

Sec. 4—Impeachment

nal: it is limited to office holders, and judgments are limited to no more than removal from office and disqualification to hold future office.

Impeachment was a device that figured from the first in the plans proposed to the Convention; discussion addressed such questions as what body was to try impeachments and what grounds were to be stated as warranting impeachment.⁸³⁰ The attention of the Framers was for the most part fixed on the President and his removal, and the results of this narrow frame of reference are reflected in the questions unresolved by the language of the Constitution.

Persons Subject to Impeachment

During the debate in the First Congress on the “removal” controversy, it was contended by some members that impeachment was the exclusive way to remove any officer of the government from his post,⁸³¹ but Madison and others contended that this position was destructive of sound governmental practice,⁸³² and the view did not prevail. Impeachment, said Madison, was to be used to reach a bad officer sheltered by the President and to remove him “even against the will of the President; so that the declaration in the Constitution was intended as a supplementary security for the good behavior of the public officers.”⁸³³ While the language of section 4 covers any “civil officer” in the executive branch,⁸³⁴ and covers judges as well,⁸³⁵ it excludes military officers,⁸³⁶ and the precedent was early established that it does not apply to members of Congress.⁸³⁷

Judges.—Article III, section 1 specifically provides judges with “good behavior” tenure, but the Constitution nowhere expressly vests the power to remove upon bad behavior, and it has been assumed that judges are made subject to the impeachment power through

⁸³⁰ Alex Simpson, Jr., *Federal Impeachments*, 64 U. PA. L. REV. at 653–67 (1916).

⁸³¹ 1 ANNALS OF CONG. 457, 473, 536 (1789).

⁸³² Id. at 375, 480, 496–97, 562.

⁸³³ Id. at 372.

⁸³⁴ The term “civil officers of the United States” is not defined in the Constitution, although there may be a parallel with “officers of the United States” under the Appointments Clause, Art. II, § 2, cl. 2, and it may be assumed that not all executive branch employees are “officers.” For precedents relating to the definition, see 3 HINDS’ PRECEDENTS OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES §§ 1785, 2022, 2486, 2493, and 2515 (1907). See also Ronald D. Rotunda, *An Essay on the Constitutional Parameters of Federal Impeachment*, 76 KY. L. REV. 707, 715–18 (1988).

⁸³⁵ See the following section on Judges.

⁸³⁶ 3 W. WILLoughby, *supra* at 1448.

⁸³⁷ This point was established by a vote of the Senate holding a plea to this effect good in the impeachment trial of Senator William Blount in 1797. 3 HINDS’ PRECEDENTS OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES §§ 2294–2318 (1907); F. WHARTON, *STATE TRIALS OF THE UNITED STATES DURING THE ADMINISTRATIONS OF WASHINGTON AND ADAMS* 200–321 (1849); BUCKNER F. MELTON, JR., *THE FIRST IMPEACHMENT: THE CONSTITUTION’S FRAMERS AND THE CASE OF SENATOR WILLIAM BLOUNT* (1998).