

Impeachment: What Lies Beneath?

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Jim Kavanagh

[THE POLEMICIST](#)



The Democrats keep trying to instill gravitas into their impeachment maneuvers but the ground they stand on is fertilised with appalling hypocrisy.

Note: All captions by the editors, not the author.

The Raw

[dropcap]T[/dropcap]he Democrats have now revealed the hand they're going to play for impeachment. I have been [vehemently arguing](#) against playing this game and pointing out how futile it is, but, seeing the two cards actually laid out on the table, even I am gobsmacked at what a loser of a hand they've got.

Of course, we have to recognize Gerald Ford's correct [point](#) that "An impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history," and accept that the Democratic majority in the House at the present moment *will* determine that their two charges against Trump are impeachable offenses.

But it's equally true that an *acquitable* charge is whatever more than a third of the Senate considers it to be, and the issue will finally be decided by the political support the charges can muster from Republican senators and their constituents.

Given the ideological disposition of those senators and constituents, as well as the widespread reluctance of Americans generally to impeach a president—an act that does annul an election—over any but the most serious offenses, it is hard to believe the Democrats think they will sway anybody with the thin gruel they are serving up.

The two [Articles of Impeachment](#) constitute a political indictment presented by the prosecution that must be argued in a political trial before the political jury of the Senate. Don't let the judicial terms mislead you. It's an entirely *political* process, so much so that the House voted to impeach Andrew Johnson before they voted any Articles of Impeachment. In the present case, it is impossible to see, politically, how these charges can withstand the defenses that are easily available against them.

The first Article of Impeachment, Abuse of Power, accuses Trump of “abusing the powers of the Presidency” by “engag[ing] in [a] scheme or course of conduct for corrupt purposes in pursuit of personal political benefit.” Trump did this, it is alleged, in a phone call with the president of Ukraine, when he “conditioned two official acts [delivery of weapons and a presidential meeting] on the public announcements that he had requested.” The “corrupt purpose,” the high crime, here is the “pursuit of personal political benefit.”

There are two kinds of objections to this charge, which Trump (or any president) and his supporters will make. One kind questions the specifics. It contends, first of all, that the alleged “conditions” were not *requirements*, but more like “requests” or “suggestions.” This is evidenced by the fact that the “official acts” said to be withheld were actually taken without these “conditions” being met, and that the person upon whom those “conditions” were supposedly placed denies any compulsion.

Another specific objection contends that the benefits being sought were not, or not just, *personal*, that there was and is a legitimate US national interest in investigating corruption in Ukraine as well as possible Ukrainian interference in the 2016 election. Joe Biden’s (and his son’s) actions in 2016 with a Ukrainian energy company was not being questioned because he was an election opponent—which he was not, is not, and may never be—but because, as Vice President and overseer of American policy in Ukraine at the time, *he was an officer of the United States government*.

The possibility of Biden being a political opponent in 2020 cannot exempt examining his very questionable actions as a Vice-President in 2014-16. And, contrary to the charge in this Article, there was no assertion that Ukraine might have interfered in the 2016 election “rather than Russia”; it was not stated, and it is illogical to assume, that one alleged intervention excludes the other. In sum, the objections go,

any possibility of personal political benefit to Trump from these investigations is, at worst, coincident with legitimate public interests.

That's it, the essence of the Abuse of Power charge and the defenses against it.

Now, one can argue that the context supports interpreting these acts of "withholding" as an impeachable "abuse of power," but there is no way around the fact that that is an *argument*, a *political* argument, that must be made to the jury. It's not made by assertion. It requires "connecting dots," making inferences, evaluating witnesses and testimony, and quibbling over details. There is no forced conclusion, and in fact, ample grounds for political reasonable doubt. There is nothing here that is going to force Republican senators—let alone the few of their constituents who will pay any attention to the details being quibbled about—to come to an epiphany about the high justice of the Democrats' charges.

