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THE CURRENT: The president has been impeached. Now what?

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PITA: You're listening to The Current, part of the Brookings Podcast Network. I'm your host, Adrianna Pita.

On December 18, the House of Representatives voted to impeach President Donald Trump on charges of abuse of power and obstruction of Congress. With us today is Molly Reynolds, a senior fellow in Governance Studies here at Brookings, to walk us through what happened in the House and where impeachment goes from here. Molly, thanks for being here.

REYNOLDS: Thanks for having me.

PITA: The vote to impeach came pretty late in the evening, following some eight plus hours of debate on the House floor. As expected, the votes fell along party lines – no Republicans voted for impeachment, and only a couple of Democrats voted against one or the other of the charges. As an observer of Congress, what did you see over the long day, did anything stand out to you in particular? Were there any surprises?

REYNOLDS: You're right that, in the end, the vote totals were more or less what we expected them to be. There were just one non-Democrat, independent House member Justin Amash, who left the Republican Party earlier this year, to become an Independent, was the only non-Democrat to vote in favor of the articles. There were two Democrats who voted against the first article, three who voted against the second article; one of those is New Jersey Congressman Jeff Van Drew, who's reported to be leaving the Democratic Party for the Republican Party, so in that sense the really strong party-line vote is more or less what we were expecting by the beginning of the day yesterday.

I will say that over the last several weeks, the question of whether there were additional Democrats who might vote against one or both of the articles was a real open question. There are a number of Democrats from vulnerable districts, from districts that Trump won in 2016, who while they had voted to authorize the impeachment inquiry, there were real questions about whether they would follow the party and vote to impeach. In that sense, I think that where we ended up is not necessarily where we started. And then just in terms of watching the debate yesterday, I think if you watched the debate on the floor, it was largely consistent with what we've seen over the past several weeks first in the hearings in the House Intelligence Committee, then in the House Judiciary Committee, with Republicans by and large arguing that President Trump hasn't done anything wrong, and whatever he has done doesn't rise to the standard of impeachable conduct, and then Democrats saying no, these really do constitute high crimes and misdemeanors and this is our responsibility, our constitutional responsibility, to hold him accountable.

PITA: In theory now, the process moves to the Senate, however at press conference following the vote, Speaker Pelosi indicated that the House might not immediately send the articles to the Senate. Can you explain this from a procedural perspective?

REYNOLDS: Sure. So, once the House has adopted articles of impeachment, as they did yesterday, there's two additional housekeeping-like steps, we might call them, that the House needs to do before the Senate can begin a trial. The first of these involves naming managers, or naming the members of the House who will present the House's case for impeachment in the Senate trial. You might think about these folks as the prosecutors, if we're using a courtroom analogy. I don't want to take that analogy too far, because there are a lot of important differences, but basically, that's the function of the House managers. So before a trial can start, the House needs to decide who those people are going to be and tell the Senate that.

The House also needs to – what we refer to in Congress-world – as send over the papers. There's documents and formal paperwork that has to do with the impeachment inquiry and the articles that the House needs to transmit to the Senate. So, the House needs to do both of those things before a trial can start.

There is this question that's emerged over the past couple of days about whether the House Democrats might wait to take those steps because they think it might give minority leader Schumer additional leverage in trying to negotiate with majority leader Mitch McConnell around some of the details of Senate trial procedure. Personally, I'm skeptical that that strategy can persist over any kind of long period of time. I think, among other things, it would be a real departure from how, certainly, the Clinton impeachment case was handled. We've heard so much conversation – for good or for ill – about how does this impeachment inquiry proceedings stack up against the Clinton one. That would certainly become a major talking point. I also just think from a political perspective of her own, Speaker Pelosi would like to have this off her table and shift over to the Senate. She brought it this far, she worked with her members who for a long time – and she was one of them – were skeptical of the wisdom of pursuing impeachment. So, I think we may see a short delay while they figure out what their strategy's going to be going forward, but I'm skeptical that the delay will last terribly long.

