

ago, the process of impeachment and conviction is a narrow tool—a narrow tool—for a narrow purpose. Story explained this limited tool exists to “secure the state against gross official misdemeanors”; that is, to protect the country from government officers.

If President Trump were still in office, I would have carefully considered whether the House managers proved their specific charge. By the strict criminal standard, the President’s speech probably was not incitement. However—however—in the context of impeachment, the Senate might have decided this was acceptable shorthand for the reckless actions that preceded the riot. But in this case, the question is moot because former President Trump is constitutionally not eligible for conviction.

Now, this is a close question, no doubt. Donald Trump was the President when the House voted, though not when the House chose to deliver the papers. Brilliant scholars argue both sides of this jurisdictional question. The text is legitimately ambiguous. I respect my colleagues who reached either conclusion.

But after intense reflection, I believe the best constitutional reading shows that article II, section 4 exhausts the set of persons who can legitimately be impeached, tried, or convicted. It is the President. It is the Vice President and civil officers. We have no power to convict and disqualify a former office holder who is now a private citizen.

Here is article II, section 4: “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.”

Now, everyone basically agrees that the second half of that sentence exhausts the legitimate grounds for conviction. The debates around the Constitution’s framing make that abundantly clear. Congress cannot convict for reasons besides those. It therefore follows that the list of persons in that same sentence is also exhaustive. There is no reason why one list—one list—would be exhaustive but the other would not.

Article II, section 4 must limit both why impeachment and conviction can occur and to whom—and to whom. If this provision does not limit impeachment and conviction powers, then it has no limits at all. The House’s “sole power of Impeachment” and the Senate’s “sole Power to try all Impeachments” would create an unlimited circular logic, empowering Congress to ban any private citizen from Federal office.

Now, that is an incredible claim. But it is the argument the House managers seemed to be making. One manager said the House and Senate have “absolute, unqualified . . . jurisdictional power.” Well, that was very honest, because there is no limiting principle in the constitutional text that would em-

power the Senate to convict former officers that would not also let them convict and disqualify any private citizen—an absurd end result to which no one subscribes.

Article II, section 4 must have force. It tells us the President, the Vice President and civil officers may be impeached and convicted. Donald Trump is no longer the President.

Likewise, the provision states that officers subject to impeachment and conviction “shall be removed from Office if convicted”—“shall be removed from Office if convicted.”

As Justice Story explained, “the Senate, [upon] conviction, [is] bound in all cases, to enter a judgment of removal from office.” Removal is mandatory upon conviction. Clearly, he explained, that mandatory sentence cannot be applied to someone who has left office. The entire process revolves around removal. If removal becomes impossible, conviction becomes insensible.

In one light, it certainly does seem counterintuitive that an officeholder can elude Senate conviction by resignation or expiration of term—an argument we heard made by the managers. But this underscores that impeachment was never meant to be the final forum for American justice—never meant to be the final forum for American justice. Impeachment, conviction, and removal are a specific intragovernmental safety valve. It is not the criminal justice system, where individual accountability is the paramount goal.

Indeed, Justice Story specifically reminded that while former officials were not eligible for impeachment or conviction, they were—and this is extremely important—“still liable to be tried and punished in the ordinary tribunals of justice.”

Put another way, in the language of today, President Trump is still liable for everything he did while he was in office, as an ordinary citizen—unless the statute of limitations is run, still liable for everything he did while he was in office. He didn’t get away with anything yet—yet. We have a criminal justice system in this country. We have civil litigation, and former Presidents are not immune from being accountable by either one.

I believe the Senate was right not to grab power the Constitution doesn’t give us, and the Senate was right not to entertain some light-speed sham process to try to outrun the loss of jurisdiction.

It took both sides more than a week just to produce their pretrial briefs. Speaker PELOSI’s own scheduling decisions conceded what President Biden publicly confirmed: A Senate verdict before Inauguration Day was never possible.

Now, Mr. President, this has been a dispiriting time, but the Senate has done our duty. The Framers’ firewall held up again. On January 6, we returned to our post and certified the election. We were uncowed. We were

not intimidated. We finished the job. And, since then, we resisted the clamor to define our own constitutional guardrails in hot pursuit of a particular outcome. We refused to continue a cycle of recklessness by straining our own constitutional boundaries in response.

The Senate’s decision today does not condone anything that happened on or before that terrible day. It simply shows that Senators did what the former President failed to do: We put our constitutional duty first.

The PRESIDING OFFICER. The Senator from Maryland.

