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Treatise on Constitutional Law: Substance & Procedure

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Chapter 8. Congressional Powers and Privileges

§ 8.12. Sanctions for Impeachment

There are two places where the Constitution directly speaks to the issue of sanctions. Article II provides that all civil offices of the United States “shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.” [FN2]

Commentators dispute whether an impeached, convicted, removed, and disqualified President, Vice President, or other civil officer of the United States may subsequently be elected to the House or Senate. Some argue that the impeachment only disqualified the individual to federal appointed office, not to an elected office. [FN7.10]

[FN2]
U.S. Const. art. II, § 4 (emphasis added).

Chafetz, Impeachment and Assassination, 95 Minn. L. Rev. 347 (2010), which discusses the history and noted that, historically, opponents removed “obnoxious” chief executives by assassinating them. Benjamin Franklin suggested that a different and more civilized procedure for removal (impeachment) would be preferable. For a contrary position, see, Seth Barrett Tillman, Interpreting Precise Constitutional Text: The Argument for a “New” Interpretation of the Incompatibility Clause, the Removal & Disqualification Clause, and the Religious Test Clause–A Response to Professor Josh Chafetz’s Impeachment & Assassination, 61 Cleveland St. L. Rev. 285 (2013).

[FN7.10]