American citizens or non-citizens alike, on or off a battlefield, whether or not engaged in hostilities, whether or not accused of crime, and whether or not posing an imminent threat of harm that would trigger a right of preemptive self-defense. This combination of powers are euphemistically referenced as “targeted killings,” but they define tyranny.

9. APPOINTMENTS CLAUSE. President Trump has repeatedly appointed principal officers of the United States, including the National Security Advisor and Cabinet officials, who have not been confirmed by the Senate in violation of the Appointments Clause, Article II, section 2, clause 2. On a scale never practiced by prior presidents, Mr. Trump has filled as many as half of Cabinet posts with “Acting Secretaries” who have never been confirmed by the Senate.

10. SOLICITING A FOREIGN CONTRIBUTION FOR THE 2020 PRESIDENTIAL CAMPAIGN AND BRIBERY. President Trump has endeavored to corrupt the 2020 presidential campaign by soliciting the President of Ukraine to contribute something of value to diminish the popularity of potential rival Joe Biden, i.e., a Ukrainian investigation of Mr. Biden and his son Hunter relating to potential corrupt practices of Burisma, which compensated Hunter handsomely (\$50,000 per month). In so doing, Mr. Trump violated the criminal campaign finance prohibition set forth in 52 U.S.C. 30121.

President Trump solicited a bribe for himself in violation of 18 U.S.C. 201 in seeking something of personal value, i.e., discrediting Joe Biden’s 2020 presidential campaign with the help of the President of Ukraine to influence Mr. Trump’s official decision to release approximately \$400 million in military and related assistance.

11. VIOLATING CITIZEN PRIVACY. The Fourth Amendment protects the right to be let alone from government snooping, the most cherished right among civilized people

as Justice Brandeis elaborated in *Olmstead v. United States*, 277 U.W. 438 (1928) (dissenting opinion). Government spying on Americans ordinarily requires a warrant issued by a neutral magistrate based on probable cause to believe crime is afoot. President Trump, however, routinely violates the Fourth Amendment with suspicionless surveillance of Americans for non-criminal, foreign intelligence purposes under Executive Order 12333 and aggressive interpretations of the Foreign Intelligence Surveillance Act.

12. SUPPRESSION OF FREE SPEECH. The major purpose of a free press protected by the First Amendment is to expose government lies or illegalities—to shine light on the dark side. Justice Hugo Black elaborated in *New York Times v. United States*, 403 US. 713 (1971) in protecting publication of the classified Pentagon Papers from suppression:

“The Government’s power to censor the press was abolished so that the press would remain forever free to censure the Government. The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government. And paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people and sending them off to distant lands to die of foreign fevers and foreign shot and shell.”

President Trump is violating the First Amendment in stretching the Espionage Act to prosecute publication of leaked classified information that are instrumental to exposing government lies and deterring government wrongdoing or misadventures, including the outstanding indictment against Julian Assange for publishing information which was republished by the *New York Times* and *The Washington Post* with impunity. The United States Supreme Court upheld the First Amendment rights of the *New York Times* and *The Washington Post* to publish the classified Pentagon Papers, which accelerated the conclusion of the disastrous Vietnam War, in *New York Times v. United States*.

In all of this, Donald J. Trump, since the day of his inauguration, has conducted the office of the President contrary to his oath of office to destroy constitutional government to the great prejudice of the cause of law and justice and to the manifest injury of the people of the United States.

Wherefore Donald J. Trump warrants impeachment and trial, and removal from office.