

No, House Democrats Aren't Violating Trump's Rights

"If the facts are your side," famed attorney and former law professor Alan Dershowitz instructed his students, "pound the facts into the table. If the law is on your side, pound the law into the table. If neither the facts nor the law are on your side, pound the table."

As Republican attacks on the US House of Representatives' impeachment inquiry grow in fury, they more and more resemble the third instruction in Dershowitz's maxim.

The latest Republican angle on the inquiry is that House Democrats are violating President Donald Trump's constitutional rights under the Sixth Amendment.

"Impeachment is a legal proceeding," writes Federalist Society Chairman and law professor Steve Calabresi at *The Daily Caller*, "and just as criminal defendants have constitutional rights in criminal trials so too does Trump have constitutional rights, which House Democrats are denying him."

These rights, says Calabresi (and the US Constitution's Sixth Amendment) include the right to a speedy public trial, the right to be informed of the charges against him, and the right to be confronted with the witnesses against him.

At first blush, these might sound like cogent legal arguments — pounding the law into the table, so to speak. But they're not. They're just pounding the table.

Calabresi calls impeachment a "legal proceeding," but that term appears nowhere in the Sixth Amendment. The rights protected therein are protected in "criminal prosecutions." Impeachment is not a criminal prosecution. The maximum penalty is removal from office. It's an employee disciplinary proceeding of sorts.

To the extent that the process does resemble a criminal prosecution, the House inquiry function is analogous to a police investigation or a grand jury probe. As of yet there are no "charges" for the president to be informed of. A House vote to impeach is the equivalent of filing charges or handing down an indictment. That happens at the end of, not during, the inquiry.

If the House votes to impeach, there will be a trial in the US Senate. At that point the "prosecution" will identify those whom it intends to call as witnesses, and Trump's attorneys will "be confronted with" those witnesses and have an opportunity to vigorously cross-examine them.

Calabresi's claims are the equivalent of arguing that if a 911 caller reports a bank robbery in progress, the suspects' constitutional rights are violated unless the police chief takes

them and the 911 caller out on the bank's front steps and lets them argue the matter in front of a crowd — before charging the suspects, and whether or not the caller would be summoned as a trial witness.

When Trump's defenders merely pound the table, the presumptive reason is that they're fresh out of fact and law to pound instead.