

January 29, 2020

The impeachment trial of President Trump began in earnest last Tuesday, January 21, as the House Managers and President Trump's defense team, along with Senate Majority Leader Mitch McConnell and Senate Minority Leader Chuck Schumer debated the rules for the trial. The evening before, Senator McConnell had released a draft resolution outlining the rules of the trial, and Democrats, along with some of the moderate Republican Senators, took issue with a number of its provisions. Senator McConnell has been saying all along that he wanted the rules of this trial to mirror those of the Clinton trial, and many of them do. However, in stark contrast to the rules of the Clinton trial, McConnell's resolution put a limit on the amount of days that House managers and President Trump's legal team could present their case (each side would have a total of 24 hours over two session days), and did not allow for the automatic admission of the House impeachment evidence into the record.

However, before the resolution was read on the Senate floor for the trial, McConnell made some last-minute handwritten changes to it. The 24 hour presentations were to be conducted over three session days, he had scribbled, and the House impeachment evidence would be automatically admitted to the record. Despite the changes, the debate over the resolution lasted more than 12 hours, extending into the early morning hours of Wednesday, January 22. Democrats introduced—and Republicans tabled—11 amendments to the trial rules. Ultimately McConnell's resolution passed along party lines, but not before Chief Justice John Roberts, who is presiding over the trial, had admonished both the House managers and the President's defense team for conduct contrary to proper Senate decorum.

The House managers began their case in chief that same Wednesday, taking the full 24 hours over three session days to present their findings. The President's team began its rebuttal on Saturday morning, concluding on Tuesday, January 28, after presenting for almost twelve hours. There were few surprises in the content of the presentations; however, on Sunday, the Trump defense team incorporated arguments about the admissibility of revelations contained in a leaked John Bolton manuscript that the President had told him he was withholding aid to Ukraine until Kiev agreed to investigate the Bidens.

The next phase of the trial began on Wednesday afternoon, January 29, when Senators began a two-day, sixteen-hour period of questioning. Only after the conclusion of the Senate questioning will debate begin about whether the Senate should vote to subpoena additional witnesses and introduce evidence that the House was only able to obtain after it voted to impeach the President. It was reported on Tuesday by multiple outlets that Senator McConnell had informed Senate Republicans that he had not yet secured enough Republican votes to block witnesses. McConnell's vote whipping comes amidst intense public pressure on the Senate to call witnesses, as a recent Quinnipiac poll found that 75 percent of Americans support the move. There is a possibility that there will be a compromise on witnesses to include subpoenaing some witnesses that the Republicans would like to hear from, including former Vice President Joe Biden and his son Hunter. If witnesses are subpoenaed, the trial will be put on hold while private depositions are held, and only after the depositions will the Senate once again vote to admit portions of those depositions into evidence.

If, however, Senator McConnell is able to hold his caucus together in opposition to Democrats' efforts to subpoena witnesses or introduce new evidence, the final vote to convict or acquit the President could come as early as this Friday. The Dentons Public Policy Group will provide updates throughout this critical week as necessary.

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