IMPEACHMENT

Mr. CARDIN. Mr. President, I take this time to explain why I voted to convict the former President of the United States, Donald Trump, of the Article of Impeachment presented by the House of Representatives in regards to the incitement of insurrection.

Throughout his Presidency, Donald J. Trump has violated his oath of office to preserve, protect, and defend the Constitution of the United States. There are many examples that I can give of how he has violated his oath of office. I could also cite the basis of the first Articles of Impeachment that were tried last year as violating his oath of office. But, by far, the most egregious violation of his oath of office took place in his incitement of insurrection that occurred with the attack on this Capitol on January 6.

But it started well before January 6. The seeds were planted a long time ago and even before the November elections, when President Trump pointed out, when the polls were showing that he might lose in the election, that he refused to acknowledge that he would accept the election results if he lost. He didn’t say that once before the November elections, he said it on several occasions. He talked about a rigged election. He talked about a fraudulent election. He talked about the election being “taken away from us”—the victory—with no evidence of voter fraud.

One of the key provisions of our Constitution, of our democracy, is the peaceful transition of power. Donald Trump called that into question prior to the November 3 elections.

Then came the November 3 elections, and, shortly thereafter, Joe Biden was declared to be the winner. Why? Because he had the most votes—most populace votes—over 7 million. But he was declared the winner because of the electoral votes, 306 to 232. By the way, that is the same electoral margin that Donald Trump won 4 years earlier and which Donald Trump called a “landslide.”

But then came the legal challenges by President Trump. He didn’t accept the electoral vote or the declared elections. And he has his right to contest the elections in the court by asking for recounts or asking for challenges, but in every one of those cases, he could

not establish widespread fraud that would have changed the results in any one of the States, let alone enough electoral vote changes to change the outcome of the election.

But did he stop after he was denied relief in all of those legal challenges? The answer is no. He further contested by trying to inappropriately interfere with State election officials and State public officials, urging them to take action to change the certification results.

Now, we have many examples that during this period of time he was talking about a fraudulent election, a stolen election, all the different things about raising questions as to the legitimacy of the voices of people of this Nation. We have so many examples of his interference, but we actually have the tape of his conversation with the Georgia secretary of state that we all heard and heard how the President tried to intimidate and threaten the secretary of state of Georgia in order to change the certified election results from the votes of the people of Georgia—clear examples of how President Trump violated his oath of office to protect and defend the Constitution of the United States.

But that wasn't the end of it. He went to his Department of Justice believing the Department of Justice is his Department of Justice, not the Department of Justice of the United States of America. Now, let's remember that the Department of Justice had found no widespread corruption. In fact, they had determined this was one of the freest elections and one of the least problem elections that we have had. It didn't stop President Trump from trying to intimidate and order his Department of Justice to conduct an additional investigation to find fraud to overturn the will of the people—once again, violating his oath to protect and defend the Constitution of the United States.

He continued to do this, contrary to his constitutional obligations. "Corrupt election," "stop the steal," "rigged elections," "tremendous fraud"—all words that he used after the November 3 election. He knew what he was saying was a lie. He knew there was no widespread fraud, but he continued to use the Office of the Presidency and his voice to promote the big lie, and he knew his followers would believe it. He knew he could convince his loyal followers to believe that this was a rigged election—a stolen election—again, compromising our democracy and the will of the people to determine who our leaders are. And he knew his followers would be motivated to action because he knew he could motivate his followers.

He put himself before the Nation and before his responsibilities as President of the United States. He put his own self-interest above his responsibilities under the Constitution of the United States and to the people of this Nation.

And then he summoned his loyal following to Washington on January 6. He

knew they would come. He knew dangerous people were in the group. He knew the Proud Boys were there, to which he had directly said: "Stand back and stand by." He knew that they were ready for violent action.

And then he incited the mob to action on January 6. We know the words that he used. We saw the videos as part of the record of the impeachment trial. "We will never surrender," "we will never concede," "we will stop the steal," "stolen election"—all words that he had been using during the entire 2020 election cycle, particularly when he thought he was going to lose.

But the most damning part of the President's violation of his oath of office—the most serious part—is what he did and did not do after seeing the violence erupt in the United States Capitol. After the Capitol was penetrated, after we saw the violence being committed, where we knew that the Members of Congress were in danger, the Vice President of the United States was in danger, the people that work here were in danger, all the people that were in the Capitol legitimately were in danger—we all saw that—and the President of the United States knew that, and he did nothing to stop the violence. He could have called off his loyalists and told them to get out of the Capitol. He didn't do that. He could have sent in the National Guard in order to protect us. He didn't do that. And he never condemned the participants in this mob in penetrating the Capitol for what they did.

