

Impeachment of President Bill Clinton: House Speech by Rep. Jerrold Nadler (D-NY)

HOUSE December 18, 1998

Mr. NADLER. Mr. Speaker, the precedents show and the Nation's leading scholars and historians overwhelmingly agree that impeachment is reserved under the Constitution only for abuses of presidential power that undermine the structure of functioning of the government or of constitutional liberty. It is not intended as a punishment for crimes but as a protection against the President who would abuse his powers to make himself a tyrant. That is why Benjamin Franklin called impeachment a substitute for assassination.

We are told that perjury is as serious an offense as bribery, a per se impeachable offense, but bribery goes to the heart of the President's conduct of his constitutional duties. It converts his loyalties and efforts from promoting the welfare of the Republic to promoting some other interest.

Perjury is a serious crime and, if provable, should be prosecuted in a court of law. But it may or may not involve the President's duties and performance in office. Perjury on a private matter, perjury regarding sex, is not a great and dangerous offense against the Nation. It is not an abuse of uniquely presidential power. It does not threaten our form of government. It is not an impeachable offense.

The effect of impeachment is to overturn the popular will of the voters. We must not overturn an election and remove a President from office except to defend our system of government or our constitutional liberties against a dire threat, and we must not do so without an overwhelming consensus of the American people.

There must never be a narrowly voted impeachment or an impeachment supported by one of our major political parties and opposed by another. Such an impeachment will produce divisiveness and bitterness in our politics for years to come and will call into question the very legitimacy of our political institutions.

The American people have heard the allegations against the President, and they overwhelmingly oppose impeaching him. They elected President Clinton, they still support him. We have no right to overturn the considered judgment of the American people.

Mr. Speaker, the case against the President has not been made. There is far from sufficient evidence to support the allegations, and the allegations, even if proven true, do not rise to the level of impeachable offenses.

Mr. Speaker, this is clearly a partisan railroad job. The same people who today tell us we must impeach the President for lying under oath, almost to a person voted last year to reelect the Speaker who had just admitted lying to Congress in an official proceeding.

The American people are watching, and they will not forget. You may have the votes, you may have the muscle, but you do not have the legitimacy of a national consensus or of a constitutional imperative. This partisan coup d'etat will go down in infamy in the history of this Nation.

Mr. Speaker, today, for only the second time in our nation's history, this House meets to consider articles of impeachment against a President of the United States. This is a momentous occasion, and I would hope that, despite the sharp partisan tone which has marked this debate, we can approach it with a sober sense of the historic importance of this matter.

I believe that we need to get back to basics — the Constitution and what the impeachment power conferred on the Congress requires of us. Article II, section 4 of the Constitution says that a President “shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.” We have received testimony from some of the nation's leading legal scholars and historians who agree that impeachable offenses are those which are abuses of Presidential power that undermine the structure or functioning of government, or constitutional liberty.

Benjamin Franklin called impeachment a “substitute for assassination.” It is, in fact, a peaceful procedure for protecting the nation from despots by providing a constitutional means for removing a President who would misuse his presidential power to make himself a tyrant or otherwise undermine our constitutional form of government. To impeach a President, it must be that serious.

The history of the language is also clear. At the Constitutional Convention, the Committee on Style, which was not authorized to make any substantive changes, dropped the words “against the United States” after the words “high crimes and misdemeanors” because it was understood that only high crimes and misdemeanors against the system of government would be impeachable — that the words “against the United States” were redundant and unnecessary.

History and the precedents alike show that impeachment is not a punishment for crimes, but a means to protect the constitutional system, and it was certainly not meant to be a means to punish a President for personal wrongdoing not related to his office. Some of our Republican colleagues have made much of the fact that some of the Democrats on this Committee in 1974 voted in favor of an article of impeachment relating to President Nixon's alleged perjury on his tax returns, but the plain fact is that a bipartisan vote of that Committee — something we have not yet had in this process on any substantive question — rejected that article. That's the historical record, and it was largely based on the belief that an impeachable offense must be an abuse of Presidential power, a “great and dangerous offense against the Nation,” not perjury on a private matter.

We are told that perjury is as serious an offense as bribery, a per se impeachable offense. But bribery goes to the heart of the President's conduct of his constitutional duties — it converts his loyalties and efforts from promoting the welfare of the Republic to promoting some other interest. Perjury is a serious crime — and, if provable, should be prosecuted in a court of law. But it may, or may not, involve the President's duties and performance in office. Perjury on a private matter — perjury regarding sex — is not a “great and dangerous offense against the

Nation.” It is not an abuse of uniquely Presidential power. It does not threaten our form of government. It is not an impeachable offense.

