

## IMPEACHMENT: It Is About Time For Dems To Close It Down And Take The Case To The Jury - *InsiderNJ*

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Occasionally, during a trial a dramatic event occurs which makes a trial lawyer's case as strong as it is going to get. This can happen during cross-examination or during the testimony of a substantive witness. When it happens, the jury will be on the edge of their seats and you can hear a pin drop in the court room. Whenever this rare moment of truth occurs, the seasoned trial lawyer knows it is time to close it down and get to the jury as fast as possible – no matter how many additional questions are left to be asked or how many other witnesses are left to be examined. Get to the jury before the power of the evidence fades.

Such a moment of truth occurred yesterday before the House Committees investigating the impeachment, but in this case, it occurred from the 15-page opening statement – which is required reading for anybody closely following the impeachment saga – and the news reports of almost 10 hours of deposition testimony of a single witness. William B. Taylor, Jr, an American diplomat with a military background and 50 years of service to our country, was called back to government service by the Trump Administration and only agreed to serve out of a sense of responsibility to his country. He was in Ukraine not because he was a member of the “deep state,” but because the Trump Administration asked him to serve after they fired former Ambassador Marie Yovanovitch because she was not cooperating with the White House agenda.

This witness whose military and diplomatic background is unimpeachable relied on copious notes during his testimony. Mr. Taylor related a clear narrative about how Donald Trump and the White House engaged in a quid pro quo scheme to extort Ukrainian president

Volodymyr Zelensky to publicly announce an investigation of former Vice President Biden and his family. The testimony makes clear that, at the direction of Trump, military aid and a White House meeting would be withheld from Ukraine until there was a public announcement by Zelensky that Ukraine was opening up a corruption investigation. Such an announcement would have provided Trump with ammunition against his political opponents. During this statement, Mr. Taylor took pains to point out that Ukraine was actively being attacked by Russia. Tragically, Ukrainian lives were lost during the period that the \$391 million military aid package was held up. According to news reports of those present in the hearing room, there were audible sighs and gasps during Taylor's testimony. Witnesses emerged describing the impact of the testimony as a sea-change or a game-changer.

The case for impeachment against Trump for his abuse of power in Ukraine cannot get much stronger. Former Ambassador Yovanovitch and former Ambassador Kurt Volker corroborate Taylor's version of the facts, as does the testimony of other diplomatic witnesses and the texts and emails that relate to their testimony. Unless there is another smoking gun witness out there such as John Bolton, the time has come to stop endless interviews and fact gathering and get the case to the jury. And by the jury I mean the jury of public opinion. The Senate is going to do what the Senate will do, but it is the jury of public opinion which counts now, and this riveting testimony has caught the attention of the public.

I would probably submit Articles of Impeachment with three counts to the House Judiciary Committee. Count One would involve an abuse of power charge arising out of the withholding of Ukrainian military aid in order to obtain a public commitment that Ukraine would investigate his political opponent, Joe Biden. Count Two would be a charge of abuse of power for Trump's directions that his administration stonewall Congress and consistently refuse to produce witnesses or testimony at congressional hearings as was required by law. Count Three would involve the obstruction of justice acts as outlined in the Mueller Report. I recognize that many proponents of impeachment would argue that the Dems should keep it simple and only charge the Ukrainian count but Counts Two and Three are true and impeachable events, and they might give some Republicans cover to vote not to convict on Counts Two and Three but vote to convict on Count One.

At some point, in order to persuade the court of public opinion, live testimony from Ambassador Taylor and other distinguished members of our foreign service will be necessary to recreate the atmosphere of this pernicious quid pro quo scheme. This can be done during the streamline presentation before the Judiciary Committee or some other house Committee, and certainly it will be a necessary component of the impeachment trial in the Senate. Nancy Pelosi has skillfully walked through this journey with measured steps and I'm sure she will figure out the procedural details. The import thing is yesterday was the moment of truth and it is time to bring the heat!