



Written by [R. Cort Kirkwood](#) on February 10, 2021

Trump's Case: You Can't Impeach a Former President. Six GOPers Vote for Star Chamber Impeachment

[Six disloyal Republican senators joined](#)

Democrats yesterday in a [56-44 vote](#) to try former President Trump on impeachment articles hoked up in the U.S. House.

Impeaching a former president, they say, is constitutional.

The goal of the unconscionable affair: to stop Trump from running for office again by convicting him of "high crimes and misdemeanors" that exist only in the febrile minds of the subversives, and their GOP enablers, now running the country.

Trump's real crime, of course, was opposing the Deep State and embarrassing the radical Left by defeating them both in 2016.

That truth aside, as the Kangaroo Court begins Trump's "trial" for "high crimes and misdemeanors," the 45th president's written answer to the preposterous charges of "incitement" and "insurrection" explain why the GOP had better vote to acquit.

At stake is what's left of the U.S. Constitution, not least the First Amendment that protects free speech.

No Power To Impeach, First Amendment Rights

The first and most important reason Trump cannot be impeached, the outcome regardless, is the Constitution's impeachment provisions, which apply to a *sitting* president, not a *former* president.

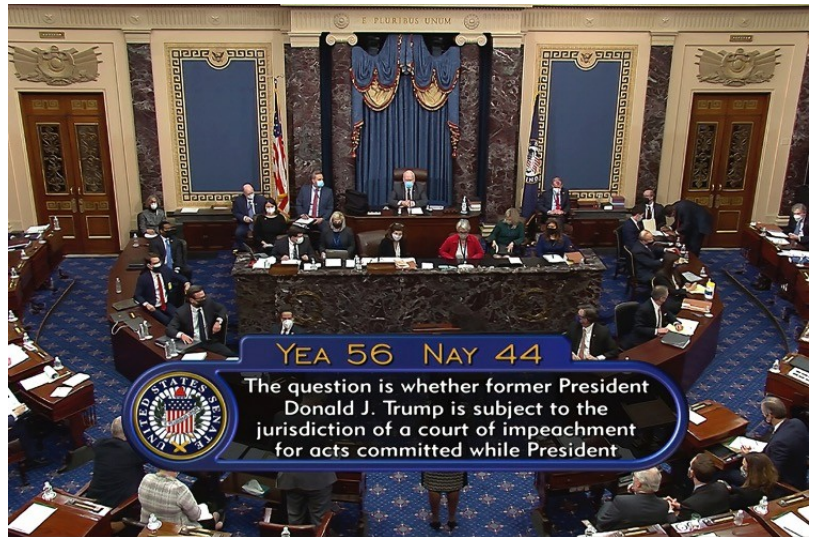
[The Constitution is clear:](#)

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....

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: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Because Trump is no longer president, attorneys [Bruce Castor and David Schoen argue](#) in their brief, removing him from office is "impossible."

Thus the current proceeding before the Senate is *void ab initio* as a legal nullity that runs patently contrary to the plain language of the Constitution. Article I, Section 3 of the Constitution states "[j]udgment in cases of impeachment shall not extend further than to



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removal from office, *and* disqualification to hold and enjoy an office of honor..." [Emphasis added.] Since Removal from office by the Senate of the President is a *condition precedent which must occur before*, and jointly with, "disqualification" to hold future office, the fact that the Senate presently is unable to remove from office the 45th President whose term has expired, means that Averment 1 [that the Constitution provides for impeachment] is therefore irrelevant to any matter before the Senate.

The attorneys deny that Trump "engaged in insurrection or rebellion" against the U.S. government. They also deny that his claims of election fraud, and "we won this election, and we won it by a landslide," are false. And he was within his rights to say such things.

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Trump "exercised his First Amendment right" to say "the election results were suspect" given the circumstances, such as changing state election laws *sans* legislative approval. "Insufficient evidence exists upon which a reasonable jurist could conclude that the 45th President's statements were accurate or not, and he therefore denies they were false."

"Like all Americans, the 45th President is protected by the First Amendment," they argue:

Indeed, he believes, and therefore avers, that the United States is unique on Earth in that its governing documents, the Constitution and Bill of Rights, specifically and intentionally protect unpopular speech from government retaliation. If the First Amendment protected only speech the government deemed popular in current American culture, it would be no protection at all.

Capitol Violence Incitement Denied, the Senators Who Ran for the Bushes

Another charge is that Trump incited violence and sedition at the U.S. Capitol on January 6 when Congress met to certify Biden's shady victory.

"If you don't fight like hell you're not going to have a country anymore," Trump said at the mostly peaceful protest at the [Ellipse](#), words that supposedly inspired the mob who stormed the Capitol that day.

The attorneys deny he incited "sedition" because the remarks were "clearly about the need to fight for election security in general, as evidenced by the recording of the speech," the attorneys argued. Nor did Trump intend to interfere with Congress' certification of Biden's victory.

Nor did Trump intend to subvert the election in his phone call with Georgia Secretary of State Brad Raffensperger.

The six hate-Trump Senators who voted to open the Star Chamber proceedings were:

- Maine's [Susan Collins](#)
- Louisiana's [Bill Cassidy](#)
- Alaska's [Lisa Murkowski](#)
- Utah's [Mitt Romney](#)
- Nebraska's [Ben Sasse](#)
- Pennsylvania's [Pat Toomey](#)



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