

The Constitution, the Impeachment Process, and Historical Examples

On the afternoon of September 24, Speaker of the House Nancy Pelosi announced an impeachment inquiry into President Trump's conduct. The question of whether to begin an impeachment investigation for President Trump is now a divisive issue among members of Congress and the U.S. public.

Impeachment and the U.S. Constitution

During the Constitutional Convention in 1787, the framers of the U.S. Constitution discussed how to form a stable, balanced national government. They separated the powers of government into three branches (executive, legislative, and judicial) and put in place checks and balances to keep any one branch from becoming too powerful. One of the checks provided to the legislative branch is Congress' power to charge executive and judicial branch officials with wrongdoing and remove them from office through a process that involves impeachment.

What is impeachment?

Impeaching an official does not actually mean removing that person from office. Impeachment is one step in a multi-step process: the House of Representatives may vote to impeach an official, and then the Senate may vote to convict the official and remove them from office. These two steps require different levels of support from lawmakers. The House of Representatives may vote to impeach an official with a simple majority (over 50 percent), but the Senate must vote with a two-thirds majority to remove an official from office.

Even though impeachment does not mean that an official will be removed from office, it is still a very significant political act. A vote for impeachment indicates that a majority of the House of Representatives believes that an elected official has committed such a significant violation that the Senate should try that person and consider whether to remove them from office.

Definitions

Quid pro quo—A Latin phrase meaning “something for something.” In common usage it means simply trading favors. Quid pro quo is appropriate in some settings and inappropriate in others. People disagree about the extent to which politicians should engage in quid pro quo.

Whistleblower—Someone who exposes information about what they believe to be wrongdoing or inappropriate behavior in an institution. Because whistleblowers who work for the federal government may fear retaliation or be unable to make their concerns known publicly, there are laws that preserve their anonymity and protect them from being fired or threatened.

Who can be impeached?

Article II, Section 4 of the U.S. Constitution states who can be impeached and what the grounds for impeachment are.

“The President, Vice President and all civil Officers [judges and members of a president’s cabinet] of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.”

—Article II, Section 4 of the U.S. Constitution

Why might someone be impeached?

Most people agree that impeachment should not be about political differences, but rather about major offenses. People disagree about what kind of conduct fits the Constitution's description of impeachable offenses. For example, what actions should be considered “high Crimes and Misdemeanors?” Does it require an official to break a law such as destroying damaging evidence, or could it include engaging in conduct that undermines U.S.

democracy? Although the Constitution does not specify what constitutes “high crimes and misdemeanors,” it clearly outlines the impeachment process.

