



Written by [R. Cort Kirkwood](#) on January 14, 2021

## McConnell: No Special Session To Try Trump. Retired Federal Judge: Senate Can't Convict Trump After Jan. 20

Senate Majority Leader Mitch McConnell has ruled out an immediate Senate trial of the impeachment charges against President Trump because less than a week remains until the Biden Regime takes power on January 20.

Leftists would like to think the Democrats will proceed to trial after that. But a former federal judge says that shouldn't happen either. The Senate cannot try the impeachment case, [J. Michael Lustig argued in the Washington Post](#), because the plain language of the Constitution forbids it.



AP Images

That means Trump cannot be convicted — at least without doing violence to the Constitution.

Yet convicting Trump was never the ultimate aim of the impeachment. Democrats hope impeaching Trump for “sedition” and “incitement of insurrection,” as [The New American explained](#) after Wednesday's impeachment vote, will prevent Trump from running in 2024 and will justify criminalizing opposition to the new leftist regime and declaring conservatives “domestic terrorists.”

DEVELOPING: Democrats in both the House and Senate are planning to draft legislation to classify MAGA rallies as “domestic terrorist activity” and require the FBI, DOJ & DHS to take steps to prevent such “domestic terrorism.” Sen. Durbin is leading effort along with Rep Schneider

— Paul Sperry (@paulsperry\_) [January 11, 2021](#)

### McConnell Statement

Hard-left Democrat Senator Chuck Schumer actually thought McConnell might call an emergency session to try Trump and remove him from office before his term ends.

Citing a law passed in 2004, [Schumer said](#) the two party leaders can call an emergency session if both agree.

But that isn't going to happen, McConnell said after the [House voted 232-197](#) — with the help of 10 disloyal Republicans — to impeach the president.

“The Senate process will now begin at our first regular meeting following receipt of the article from the House,” McConnell said.

The Senate reconvenes on January 19, he observed, and the new Biden Regime takes power the next day.

Said McConnell:



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Given the rules, procedures, and Senate precedents that govern presidential impeachment trials, there is simply no chance that a fair or serious trial could conclude before President-elect Biden is sworn in next week. The Senate has held three presidential impeachment trials. They have lasted 83 days, 37 days, and 21 days respectively.

The Senate, McConnell said, could not reach a verdict before Trump leaves office. "This is not a decision I am making; it is a fact," he continued. "The President-elect himself stated last week that his inauguration on January 20 is the 'quickest' path for any change in the occupant of the presidency. I believe it will best serve our nation if Congress and the executive branch spend the next seven days completely focused on facilitating a safe inauguration and an orderly transfer of power to the incoming Biden Administration."

### **No Trial After January 20**

If Schumer and other vengeful Democrats try Trump after January 20, [Lustig explained](#), they would not only trespass the clear meaning of the Constitution, but also invite an appeal to the U.S. Supreme Court.

"Once Trump's term ends on Jan. 20, Congress loses its constitutional authority to continue impeachment proceedings against him — even if the House has already approved articles of impeachment," he wrote.

That's because Congress' impeachment powers are meant to *remove an incumbent*.

Wrote Lustig:

The very concept of constitutional impeachment presupposes the impeachment, conviction and removal of a president who is, *at the time of his impeachment*, an incumbent in the office from which he is removed. Indeed, that was the purpose of the impeachment power, to remove from office a president or other "civil official" before he could further harm the nation from the office he then occupies....

Article II, Section 4 of the Constitution reads, "The President, Vice President and all civil officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." In the same constitutional vein, Article I, Section 3 provides in relevant part: "Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States."

It has been suggested that the Senate could proceed to try the former president and convict him in an effort to disqualify him from holding public office in the future. This is incorrect because it is a constitutional impeachment of a president that authorizes his constitutional disqualification. If a president has not been constitutionally impeached, then the Senate is without the constitutional power to disqualify him from future office.

Lustig admitted that angry exponents of a [Javert-like pursuit](#) of Trump will cite two cases to offer support for a trial after January 20. But even if Congress concludes it has that power, it's left with the obvious: Trump's appeal to the U.S. Supreme Court.



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When and if the former president goes to court to challenge his impeachment trial as unconstitutional, Congress is sure to make its argument based on these congressional precedents, as well as others, a case that would almost certainly make its way to the Supreme Court.

In the end, though, only the Supreme Court can answer the question of whether Congress can impeach a president who has left office prior to its attempted impeachment of him. It is highly unlikely the Supreme Court would yield to Congress's view that it has the power to impeach a president who is no longer in office when the Constitution itself is so clear that it does not.

But again, the Democrats have been clear. The mostly peaceful protesters on January 6 were "domestic terrorists," unlike the leftists who have [burned buildings](#), [assaulted journalists](#), [attacked police](#) and [police stations](#), and [attacked](#) and [murdered Trump supporters](#).

That means Trump isn't their only target. The Democrats and their Republican enablers really want [to outlaw dissent](#) and punish opponents of the Biden Regime and the globalist Deep State.

**H/T:** [Powerline](#)



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