

IMPEACHMENT: A PRIMER



Impeachment



WHAT IS IMPEACHMENT?

Impeachment is a process that is outlined in the Constitution. It is the adoption of formal charges against the president or another civil officer in the federal government. The Constitution gives the House of Representatives the sole power to impeach an official. It gives the Senate the sole power to act as the court for all impeachments.¹

IS IMPEACHMENT THE SAME AS REMOVAL FROM OFFICE?

No. Impeachment is the adoption of formal charges against an official. The Senate must still decide whether to **acquit** or **convict** the impeached official. Only convicted officials are removed from office.

FOR WHAT REASONS CAN THE HOUSE IMPEACH AN OFFICIAL?

Article II, Section 4, of the Constitution reads, “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.”²

The founding fathers borrowed the term “high Crimes and Misdemeanors” from British parliamentary practice, but the term does not have a clear, settled meaning.³ Thus, there is much debate about what constitutes an impeachable offense. However, given the gravity of removing an official (especially an elected official) from office, it is generally agreed upon that policy disagreements, incompetence, innocent mistakes, or mismanagement are not impeachable offenses.

In 1788, Alexander Hamilton described impeachable offenses as “those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself.”⁴ Before he became president, Representative Gerald Ford, R-Mich., famously said, “An impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history.”⁵

KEY TERMS

Acquit: To free someone of a charge by a verdict of not guilty

Appeal: To ask a higher court to reverse the decision of a lower court

Articles of impeachment: The set of formal charges against a government official; if the articles are passed by a simple majority of the House, the official is impeached

Bribery: The offering of, giving of, asking for, or receiving of an item of value as a means of influencing the actions of a government official

Convict: To find someone guilty of a charge

Historical precedent: Something done in the past that serves as an example or rule for a subsequent act

Impeachment: The adoption of formal charges against the president or another civil officer in the federal government

Impeachment inquiry: An investigation in the House of Representatives to determine whether or not to recommend articles of impeachment

Jurisdiction: The official power to make legal decisions and judgments

Quid pro quo: A favor granted in return for something

Subpoena: A written order to compel a person to produce documents or testimony or to appear in court

Treason: The crime of betraying one’s country

HOW DOES THE PROCESS OF IMPEACHMENT WORK?

Impeachment begins in the House. However, up to the point that the House votes on **articles of impeachment**, the chamber sets its own rules of conduct and procedure based on **historical precedent**. The process can begin with a single member introducing an impeachment resolution, or with the chamber authorizing an **impeachment inquiry**. The House Judiciary Committee typically has **jurisdiction** over impeachments, and can hold hearings and **subpoena** persons and records in its inquiries. The committee votes on whether or not to pursue articles of impeachment and send them to the full House. If the articles make it out of committee, the House can adopt them by a simple majority vote.⁶

If the House votes to adopt articles of impeachment, the official is now impeached and the process moves to the Senate for trial. In preparation for the Senate trial, the House appoints several of its members to serve as “managers.” These managers, usually members of the Judiciary Committee, act as prosecutors in the trial.⁷ The chief justice of the Supreme Court presides over the Senate trial, as is outlined in the Constitution, and senators hear witnesses, consider evidence, and vote to acquit or convict the impeached official. The Constitution requires a two-thirds vote of the senators present in order to convict. The penalty for a conviction is removal from office. In some cases, the Senate has also disqualified an official from holding public office again in the future. There is no **appeal**.⁸

HAS THE HOUSE IMPEACHED OFFICIALS BEFORE?

Yes. As of early October 2019, the House has impeached 19 officials, including two presidents (Andrew Johnson and Bill Clinton, both of whom were acquitted by the Senate), one senator, and one cabinet secretary. (The House launched an impeachment inquiry into the actions of President Richard Nixon, but he resigned before the full chamber voted on articles of impeachment.) The other 15 impeached officials were federal judges. Only eight impeached officials—all federal judges—have been convicted by the Senate and removed from office.⁹



Who has been impeached by the House?

WHY HAS THE HOUSE LAUNCHED AN IMPEACHMENT INQUIRY INTO THE ACTIONS OF PRESIDENT DONALD TRUMP?

In September 2019, reports in the media revealed that a member of the U.S. intelligence community had filed a whistleblower complaint, alleging that President Trump had urged Ukrainian President Volodymyr Zelensky to investigate the dealings of former Vice President Joe Biden’s son, who worked for a Ukrainian gas company from 2014 to 2019. The call came after President Trump had placed a temporary hold on \$391 million in aid to Ukraine.¹⁰ Critics of the president have argued that he may have abused his power by seeking assistance from a foreign government to discredit a political rival and boost his own chances for reelection. President Trump has denied wrongdoing, claiming that there was “never any **quid pro quo**.” The president and some administration officials have also argued that he was merely waiting for European nations to contribute their fair share of aid to Ukraine, and that he was requesting cooperation in ongoing investigations into possible Ukrainian interference in the 2016 election.¹¹



- ¹ U.S. House of Representatives. "Impeachment." Web. 8 Oct. 2019.
- ² U.S. Constitution. Article II, Section 4.
- ³ Whittington, Keith. "How Does Impeachment Work?" *The Atlantic*. 17 May 2017. Web. 8 Oct. 2019.
- ⁴ Hamilton, Alexander. *The Federalist No. 65*. 7 Mar. 1788. Lillian Goldman Law Library. Yale Law School. Web. 8 Oct. 2019.
- ⁵ Whittington, Keith. "How Does Impeachment Work?" *The Atlantic*. 17 May 2017. Web. 8 Oct. 2019.
- ⁶ U.S. House of Representatives. "Impeachment." Web. 8 Oct. 2019. Bomboy, Scott. "The House's Role in the Impeachment Inquiry Process." National Constitution Center. 25 Sep. 2019. Web. 8 Oct. 2019.
- ⁷ U.S. House of Representatives. "Impeachment." Web. 8 Oct. 2019.
- ⁸ U.S. Senate. "Impeachment." Web. 8 Oct. 2019.
- ⁹ U.S. House of Representatives. "Impeachment." Web. 8 Oct. 2019. U.S. Senate. "Impeachment." Web. 8 Oct. 2019.
- ¹⁰ Zapotosky, Matt, Greg Miller, Ellen Nakashima, and Carol Leonnig. "Trump Pressed Ukrainian Leader to Investigate Biden's Son, According to People Familiar with the Matter." *Washington Post*. 20 Sep. 2019. Web. 8 Oct. 2019. Williams, Pete. "What Is Impeachment and How Does It Work?" NBC News. 25 Sep. 2019. Web. 8 Oct. 2019.
- ¹¹ Klein, Betsy. "Trump Admits He Delayed Ukraine Aid but Claims It Was Unrelated to Biden." CNN. 24 Sep. 2019. Web. 8 Oct. 2019. LeBlanc, Paul, Jim Acosta, Jeremy Diamond, and Kaitlan Collins. "Trump Ordered Hold on Military Aid Days Before Call with Ukrainian President, Senior Administration Officials Say." CNN. 24 Sep. 2019. Web. 8 Oct. 2019. MacKinnon, Amy. "What We Know About the Trump-Ukraine Investigation." *Foreign Policy*. 4 Oct. 2019. Web. 8 Oct. 2019.