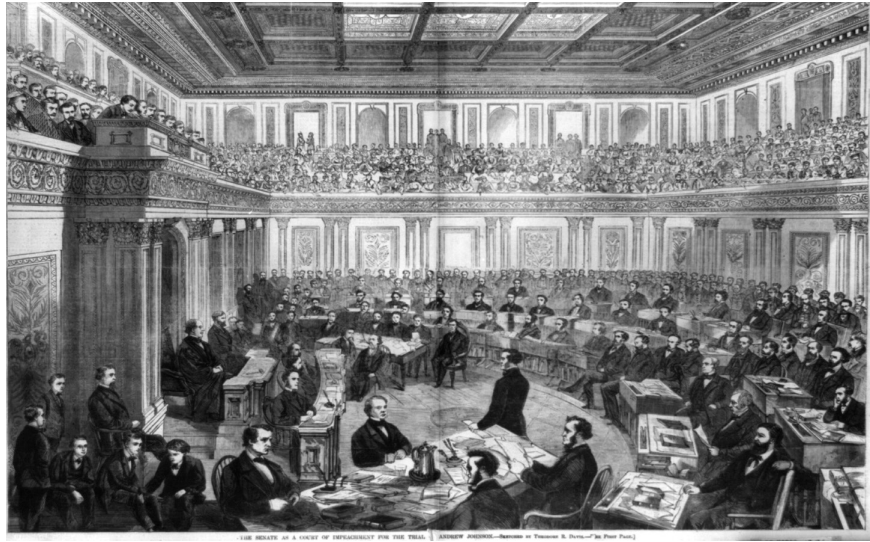
Historical Examples of Impeachment

Since 1789, the House of Representatives has voted to impeach nineteen officials, but the Senate has removed only eight from office. The rest either resigned (stepped down from office) before the end of their trial or were acquitted (received fewer than the required two-thirds majority votes). Two of these cases involved U.S. presidents: Andrew Johnson in 1868 and Bill Clinton in 1998-99. One president, Richard Nixon, likely would have been impeached and removed from office, but he resigned before the House of Representatives could vote to impeach him.

President Andrew Johnson's Impeachment

Andrew Johnson, Abraham Lincoln's vice president, became president after Lincoln's assassination on April 14, 1865 at the end of the Civil War. Sympathetic to the South, Johnson disagreed with Radical Republicans' efforts in Congress to guarantee the rights of formerly enslaved people, to punish former Confederate leaders, and to rebuild the South. Although a president swears an oath to execute the laws of the United States faithfully, Johnson thought the Reconstruction laws that Congress passed were unconstitutional and refused to enforce them. He also ignored a controversial law requiring the Senate to approve the firing of Cabinet officials.

Challenging the president's authority after his continued defiance, the House of Representatives voted to impeach Johnson by a vote of 126 to 47. Johnson's Senate trial lasted eleven weeks, during which time he promised to enforce Congress's



The Senate as a court of impeachment for the trial of Andrew Johnson, 1868.

Reconstruction laws. When the Senators cast their votes on whether to remove Johnson from office, they voted 35 to 19 to do so (There were only 54 senators at the time). This vote was one short of the required two-thirds majority, and Johnson stayed in office for the remaining few months of his term.

President Richard Nixon's Resignation

First elected president in 1968, Richard Nixon, a Republican, ran for re-election in 1972. Five individuals associated with his campaign broke into the Democratic National Committee headquarters in the Watergate residential and office complex in Washington, D.C. A coverup and political scandal followed.

In July 1974, the House Judiciary Committee approved three articles of impeachment. The first charged President Nixon with obstructing justice relating to the investigation of the Watergate burglary. Another charged him with refusing to comply with House Judiciary Committee subpoenas. (A subpoena is an order requiring someone to appear in court or to provide evidence.) The last article of impeachment charged Nixon with misusing law enforcement, the Internal Revenue Service, and intelligence agencies. Before the full House of Representatives could debate and vote on these impeachment charges, Nixon resigned in August 1974.

Library of Congress Prints and Photographs Division, LC-UP9-28597-26A



Demonstrators with an “Impeach Nixon” sign near the U.S. Capitol, Washington, D.C., October 22, 1973.

President Bill Clinton’s Impeachment

Bill Clinton, a Democrat, was elected president in 1992 and re-elected in 1996. In December 1998, the United States House of Representatives voted on four articles of impeachment against President Clinton and approved two. The articles of impeachment were based on a special counsel investigation focusing on scandals related to real estate deals, claims of sexual harassment, and alleged fundraising violations. The articles accused the president of committing perjury (lying under oath to a federal grand jury) and obstructing justice (including concealing evidence and encouraging a witness to give false testimony). The perjury charge passed by a vote of 228-206 and the obstruction of justice charge passed by a vote of 221-212. The votes fell mainly along party lines, with many Democrats supporting Clinton and many Republicans voting against him.

The trial moved to the Senate and lasted five weeks. On the perjury charge, 55 Senators voted not guilty while 45 voted to convict the president. On the obstruction of justice charge, the vote was

split evenly 50-50. Neither vote met the required two-thirds majority and Clinton went on to complete the final two years of his term.

The Impeachment Inquiry into President Trump

On August 12, 2019, an anonymous CIA officer working in the White House filed a complaint as a whistleblower.