There's another kind of objection to the Abuse of Power charge that is less legalistic and requires no quibbling over details. That is to make the point that it is not particularly unusual—and certainly not urgently impeachable—for a US president to extract, or in this case *try* to extract, something of personal political benefit from another head of state, particularly at the relatively trivial level of the charge against Trump. Republicans can insist that what's being charged as an outrageous *abuse* is, in fact, a normal *use* of presidential power. Again, every president seeks, at least coincidentally, to gain personal political benefit from every foreign policy interaction. S/he would be remiss not to. High crime? It's expected behavior.

This is the quintessential political defense. And it's a strong one, since it corresponds to the American people's widespread and correct belief that, with very few exceptions, whatever American politicians are doing they are doing

ultimately for themselves. It's going to be very hard to whip up popular outrage about trying to condition two official acts on "public announcements." Most people will see the attempt to whip up such outrage as the moralizing hypocrisy it is.

Indeed, it's not only presidents who seek to use foreign heads of state to advance their own personal political interests in ways that are contrary to national interest. When members of Congress invited the Prime Minister of Israel to come here and harangue them and the American people into opposing a crucial foreign policy position of the US government (the Iran deal), when they constantly sprang from their seats applauding that harangue, were they not doing so because, or at least knowing, that would redound to their personal political benefit? One politician's *abuse* is another 535 politicians' *use* of their office.



US Congressional whores applauding Israel's PM Netanyahu on 3 March 2015. Acting for their benefit, indubitably. Netanyahu remains one of the most virulent threats to global peace in generations.

Of course, no Republican or Democratic member of Congress would embrace that example. And we are going to ignore here all the profound implications of the fact that no country interferes in US elections more thoroughly and systematically than the state of Israel, and that no country interferes in foreign elections more thoroughly and systematically, as an integral part of its policy, than the United States. Nor can we get into the nauseating set of values that allows Nancy Pelosi to proudly [state](#) that she “vehemently opposed” impeaching Bush for committing “[the supreme international crime](#)” of initiating an aggressive war—on grounds that he *and* she knew to be false—while sanctimoniously insisting that Trump’s call for “public announcements” from Ukraine is “self-evidently” an impeachable high crime, “something that cannot be ignored.” To get into any of that would be to raise politico-ethical considerations of a kind that are vehemently denied a place among either Democrats or Republicans in this impeachment process, or in any other proceeding of the United States Congress.

Because the “abuse of power” charge is so weak, there is actually another charge inserted within it—namely, that “by such conduct” Trump has proven himself to be “a threat to national security.” That charge has to be there to give “abuse of power” substance and traction for Republican senators. Republicans would only vote to convict Trump if they accept that he’s a “threat to national security”—although for a complex of reasons not explicitly specified in the Article. We’ll come back to that below.

The second formal Article of Impeachment. Obstruction of Congress charges that “President Trump directed Executive Branch agencies, offices, and officials not to comply” with “subpoenas seeking documents and testimony.” This has nothing to do with the “10 different episodes of presidential obstruction of *justice*” the Democrats identified in the Mueller report, for which [they claimed](#) “the evidence is

overwhelming”—though they’ve given up on trying to prove them.

The Democrats are adopting here a position that’s been taken alternately by Republicans and Democrats at various times: that defying subpoenas from a congressional impeachment inquiry is itself an impeachable offense. This is a charge that, in constitutional terms, is both important and, at this point, impossible to resolve. For anyone who knows the history of it, it’s embarrassing to pretend it’s settled by assertion.

It's important because it touches on core issues of the separation of powers: whether a president has the right, the [“executive privilege,”](#) to withhold documents and testimony from Congress in order to preserve the confidentiality necessary for the functioning of the executive branch. It's impossible to resolve because the Supreme Court (the only arbiter that counts here) has upheld the right of executive privilege and declared it is “limited,” but, despite anyone’s insistence, has never clearly defined those limits in a way that constitutes such defiance as an impeachable “high crime” in itself. Nor is there a precedent from previous impeachment. It's a charge that was never voted on by the full House against Nixon, and not included in the Articles of Impeachment against Bill Clinton.

