

Trial

Continued from A1

Schumer said Monday that the deal would “allow for the trial to achieve its purpose: truth and accountability” — and force Republicans to go on the record.

“The merits of the case against the former president will be presented, and the former president’s counsel will mount a defense,” Schumer said. “Ultimately, senators will decide on the one true question at stake in this trial: Is Donald Trump guilty of inciting a violent mob against the United States, a mob whose purpose was to interfere with the constitutional process of counting electoral votes and ensuring a peaceful transfer of power?”

In a new filing Monday, the nine House impeachment managers said the evidence for Trump’s conviction was already “overwhelming” and vowed to prove their case in the coming days.

“We live in a Nation governed by the rule of law, not mob violence incited by Presidents who cannot accept their own electoral defeat,” they said.

McConnell and Trump’s defense team also praised the trial agreement in brief statements.

“This process will provide us with an opportunity to explain to Senators why it is absurd and unconstitutional to hold an impeachment trial against a private citizen,” Trump’s lawyers said, hours after they filed a 78-page legal brief — their most complete legal defense of Trump’s conduct to date.

In it, they relied heavily on the challenge to the constitutionality of impeaching a former president, as well as a First Amendment defense of Trump’s rhetoric leading up to the riot — which sought to disrupt the final congressional certification of Trump’s loss.

Mindful that they need to persuade 34 Republican senators to secure an acquittal, Trump’s lawyers cast their defense in a political light, calling the rapid impeachment effort the culmination of a long Democratic campaign to “silence a political opponent and a minority party” through impeachment.

“The Senate must summarily reject this brazen political act,” Trump attorneys Bruce Castor, David Schoen and Michael van der Veen wrote.

They said the lone impeachment article was “unconstitutional for a variety of reasons, any of which alone would be grounds for immediate dismissal.”

The defense team added: “Taken together, they demonstrate conclusively that indulging House Democrats hunger for this political theater is a danger to our Republic, democracy and the rights that we hold dear.”

The nine House impeachment managers filed expansive arguments in favor of Trump’s conviction last week, accusing him of “a betrayal of historic proportions” by promoting the false claim that he, not Democratic candidate Biden, won the November election. Trump then stoked anger among his supporters, summoning them to Washington and finally directing them toward the Capitol as Congress met to count the electoral votes, the managers said.

“If provoking an insurrectionary riot against a Joint Session of Congress after losing an election is not an impeachable offense,” they wrote, “it is hard to imagine what would be.”

Trump’s attorneys outlined their rebuttal to that charge Monday: Simply put, Trump was engaged in free speech protected by the First Amendment when he questioned the election results — highlighting “electoral integrity issues essential to his career that he has consistently advocated, a position unpopular with his political opponents.”

