

Impeachment: Then & Now

Sheridan College

Mike Thomas

mthomas@sheridan.edu

Part 1 Why is impeachment power in the U.S. Constitution?

- History of Impeachment

Part 2: Historical and Contemporary Examples of Impeachment

- Andrew Johnson, Bill Clinton, Donald Trump, Other Federal Officials

Part 3: Impeachment in Polarized America

- Constant Threat of Impeachment- What can be done?

Thickman Faculty Lecture Series



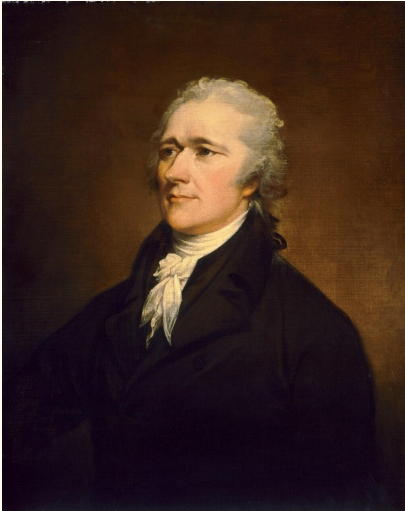
Definition of Impeachment



Impeachment is a process by which a legislative body or other legally constituted tribunal:

- Initiates charges against a public official for misconduct
 - It may be understood as a unique process involving both political and legal elements.
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Thoughts on Impeachment



1. **Alexander Hamilton** (Federalist No. 65):
"The subjects of its jurisdiction...will be those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust."
 2. **Raoul Berger** (legal scholar):
"Impeachment is not a judicial process; it is a political one, designed to protect the Constitution and the Republic from a president who abuses his power."
 3. **Michael J. Gerhardt** (constitutional law professor):
"Impeachment is a vital constitutional mechanism for ensuring accountability, and it should be seen as a process that preserves the integrity of our government."
 4. **Laurence Tribe** (constitutional law scholar):
"Impeachment is not merely a legal proceeding; it is a political remedy designed to protect the nation from the dangerous consequences of a rogue president."
 5. **Richard B. Bernstein** (historian):
"The framers of the Constitution were deeply concerned with the potential for tyranny, and impeachment was meant to be a crucial safeguard against the dangers of unchecked power."
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What does the Constitution say?



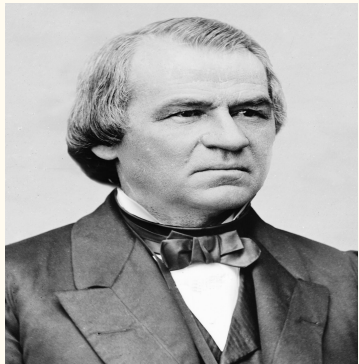
- **Article I Section 2 Clause 5:** The House of Representatives shall have the sole Power of Impeachment.
- **Article I Section 3 Clause 6:** The Senate shall have the sole Power to try all Impeachments. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.
- **Article I Section 3 Clause 7:** Judgment in Cases of Impeachment shall not extend further than removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgement, and Punishment, according to Law
- **Article II, Section 4:** The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Key Steps in Impeachment



- **STEP ONE:**
 - The House of Representatives investigates the president.
 - Judiciary Committee
 - **STEP TWO:**
 - If enough evidence is found, they vote to impeach. Majority needed
 - Majority Vote in House
 - Today (218)
 - **STEP THREE:**
 - The Senate then holds a trial to decide if the president should be removed.
 - Chief Justice Presides
 - Today $\frac{2}{3}$ (67) to Convict
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Famous Impeachment Cases



- Andrew Johnson was impeached in 1868 but not removed.
 - Tenure of Office Act
 - Lorenzo Thomas
- Bill Clinton was impeached in 1998 but completed his term.
 - Perjury
 - Obstruction of Justice
- ***Richard Nixon resigned before he could be impeached in 1974***
 - Watergate Scandal
 - US vs. Nixon
- Donald Trump was impeached twice. Found not guilty in both trials.
 - Call to Ukrainian President
 - January 6th