So, Republican defenders of Trump will say that you can't blithely accuse him of a high crime that has not yet been defined; you can't convict him for actions that may very well be within his constitutional authority; and you certainly can't say that appealing to the court to defend yourself and clarify the limits of congressional and presidential authority is “obstruction” just because it doesn’t fit your accelerated timetable.

This “executive privilege” argument between the legislature and the executive has been going on for a long time, and has always been settled by which side in the substantive debate the Congress was on. Indeed, those who (like myself) tend to

favor the prerogatives of congressional oversight should be aware that the claim of “executive privilege” has a more complicated political history than we might like to think.

Dwight Eisenhower was the [first President](#) to coin the term, and he used “executive privilege” in a way that liberals and leftists have always applauded—against Joe McCarthy. He defied the McCarthy committee subpoenas, forbidding the “provision of any data about internal conversations, meetings, or written communication among staffers, **with no exception** to topics or people”—effectively shutting down the Army-McCarthy hearings and throwing Tail-gunner Joe’s career into a tailspin.

In Emile de Antonio’s documentary *Point of Order*, you’ll see McCarthy—in his inimitably hysterical way, with his lawyer, Bobby Kennedy, sitting behind him—warning his colleagues, including Missouri Democratic Senator Stuart Symington, that President Eisenhower’s “executive privilege” claim has repercussions way beyond this particular hearing or any partisan loyalty, and would come back to bite the Congress and the country if it was accepted.

And so it came to pass, twenty years later, when the Democrats in Congress—including the same Stuart Symington—flipped their position on “executive privilege” when Nixon used it to defend himself. The liberals had come to McCarthy’s position, because it now suited their political objective.

So, no, there is no definitive legal ruling on executive privilege, nothing about it is “self-evident,” nobody has a privileged moral or legal position from which to unequivocally declare that either the use of executive privilege or the appeal to the courts about it is “obstruction,” and Republican senators and their constituents are not going to accept Nancy Pelosi’s or Jerry Nadler’s attempt to do so. Again, there is too much reasonable political doubt. The Obstruction of Congress Article will fail in the Senate and among the people.

These Articles of Impeachment are painfully weak, guaranteed to fail and, in doing so, help no one but Donald Trump. I have [characterized](#) the Democrats' impeachment bid as a dead man's hand, Aces & Eights. But the actual cards on the table are even worse—more like two-seven, unsuited. It is hard to believe the Democrats can imagine they will sway anybody with this dog.

I agree with [Jonathan Turley](#): “when I look at the House efforts to impeach President Trump,... I continue to look around scratching my head, wondering why others don't see the obvious gaps and conflicts.” Turley's [analysis](#) is devastating and right, and I'll borrow his [other metaphor](#) in saying that the Democrats are on, and insisting it's your duty to board, a political Titanic. I suggest to everyone who doesn't want to compound the disaster that Trump represents, including the Democratic candidates: Get the fuck off, or don't be surprised when you go down with the ship.

It's less than a year before the presidential election! From now until then, Trump's Republican supporters will play on an endless loop the wisdom of the Democrats' own political sages:

There must never be a narrowly voted impeachment or an impeachment substantially supported by one of our major political parties and largely opposed by the other. Such an impeachment would lack legitimacy, would produce divisiveness and bitterness in our politics for years to come and will call into question the very legitimacy of our political institutions. (Jerry Nadler, on why he opposed impeaching Bill Clinton) I don't want impeachment “to be a way of life in our country.” (Nancy Pelosi, on why she opposed impeaching George W. Bush)

So, what is their agenda? Even with the constant barrage of support from their allied media, assuring everybody that the cards are coming their way, players as experienced as Pelosi, Schiff, and Nadler must know it's a bust. Trump is the only

possible winner of this hand. Do we really believe they're staying in it for love of the game? That they're just expressing their constitutional virtue? Even in those terms, as Pelosi and Nadler's own words above indicate, a win is a loss. Are they being deliberately self-destructive or just stupid?

