

Is Impeachment Gone for Good?

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Henry Kissinger's winning of the Nobel Peace Prize didn't, in the end, eliminate satire from the earth (or peace prizes for war-makers, for that matter). Conceivably, the impeachment of Bill Clinton and the lack of impeachment of George W. Bush haven't eliminated presidential impeachment from the Constitution.

I'll grant you, it looks pretty grim. Congress is dominated by the two real branches of the U.S. government: the Democratic and the Republican. Democrats obey Democratic presidents and fear Republican ones. Republicans obey Republican presidents and attack Democratic ones for imaginary nonsense rather than their real abuses. These patterns seem firmly established and locked into escalating feedback loops, as does the unending career of Nancy "impeachment is off the table" Pelosi.

The public, for its part, seems increasingly convinced that presidents should be kings, kings should serve the military, citizens should volunteer for electoral campaigns instead of activist campaigns, and a police state is necessary to protect the freedoms sacrificed to the police state. One-third of the residents of the Home of the Brave now approve of cavity searches prior to airplane travel.

But consider: the U.S. public, unlike Congress, opposed the Clinton impeachment and favored Bush's impeachment — the latter a rather remarkable finding by pollsters given the general lack of impeachment discussion on corporate television during the Bush years. Many Republicans hate Democratic presidents enough to support their impeachment even for legitimate reasons. And some Democrats could conceivably be brought around to supporting an impeachment that was both Constitutionally solid and allowed them to act like Republicans.

These presidents have faced impeachment or serious attempts at impeachment as lame ducks: Andrew Johnson, Harry Truman, Richard Nixon, Bill Clinton, and — if we count popular movements blocked decisively by Congress — George W. Bush. While Barack Obama was just reelected with 51% of the vote, Nixon got 61% and was quickly thrown out on his ear.

And consider this: During the effort to impeach Bush, there was virtually no debate over the validity of the charges against him. Rather, our misrepresentatives in Congress told us that impeaching Bush would give us Cheney or impeaching Cheney would leave us Bush, or impeaching Bush and Cheney would hurt the Democratic Party because the unpopular impeachment of Clinton had supposedly hurt Republicans (never mind the disaster of the Albert "I never met Bill Clinton" Gore presidential campaign). Or, alternatively, we were told there was no point in impeaching Bush when he only had a few years left, or Hillary Clinton was running for president and preferred that impeachment not be mentioned, or the Senate

wasn't pre-committed to convicting Bush so there was no requirement for House members to uphold their oaths of office. None of the debate actually disputed that Bush was clearly guilty of high crimes and misdemeanors — that is, severe abuses of power.

Now here's the interesting part: Obama has expanded upon those abuses.

In fact, if Bush had been known to keep a secret list of men, women, and children, American and foreign, to be killed, and had routinely killed them, support for his impeachment would not have been the bare majority it was but almost certainly a good deal higher and a greater priority.

We were told, when we tried to impeach Bush and Cheney, that we simply hated those men. No, we replied, we want to prevent the precedent that will make the next men or women worse — guaranteed. That our gloomy prediction has proved right ought to constitute grounds for being taken seriously now when we say that further failure to impeach will result in still worse abuses to come. The simple and obvious, but almost universally uncomprehended, point is not that Joe Biden or Mitt Romney or anyone else is a better human being than Barack Obama. The point is that a President Biden entering office following the impeachment and removal of his predecessor for particular crimes and abuses would be less likely to engage in those crimes and abuses, as would other presidents to come.

President Obama has developed an assassination program, in violation of the Fifth Amendment, targeting men, women, and children, but overwhelmingly killing non-targeted victims who happened to be in the wrong place. He has launched a war on Libya, facilitated a war on Syria, sent so-called special forces and drones and missiles into numerous sovereign nations, threatened war on Iran, and given war-making powers to the CIA in violation of Article I, Section 8 of the U.S. Constitution, the Kellogg-Briand Pact, the War Powers Resolution, and the United Nations Charter. President Obama has seized the power to imprison without charge or trial in violation of Article I, Section 9 and the Forth, Fifth, Sixth, Seventh, and Eighth Amendments. He has claimed the power to torture and directed the Attorney General not to prosecute the crime of torture, in violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He has engaged in widespread warrantless spying in violation of the Fourth Amendment. He has escalated a war in Afghanistan and built permanent military bases there. He has selectively revealed classified information, even while falsely and vindictively prosecuting whistleblowers under the Espionage Act, and while holding accused whistleblower Bradley Manning in cruel and inhuman conditions for over two years prior to any trial. President Obama has abused claims of state secrets to block judicial review of government abuses. He has created secret laws through the Office of Legal Counsel. He has announced his intent to violate laws with signing statements.

A full collection of what would in previous decades have been considered obvious impeachable offenses would run for pages. Standards have changed. As Daniel Ellsberg has pointed out, Nixon's abuses have now been legalized. But can a president or a secret office or a corrupted Congress legalize what is unconstitutional? Clearly the answer is yes, if we let them.

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