The effect of impeachment is to overturn the popular will of the voters as expressed in a national election. We must not overturn an election and remove a President from office except to defend our very system of government on our constitutional liberties against a dire threat. And we must not do so without an overwhelming consensus of the American people and of their Representatives in Congress on its absolute necessity. There must never be a narrowly voted impeachment, or an impeachment substantially supported by one of our major political parties and largely opposed by the other. Such an impeachment will lack legitimacy, will produce divisiveness and bitterness in our politics for years to come, and will call into question the legitimacy of our political institutions. The American people have heard all the allegations against the President and they overwhelmingly oppose impeaching him. The people elected President Clinton. They still support him. We have no right to overturn the considered judgment of the American people.

There are clearly some members of the Republican majority who have never accepted the results of the 1992 or 1996 elections, and who apparently have chosen to ignore the message of last month’s election, but in a democracy, it is the people who rule, not political elites — and not members of political elites who were repudiated at the last election. Some members of the House may think the people have chosen badly, but it is the people’s choice and we must respect it absent a threat to our democracy that would justify overturning the repeated expression of their will at the ballot box. Members of Congress have no right to arrogate to themselves the power to nullify an election absent that compelling case.

the Judiciary Committee also received testimony from some outstanding former prosecutors, including the former Republican Governor of Massachusetts, William Weld, who headed up the Criminal Division of Ronald Reagan’s Justice Department, who compellingly explained why all the loose talk about perjury and obstruction of justice would not hold up in a real prosecutor’s office — that the evidence we have been given would never support a criminal prosecution in a real court of law.

For those who demand that the President prove his innocence, without his accusers having to provide his guilt or even to state clearly the charges, the Judiciary Committee received answers from the President’s Counsel, Mr. Ruff, and from the Committee’s Minority Counsel, Mr. Lowell this morning, in which they meticulously pointed out, using Mr. Starr’s own work, how the charges were not supported and were indeed contradicted, by the evidence Mr. Starr’s own office had assembled. In fact, Mr. Starr has stated in his referral to Congress, that his own “star witness” is not credible, except when her uncorroborated testimony conflicts with the President’s, and then it proves his perjury.

We have received sanctimonious lectures from the other side about the “rule of law,” but the law does not permit perjury to be proved by the uncorroborated testimony of one witness. Nor does the law recognize as corroboration the fact that the witness made the same statement to several different people. You may choose to believe that the President was disingenuous, that he

was not particularly helpful to Paula Jones' lawyers when they asked him intentionally vague questions, or that he is a bum, but that does not make him guilty of perjury.

This House is not a grand jury. To impeach the President would subject the country to the trauma of a trial in the Senate. It would paralyze the government for many months while the problems of Social Security, Medicare, a deteriorating world economy, and all our foreign concerns festered without proper attention. We cannot simply punt the duty to judge the facts to the Senate if we find mere "probable cause" that an impeachable offense may have been committed. To do so would be a derogation of our constitutional duty. The proponents of impeachment have provided no direct evidence of impeachable offenses. They rely solely on the findings of an "independent" counsel who has repeatedly mischaracterized evidence, failed to include exculpatory evidence, and consistently misstated the law. We must not be a rubber stamp for Kenneth Starr. We have been entrusted with this grave and dangerous duty by the American people, by the Constitution and by history. We must exercise that duty responsibly. At a bare minimum, that means the President's accusers must go beyond hearsay and innuendo, and beyond demands that the President prove his innocence of vague and changing charges. They must provide clear and convincing evidence of specific impeachable conduct. This they have failed to do.

If you believe the President's admission to the grand jury and to the nation of an inappropriate sexual relationship with Ms. Lewinsky, and his apologies to the nation, were not abject enough, that is not a reason for impeachment. Contrition is a remedy for sin and is certainly appropriate here. But while insufficiency of contrition may leave the soul still scarred, unexpiated sin proves no crimes and justifies no impeachment.

Some say that if we do not impeach the President, we treat him as if he is above the law.

Is the President above the law? Certainly not. He is subject to the criminal law — to indictment and prosecution when he leaves office like any other citizen, whether or not he is impeached. And if the Republican leadership allows a vote, he would likely be the third President in U.S. history, and the first since 1848, to be censured by the Congress

But impeachment is intended as a remedy to protect the nation, not as a punishment for a President.

The case is not there — there is far from sufficient evidence to support the allegations, and the allegations, even if proven, do not rise to the level of impeachable offenses. We should not dignify these articles of impeachment by sending them to the Senate. To do so would be an affront to the Constitution and would consign this House to the condemnation of history for generations to come.

Mr. Speaker, this is clearly a partisan railroad job, the same people who today tell us we must impeach the President for lying under oath, almost to a person, voted last year to re-elect a Speaker who had just admitted lying to Congress in an official proceeding about abuse of the Tax Laws for particular purposes. The American people are watching, and they

won't forget. You may have the votes, you may have the muscle, but you lack the legitimacy of a national consensus and the Constitution. This partisan coup d'etat will go down in the history of this nation in infamy.