

FURTHER REFLECTIONS ON SENATE JUDGMENT NOT TO CONVICT AND REMOVE THE IMPEACHED PRESIDENT FOR ABUSE OF POWER AND OBSTRUCTION OF CONGRESS

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IN THE HOUSE OF REPRESENTATIVES

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Ms. JACKSON LEE. Madam Speaker, on Wednesday, February 5, 2020, the United States Senate determined not to convict and remove from office Donald John Trump, President of the United States, who was impeached by the House for high crimes and misdemeanors; a decision I firmly believe will be judged harshly by history for all time.

Madam Speaker it is important to understand the seriousness of a determination by the House to exercise the power of impeachment, which under Article I, Section 2, Clause 5 of the Constitution is vested solely in the House of Representatives.

The purpose of impeachment is not to punish the person but to protect the people by removing from office an individual whose misconduct and behavior is so dangerous that it imperils the liberty of the people, the security of the nation, or the vitality of the governmental system.

In short, impeachment is the passionate outcry (*crie de coeur*) of a people alarmed at a pattern of abuses and usurpations that evidence a desire to reduce them to accept absolute despotism or establish tyrannical rule.

The impeachment power is vested in the House of Representatives because it is the body designed by the Framers to be the physical, direct, and immediate representatives of the People, reflecting all of their passions and hopes and fears and concerns.

So, when 'The People' who established the Constitution are acting to preserve and protect their governmental system and their security, there is no higher or countervailing authority to which they must yield.

A refusal by any authority subordinate to 'The People,' including the President of the United States, to cooperate with, or honor a request for information from the House of Representatives when it is exercising its sole power of impeachment is simply another way of saying that the person in question is exalting his or her interests over the sovereign interests of the people, the ultimate repository of all political power in a democratic republic such as the United States.

The impeachment inquiry initiated pursuant to H. Res. 660 by the House of Representatives systematically and methodically revealed the manner in which the President misused the power and authority of his office to extort a beleaguered and besieged ally to conspire with him to sabotage the 2016 presidential election so that he could retain the office he holds and continue to abuse its powers.

Every material allegation set forth in the whistleblower's complaint has been verified, corroborated, or affirmed by a host of witnesses who overcame opposition and threats by the White House and courageously testified from which three unassailable conclusions can be drawn.

First, the President violated his oath of office by placing his personal and political inter-

est above the national interest by scheming to get Ukraine to announce a phony investigation against a potential election opponent.

Second, the President betrayed the national interest by withholding vital, congressionally appropriated security assistance to a beleaguered and besieged ally facing armed aggression from Russia, America's implacable foe.

Third, the essential purpose of the scheme concocted by the President was to enlist a foreign country to help him fix the 2020 presidential election in his favor, the very type of interference most feared by the Framers.

The evidence showed that the President of the United States abused the powers vested in him in the way the Framers most feared and worked hardest to protect against.

What this means in short is that the evidence showed that the President committed the trifecta of the most cardinal political sins that can be committed in a democratic republic.

If American elections are not free, fair, and uninfluenced by foreign actors, then the democracy is extinguished and citizens are reduced to subjects ruled by an authority dependent not on the consent of the governed, but on the assistance and beneficence of unaccountable foreign actors.

The testimony and evidence led to and supported a conclusion that the President abused his power to extort a foreign nation to conspire with him to sabotage an American election and undermine democracy so he could retain his office to abuse his powers.

Madam Speaker, Ukraine is not just another country but a bulwark for the West against Russia, its imperialism, its autocratic tendencies; Ukraine is an ally on the frontline of the United States' containment policy toward Russian expansion that has been in place since 1947.

Thus, withholding desperately needed security assistance to Ukraine not only harms that nation but endangers the security of more than 325 million Americans.

The conduct of the President adduced by the evidence illustrates the reason for the doomsday clause in Article I, section 2, clause 5 as the ultimate protector of a people and system of government in which America is to be ruled by American leaders selected by American voters without the assistance of non-Americans.

Madam Speaker, the hallmarks of a democratic system of government are: (1) an independent judiciary; (2) civilian control of the military; (3) free and independent political parties; (4) fealty to the rule of law; (5) freedom of speech and of assembly; and (6) a free and independent press.

But the lynchpin of a functioning and real democracy is free and fair elections.

As I stated earlier, if American elections are not free, fair, and uninfluenced by foreign actors, then the democracy is extinguished and citizens are reduced to subjects ruled by an authority dependent not on the consent of the governed, but on the assistance and beneficence of unaccountable foreign actors.

The Framers wanted to ensure that the President's allegiance would always be to the nation, which is why the text of the presidential oath is the only one specified in the Constitution and why the Emoluments Clause (Article 1, Section 9, clause 8) prohibits the President from accepting any title of nobility or

thing of value from any King, Prince, or foreign state without the consent of Congress.

The first President of the United States, George Washington, counseling in his famous 1796 Farewell Address to beware of foreign entanglements, said the government sometimes acts to make "the nation subservient to projects of hostility instigated by pride, ambition, and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty, of nations, has been the victim."

President Washington also pointed out the pernicious influence of foreign involvement in American elections:

And it gives to ambitious, corrupted, or deluded citizens (who devote themselves to the favorite nation), facility to betray or sacrifice the interests of their own country, without odium, sometimes even with popularity; gilding, with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils. Such an attachment of a small or weak towards a great and powerful nation dooms the former to be the satellite of the latter.

Madam Speaker, if we are to have government of the people, by the people, for the people, then elections must be decided by Americans, and only Americans, without the influence of foreign leaders or nations.

