



Impeaching and Trying Ex-President Trump

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Mr. Whittington’s suggestion that the Senate has power to both try and disqualify from further office an impeached ex-president is noteworthy for its lack of a single line of relevant constitutional text. Instead, Mr. Whittington relies mostly on selective pre-Constitutional history and comments—like the one from George Mason, who would not sign the Constitution—while ignoring post-Constitutional cases where the Senate did not try impeached ex-officials.

By contrast, the relevant constitutional text says that the president “shall be removed from Office on Impeachment for, and Conviction of Treason, Bribery, or other high Crimes and Misdemeanors” (Article 2, Section 4). Article 1, Section 3 says: “Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor.” Congress has only enumerated powers: the House, power to impeach a president; the Senate, power to try, convict, remove and disqualify from further service an impeached president. Neither chamber has such powers over ex-presidents, for the text speaks of presidents, not ex-presidents.

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