PITA: Pelosi and other House leadership also expressed their concerns about what procedure in the Senate would look like, ensuring a fair process; when and how does that get decided, about what that will look like?

REYNOLDS: That's a great question. I think in a lot of ways it remains to be seen. The way that rules for a Senate impeachment trial works is that we do have some rules that are written down on paper. They largely date to the 19th century and were used in the Johnson impeachment trial and the context of judicial impeachments over the course of the 19th and 20th centuries. They were last amended in 1986. They provide the basic mechanics of what a Senate impeachment trial would look like, but there are a lot of details that can be filled in. So, if there are witnesses, how long do the witnesses testify for? When the managers, on behalf of the House, present their case, when the president's counsel presents its case, how long do those individuals speak for on the Senate floor? So, there's a lot of room for maneuvering and we expect that that maneuvering will largely happen in the context of negotiations between majority leader McConnell and minority leader Schumer.

The biggest questions there will be around: will there be witnesses and will there be the introduction of additional evidence not already in the record from the House? Schumer has asked for four specific additional witnesses. He asked for some additional evidence to be presented. McConnell came out and was not encouraging of either of those requests. From there, things will continue to unfold, I expect, over the Christmas holiday and into early January, and the real question will be, what do 51 senators want the trial to look like? So we'll be thinking a lot about some of those pivotal Republican senators, some folks who are up for reelection in swing states next year, some folks like Mitt Romney who may have expectations and may have things that they want out of a trial, and their preferences will need to be reflected in whatever it is that McConnell and Schumer try to come to an agreement on.

PITA: Aside from the couple housekeeping steps that you mentioned, the process seems to be done in the House. However, there were still some loose ends out there; there were subpoenas that were

issued, there were some other avenues of investigation that various committees were thinking about pursuing. What happens to all those loose ends now that the vote's been taken?

REYNOLDS: That's a really good question. The House over the course of 2019 has been pursuing a wide range of investigations of President Trump and the Trump administration, and has been saying for several months that many of those investigations were under the umbrella of an impeachment inquiry. Some of that material and some of what they were looking into did not ultimately make it into the articles of impeachment that they approved yesterday. You mentioned one was on the abuse of power, which was focused on the president's conduct vis-à-vis Ukraine, and there was one on obstruction of Congress, and the unwillingness of the administration to comply with subpoenas and requests for documents. There are, however, things like an outstanding subpoena to Don McGahn that's connected to the Mueller report. There's outstanding request from the House to get access to the Mueller grand jury materials. Those fights are in court, and it'll be important to watch whether the fact that the House has approved these articles affects how courts look at the House's request for that testimony and that information going forward.

I do expect that over the course of early 2020, we will continue to see the House of Representatives engage in investigations. I don't expect them to just take their foot entirely off the gas on this front, but at the same time, they will be thinking ahead to the election as it gets closer, and the need again, on the part of those vulnerable House members to say, look, we accomplished things legislatively in addition to having investigated the president.

PITA: On that note, as a final question, there's only a few more days left in session for Congress before the holiday. What are some of those other things they're trying to cram through the door before they leave?

REYNOLDS: Yeah, so it's the end of the year, and there's nothing that Congress likes more than a good deadline to try and get some stuff done. So we've actually seen a fair amount of other activity in Congress this week even while the impeachment vote in the House was unfolding. There is a package of bills to keep the government open and funded through the rest of the fiscal year. The Senate has been working to approve additional judicial nominations. The House is expected to vote on adoption of the trade agreement with Mexico and Canada. The Senate is expected not to take that up likely until after an impeachment trial is concluded in the new year, but there's certainly been a flurry of legislative activity at the end of the year even as this very partisan impeachment process has unfolded.

PITA: All right, Molly, thanks for being here and explaining this to us.

REYNOLDS: Thanks for having me.