It's all the more senseless because the Democrats have an easy exit strategy: Pass a resolution of censure in the House, and move on to getting rid of Trump through, you know, *the election*, less than a year away. That's the politically smart thing to do, and it still allows them to signal their virtue. Declare your outrage, fold the hand, take the small hit on the blind, and avoid the devastating loss that will come by betting into the Senate. Keep your stack of political chips for the general election.

The Cooked

Which makes me wonder. The obviousness of this losing hand, and the fact that the most politically-seasoned, can't-be-that-stupid Democrats seem determined to play it out, have my paranoid political Spidey senses all atingle. What are the cards they're not showing? What lies beneath the thin ice of these Articles of Impeachment? If the apparent agenda makes no sense, look for the hidden. Something that better explains why Pelosi, et. al. find it so urgent to replace Trump before the election *and* why they think they can succeed in doing that.

There is one thing that I can think of that drives such frantic urgency: War. That would also explain why Trump's "national security" problem—embedded in the focus on Ukraine arms shipments, Russian aggression, etc.—is the real issue, the whistle to Republican war dogs. But if so, the Ukro-Russian motif is itself a screen for another "national security"/war issue that cannot be stated explicitly. There's no urgency about aggression towards Russia. There is for Iran.

So here's my entirely speculative tea-leaf reading: *If* there's a hidden agenda behind the urgency to remove Trump, one that might actually garner the votes of Republican Senators, it is to replace him with a president who will be a more reliable and effective leader for a military attack on Iran that Israel wants to initiate before next November. Spring is the cruelest season for launching wars.

Crazy? Maybe, but reliable reports say that the leadership in both Israel and Iran have come to the conclusion that their two countries have reached a crossroad Israel calculates that Iran has already gained too much power in the region, that it has established a network of battle-hardened allies and a widening emplacement of increasingly accurate missiles that could right now seriously damage the Jewish state in any conflict. Indeed, the Pentagon [reports](#) that Iran is producing “increasingly capable ballistic and cruise missiles” with “better accuracy, lethality and range.” And “Axis of Resistance” sources tell [Elijah J. Magnier](#) that these missiles “have been delivered to Iraq, Syria and Lebanon.”

The Houthi strike on Saudi Arabian oil fields in September confirmed this and stunned Israeli and US observers, as it demonstrated that Iran and its allies have missiles and attack drones that can avoid American anti-aircraft defenses and, most worrying, strike with pinpoint accuracy. Like this:



Four bull's-eyes. From over 1000km away.

This is the picture of Israeli fear. These are not your daddy's throwaway rockets that get fired blind and land in the middle of wherever. They are harbingers of increased military capability and confidence. They can find the Israeli Defense Ministry, a big building in the middle of Tel Aviv.

Iran knows that Israel knows all this and cannot allow it to go any further. That's why Israel is attacking Iranian Revolutionary Guard (IRGC) forces in Syria, Hezbollah warehouses in Lebanon, and Iranian-allied forces in Iraq. But, as Iran knows very well, that's not enough, and Israel is determined, sooner rather than later, to strike large and at the root—Iran itself. All the more so because Iran is not backing down but beefing up, and proclaiming itself ready to fight rather than get pushed back. Magnier quotes an “Axis of Resistance” decision-maker: “There is no alternative to war. One day it will be war on a large scale.”

It's not that Iran does not know the damage Israel can do; *it's that they also know (and know that Israel knows) how little damage Israel can take.* As the Deputy Commander of Operations of the IRGC, Abbas Nilforoushan, says, [quoted](#) by

defense analyst Yossef Bodansky: "Iran has encircled Israel from all four sides...if only one missile hits the occupied lands, Israeli airports will be filled with people trying to run away from the country."