Less Famous Impeachment Cases



Federal Judges: Several federal judges have also been impeached, with notable cases including:

- **Samuel Chase (1804):**
 - a. The only Supreme Court Justice impeached
 - b. He was acquitted by the Senate

- **Alcee Hastings (1988):**
 - a. A federal judge impeached for bribery and conspiracy
 - b. Later became a member of Congress

- Only 15 federal judges have been impeached
 - a. Only eight have been convicted
 - b. Three others resigned before completion of

impeachment proceedings

Why is Impeachment Important?



- It holds government officials accountable for their actions.
 - It protects the integrity of the government.
 - It ensures that no one is above the law.
 - Rule of Law
 - Cornerstone of Constitutionalism
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What Triggers Impeachment?



- Impeachment can be triggered by allegations of treason, bribery, or other high crimes and misdemeanors.
 - Public opinion and political climate often influence the decision to initiate impeachment.
 - How do you think public opinion shapes the impeachment process?
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The Role of the Media



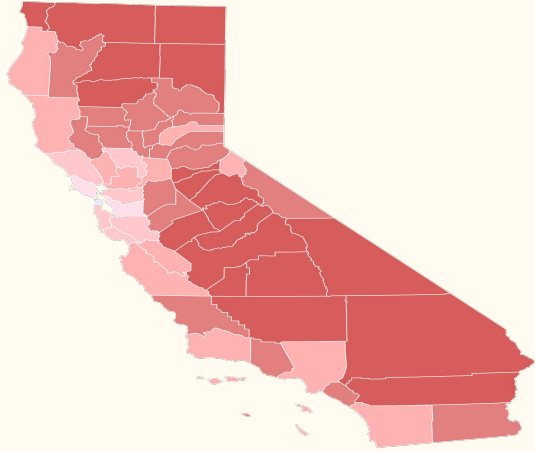
- Media coverage can significantly impact the perception of an impeachment case.
 - Investigative journalism often uncovers evidence that leads to impeachment inquiries.
 - In what ways do you think media bias can affect public perception during an impeachment?
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Impeachment vs. Removal



- Impeachment does not automatically lead to removal from office; it is just the first step.
 - The Senate trial determines whether the president is removed or acquitted.
 - Why do you think the distinction between impeachment and removal is important?
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The Power of Recall at the State Level



- Recall
 - 18 States have the power of recall today
 - Los Angeles was the first city to use a recall in 1903
 - More successful at the local level
 - Examples of Recall
 - 2021
 - Gavin Newsom (California)
 - Survived Recall
 - 2012
 - Scott Walker (Wisconsin)
 - Survived Recall
 - 2003
 - Gray Davis (California)
 - Removed from Office
 - 1921
 - Lynn Frazier (North Dakota)
 - Removed from Office
-

Sword of Damocles



- “The value of the sword is not that it falls, but rather, that it hangs.”
 - The importance of the sword of impeachment is that it sometimes falls. But for We the People, it is also important that it hangs.

Questions to Consider

Impeachment Scenarios



Suppose that a president engages in certain actions that seem to you, very, very bad. Suppose that you are tempted to think that he should be impeached.

- Would I think the same thing if I loved the president's policies, and thought that he was otherwise doing a splendid job?

Suppose that you do not think that the president should be impeached.

- Would I think the same thing if I abhorred the president's policies, and thought that he was otherwise doing a horrific job?

Try to put yourself behind a veil of ignorance, in which you know nothing about a president and his policies. You have no idea whether he would win your vote or your support. All you know about are the actions that are said to be the basis for impeachment.

- If that is all you know, would you think that he should be impeached?

Questions To Consider



- Why do you think impeachment is a necessary process?
- How do you feel about the outcomes of past impeachment cases?
- What would you do if you were a member of Congress during an impeachment trial?
- How do you think historical impeachment cases have shaped current political norms?
- What changes do you think could improve the impeachment process in the future?