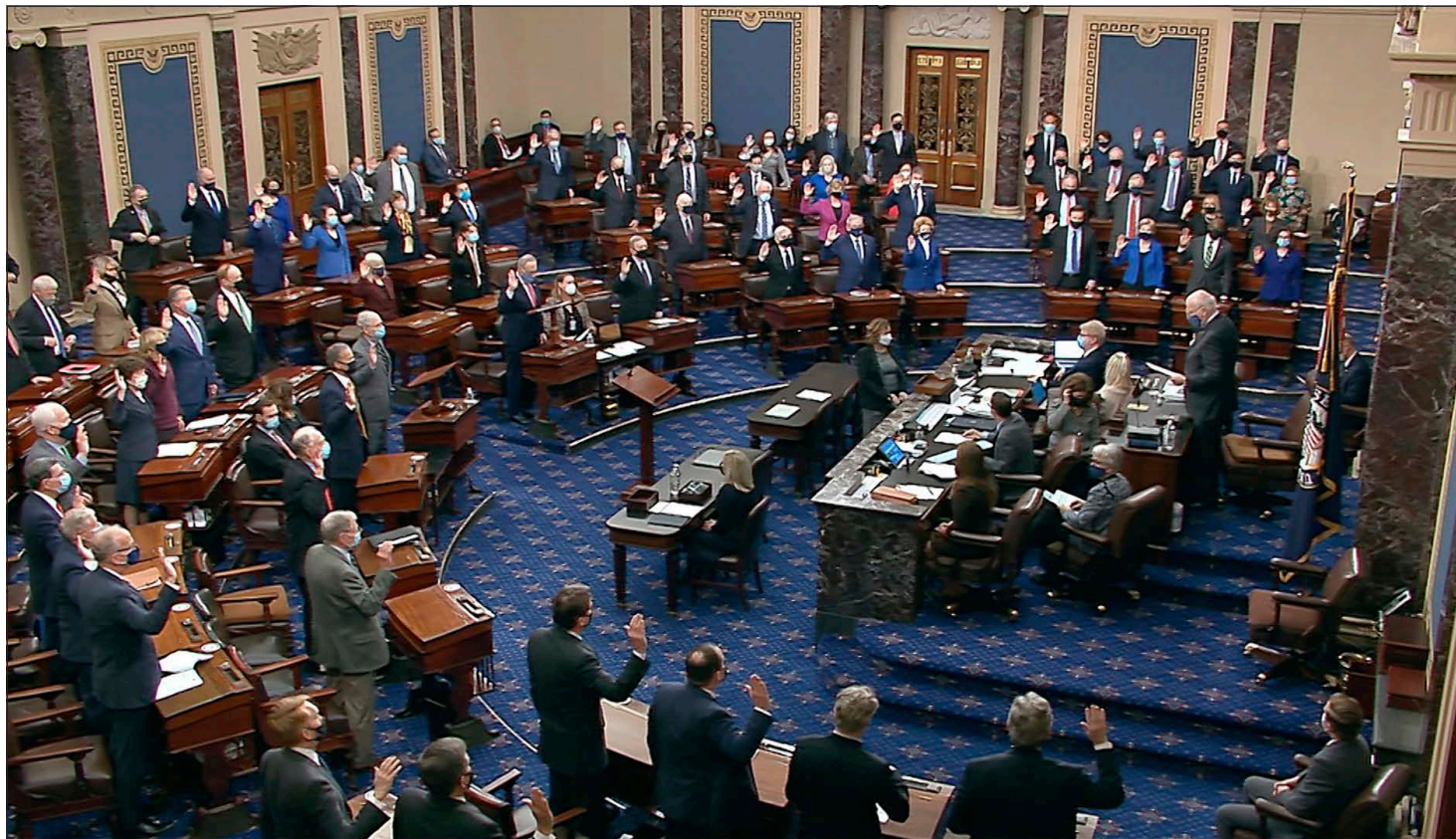
“The attempt of the House to transmute Mr. Trump’s speech — core free speech under the First Amendment — into an impeachable offense cannot be supported, and convicting him would violate the very Constitution the Senate swears to uphold,” they wrote.

In a brief filing Monday, the managers criticized that free-speech argument as “utterly baseless,” saying Trump’s false claims and incendiary rhetoric were entitled to no such protection.

“When President Trump demanded that the armed, angry crowd at his Save America Rally ‘fight like hell’ or ‘you’re not going to have a country anymore,’ he wasn’t urging them to form political action committees about election security in general,” they said, quoting the Trump defense’s words.

The Democratic managers wrote: “The House did not impeach President Trump because he expressed an unpopular political opinion. It impeached him because he willfully incited violent insurrection against the government.”

The decision on whether to convict Trump and potentially bar him from future office is now in the hands of an evenly split Senate, with 67 votes out of 100 needed to secure a conviction.



Sen. Patrick Leahy, D-Vt., the president pro tempore of the Senate, who is presiding over the impeachment trial of former President Donald Trump, swears in members of the Senate on Jan. 26 for the impeachment trial.

Senate Television via AP file

IMPEACHMENT TRIAL EXPLAINED

What’s ahead and what could happen

BY MARY CLARE JALONICK

The Associated Press

WASHINGTON — Former President Donald Trump’s historic second impeachment trial begins Tuesday, forcing the Senate to decide whether to convict him of incitement of insurrection after a violent mob of his supporters laid siege to the U.S. Capitol on Jan. 6.

While Trump’s acquittal is expected, Democrats hope to gain at least some Senate Republican votes by linking Trump’s actions to a vivid description of the violence, which resulted in five deaths and sent lawmakers fleeing for safety. The House impeached Trump on Jan. 13, one week later.

Trump’s lawyers say the trial should not be held at all because the former president is now a private citizen. They argue that he did not incite the violence when he told his supporters to “fight like hell” to overturn his defeat.

A look at the basics of the upcoming impeachment trial:

How does the trial work?

As laid out by the Constitution, the House votes to impeach and the Senate then holds a trial on the charge or charges. Two thirds of senators present can convict.

The House appointed nine impeachment managers who will present the case against Trump on the Senate floor. Trump’s defense team will have equal time to argue against conviction.

The chief justice of the United States normally presides over the trial of a president, but because Trump has left office, the presiding officer will be Sen. Patrick Leahy, D-Vt., who is the ceremonial head of the Senate as the longest-serving member of the majority party.

Once the senators reach a final vote on the impeachment charge — this time there is just one, incitement of insurrection — each lawmaker will stand up and cast her or his vote: guilty or not guilty.

How long will the trial last?

Likely more than a week. The agreement between Senate leaders provides for up to 16 hours for both prosecutors and the defense to make their arguments, starting Wednesday, with no more than eight hours of arguments per day. Later, there will be time for senators to ask questions, and there could be additional procedural votes.