The complaint that this whistleblower filed addresses a phone call between President Trump and the Ukrainian President, Volodymyr Zelensky, that occurred on July 25, 2019. According to a record of the phone call provided by the White House, President Trump asked President Zelensky to investigate former Vice President Joe Biden and his son Hunter’s involvement with a Ukrainian gas company that had been under investigation for corruption years before. Biden is one of the main contenders for the Democratic nomination for the 2020 presidential election and a potential opponent for President Trump. The whistleblower believed that Trump had abused his powers as the president for his own political gain and posed a threat to national security.

“I have received information from multiple U.S. Government officials that the President of the United States is using the power of his office to solicit interference from a foreign country in the 2020 U.S. election.”

—Whistleblower complaint, page 1,
August 12, 2019

The whistleblower filed the complaint in August, but it was not until September that Congress heard about it. On September 24, 2019, Speaker of the House Nancy Pelosi announced an impeachment inquiry in response to the whistleblower complaint.

What are the sources of disagreement regarding the current impeachment inquiry?

Speaker Pelosi’s announcement sparked an outpouring of reactions among politicians, the media, and the public, some in support of the impeachment proceedings and others in rejection. Some



The Presidential Office of Ukraine, Creative Commons Attribution 4.0 International.

Ukrainian President Volodymyr Zelensky and U.S. President Donald Trump at the United Nations, September 25, 2019.

critics, including President Trump, questioned the credibility of the whistleblower's complaint. In a hearing on September 26, Joseph Maguire, who was appointed by Trump to serve as the Acting Director of National Intelligence, confirmed that the whistleblower complaint is credible.

Representative Adam Schiff: ***"Can we at least agree that the Inspector General made a sound conclusion that this whistleblower complaint was credible?"***

Joseph Maguire: ***"That is correct."***

—An exchange during Acting Director of National Intelligence Joseph Maguire's testimony to the House Intelligence Committee, September 26, 2019

There is no disagreement on whether Trump asked Zelensky to investigate the Bidens; the White House has confirmed it. Rather, the disagreement is about whether President Trump was acting inappropriately by making this request.

How Does the Impeachment Process Work?

The Role of the House of Representatives—Impeachment

The United States Constitution states that the House of Representatives “shall have the sole Power of Impeachment” (Article I, Section 2).

Step 1. Any House member can introduce a resolution to begin an impeachment proceeding.

There was not a clear beginning to the current impeachment proceedings in the House, since some Democratic members have introduced impeachment resolutions as early as 2017.



Step 2. The Speaker of the House decides whether to begin an impeachment inquiry and tasks a committee with conducting an investigation.

As of October 1, Speaker Pelosi has asked six different committees that were already investigating President Trump to report to the House Judiciary Committee about any impeachable offenses.



Step 3. If the House Judiciary Committee decides there are grounds for impeachment, it prepares articles of impeachment and votes on whether to approve an article(s) of impeachment. A simple majority is required.

The House Judiciary Committee currently consists of 24 Democrats and 17 Republicans; 21 votes in favor of impeachment would send the matter to the full House of Representatives.



Step 4. Members of the House of Representatives debate the article(s) of impeachment and vote on them. The House of Representatives has 435 voting members; 218 votes would be required to impeach an official.

In the current 116th Congress, the House includes 235 Democrats, 198 Republicans, 1 Independent, and 1 vacancy.



Step 5. If a majority (at least 218) of the House of Representatives votes to impeach the official on any article, the process moves to the U.S. Senate.

Step 5. Fewer than 218 votes? No further action. Impeachment proceedings are done.

The Role of the Senate—Conviction and Removal From Office

The United States Constitution states that “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).

Step 6. The 100 members of the Senate serve as the jury in an impeachment trial. The Chief Justice of the Supreme Court presides over the trial if the person accused is the president. The rest of the Supreme Court has no role in the proceedings.



Step 7. The prosecution and defense may call witnesses. Senators deliberate privately and vote publicly on whether to convict. A two-thirds majority—67 Senators—is required.

