

## AUDIO ESSAY TEXT: TRUMP'S SECOND TERM AS PRESIDENT IS UNCONSTITUTIONAL

When Constitutional scholar Laurence Tribe spoke to Jessica Denson, in mid-November, as recorded on her Lights On youtube video, he opined that we cannot expect, in this day and age, for a majority of any Congress to disqualify a Presidential candidate. On the other hand, he stated that Trump remains disqualified, but Professor Tribe didn't explicitly describe why that is so, and implied that the January 6 impeachment was inconsequential. My thinking leads to the conclusion that, with the impeachment, and majority votes of both Houses of Congress, it did, in fact, formally declare Trump to be an insurrectionist and/or conspirator, disqualifying him from a future term of office, even if there were insufficient votes to remove him from office. In fact, with his term as President expiring within a week, the only legitimate reason for a Senate trial was to make that declaration, not to make Trump lose a future election! . but, rather, to keep him from running in the first place. .

If this logic is weak, it would be appreciated if Dr. Tribe, or other knowledgeable readers of this essay, would explain how & why my conclusion is flawed. The text of these comments can be found in a file available at [freedomdawning.org](https://www.freedomdawning.org). .

My argument derives from the 14th Amendment having stated how both houses of Congress must act if it desires to remove the "disability" of an insurrectionist (or conspirator) person, including a President, from holding office. But, the Amendment fails to state what is required to impose that disability in the first place, it is logical to assume that, so soon after the Civil war, the 1866 authors of Section 3 presumed that insurrectionists are so obvious that no proceeding is needed to delineate them.

But, by the same token, the Constitution does not prohibit a state court from convicting an individual as an insurrectionist, though only Congress can "remove that disability". . Thus, Colorado did not exceed any Constitutional authority, whereas SCOTUS exceeded its authority by mandating that only Congress can declare any person to have been an insurrectionist. . In fact, since the US Constitution is binding upon the states, and the running of national elections is left up to them, it can be more legitimately argued that the Colorado Supreme Court, after hearing the evidence and testimony presented to it, would have violated its own oath, if it did not declare Trump to be an insurrectionist. .

Rather, it was SCOTUS that, by failing in its function as the ultimate appellate court, completely and intentionally skirted the issue of whether the Colorado declaration was wrong. Instead, SCOTUS decided that Section 3 is not self-executing, and created a rule out of thin air, that such a disqualification must, and can only, come from Congress. . OK. . So be it. . While the court was obviously trying to turn this into a political process, which, like an impeachment conviction, is now virtually impossible, I insist that Congress did, in fact, do its job. . How can SCOTUS argue that the House majority vote to impeach the President for being an insurrectionist, followed by the Senate 57 majority vote to convict, NOT be considered to be a Congressional declaration of Trump to be an insurrectionist? SCOTUS can hardly argue that the Constitution requires a successful impeachment & trial to condemn an insurrectionist candidate. .

In other words, the action by Colorado was legitimate, but not even necessary, because those majority votes of Congress had already declared Trump to be disqualified from serving a second term as President. The point is that, based on SCOTUS own decision, nothing more than those simple majorities of both Houses was needed to declare Trump an insurrectionist, and disqualify him from a future run for President, even if they were unsuccessful at removing him from his first term, especially since the impeachment trial process ended after he left office.

It can be argued that we are already in the midst of a Constitutional crisis, having elected a President, disqualified by Congress, who is failing to vote to remove that disability. And, because a 2/3 vote will not be achieved to do so, Trump will remain disqualified. And, it will be hard for SCOTUS to disagree, because Congress followed the Court's own rule even before the Court created it. . The Republican Congress is in a box, like the trick question: "When did you stop beating your wife?" They won't vote to remove the disability that they think does not exist. But, if my legal logic is correct, a failed vote will leave the disability in place. .

I contend that SCOTUS well knew all this, and intentionally skirted this issue, while continuing its bogus practice inventing laws, rather than, in its own words, "calling balls & strikes". But, just as the President grants pardons, but doesn't convict the offenders he pardons, SCOTUS was wrong in insisting that Congress must, effectively, have been the entity that convicted the person(s) it pardons. Rather, via its decision, SCOTUS shirked its own duty to speak out if an unqualified candidate is running for high office. .

I am confident that Justice Barrett's concurrence in Trump v Anderson was flawed. Though she correctly stated that SCOTUS went too far in stating that it was necessary for Congress to disqualify Trump, she also commented that the people could decide if Trump should be President. That would be a total violation of the 14th Amendment. That concurrence is both wrong and surprising to come from a Constitutional scholar. Nowhere in the Constitution does it say that even a super majority popular vote of the people can elect a President who is, for example, not a US citizen, or too young, or is otherwise disqualified? Such provision can only be created by a Constitutional amendment, not by SCOTUS! .

Thanks for hearing me out. . After years of underwriting & forensic analytical work, I have some confidence in my ability, without being a lawyer, to identify what is truth, what constitute legitimate causes of action, and what is or is not Constitutional. . That's especially the case, as in this instance, when such conclusions should be obvious to almost anyone! , and What do you think? I hope you agree that my train of thought is rational and Constitutionally logical.