

IN DEFENSE OF PRESIDENT TRUMP'S IMPEACHMENT

President Trump's Authority as Chief Executive- Under the United States Constitution, the President is chief executive of the government of the United States¹ in which capacity he has supreme responsibility for establishing and executing U.S. foreign policy and functions as the chief law enforcement officer of the United States. Accordingly, the President can direct and control the methods by which foreign aid is delivered and contacts between the U.S. and foreign countries regarding criminal matters occur.

President's Oath of Office- Upon assuming his high office, the President took an oath to uphold and defend the U.S. Constitution². The President was properly discharging his constitutional duty on July 25th when he sought the assistance of Ukraine in investigating the highly unusual circumstances³ surrounding the appointment of Hunter Biden to the Burisma Board of Directors

Treaty with Ukraine- A 1999 treaty with Ukraine (Treaty Between the United States of America and Ukraine on Mutual Legal Assistance in Criminal Matters [hereafter called "the Treaty"]⁴ negotiated by the Clinton Administration while Joe Biden was a Senator provides for the U.S. and Ukraine to cooperate in the detection and investigation of crimes, including corruption.

Second-Guessing of Presidential Actions by Subordinates- The concerns and disagreements of any subordinate government employee regarding the lawful methods selected by a president to implement U.S. foreign policy are of little moment since the President, not subordinate government officials, has the sole authority for this function.

¹ U.S. Constitution, Article II, Section 1- "The executive power shall be vested in a President of the United States of America."

² U.S. Constitution, Article II, Section 1- "Before he enter on the execution of his office, he shall take the following oath or affirmation: --"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

³ At the time of his appoint to a position that paid him \$83,000 per month, Hunter Biden had no qualifications to merit such a salary. He had no background in Ukraine or experience in the oil and gas business and did not speak the language. In a remarkable "coincidence", his father was serving as Vice-President and was in charge of Ukrainian matters for the Obama Administration.

⁴ It appears President Trump was following the law to the letter in attempting to unearth the long-standing corruption that had swirled in Ukraine and possibly including powerful Democrats like Joe Biden and others. The Treaty was one of a series of mutual legal assistance treaties negotiated by the United States in order to counter international criminal activities more effectively. The Treaty with Ukraine was an effective tool to assist in the prosecution of a wide variety of crimes, including drug trafficking offenses. The Treaty is self-executing and provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: taking of testimony or statements of persons; providing documents, records, and articles of evidence; serving documents; locating or identifying persons; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; assisting in proceedings related to restraint, confiscation, forfeiture of assets, restitution, and collection of fines; and any other form of assistance not prohibited by the laws of the requested state.

The Context of the Telephone Call- The telephone call between president Trump and Zelensky occurred as both were fulfilling their official duties, not as part of a political campaign or rally. Not every action taken by a U.S. president is intended to further his or her political interests, nor should any individual presidential action be so characterized absent compelling evidence to support such an assertion. There is no presumption that a president is acting as a politician rather than as chief executive in a conversation with another head of state without proof to the contrary.

Absence of any Reference to Corruption in the Telephone Call- Democrats claim that President Trump never used the words “corrupt” or “corruption” in his phone conversation with President Zelensky and that, therefore, the call related to his personal political interests. If the absence of specific language is dispositive, the fact that the words “personal political interests”, “politics”, “campaign”, “candidacy”, “dirt on an opponent”, or “election” were not mentioned must mean that the call pertained to the official duties of both call participants, not to President Trump’s personal political interests.

President’s Request to President Zelensky to, “do us a favor”- The President’s request in the telephone call with Ukrainian President Volodymyr Zelensky to “do us a favor” is subject to two reasonable interpretations;

- 1) The President’s use of the word “us” referred to the United States; or
- 2) The term referred to Donald Trump personally (as the Democrats have construed the meaning). It should be noted that President Trump made no reference to politics, the presidential campaign or Biden’s candidacy during the telephone call.

If the first interpretation is correct, the President’s request for a favor was perfectly appropriate in the execution of foreign policy and the legitimate investigation of possible criminal activity. Use of the word “us” is interesting here. The term is plural in that it refers to more than one person. If, as Democrats claim, the President was seeking personal political advantage, why didn’t he use the word, “me” as in “do me a favor”? Only the President can clarify his intent in making the request; everything else is mere conjecture.

President’s Request to President Zelensky to Look into the CrowdStrike and Biden Matters-

Similarly, the President’s request in the July 25th telephone call that Ukraine look into both the CrowdStrike issue (related to interference in the 2016 presidential election) and the Hunter and Joe Biden⁵ matter can reasonably be viewed in two ways;

- 1) As a legitimate request to Ukraine pursuant to the President’s authority under the Constitution as chief U.S. law enforcement officer⁶; as the proper execution of U.S. foreign policy; and pursuant to the 1999 Mutual Assistance Treaty between the two nations to cooperate in the investigation of criminal activity; or

⁵ Notwithstanding Joe Biden’s assertions that no evidence existed supporting that he or his son had done anything wrong, the fact is that neither the Ukrainians nor the U.S. have ever fully investigated the circumstances surrounding his son’s selection for and appointment to the Board of Directors of Burisma including the reasons he was selected for that position, the services that he was expected to render in exchange for the very large sum of money paid him every month (in the range of \$83,000), whether those services included lobbying his father or the U.S. Government on behalf of Burisma or its owner, and whether any of his son’s monthly salary was paid to him.

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2) As a request to uncover “dirt on a political opponent (Biden)” as Adam Schiff asserted in his inaccurate and inappropriate opening statement at an Intelligence Committee hearing. To date, no evidence has been adduced to conclusively establish which of the two interpretations is correct, but the “transcript” of the famous telephone call provides no clear support for the second possibility and, no evidence, hearsay or otherwise has been adduced in that regard. The fact that a president may benefit secondarily from an official act does not fatally taint the transaction and render it illegal or impeachable.

