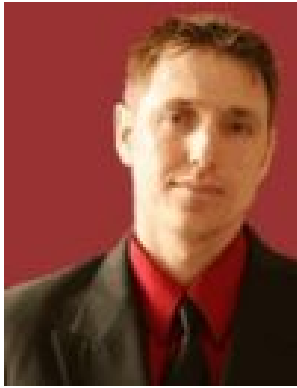


The Pretended Articles of Impeachment Against a President



Jake MacAulay

We recently received the following inquiry at Institute on the Constitution:

“One of the Articles of Impeachment delivered to the Senate was a charge of obstruction of justice because Trump didn’t cooperate with the investigation. But isn’t there protection from self-incrimination in the Bill of Rights? Does a sitting president (or anyone, for that matter) have to cooperate with an investigation?”

Assuming that many others may have similar questions, we thought we would share with you the response of our founder, Michael Anthony Peroutka.

The two charges leveled at the 45th President are:

- Abuse of power
- Obstruction of Congress

Frankly, in our view, neither of these makes any sense for at least the following reasons:

Firstly, neither of these Articles contains an accusation of criminal conduct on the part of the President.

Article II, Section 4, of the Constitution provides, "The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."

Since the specific language of the Constitution states two crimes (treason and bribery) and then contains a clause, which contains the words "other crimes," it seems clear that *criminal conduct* is contemplated by the drafters of the Constitution for this impeachment clause to become operative.

Therefore, I believe these are really "pretended articles of impeachment" because they fail to make a case for impeachment even if they were true.

Secondly, both "pretended" articles of impeachment lack what I believe is necessary, specificity. For example, "abuse of power" is so broad that it may be considered to be "void for vagueness." Moreover, the argument of those advancing the impeachment of the president seems to center on the idea that he has somehow "hijacked" the foreign policy of the United States.

The difficulty with this argument is that the president is the only person in all of the constitution who is charged with developing and implementing foreign policy. Therefore I don't see how it's possible for him to "hijack" foreign policy since all the decisions are ultimately his to make.

Lastly, "Obstruction of Congress" seems to be the silliest charge of all.

The president has every right and privilege to disagree with Congress and owes them no duty that supersedes his duty to keep his Oath to the Constitution. And, of course, he has no legal obligation to participate, encourage, or aid and abet the mischief of Congress.

Remember, Congress is the body with a secret slush fund that according to the Office of Compliance has reportedly paid victims of harassment, sexual or otherwise, more than \$17 million since its creation in the 1990s.

It is also the body that provides funding to murder the most innocent and defenseless among us.

It is also the body that exempts itself from the rules it makes for others.

The Constitution grants Congress no special privilege that requires the president to cooperate in their corruption or immorality.

Again, I prefer a president who acts independently and provides a check and restraint on the excesses and “pretended” authority of the legislative branch.

In fact, one could argue that “obstructing Congress” is not only NOT a crime; it is the Constitutional DUTY of the President.

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