I am going to sort of summarize my feeling about that by agreeing with Representative LIZ CHENEY, the House Republican caucus chair, who said it on the floor of the House. Let me just quote her statement:

The President of the United States summoned this mob, assembled this mob, and lit the flame of this attack. Everything that followed was his doing. None of this would have happened without the President. The President could have immediately and forcefully intervened to stop the violence. He did not. There has never been a greater betrayal by a President of the United States of his office and his oath to the Constitution.

I agree with that. President Trump violated his oath of office to protect and defend the Constitution of the United States. He violated that.

But let's take a look at what he did do after knowing the violence that occurred—his tweet of 2:24 p.m. Now, this is after the Vice President had been removed from presiding in the Chamber, after he knew the violence that was taking place in the Capitol of the United States. He was aware of all that. He knew that we had shut down the operations of the House and the Senate, that there was violence taking place within the Capitol, and that his Vice President was the target of that attack. And what he tweeted at 2:24 p.m.—I am quoting the President: "Mike Pence didn't have the courage to do what should have been done to protect our country." He inflamed the group even more to violence after he

knew that it was a violent circumstance.

He had known violence had taken place, and we heard put into the record of the impeachment trial today Congresswoman Beutler's report of Majority Leader MCCARTHY's conversation, which, again, is during this period of time. Here we are. The Republican leader of the House of Representatives gets the President on the phone. He says: Mr. President, we are being attacked. My office is being broken into. We need help. Send the Guard. Take care of us.

And then President Trump said something like: Well, it is not my supporters. It is some leftwing group.

And Leader MCCARTHY said: No, Mr. President, these are your supporters who are doing this.

And what did the leader say? What did the President say? I guess, KEVIN, these people are more upset about the election than you are.

Here we have the Members of Congress in harm's way, and the President is talking about the support for those who are causing the violence and putting his own interest above the safety of the people whom he is sworn to protect as our Commander in Chief.

And then, at the end of the day, about 6 o'clock, he sends out a tweet that really sums up his feelings about what these people were doing. Now, these are people who came into the Capitol. They killed people. They hurt people. They stole property. They damaged property. They invaded the Capitol of the United States. They hurt law enforcement officers. They hurt all of us. They hurt our democracy. So how does the President sum up the day? His tweet:

These are the things that happen when a sacred landslide victory is so unceremoniously and viciously stripped away from great patriots who have been badly & unfairly treated for so long. Go home with love & in peace. Remember this day forever!

He was repeating the big lie and saying the day was a day of celebration when it was one of the bleakest days, dark days in the history of our Nation. That is what President Trump did, rather than bringing in the National Guard, rather than telling his people to go home, rather than being concerned about the safety of the Vice President and the Members of Congress as the President of the United States should have been doing.

He violated his oath of office over and over and over again—a pattern of practice that we have seen for so long. It clearly establishes that he incited an insurrection against our country—that the facts included as a basis for the Article of Impeachment brought to us by the House of Representatives have been proven.

The purpose of impeachment is not just the accountability for the President but also to protect our Constitution and to make sure this conduct never happens again. No one is above

the law, including the President of the United States. Everyone who was responsible for the insurrection that occurred on January 6 should be held accountable—from those who broke into the Capitol and caused the harm and damage to the President of the United States who incited the violence.

That is why I voted to convict President Trump of the Article of Impeachment for inciting an insurrection, and that is why I would have voted for disqualifying him from ever holding an office of trust again.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

IMPEACHMENT

Ms. COLLINS. Mr. President, the hallmark of our American democracy is the peaceful transfer of power after the voters choose their leaders. In America, we accept election results even if our candidate does not prevail. If a candidate believes that there is fraud, the courts can hear and decide those issues. Otherwise, the authority to govern is vested in the duly elected officials.

On January 6, this Congress gathered in the Capitol to count the votes of the electoral college, pursuant to the process set forth in the 12th Amendment to the Constitution. At the same time, a mob stormed the Capitol, determined to stop Congress from carrying out our constitutional duty.

That attack was not a spontaneous outbreak of violence. Rather, it was the culmination of a steady stream of provocations by President Trump that were aimed at overturning the results of the Presidential election.

The President's unprecedented efforts to discredit the election results did not begin on January 6. Rather, he planted the seeds of doubt many weeks before votes were cast on November 3. He repeatedly told his supporters that only a rigged election could cause him to lose.

Thus began President Trump's crusade to undermine public confidence in the Presidential election unless he won.