The only legitimate way political authority is conveyed voluntarily and consensually from the governed to the governors is through free and fair elections uncorrupted by foreign involvement.

In seeking to entangle Ukraine directly in the 2020 presidential election, the actions proved by the House Impeachment Managers showed that the President acted to further his own personal political interests and disregarded his oath registered in Heaven to "preserve, protect, and defend the Constitution of the United States."

Instead of advancing America's interests, Russia, America's implacable foe since 1945, has been emboldened and is benefitting from every action that weakens or jeopardizes Ukraine's ability to defend itself from aggression, beginning with the lukewarm embrace of this Administration of NATO, and especially Article 5 of the NATO Treaty, which deems an attack on any NATO member country as an attack on all, a commitment that has kept the peace in Europe since the end of World War II.

The Framers understood that abuse of power is the gravest offense that can be committed in a democratic republic.

Criminal offenses, the Framers understood, could be adjudicated in the judicial system, policy disagreements could be worked out in the political system, and concerns over maladministration could be addressed and decided or corrected in the electoral system.

But acts that by their nature injure the very system of government itself are different, or sui generis, and require a different and more immediate remedy, and that is the removal

from the office entrusted to the person or persons causing the injury.

This is done to protect the people and the republic, not to inflict punishment on the person.

The Framers were well aware that some of the most dangerous abuses of power were not violations of the criminal code but the actions of a tyrant who ruled under the divine right of kings and they pledged their lives, honor, and sacred fortunes never to countenance such abuses or usurpations in their new country.

Consider if you will a small sample of the legal acts of abuse and suffering inflicted on Americans in the time of the Framers by their rulers, Great Britain's King George III and the British Parliament, which they documented in the Declaration of Independence:

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures. He has affected to render the Military independent of and superior to the Civil power.

He has combined with [Parliament] to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For Quartering large bodies of armed troops among us;

For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States;

For imposing Taxes on us without our Consent; For depriving us in many cases, of the benefits of Trial by Jury;

For transporting us beyond Seas to be tried for pretended offences

The principle the Framers were asserting is that removal of the King and Parliament was justified not because they had committed criminal violations of the statute book, but because they had and were exercising their power in a manner that threatened the liberty and security of the people.

In short, the Framers were declaring to the world that their governors had so abused their

powers that it "revealed the character of a tyrant who was unfit to be the ruler of a free people."

And to ensure that did not happen again in the new nation, the Framers wisely included Article I, Section 2, Clause 5 vesting the sole power of impeachment in the House of Representatives and Article II, Section 4 subjecting the President and Vice President to removal from Office "on Impeachment for and Conviction of Treason, Bribery, or other high Crimes and Misdemeanors."

The actions alleged in H. Res. 755, the impeachment resolution, and proved to a certainty by the House Managers bespeak a stunning disregard for the values that sustain our country and a contempt for the institutions that protect our liberties and national security.

As alarming is the fact there has been from the President no expression of regret, no remorse, no contrition, no apology, no atonement, no request for forgiveness, no admission of wrongdoing or even erroneous judgment, and no attempt at reconciliation.

Instead, the President continues to double-down on his previous actions, still claiming, despite all evidence to the contrary, that his telephone call with President Zelensky was "perfect" and inviting other countries, such as China, to become involved in our nation's 2020 presidential election.

This means the clear and present threat to our democracy that moved the House to act is a continuing one, which the Senate should have acted to remove.

Given the disappointing failure to convict and remove by the Senate, it is incumbent on each Member of this body, and all citizens of our great nation, to vigilantly be on guard to safeguard our democratic institutions, values, and principles against further attack.

That is what this moment in history demands of us and we dare not falter or fail in this moment of crisis so as was said in another perilous time, "sail on oh ship of state, sail on oh union great; humanity with all its fears, with all it hopes of future years, is hanging breathlessly on thy fate."

I extend my deepest thanks to thank Speaker PELOSI for the extraordinary leadership she has displayed on behalf of this House, the Congress, and the nation during the present crisis.

I also want to acknowledge and thank Judiciary Committee Chairman JERROLD NADLER and Intelligence Committee Chairman ADAM SCHIFF for the meticulous and thoroughly professional manner in which their committees discharged the responsibilities entrusted to them by H. Res. 660, the impeachment inquiry resolution.

I thank all of the members of the Committees on the Judiciary and on Intelligence for the tremendous contributions they made in compiling such a powerful and overwhelming evidentiary record for impeachment.

I especially wish to recognize the extraordinary advocacy of the House Impeachment Managers in presenting such a persuasive and compelling case for impeachment to the Senate sitting as a Court of Impeachment.

Of course, an enterprise of this magnitude could not be carried out successfully without the assistance, support, and commitment of extremely talented professional staff members of the Judiciary and Intelligence Committees and I thank them for the invaluable service they rendered to our nation.

Finally, I wish to express my deep appreciation and gratitude to members of my personal staff, Gregory Berry, Chief Counsel; Robin Chand, Senior Counsel; and Glenn Rushing, Chief of Staff, for their expertise and tireless efforts in researching and analyzing the unprecedented factual background, legal issues, and constitutional precedents involved in these proceedings.

Madam Speaker, it has been said that what we do in life echoes in history, and Scripture tells us in Psalms 30:5 that "weeping may endure for a night but joy cometh in the morning."

I am confident that if we hold fast and honor the values and principles that we know to be right and true and good, then constitutional government will be preserved and passed on to future generations just as it was to us.

So, it is with love and reverence for this country and its people, that I stood with the Constitution and supported the resolution impeaching Donald John Trump, President of the United States, for high crimes and misdemeanors and it is why I disagree with the conclusion of the Senate not to convict and remove the President from office.