The Citizen Trump Kabuki Theater Spasm

"ABSOLUTE POWER CORRUPTS ABSOLUTELY"

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(Feb. 1, 2021) — What on Earth is going on?

Art. 1, § 3, Cl. 6 of the Constitution relating to trials on impeachments states, in relevant part: "When the President of the United States is tried, the Chief Justice shall preside." There are three words contained in that sentence which bear closer analysis, *i.e.*,(1) "President;" (2) "shall;" and (3) "preside."

As for the word "President," the Founders capitalized that term in order to reference the "Chief Magistrate of the Union," also to be identified as the "President and Commander in Chief" as noted in Federalist 68. The term does not refer to someone who is ***not*** the "President" or "a president," as of a corporation. It refers instead to "the President," meaning someone who is *in office and still serving* as the "Commander in Chief." Citizen Trump's duties and authority as "Commander in Chief" – during his first term – ceased on January 20, 2021. However, they may return on January 25, 2024, much to the horror of Leftists, Democrats and the mainstream media, thus explaining their current collective panic and zeal – by whatever means – to disqualify him from future federal office.

Faithful P&E readers will see where this is going. As discussed here, former President Trump – now Citizen Donald J. Trump – is ***not,*** at the present time, functioning or serving as the "President" to whom that term in the Constitution refers. Just as one "cannot forget that which was never learned," one "cannot be removed from office if

he/she has already vacated it." The whole purpose of an impeachment and trial is to seek a "judgment" removing the person from office ***and*** simultaneously, as part of the identical proceeding, precluding and disqualifying the person convicted from in the future holding again any federal office.

But if the single, unitary procedure results in an acquittal, it rationally and logically follows that the "disqualification" potential is simultaneously removed. It is (or should be) that simple, at least for those with IQ's above room temperature. Stated otherwise, as a "former" President, he is no longer subject to removal and disqualification from holding future federal office. Thus, the Senate lacks subject matter jurisdiction over what has become, in essence, a kabuki theater exercise in nonsense…, but oh-so-par for the course in Congress.

The next word is "shall." The term "shall" is defined as an auxiliary verb to express, among other things, an exhortation or command and, when used in laws, regulations or directives, to express that which is mandatory. In earlier times, its now "archaic" meaning was "must."

The third word is "preside," an intransitive verb defined as meaning "to exercise guidance, direction, or control or to occupy the place of authority" over proceedings. The term "preside" conveys the meaning of authority to control rather than merely passively observe.

Thus, when the Constitution commands that the Chief Justice of the Supreme Court "shall preside" over trials of impeachments in the Senate, that is a mandatory directive that the "Chief Justice" is the one ***and only*** person authorized to "exercise guidance, direction or control or to occupy the place of authority" over the trial.

It would boggle the minds of the Founders to learn that, because Chief Justice John ("penalty-means-tax-means-penalty") Roberts has decided – without explanation – to "pass" on the proceedings, he has surrendered his mandatory constitutional obligation

over to the majority and minority leaders of the Senate to "select" the person who "shall preside" in his stead over the kabuki theater extravaganza. He did not refuse to "preside" in Trump Impeachment No. 1 and he has given zero justification for refusing to preside now… other than offering up the excuse that he "just doesn't want to get involved."

And why, pray tell, is Roberts's unexplained "wants no further part" of the event not an unconstitutional dereliction of common law duty? Does not the Constitution direct that he "shall preside," his personal preferences and trepidations aside?

Moreover, does Justice Roberts's "I just don't want to" reason implicate ethical concerns under Canon 3(A) of the Federal Code of Conduct for United States Judges? That ethical Canon states that a judge "should perform the duties of the office fairly, impartially and diligently" and should "hear and decide matters assigned, unless disqualified…." If Chief Justice Roberts was not "disqualified" for the first impeachment trial, what reason exists to believe that somehow, he is now "disqualified?"

Moreover, as a consequence of Roberts's refusal to "diligently" perform the duties "assigned" to him under the Constitution, Democrat Senator Patrick Leahy (D. VT), as president *pro tempore* of the Senate, has been "selected" to preside over the kangaroo event. This "selection" is beyond comical, given that Leahy already voted once to convict then-President Trump on Impeachment No. 1. Allowing Leahy to substitute for Roberts is also almost certainly unconstitutional…, but what court is going to rule on *that* question?

In his lame defense, Leahy states that "[t]he president *pro tempore* has historically presided over Senate impeachment trials of non-presidents. When presiding over an impeachment trial, the president *pro tempore* takes an additional special oath to do impartial justice according to the Constitution and the laws." Leahy added: "It is an oath that I take extraordinarily seriously."

What D.C. doublespeak tripe. This violation of the Constitution is unprecedented and merely underscores Lord Acton's observation: "Power corrupts; absolute power corrupts absolutely."

As for Leahy's claim that whenever a "president *pro tempore*" has historically presided over "Senate impeachment trials of non-presidents…," those proceedings have virtually always been waged over "non-presidents" *who still occupied a federal office from which they could be removed.* Interestingly, almost all of them were judges. The 1876 impeachment trial of former Secretary of War William Belknap – not a judge – is inapposite, as discussed and dismantled here.

Sen. Patrick Leahy (D-VT))

If the esteemed senior Senator from Vermont really meant it when he said that he would take an additional oath to do "impartial justice according to the Constitution and the laws…," he would immediately resign from the synthetic and counterfeit role that has been concocted for him on the grounds that (a) he is not the Chief Justice of the Supreme Court, and (b) the "trial" proposed by the Senate is unconstitutional. Roberts could do "(b)" as well, albeit as the real "Chief Justice."

Indeed, while many would argue that the Goofball-in-Chief and his constitutionally-ineligible sidekick are common usurpers of the offices they occupy, Leahy is just as much a usurper of the role required – "***shall***" – of Chief Justice Roberts under Art. 1, § 3, Cl. 6 of the Constitution. Roberts's "I just don't want to" doesn't cut it under the Constitution.

Clearly, the Constitution is the "supreme law of the land" and, as such, includes as a mandatory command that Chief Justice Roberts ***must*** preside over the exercise, if only to declare at the outset that it must be dismissed for lack of subject matter jurisdiction. And please, spare me the "separation of powers" excuse. More D.C. tripe.

Rocket science, this is not. Instead, it is Trump Derangement Syndrome elevated to an art form. The explanation for why this whole meaningless Democrat exercise is being conducted is captured in the high school Q and A: Q.: "Why does a dog lick itself?" A.: "Because it can." Vote carefully in 2022.