

Is Not Impeaching Trump an Impeachable Offense?

Any sentient being who has read part II of the Mueller Report or listened to his testimony before the House Judiciary Committee must conclude that President Trump obstructed justice on numerous occasions and in so doing repeatedly broke the law. This obstruction includes witness tampering, lying under oath, attempting to derail the Office of the Special Counsel, ordering his personal attorney to fire the Special Counsel, ordering his special counsel to fraudulently claim the President did not order him to fire the Special Counsel, suborning perjury, covering up illegal campaign contributions, and other high crimes and misdemeanors.

Like other Americans, I am deeply puzzled how the decision to impeach President Trump can be a matter of debate in which the political ramifications of impeaching the President as well as the likelihood of his acquittal by the Senate are part of the decision-making process.

All members of Congress are, by law (Title 5, Section 3331 of the United States Code.), required to swear the following oath of office.

“I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.” office for non-presidential offices since 1862.

The Constitution is the supreme law of our land. When a member of Congress swears to support and defend the Constitution, she swears to uphold this law and other laws promulgated under the Constitution. The Constitution has specific legal provisions, but it also is a framework under which the Congress can pass additional laws. They are, by extension, part of the Constitution unless found unconstitutional by the courts.

Upholding a law means that the violators of the law are prosecuted not if the political winds are blowing in the right direction, but based solely on the evidence that the law has been broken. When a law enforcement officer fails to uphold the law, she is engage in a dereliction of duty and is subject to dismissal. If a member of Congress fails to impeach a President who has clearly committed high crimes and misdemeanors, she is violating her sworn oath of office and is, herself, subject to impeachment.

Thus, a plain reading of the Constitution coupled with the facts as spelled out by the Mueller Report has but one implication -- the House of Representatives is legally bound to open an impeachment inquiry and vote at the end of that inquiry whether to impeach, which, in this context means indict the President for high crimes and misdemeanors.

What if the members of the House, Democrats and Republicans, decide it doesn't help their election chances and choose to do nothing? Then they are breaking the law. In this context, the 80 or so Democratic members of the House favoring impeachment would, it seems, be duty bound to use the federal court system to order the House to proceed not only with a process of impeaching the President, but also with a process of impeaching House Speaker Nancy Pelosi and other high ranking House officials for failure to fulfill their constitutional obligations.

Speaker Pelosi said at a [press conference](#) after Director Mueller testified that "If we have a case for impeachment, that's the place we will have to go." She has also indicated she is waiting to hear from the courts whether the Democrats will be able to receive additional information under their subpoenas, information that may strengthen their hand in impeaching the President.

Frankly, this is double talk. "If we have a case for impeachment," suggests speaker Pelosi has either failed to read the Mueller Report or listen to his testimony. There is no question from the facts laid out that there is a case for impeachment. Over 1000 former federal prosecutors have publicly [declared](#) that the President committed indictable obstruction of justice offenses. As for needing to wait for the courts to make a decision, there is sufficient evidence to proceed now. Again, the thousand plus former federal prosecutors make this clear. Furthermore, the courts will be far more likely to decide in the House's favor if its subpoenas are pursuant to an impeachment inquiry.

No one is above the law. This goes for Speaker Pelosi and other House leaders, Republican and Democratic. The law is crystal clear. If you can't acquit, you must convict.