The Senate currently includes 53 Republicans, 45 Democrats, and 2 Independents.



Step 8. 67 votes or more? Official is removed from office and may face criminal charges.

Step 8. Fewer than 67 votes? No further impeachment action. Official stays in office.

Key Stakeholders in the Impeachment Inquiry

Pro-inquiry House Democrats: The majority of House Democrats now support the impeachment inquiry. This group ranges from those who have called for Trump's impeachment for years (on other charges) to those who have only recently begun to support an inquiry. Some House Democrats who support an impeachment inquiry believe that the fact that President Trump asked President Zelensky to investigate former Vice President Biden is alone enough reason for impeachment. House Democrats in this group are motivated by their concern about national security, desire to appeal to voters who support an inquiry, compliance with Democratic leadership, and desire to set precedent for future presidents' behavior.

Anti-inquiry House Democrats: A minority of House Democrats oppose the impeachment investigation. Most Democrats in this group have said that they are still concerned about President Trump's behavior, but do not want to worsen divisions between Democrats and Republicans or act hastily before they have all the information. Some may oppose impeachment because they believe it might hurt their chances for reelection in 2020.

Speaker of the House Nancy Pelosi: Until recently, Speaker Pelosi was publicly opposed to beginning impeachment proceedings and used her power as Speaker of the House to block other Democrats' plans to begin impeachment. As the Speaker of the House, Nancy Pelosi has a leadership role in maintaining Democrats' majority in the House of Representatives. She is likely concerned that an unpopular impeachment investigation could cause some Democratic representatives to lose their seats in the next election.

With the release of information about President Trump's phone call with President Zelensky and the whistleblower's complaint, though, many House Democrats who come from Republican-leaning districts and are the most vulnerable to lose their elections in 2020 have publicly supported the impeachment investigation.

President Trump and his administration: President Trump claims that the current impeachment investigation is a "witch hunt" by Democrats who will use any opportunity to remove him from

office. Many White House officials have voiced their support for the president and agreed with his claim that the investigation is illegitimate. Trump is running for re-election in 2020 and he and his administration do not want him to lose votes because of an impeachment investigation. At the same time, Trump has used the announcement of the impeachment inquiry to claim that Democrats treat him unfairly. The day after Pelosi announced an impeachment investigation, Trump's reelection campaign invited supporters to donate money in order to join the "Official Impeachment Defense Task Force," and raised over \$1 million.

Anti-inquiry House Republicans: As of October 1, no House Republican supports the impeachment inquiry. Many House Republicans have claimed that the inquiry is a Democratic ploy for political power and rests on insufficient evidence. House Republicans are eager to win back a majority in the House in 2020 with a party unified under President Trump.

Pro-inquiry Republicans: Though as of October 1, no House Republican supports the impeachment inquiry, there are a small number of other Republican politicians who do. Many of the Republicans in this group have criticized President Trump in the past. Pro-investigation Republicans are also likely motivated by their concern about national security, desire to remove Trump as the symbol of the Republican Party, and desire to set precedent for future presidents' behavior. There are also other Republicans who have not overtly supported the impeachment inquiry, but have expressed their concern about Trump's conduct.

Ukrainian President Volodymyr Zelensky: Ukraine is a country in Eastern Europe that was formerly part of the Soviet Union. Ukraine borders Russia, but resists Russian attempts to influence its politics and economy. In March 2014, Russia used military force to claim Crimea from Ukraine and annex it as a part of Russia, a move strongly condemned by the United States and Western Europe. The Ukrainian government is currently involved in an armed conflict with pro-Russia militants in the eastern part of the country. Ukraine relies on the United States and Western European countries

for military aid. The Trump administration was delaying Ukraine's military aid at the time of the Trump-Zelensky phone call in July 2019. (It has since reinstated that aid.) Ukraine also struggles with a poor economy and weak democratic structures. President Volodymyr Zelensky was elected earlier this year after running on an anti-corruption platform. Zelensky has claimed that President Trump did not pressure him to investigate the Bidens.