Israel, even less than the US, cannot take casualties. A couple of bull's eyes, a lot of Israelis go back to Brooklyn. The 82 million people in Iran have no place else to go.

So, Netanyahu and the Israeli military leadership are at the point where they think it's necessary to take Iran down *now*, before the strategic situation deteriorates for them even further. As they correctly fear, doing nothing carries at least as great a risk for them in the not-so-distant future as taking the risk of a direct attack on Iran does now.

Thus, Israeli journalist Ben Caspit [tells](#) former British diplomat Alastair Cooke that Israeli ministers "clearly state that a widespread war is likely to erupt in the next six months between Iran and its adversaries in the region, including Israel." As Magnier specifies: "Considering the date in the next six months, this means the end of the spring and the beginning of the summer." They don't want to wait until the second Tuesday in November, let alone January 20, 2021. Everybody's got a timetable.

Let's try to remember: It was in September, Bodansky notes, that Netanyahu, speaking to the IDF General Staff, warned that Israel had "hitherto" avoided "a comprehensive confrontation," but "This might change soon... raising the specter of an all-out war as a distinct possibility." It was in September, he also notes, that IRGC commanders concluded: "all chances for a diplomatic breakthrough collapsed." It was in September, three months after Trump called off a strike against Iran at the last minute, that those extremely accurate Houthi drones and/or missiles struck key Saudi oil facilities. And it was ten days later in September that five "badass" freshman congresswomen—plus two men, all CIA or military

officers—“[changed...the course of history](#)” and “the dynamic for House Democrats” with an [op-ed](#) in the *Washington Post* that called for impeaching Trump, instantly converting a previously recalcitrant Nancy Pelosi to the cause.

There followed Trump’s decision to withdraw from Syria—modified under pressure, but [still](#) “leaving the Kurds high and dry” and serving as another “warning sign to Israel.” And there came considerable teeth-gnashing [about](#) how Netanyahu’s “signature Iran policy ... was rocked by the president's reluctance to flex US military muscle,” and left Israel “facing the reality of an unpredictable and transactional president who has deep reservations about using US military might, is afraid of getting involved in another Middle East conflict.”

Now all of this—the coincidences of the September turning points and the Spring 2020 timetables for both “Netanyahu’s signature war” and Pelosi’s “constitutional duty” of impeachment—may be, most probably are, just that: coincidences. All the signs and proclamations about an impending war with Iran in the next six months may be, as they have been before, bluster and bluff. They probably are. There's probably no connection whatsoever between what's going on in the Israeli Defense Ministry and what's going on in the hallowed Halls of Congress.

But the strategic military balance in the Middle East *is* changing rapidly, the US *is* a less reliable partner, and Iran and Israel have reached the [zugzwang](#) point where some big move is necessary and every possible one is dangerous. Everyone understands that any war with Iran will be widespread and immensely destructive.

That is exactly why Serious People in Israel and the United States would really, really want to have someone other than Donald Trump as President if there is going to be a war with Iran: It’s more than a fear that Trump won’t go along with it.

(After all, he despises Iran, and can usually be made to do what the neocons want.) It's that Israel won't, in this instance, be looking to strike some weapons depots. It will be trying to eliminate the perceived strategic threat Iran poses and any possibility of retaliation—quickly, thoroughly, and for decades at least. That means destroying as much of the country as quickly as possible. Given Iran's size (680,000 sq. mi.), strength, and tenacity, that means Israel will use overwhelming and ruthless force—including, I think, nuclear weapons. And Iran and its allied forces will strike back against all countries and all forces it considers complicit in the attack, everywhere they can reach. In that situation, Israel will need not only US military support, but, perhaps more importantly, the backing of an American president who projects the kind of leadership that can solicit the support, or at least the forbearance, of countries in the region, European countries, and the “international community.” That is not Donald Trump.

