

The Page and the Epistle

UNCATEGORIZED

COMMENTARY: EXECUTIVE PRIVILEGE: IS IT LAWFUL? THE ANSWER LIES WITH THE FOUNDING FATHERS.

JANUARY 26, 2020 | CHARLEY MITCHELL | 13 COMMENTS

By Kathryn Lamoureux '23

President Trump has refused to cooperate with the official impeachment inquiry that Speaker of the House Nancy Pelosi announced in December. Mr. Trump stated that executive privilege, a principle that allows the Executive Branch to withhold communications from congress, liberates him from any such duty. The White House has claimed that the privilege also allows the limitation of former officials's testimony, and was even cited by Rudy Giuliani, Trump's personal lawyer, and others to rebuff a subpoena.

The White House protested the inquiry, stating that it was unlawful since the whole House of Representatives had not passed a resolution authorizing the investigation. But what does the investigation contain, and what does impeachment even mean? A survey done by INSIDER states that less than 30% of Americans can define impeachment correctly.

Impeachment is not the act of removing a public official from office, but rather the House charging them with misconduct and the Senate, acting as jury, deciding on removal. Only two Presidents, Andrew Johnson and Bill Clinton, have been impeached, neither of whom were removed from office. President Richard Nixon resigned from office in the face of nearly certain impeachment and removal.

A significant question is: "What is a President required to do to aid the House's investigation?" To answer this, one must go back to why impeachment was written into the Constitution.

When the Framers were debating at the Constitutional Convention, it was none other than Benjamin Franklin who cited the infamous King Charles's impeachment, when King Charles was accused of colluding with foreign adversaries and famously quoted "A King could do no wrong." Franklin stated a "magistrate being formally brought to public Justice" was reason enough to include the Impeachment Clause in the new U.S. constitution. James Madison agreed, stating the necessity for "defending the Community

against the incapacity, negligence, or perfidy of the chief Magistrate.” Others favored the Clause so no American president could claim he or she could “do no wrong,” as it is the nature of man to be imperfect. The Framers also agreed on the idea that maximum punishment should be removal from office.

The first conflict over the Clause arose in 1795 between the president and the House. George Washington had just brought forth the Jay Treaty, stabilizing the trade relationship with Britain, bringing back some normalcy between the two powers. The French and British were at war and the French were furious that the revolutionaries they sponsored had partnered themselves with the enemy. The same sentiment was shared widely across the U.S., even with public servants such as Alexander Hamilton. Congress demanded that the Washington administration secede papers to the house regarding the negotiations.

After a week of mulling over the situation, Washington declined the request for papers in a letter that scholars, lawyers, and historians believe to be the first assertion of executive privilege. Washington wrote, “The nature of foreign negotiations requires caution, and their success must often depend on secrecy.” Washington continued, “To admit, then a right in the House of Representatives to demand and to have as a matter of course all the papers respecting a negotiation with a foreign power would be to establish a dangerous precedent.” But Washington, in his own way, created an exception to such a privilege that is the main argument between the Executive Branch and the House today. “It does not occur,” he began to write, “that the inspection of the papers asked for can be relative to any purpose under the cognizance of the House of Representatives except that of an impeachment, which the resolution has not expressed.” The total of the four cabinet secretaries of the time believed that such an exception is necessary and as written by the Treasury Secretary Oliver Wolcott, the House must have the written documentation “when an Impeachment is proposed and a formal enquiry instituted.”

Impeachment inquiries are rare and none, since that instance, have been regarding the collusion between a president and foreign adversaries. In the current debate of the extent of the president’s powers and immunities, the Framers’ original thoughts regarding impeachment must be considered and analyzed carefully. Can Mr. Trump, or any United States president, use Executive Privilege to withhold documentation from the House regarding diplomacy-related communiqués? The Founder’s thoughts and written documents make it clear: the answer is no. If a president has communications that might relate to possible impeachable conduct, it is the president’s duty to let Congress see them and make a decision.

13 THOUGHTS ON “COMMENTARY: EXECUTIVE PRIVILEGE: IS IT LAWFUL? THE ANSWER LIES WITH THE FOUNDING FATHERS.”



Leonard

MAY 20, 2022 AT 5:46 AM

I didn't know that.

**Mariano**

MAY 25, 2022 AT 7:29 AM

Wonderful views on that!

**Gerard**

JUNE 3, 2022 AT 1:52 PM

Wow, that's what I was seeking for, what a material! present here at this weblog, thanks admin of this web page.

**Amee**

JULY 1, 2022 AT 1:50 PM

What's Happening i'm new to this, I stumbled upon this I've found It positively useful and it has helped me out loads. I am hoping to contribute & assist other customers like its aided me. Great job.

**Mittie**

JULY 1, 2022 AT 2:41 PM

Outstanding post however I was wanting to know if you could write a litte more on this topic? I'd be very thankful if you could elaborate a little bit more. Thanks!

**Quentin**

JULY 1, 2022 AT 3:42 PM

Definitely believe that which you said. Your favorite reason appeared to be on the internet the simplest thing to have in mind of. I say to you, I definitely get annoyed whilst other people think about worries that they just don't realize about. You controlled to hit the nail upon the top and also defined out the whole thing without having side-effects, other folks can take a signal. Will probably be again to get more. Thank you

**Issac**

JULY 1, 2022 AT 3:45 PM

Wonderful beat ! I would like to apprentice while you amend your web site,
how could i subscribe for a blog web site? The account helped me a acceptable deal.
I had been a little bit acquainted of this your broadcast offered
bright clear concept

**Cesar**

JULY 1, 2022 AT 3:57 PM

Genuinely no matter if someone doesn't understand then its
up to other people that they will help, so here it happens.

**Malissa**

JULY 1, 2022 AT 4:46 PM

Greetings, I believe your blog may be having web browser compatibility issues.

When I look at your website in Safari, it looks fine however,
if opening in I.E., it has some overlapping issues. I simply wanted to give you a quick heads
up! Aside from that, fantastic website!

**Marisa**

JULY 1, 2022 AT 6:19 PM

These are actually wonderful ideas in concerning blogging.
You have touched some fastidious points here.

Any way keep up wrinting.

**Matthias**

JULY 1, 2022 AT 6:24 PM

Howdy very nice blog!! Man .. Beautiful .. Superb .. I will bookmark your website and take the feeds
additionally?

I'm glad to seek out so many useful information right here within the publish, we want develop
extra strategies in this regard, thank you for sharing. .

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Chavez,

JULY 11, 2022 AT 10:53 PM

Interesting read. I have been using datatoleads.com. Much better then facebook.com and google.com



샌즈카지노

AUGUST 15, 2022 AT 10:47 PM

Very neat article post. Really thank you! Great.