



A “Perfect” Impeachment Acquittal?

Gene Healy

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Acquittal: it’s a “gorgeous word,” President Trump crowed at the White House post-impeachment “VICTORY” rally. His opponents found less cause for rejoicing: some were even furious enough to tear things up.

But whether you cheer or jeer the Senate’s refusal to convict, the more important question is, what precedent did it set? Unlike Supreme Court majority opinions, impeachment verdicts don’t explain themselves. “Not guilty” can mean anything from total vindication to “contemptible behavior that doesn’t quite justify removal.” A great deal turns on how senators from the president’s party explain their votes.

On that score, Senate Republicans sent a distressingly mixed message in the impeachment trial’s immediate aftermath. In their floor speeches explaining their votes, too few managed to clearly condemn Trump’s misuse of presidential power for personal benefit. And too many embraced novel constitutional theories, concocted by Trump’s defense team, that would license more dramatic presidential abuses in the future.

No one today thinks the lesson of Bill Clinton’s 1999 impeachment acquittal was “fooling around with an intern and lying about it in court is totally OK. It was a ‘perfect’ . . . er, fling!” In part, that’s because nearly every Democratic senator condemned Clinton’s behavior in harsh terms: “abhorrent”; “deplorable on every level”; “immoral, disgraceful, reprehensible”—and worse. Indeed, immediately after the verdict, Sen. Dianne Feinstein (D-Cal.) tried and failed to force a vote on her resolution censuring the president for “shameless, reckless and indefensible” behavior and “false or misleading testimony.”

This time around, however, only two Republican senators managed to sound seriously displeased with Trump’s conduct. One, of course, was Sen. Mitt Romney (R-Utah): “Corrupting an election to keep oneself in office is perhaps the most abusive and destructive violation of one’s oath of office that I can imagine.” The other was Sen. Lisa Murkowski (R-Alaska), who, while declining to join Romney’s vote to convict, made plain that “the president’s behavior was shameful and wrong.”

Senatorial rebukes got pathetically timid from there. The president's request for an investigation of the Bidens "demonstrated very poor judgment" tuted Sen. Susan Collins (R-Maine). "Inappropriate," murmured Sen. Lamar Alexander (R-Tenn.). Sen. Ben Sasse (R-Neb.)—who's developed a side gig lecturing Americans about virtue and "moral courage"—bravely ventured that Trump's July 25 parley with President Zelensky was "certainly not 'perfect.'"

A broad swath of the GOP caucus decided discretion was the better part of valor: the Dispatch counted 16 senators who "artfully avoided addressing the question" of whether the president did anything wrong. Still more echoed Trump's self-congratulatory pronouncement of a "perfect call." "Nothing wrong" with it, insisted Sen. James Inhofe (R-Okla.): "the transcript speaks for itself." Holding up military aid was "not even wrong," Sen. Mike Lee (R-Utah) maintained. The president was trying "to root out corruption in the Ukraine," explained Sen. David Perdue (R-Ga.); that the target happened to be Trump's then-leading rival in the 2020 presidential race was a happy accident, apparently.

A key lesson of Richard Nixon's near-impeachment (he quit before the full House could vote) was that using "the available federal machinery to screw [your] political enemies"—as an infamous 1972 "Enemies List" memo put it—is impeachable conduct. Trump's defense team worked hard to overturn that understanding, calling abuse of power a "made-up theory" that "fails to state an impeachable offense because it does not rest on violation of an established law."

Though several Republican senators specifically rejected the Trump team's legal theory, by my count, at least as many embraced it—despite its near-total lack of support in our constitutional history. Senator Inhofe proclaimed that "abuse of power is not a crime or impeachable conduct." If only Nixon had known!

Did fear of White House retribution—visions of heads on pikes—cause any Republicans to mute their criticism and fall in line? There's no way to tell. What is clear is that there was an intellectually defensible, even honorable, way to acquit President Trump without whitewashing his behavior or holding the door open to further abuse. For whatever reason, too few GOP senators chose that path.

Gene Healy is a vice president at the Cato Institute and author of Indispensable Remedy: The Broad Scope of the Constitution's Impeachment Power.