President Trump’s Request for an Investigation by Ukraine into “Crowdstrike was an Appropriate Presidential Action- Prior to the telephone call, allegations had been made that some of the information that gave rise to the Mueller investigation emanated from Ukraine. As the chief law enforcement officer, President Trump’s request for an investigation into any involvement of Ukrainian individuals in the 2016 U.S. Presidential election was consistent with his Constitutional authority and duty, and the Treaty between the U.S. and Ukraine.

President Trump’s Request for an Investigation by Ukraine into the Suspicious Appointment of then Vice-President Biden to the Board of Burisma- In a boastful, televised statement, then Vice-President Joe Biden trumpeted his threats to suspend foreign aid to Ukraine unless a prosecutor was fired. When queried about the legitimacy of that threat, Biden claims that no evidence exists of any wrongdoing exists. That is true, however, rather than support Biden’s claim of innocence, it reflects only that no official investigation into Hunter and Joe Bidens Ukrainian antics has ever occurred that might yield such evidence. Accordingly, it was fully appropriate that the U.S. seek assistance from Ukraine to determine if the Burisma issue involved any illegality. As the chief U.S. law enforcement officer, President Trump’s request for an investigation into the Burisma matter was consistent with his Constitutional authority and duty, and the Treaty between the U.S. and Ukraine.

Imposition of Conditions upon the Receipt of U.S. Foreign Aid is Completely Appropriate and does not Violate U.S. Law- Deputy Assistant Secretary George Kent admitted that “conditionality” is a legitimate component of ways in which foreign aid is implemented. Therefore, had the President conditioned the resumption of foreign aid to Ukraine upon the initiation of investigations into allegations of interference into the 2016 U.S. Presidential election (Crowdstrike) and the controversial and questionable appointment of then Vice-President Biden’s son, Hunter, to the Burisma Board Directors, a highly corrupt natural gas company, such a request would have been fully appropriate and lawful. But no direct and substantive evidence has been presented supporting that this conditionality was imposed by President Trump. Accusations by Democrats of a “quid pro quo” as a basis for impeachment are completely inappropriate and unjustified, therefore.

Joe Biden is not Immune from Investigation or Prosecution for any Misconduct as Vice-President- Joe Biden’s status as a candidate in the Democrat presidential primary does not shield him from legitimate scrutiny or immunize him from possible prosecution for any improper conduct (commission of a crime or abuse of power) while he served as Obama’s Vice-President, and that of his son with respect to Ukraine, Burisma and the replacement of the public prosecutor in Ukraine. To claim otherwise would impart immunity from criminal investigation or prosecution upon any individual merely by them declaring their candidacy for public office in opposition to an official (U.S. President, governor, mayor or prosecutor) charged with conducting criminal investigations.

None of the Democrat Witnesses Have Firsthand Knowledge of any facts Relevant to the Impeachment of the President- All testimony from witnesses before the Intelligence Committee's impeachment inquiry is based exclusively upon hearsay and rumor, and is, therefore, insubstantial and not a proper basis for impeaching the President.

Hearsay Evidence is Inherently Unreliable and Unfair to Admit in Any Legal Proceeding- Hearsay evidence suffers from unreliability as one person repeats a story told him by someone else. Individual memories, judgments and values can unconsciously contaminate the substance of the message changing its meaning. Additionally, when hearsay evidence is presented, the original speaker cannot be cross-examined by the defendant regarding their veracity since he or she is not present at the legal proceeding...if they were, hearsay would not be necessary. In a legal context, specific exceptions to the rule again admissibility of hearsay have been carved out. None of those exceptions apply to the circumstances under which it is being used as a basis to impeach this President.

Democrat Hypocrisy Regarding Importance of Military Aid to Ukraine- The Democrats on the House Intelligence Committee feigned deep concern regarding the fact that military aid in the form of lethal arms, equipment and training was delayed briefly by the Trump Administration, ostensibly pending a public announcement that Ukraine was undertaking investigations into CrowdStrike and Burisma/Biden. It's remarkable that the same Democrats and, indeed, impeachment witnesses failed to take any action when former President Obama repeatedly refused to provide arms to Ukraine claiming that to do so would only "provoke" Russia. This is bizarre since Russia had already invaded Crimea and was apparently already adequately "provoked." If the provision of foreign aid to Ukraine was critical to America's National interests, couldn't President Obama be fairly accused of an impeachable offense himself by violating his oath of office? No rational person would make that argument...no rational person should make an impeachment argument of this President based upon a brief delay in furnishing military assistance, particularly when the Ukrainians weren't even aware of that delay.

The Current Rules Adopted by the Democrats for the Intelligence Committee Impeachment Inquiry Deprive President Trump of Fundamental Fairness- Chairman Schiff has decided that Republican members of the Intelligence Committee must submit the names of their witnesses to him for approval before being allowed to call and question them. Schiff controls the questions that may be asked. He has rejected many of the prospective witnesses sought by Republican members of the Committee. Schiff has ruled that the Republicans may not confront and cross-examine "the Whistleblower" who began the entire proceedings as to his knowledge, contacts with Rep. Schiff and sources of the information he included in his complaint.

Insubstantial Basis for Impeachment- The Democrats have not cited a single federal statute that articulates a "high crime or misdemeanor" that the President has committed and upon which the current impeachment is based. The opinions and feelings of subordinate officials regarding the President's decision to suspend foreign aid to Ukraine are irrelevant to the President's Constitutional obligations and authorities and are based exclusively upon hearsay evidence. As such, they constitute thin gruel to support the effort to impeach President Donald Trump.