So, if there is preparation for a war with Iran going on behind the scenes, one can easily imagine that Israel will use every tool in its kit to emplace the American leadership it considers most helpful—maybe someone who isn't openly mocked by his closest allies. Those tools include the strong financial, political, and other kinds of incentives at its disposal, which can be quite effective in changing Senators' votes, and, perhaps, some of the handiwork of [Mossad agents](#) Jeffrey Epstein and Ghislaine Maxwell.

But that's a huge “if.” I accept that this is speculation, if not entirely baseless. Call it a paranoid political thought experiment, which adds some spice to the excruciatingly boring impeachment theater.

Of course, there is no way of knowing if there will be an attack on Iran in the next six months. (That's the kind of thing that would be a surprise at any time.) Although for the last six months there has been so much concern in the US

government [that](#) “the prospect of a confrontation with Iran continues to rise” that a bipartisan congressional coalition attached an amendment (constitutionally redundant!) to the NDAA specifically preventing national-security-threat, [all-roads-lead-to-Putin](#) Donald Trump from waging war against Iran without congressional authorization. Which was just [dropped](#) from the final version of the NDAA passed by the Democratic-controlled House. ‘Cause constitutional duty. This was in the national interest of the United States, and whatever national benefit it gives to Israel for its interests and plans is purely coincidental.

I also agree that there’s nothing we can see out there strong enough to overcome, for at least twenty Republican Senators, the punishment they would face from their constituents for voting against Trump. The only visible hint of danger right now for Trump comes, as always, from himself. If he browbeats Mitch McConnell into orchestrating the extensive, multi-witnessed extravaganza of a trial that Trump seems to want, he’ll be opening a Pandora’s box of potential traps.

One conservative commentator does [caution](#) against taking the Senate for granted: “Over the past week, I have heard from three seasoned Republicans who fear that President Trump and the West Wing are seriously underestimating the potential danger of a Senate trial... the weight of history is settling upon the shoulders of these senators ...private conversations are taking place and a trap may be sprung for the president in that trial. A potential trap set by seemingly loyal Republican senators.” We are not told where that “weight of history” comes from or what those conversations are about, just that: “there very well may be enough Republican senators willing to topple the first domino and set in motion a chain reaction—no matter the consequences.”

But that remains a vague warning, not based on (though not inconsistent with) the possible scenario I evoked. I still see, and would bet on, no other outcome than a quick acquittal

by the Senate.

I present my version of a hidden agenda as an intriguing frame for explaining what I *don't* see: I don't see why the Democratic leadership is pursuing impeachment with these lame Articles *at this point* and *at this pace*. If their purpose is to corral the Democratic constituency into a cul-de-sac that diverts from critiquing the party's own failings, they've already done that with three years of Russiagate. If they are trying to self-sabotage the Party in order to throw the election and keep Trump as a straw man to kick around, because they have no credible governance program of their own, that's a lot more easily accomplished by nominating one of the "[nothing would fundamentally change](#)" centrists who are running—which is exactly what they're going to do anyway. There are simpler ways to do any of these things, or nothing—which is exactly what they are doing with this.

Really, why? What's the agenda? With these weak-tea Articles, what impeachment agenda isn't imaginary?

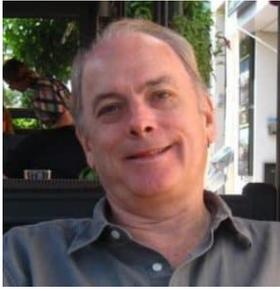
So, I am sure there will be a quick dismissal of these Articles of Impeachment by the Senate. 99+44/100% sure. It's the bet. A surer thing even than Hillary Clinton winning the election. One other thing I'm absolutely sure of—not even .56% of a doubt—is that *if* the unforeseeable and impossible occurs, *if* John Bolton takes the stand and flops two more sevens, *if* twenty Republican Senators start hedging their bets and wavering in their defense of Trump, it will not be because of their allegiance to the Constitution, or to Ukraine.

And April may be a very cruel month.

Addenda

Netanyahu addresses US politicians on 3 March 2015. Shameless and shameful, but par for the course in America.

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