

The Senate Duty in Impeachment Trials



Jake MacAulay

“[T]he Senate may dismiss articles of impeachment without holding a full trial or taking any evidence... Put another way, the Constitution does not impose on the Senate the duty to hold a trial. In fact, the Senate need not hold a trial even though the House wishes to present evidence and hold a full trial[.]”

“In a number of previous impeachment trials, the Senate has reached the judgment that its constitutional role as sole trier of impeachments does not require it to take new evidence or hear live witness testimony.”

These are the words of former Senator Joe Biden who argued during the impeachment of former President Bill Clinton that witnesses, according to a memo obtained by [Politico](#), should be rejected by the Senate.

Politico also reported, “While the Senate eventually requested the testimony of three witnesses in the impeachment trial of Clinton – Monica Lewinsky, Vernon Jordan, and Sidney Blumenthal – each of those witnesses had already been deposed before the House of Representatives or a federal grand jury following lengthy litigation. The Senate refused to call new witnesses whose previous testimony hadn’t already formed a basis for the impeachment articles against Clinton.”

(You can read Biden's full memorandum [here](#).)

Last week we established that the claims of the House were erroneous and "pretended articles of impeachment" because they fail to make a case for impeachment even if they were true.

Firstly, neither of the Articles contains an accusation of criminal conduct on the part of the President.

Secondly, separation of powers deems "Obstruction of Congress" not possible for a President who has every right and privilege to disagree with Congress and owes them no duty that supersedes his duty to keep his Oath to the Constitution.

Article 1, Section 2, determines, "The House of Representatives... shall have the sole Power of Impeachment."

This means the House is the prosecuting attorney, the one who holds the sole duty to build the case against the said defendant. This includes evidence, accusations, and the compiling of witness testimonies with the desire that a jury will bring a conviction based on the evidence they have prepared and presented.

After the House votes with a simple majority to impeach a President, the Senate takes over to try the evidence similar to the function of a jury. Article 1, Section 3, of the Constitution states: "The Senate shall have the sole Power to try all Impeachments...And no Person shall be convicted without the Concurrence of two-thirds of the Members present."

So we see clearly here that Senator Biden was right. The job of the Senate is not to compile evidence or call new witnesses.

Furthermore, if more evidence or witnesses are required, this would only show a dereliction of duty on the part of the House for presenting a rushed case lacking due diligence before the "court".

The “Pelosi impeachment” is the first in history without bipartisan support and now the “party of Pelosi” is demanding the Senate make up for the shortfalls of the House?

We would do well to heed the words of Declaration author Thomas Jefferson, “Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit.”

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