

116TH CONGRESS
1ST SESSION

S. RES. 378

Expressing the sense of the Senate that the House of Representatives should, consistent with long-standing practice and precedent, prior to proceeding any further with its impeachment investigation into President Donald J. Trump, vote to open a formal impeachment inquiry and provide President Trump with fundamental constitutional protections.

IN THE SENATE OF THE UNITED STATES

OCTOBER 24, 2019

Mr. GRAHAM (for himself, Mr. McCONNELL, Mr. GRASSLEY, Mr. THUNE, Mr. BLUNT, Mr. INHOFE, Mr. CRAPO, Mr. CORNYN, Mr. BURR, Mr. BARASSO, Mr. WICKER, Mr. RISCH, Mr. BOOZMAN, Mr. PAUL, Mr. LEE, Mr. JOHNSON, Mr. SCOTT of South Carolina, Mrs. FISCHER, Mr. CRUZ, Mrs. CAPITO, Mr. CASSIDY, Mr. LANKFORD, Mr. COTTON, Mr. DAINES, Mr. PERDUE, Ms. ERNST, Mr. TILLIS, Mr. ROUNDS, Mr. YOUNG, Mr. KENNEDY, Mrs. HYDE-SMITH, Mrs. BLACKBURN, Mr. CRAMER, Mr. SHELBY, Mr. ROBERTS, Mr. MORAN, Mr. HOEVEN, Mr. RUBIO, Mr. BRAUN, Mr. HAWLEY, Mr. SCOTT of Florida, Mr. SASSE, Mr. TOOMEY, Ms. MCSALLY, and Mr. SULLIVAN) submitted the following resolution; which was referred to the Committee on Rules and Administration

RESOLUTION

Expressing the sense of the Senate that the House of Representatives should, consistent with long-standing practice and precedent, prior to proceeding any further with its impeachment investigation into President Donald J. Trump, vote to open a formal impeachment inquiry and provide President Trump with fundamental constitutional protections.

Whereas one of the cornerstones of the American Constitution is due process: the right to confront your accuser, call witnesses on your behalf, and challenge the accusations against you;

Whereas the House of Representatives is abandoning more than a century's worth of precedent and tradition in impeachment proceedings and denying President Trump basic fairness and due process accorded every American;

Whereas, in our nation's history, the House has on three occasions moved to formally investigate whether sufficient grounds exist to impeach a President, and in all three of these cases, the full House voted on a resolution authorizing the House Judiciary Committee to determine whether to impeach the President;

Whereas, in the case of President Trump, a formal impeachment process involving debate and a vote by the full House prior to taking each step in the process has been replaced by a press conference by the Speaker of the House;

Whereas the proposition that the Speaker acting alone may direct committees to initiate impeachment proceedings without any debate or a vote on the House floor is unprecedented and undemocratic;

Whereas the House is denying President Trump due process within the "inquiry" itself;

Whereas, for the impeachment investigations of President Richard M. Nixon and President William J. Clinton, the House Judiciary Committee adopted rules of procedure to provide due process rights and ensure fairness;

Whereas these rights included—

(1) allowing the President to be represented by counsel;

(2) permitting the President's counsel to be present at all hearings and depositions;

(3) permitting the President's counsel to present evidence and object to the admission of evidence;

(4) allowing the President's counsel to call and cross-examine witnesses; and

(5) giving the President's counsel access to, and the ability to respond to, the evidence adduced by the Committee;

Whereas, by contrast, the House's current impeachment "inquiry" provides none of these basic rights and protections to President Trump;

Whereas the main allegations against President Trump are based on assertions and testimony from witnesses whom he is unable to confront, as part of a process in which he is not able to offer witnesses in his defense or have a basic understanding of the allegations lodged against him;

Whereas all witness interviews that have been conducted thus far in the House have been behind closed doors with limited minority participation;

Whereas the House's current impeachment "inquiry" ignores the procedural rights given to the investigating committee's minority in previous Presidential impeachments, including granting equal subpoena power to both the chair and ranking member of the committee;

Whereas, the House is denying President Trump the same basic pre-inquiry rights afforded to President Clinton;

Whereas the Whitewater Investigation involved nearly five years of painstaking investigative work by a special counsel and an independent counsel before the House even voted to have the Judiciary Committee open an impeachment inquiry;

Whereas President Clinton vigorously fought that investigation, including by raising multiple privilege claims and he was permitted to fully litigate those claims through the courts;

Whereas President Trump, by contrast, fully cooperated with Special Counsel Robert S. Mueller's investigation;

Whereas, during the course of the Mueller investigation, President Trump never raised privilege claims, he turned over more than one million pages of documents, he directed senior aides to testify freely, including making the White House Counsel available to testify for more than thirty hours, and he agreed to answer written questions on penalty of perjury; and

Whereas, rather than giving President Trump the same due process rights that President Clinton had to raise and litigate claims of constitutional privilege, House Intelligence Committee Chairman Adam Schiff has repeatedly threatened to use President Trump's assertion of his constitutional rights as evidence of obstruction and to impeach President Trump for trying to litigate those claims: Now, therefore, be it

1 *Resolved*, That the Senate—

2 (1) calls on the House of Representatives, prior

3 to proceeding any further with its impeachment in-

1 investigation into President Trump, to vote to initiate
2 a formal impeachment inquiry;

3 (2) calls on the House of Representatives to
4 provide President Trump, like every other American,
5 with due process, to include the ability to confront
6 his accusers, call witnesses on his behalf, and have
7 a basic understanding of the accusations against him
8 that would form any basis for impeachment; and

9 (3) calls on the House of Representatives to
10 provide members of the minority with the ability to
11 participate fully in all proceedings and have equal
12 authority to issue subpoenas and other compulsory
13 process.

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