Under the agreement, the trial will open Tuesday with four hours of debate on whether the trial is constitutional. The Senate will then vote on whether to dismiss the charge against Trump. If that vote fails, as expected, the House managers will

begin their arguments Wednesday and continue into Thursday.

Trump’s lawyers are likely to begin their arguments Friday and finish Saturday. That almost certainly means a final vote on Trump’s conviction won’t happen until next week.

Will there be witnesses?

It appears unlikely, for now, though that could change as the trial proceeds. Trump himself has declined a request from the impeachment managers to testify.

While Democrats argued vociferously for witnesses in the last impeachment trial, they were not allowed to call them after the GOP-controlled Senate voted against doing so. This time, Democrats feel they don’t need witnesses because they can rely on the graphic images of the insurrection that played out on live television. They also argue that the senators were witnesses themselves.

If the managers do decide they want to call witnesses, the bipartisan agreement for the trial allows them to ask for a vote. The Senate would have to approve subpoenaing any witnesses for the trial.

Why try Trump when he is out of office?

Republicans and Trump’s lawyers argue that the trial is unnecessary, and even unconstitutional, because Trump is no longer president and cannot be removed from office. Democrats disagree, pointing to opinions of many legal scholars and the impeachment of a former secretary of war, William Belknap, who resigned in 1876 just hours before he was impeached over a kickback scheme.

While Belknap was eventually acquitted, the Senate held a full trial. And this time, the House impeached Trump while he was still president, seven days before Biden’s inauguration.

If Trump were convicted, the Senate would take a second vote to bar him from holding office again, Senate Majority Leader Charles Schumer, D-NY, said Monday. Democrats feel that would be an appropriate punishment.

In response to GOP efforts to dismiss the trial, Democrats argue that there should not be a “January exception” for presidents who commit impeachable offenses just before they leave office. They say the trial is necessary not only to hold Trump properly accountable but also so they can deal with what happened and move forward.

“You cannot go forward until you have justice,” said House Speaker Nancy Pelosi last week. “If we were not to follow up with this,

we might as well remove any penalty from the Constitution of impeachment.”

How is this trial different from Trump’s first trial?

Trump’s first trial was based on evidence uncovered over several months by the House about a private phone call between Trump and the president of Ukraine, as well as closed-door meetings that happened before and afterward. Democrats held a lengthy investigation and then compiled a report of their findings.

In contrast, the second trial will be based almost entirely on the visceral experience of a riot that targeted the senators themselves, in the Capitol building. The insurrectionists even breached the Senate chamber, where the trial will be held.

The fresh memories of Jan. 6 could make it easier for the House impeachment managers to make their case, but it doesn’t mean the outcome will be any different. Trump was acquitted in his first trial a year ago Friday with only one Republican, Utah Sen. Mitt Romney, voting to convict, and there may not be many more guilty votes this time around.

In a test vote Jan. 26, only five Senate Republicans voted against an effort to dismiss the trial — an early indication that Trump is likely to be acquitted again.

What will Trump’s lawyers argue?

In a brief filed Monday, they argued that the trial is unconstitutional, that Trump did nothing wrong and that he did not incite the insurrection during his Jan. 6 speech to supporters.

While the House impeachment managers say Trump is “singularly” responsible for the attack on the Capitol, Trump’s lawyers say the rioters acted on their own accord. They suggest that Trump was simply exercising his First Amendment rights when he falsely disputed the election results and told his supporters to fight — a term they note is often used in political speeches.

The brief goes after the impeachment managers personally, charging that the Democrats have “Trump derangement syndrome,” are “selfish” and are only trying to impeach Trump for political gain.

There was no widespread fraud in the election, as Trump claimed falsely over several months and again to his supporters just before the insurrection. Election officials across the country, and even former Attorney General William Barr, contradicted his claims, and dozens of legal challenges to the election put forth by Trump and his allies were dismissed.

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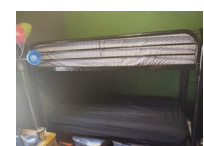
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LEGAL NOTICE TO INTERESTED PERSONS NOTICE IS HEREBY GIVEN that the undersigned has been appointed Personal Representative of the Estate of M. Elizabeth Messer Stearns, Deceased, by the Deschutes County Circuit Court of the State of Oregon probate number 21PB00589. All persons having claims against the Estate are required to present them, with proper vouchers, within four (4) months after the date of first publication of this notice to the undersigned or the attorneys for the undersigned. DATED and first published February 2, 2021.

Gerald R. Stearns c/o Thomas J. Sayeg Karnopp Petersen LLP 360 SW Bond Street, Suite 400 Bend, Oregon 97702 TEL: (541) 382-3011 FAX: (541) 388-5410 Of Attorneys for Personal Representative

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