Insurrection

Kim Lane Scheppele

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By the time you read this, you (and I) will surely know more than anyone knows now. I'm writing as a curfew has settled on Washington DC after President Trump's supporters stormed the Capitol Building this afternoon. They interrupted a joint session of Congress being held to certify the Electoral College vote. Trump's minions swarmed into both chambers of the Congress, forced the Congress to flee and prevented the completion of the last formal step that would finally determine that Joe Biden is the new President of the United States.

One person has been killed in the siege of the Capitol; two explosive devices at the national party headquarters nearby were defused; the Capitol building was damaged and looted; congressional offices have been ransacked; reporters have been threatened. No one knows the full extent of the damage, the degree of presidential involvement in the conspiracy, or what other threats await after sundown.

What we do know is that the president incited the crowd to do this. Over weeks, his tweets said that today's rallies would be "wild." He appeared at a rally this morning where he claimed (again) that the election was stolen – and he verbally attacked those members of his own party who were going to authorize the transfer of power to his successor, including his own vice president who had announced that he would allow the Electoral College count to proceed. Trump said that something must be done about it. And then as the rally ended, he told his supporters to move toward the Capitol, implying that he would join them there. They went to the Capitol because they believed that Trump was with him.

For hours, while the Capitol was being stormed, Trump said nothing. He was evidently enjoying the show. Finally, he released a video in which he praised those who had shut down the Congress. And while he told them to go home, he mostly asserted again that the election had been stolen from him and that his supporters were right to feel aggrieved. It was not an attempt to calm the moment. It was an invitation for his supporters to dig in and continue to resist the peaceful transfer of power.

Just in the last moments, Twitter announced that they were removing Trump's tweets for provoking violence. The tweets of the sitting president of the United States.

President Trump is dangerous. He must be removed from office. Immediately.

There are three ways to do this.

First, Trump can resign, and if he were at all honorable, he would have already done so. But he has never been honorable. He is responsible for this. He has clearly enjoyed watching his supporters live inside his fantasy lie – which is a world in which he does not have to leave office.

Second, the Twenty-fifth Amendment to the Constitution can be invoked. If the president is "unable to discharge the powers and duties of his office," the vice-president together with a majority of the cabinet may certify that fact and inform the leaders of the Congress. Then, the president is sidelined and the vice-president assumes the office of president.

But since the insurrection began this afternoon, not a single cabinet official has spoken up. The vice president said nothing in the immediate hours after the siege. The acting attorney general, the acting defense secretary, the acting chief of homeland security – all cabinet officials who should have been on the front lines defending the US government from attack but who have all been installed recently in their posts because they are especially loyal to Trump – have been completely and totally silent. There is even some evidence that the defense and homeland security secretaries have been colluding with the president, since neither the Washington National Guard under

the command of the defense department nor the Homeland Security police showed up when they were called upon by the mayor of Washington to back up the overwhelmed Capitol Hill and Washington city police. In short, today's siege may be a conspiracy that implicates key members of the cabinet. We don't know yet, but the response of the cabinet today was – to put it mildly – not a check on the president's actions.

That leaves impeachment. Impeachment and removal. It seems a decade ago, but 2020 began with an impeachment of Trump by the House of Representatives and acquittal by the Senate. It was a long process with many stately rituals, accompanied by witnesses, evidence, arguments. But the Constitution says nothing about deadlines. It only specifies the majorities by which both houses must act. There is no reason why the House can't impeach tonight and the Senate convict and remove tomorrow.

Think of what would happen if Trump is not removed from power. He still controls the military and, though it seems so 20th-century to say so, he has the nuclear codes. He can start a foreign war, call out his heavily armed supporters to do what the military may not be willing to do inside the country, prevent the Congress from meeting, and promise to pardon all his supporters who come to his defense. He can refuse to leave the White House. This might be the first conflagration of many that Trump has planned for his endgame. We have no idea what he has in mind, but he may well be intending to stay in office.

A president who still holds all of the levers of state power, with a party and cabinet cowering before him, is a very dangerous person. He must be removed. And the only people who can constitutionally remove him is this Congress – the Congress that was scattered today by Trump's thugs.

They are eyewitnesses to all of the evidence they need to impeach Trump and remove him immediately. They must do so.

ABOUT THE AUTHOR

Kim Lane Scheppele

Kim Lane Scheppele is the Laurance S. Rockefeller Professor of Sociology and International Affairs in the Princeton School of Public and International Affairs and the University Center for Human Values at Princeton University.

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