Early in the morning of November 4, as the ballots continued to be counted, President Trump claimed victory and asserted that Democrats were trying to steal the election.

On November 8, the day after several media outlets had declared Joe Biden the apparent winner based on State-by-State results, President Trump tweeted:

This was a stolen election.

With that, his postelection campaign to change the outcome began.

Over the ensuing days and months, the President distorted the results of the election, continuing to claim that he had won, while court after court threw out his lawsuits and States continued to certify their results. President Trump's falsehoods convinced a

large number of Americans that he had won and that they were being cheated.

The President also embarked on an incredible effort to pressure State election officials to change the results in their States. The most egregious example occurred on January 2. In an extraordinary phone call, President Trump could be heard alternating between lobbying, cajoling, intimidating, and threatening the election officials in Georgia. "I just want to find 11,708 votes," he stated, seeking the exact number of votes needed to change the outcome in that State. Despite the President's pleas and threats, the Georgia officials refused to yield to the Presidential pressure, as did State officials in other States.

In December, President Trump's postelection campaign became focused on January 6, the day that Congress was scheduled to count the electoral college votes. Although this counting is a ceremonial and administrative act, it is nevertheless the constitutionally mandated final step in the electoral college and the electoral process, and it must occur before a new President can be inaugurated.

On December 19, President Trump tweeted to his supporters:

Big protest in D.C. on January 6th. Be there, will be wild!

In response, some of his campaign supporters changed the date for protest rallies they originally had scheduled to occur after the inauguration to happen instead on January 6.

Having failed to persuade the courts and State election officials, President Trump next began to pressure Vice President Pence to use his role under the 12th Amendment to overturn the election. The President met with Vice President Pence on January 5 and then increased the pressure by tweeting hours later:

If [the Vice President] comes through for us, we will win the Presidency.

That is what his tweet said.

Vice President Pence, however, refused to yield. He issued a public letter on January 6 making clear that his oath to support and defend the Constitution would prevent him from unilaterally deciding which electoral vote should be counted and which should not.

During his speech at the Ellipse on January 6, President Trump kept up that drumbeat of pressure on Vice President Pence. In front of a large, agitated crowd, he urged the Vice President to "stand up for the good of our Constitution." "I hope Mike has the courage to do what he has to do," President Trump concluded. Rather than facilitating the peaceful transfer of power, President Trump was telling Vice President Pence to ignore the Constitution and to refuse to count the certified votes. He was also further agitating the crowd, directing them to march to the Capitol.

In this situation, context was everything. Tossing a lit match into a pile of dry leaves is very different from toss-

ing it into a pool of water. And on January 6, the atmosphere among the crowd outside the White House was highly combustible, largely the result of an ill wind blowing from Washington for the past 2 months.

President Trump had stoked discontent with a steady barrage of false claims that the election had been stolen from him. The allegedly responsible officials were denigrated, scorned, and ridiculed by the President, with the predictable result that his supporters viewed any official they perceived to be an obstacle to President Trump's reelection as an enemy of their cause. That set the stage for the storming of the Capitol for the first time in more than 200 years.

Nearly 30 minutes after the Capitol first came under attack, Members of Congress, law enforcement, and everyone else here in the Capitol waited in vein for the President to unequivocally condemn the violence and tell his misguided supporters to leave the Capitol. Rather than demand an end to the violence, President Trump expressed his frustration once again that the Vice President had not stopped the vote certification as he had urged.

Shortly after the Vice President was whisked away from this very Chamber to avoid the menacing mob chanting "Hang Mike Pence," President Trump tweeted:

Mike Pence didn't have the courage to do what should have been done.

Instead of preventing a dangerous situation, President Trump created one.

Rather than defend the constitutional transfer of power, he incited an insurrection with the purpose of preventing that transfer of power from occurring.

Whether by design or by virtue of a reckless disregard for the consequences of his action, President Trump, subordinating the interests of the country to his own selfish interest, bears significant responsibility for the invasion of the Capitol.

This impeachment trial is not about any single word uttered by President Trump on January 6, 2021; it is instead about President Trump's failure to obey the oath he swore on January 20, 2017. His actions to interfere with the peaceful transition of power, the hallmark of our Constitution and our American democracy, were an abuse of power and constitute grounds for conviction.

Two arguments have been made against conviction that deserve comment. The first is that this was a snap impeachment, that the House failed to hold hearings, conduct an investigation, and to interview witnesses, and that is true. Without a doubt, the House should have been more thorough. It should have compiled a more complete record. Nevertheless, the record is clear that the President, President Trump, abused his power, violated his oath to uphold the Constitution, and tried almost every