

Letter to Congress from Legal Scholars



Legal Scholars on Impeachment

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We, the undersigned legal scholars, have concluded that President Trump engaged in impeachable conduct.

We do not reach this conclusion lightly. The Founders did not make impeachment available for disagreements over policy, even profound ones, nor for extreme distaste for the manner in which the President executes his office. Only “Treason, Bribery, or other high Crimes and Misdemeanors” warrant impeachment. But there is overwhelming evidence that President Trump betrayed his oath of office by seeking to use presidential power to pressure a foreign government to help him distort an American election, for his personal and political benefit, at the direct expense of national security interests as determined by Congress. His conduct is precisely the type of threat to our democracy that the Founders feared when they included the remedy of impeachment in the Constitution.

We take no position on whether the President committed a crime. But conduct need not be criminal to be impeachable. The standard here is *constitutional*; it does not depend on what Congress has chosen to criminalize.

Impeachment is a remedy for grave abuses of the public trust. The two specific bases for impeachment named in the Constitution — treason and bribery — involve such abuses because they include conduct undertaken not in the “faithful execution” of public office that the Constitution requires, but instead for personal gain (bribery) or to benefit a foreign enemy (treason).

Impeachment is an especially essential remedy for conduct that corrupts elections. The primary check on presidents is political: if a president behaves poorly, voters can punish him or his party at the polls. A president who corrupts the system of elections seeks to place himself beyond the reach of this political check. At the Constitutional Convention,

George Mason described impeachable offenses as “attempts to subvert the constitution.” Corrupting elections subverts the process by which the Constitution makes the president democratically accountable. Put simply, if a President cheats in his effort at re-election, trusting the democratic process to serve as a check through that election is no remedy at all. That is what impeachment is for.

Moreover, the Founders were keenly concerned with the possibility of corruption in the president’s relationships with foreign governments. That is why they prohibited the president from accepting anything of value from foreign governments without Congress’s consent. The same concern drove their thinking on impeachment. James Madison noted that Congress must be able to remove the president between elections lest there be no remedy if a president betrayed the public trust in dealings with foreign powers.

In light of these considerations, overwhelming evidence made public to date forces us to conclude that President Trump engaged in impeachable conduct. To mention only a few of those facts: William B. Taylor, who leads the U.S. embassy in Ukraine, testified that President Trump directed the withholding of hundreds of millions of dollars in military aid for Ukraine in its struggle against Russia — aid that Congress determined to be in the U.S. national security interest — until Ukraine announced investigations that would aid the President’s re-election campaign. Ambassador Gordon Sondland testified that the President made a White House visit for the Ukrainian president conditional on public announcement of those investigations. In a phone call with the Ukrainian president, President Trump asked for a “favor” in the form of a foreign government investigation of a U.S. citizen who is his political rival. President Trump and his Chief of Staff Mick Mulvaney made public statements confirming this use of governmental power to solicit investigations that would aid the President’s personal political interests. The President made clear that his private attorney, Rudy Giuliani, was central to efforts to spur Ukrainian investigations, and Mr. Giuliani confirmed that his efforts were in service of President Trump’s private interests.

Ultimately, whether to impeach the President and remove him from office depends on judgments that the Constitution leaves to Congress. But if the House of Representatives impeached the President for the conduct described here and the Senate voted to remove him, they would be acting well within their constitutional powers. Whether President

Trump’s conduct is classified as bribery, as a high crime or misdemeanor, or as both, it is clearly impeachable under our Constitution.

Signed,*

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