



Impeachment in the United States

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Impeachment in the United States is an enumerated power of the legislature that allows formal charges to be brought against a civil officer of government for crimes alleged to have been committed. Most impeachments have concerned alleged crimes committed while in office, though there have been a few cases in which Congress has impeached and convicted officials partly for prior crimes.^[1] The actual trial on such charges, and subsequent removal of an official upon conviction, is separate from the act of impeachment itself. Impeachment proceedings have been initiated against several presidents of the United States. [Andrew Johnson](#) and [Bill Clinton](#) are the only two presidents to have been successfully impeached by the House of Representatives, and both were later acquitted by the Senate.^[2] The impeachment process against [Richard Nixon](#) was never completed, as Nixon resigned his office before the vote of the full House for impeachment, but such a vote was widely expected to pass, and the threat of it and a subsequent conviction in the Senate was the impetus for Nixon's departure. To date, no president has been removed from office by impeachment and conviction. The impeached official continues in office until conviction.



The impeachment trial of President Bill Clinton in 1999, Chief Justice William Rehnquist presiding. The House managers are seated beside the quarter-circular tables on the left and the president's personal counsel on the right, much in the fashion of President Andrew Johnson's trial.

Impeachment is analogous to indictment in regular court proceedings; trial by the other house is analogous to the trial before judge and jury in regular courts. Typically, the lower house of the legislature impeaches the official and the upper house conducts the trial.

At the federal level, Article Two of the United States Constitution states in Section 4 that "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." The House of Representatives has the sole power of impeaching, while the United States Senate has the sole power to try all impeachments. The removal of impeached officials is automatic upon conviction in the Senate. In *Nixon v. United States* (1993), the Supreme Court determined that the federal judiciary cannot review such proceedings.

Impeachment can also occur at the state level: state legislatures can impeach state officials, including governors, in accordance with their respective state constitutions.

At the Philadelphia Convention, Benjamin Franklin noted that, historically, the removal of "obnoxious" chief executives had been accomplished by assassination. Franklin suggested that a proceduralized mechanism for removal—impeachment—would be preferable.^[3]

Federal impeachment

House of Representatives

Impeachment proceedings may be commenced by a member of the House of Representatives on her or his own initiative, either by presenting a list of the charges under oath, or by asking for referral to the appropriate committee. The impeachment process may be initiated by non-members. For example, when the Judicial Conference of the United States suggests a federal judge be impeached, a charge of actions constituting grounds for impeachment may come from a special prosecutor, the President, or state or territorial legislature, grand jury, or by petition.

The type of impeachment resolution determines the committee to which it is referred. A resolution impeaching a particular individual is typically referred to the House Committee on the Judiciary. A resolution to authorize an investigation regarding impeachable conduct is referred to the House Committee on Rules, and then to the Judiciary Committee. The House Committee on the Judiciary, by majority vote, will determine whether grounds for impeachment exist. If the Committee finds grounds for impeachment, it will set forth specific allegations of misconduct in one or more articles of impeachment. The Impeachment Resolution, or Article(s) of Impeachment, are then reported to the full House with the committee's recommendations.

The House debates the resolution and may at the conclusion consider the resolution as a whole or vote on each article of impeachment individually. A simple majority of those present and voting is required for each article for the resolution as a whole to pass. If the House votes to impeach, managers (typically referred to as "House managers", with a "lead House manager") are selected to present the case to the Senate. Recently, managers have been selected by resolution, while historically the House would occasionally elect the managers or pass a resolution allowing the appointment of managers at the discretion of the Speaker of the United States House of Representatives. These managers are roughly the equivalent of the prosecution/district attorney in a standard criminal trial.

Also, the House will adopt a resolution in order to notify the Senate of its action. After receiving the notice, the Senate will adopt an order notifying the House that it is ready to receive the managers. The House managers then appear before the bar of the Senate and exhibit the articles of impeachment. After the reading of the charges, the managers return and make a verbal report to the House.

Senate

The proceedings unfold in the form of a trial, with each side having the right to call witnesses and perform cross-examinations. The House members, who are given the collective title of managers during the course of the trial, present the prosecution case, and the impeached official has the right to mount a defense with his own attorneys as well. Senators must also take an oath or affirmation that they will perform their duties honestly and with due diligence. After hearing the charges, the Senate usually deliberates in private. The U.S. Constitution requires a two-thirds majority for conviction.

The Senate enters judgment on its decision, whether that be to convict or acquit, and a copy of the judgment is filed with the Secretary of State.^[4] Upon conviction in the Senate, the official is automatically removed from office and may also be barred from holding future office.^[5] The removed official is also liable to criminal prosecution. The President may not grant a pardon in the impeachment case, but may in any resulting criminal case.

Beginning in the 1980s with Harry E. Claiborne, the Senate began using "Impeachment Trial Committees" pursuant to Senate Rule XI.^[6] These committees presided over the evidentiary phase of the trials, hearing the evidence and supervising the examination and cross-examination of witnesses. The committees would then compile the evidentiary record and present it to the Senate; all senators would then have the opportunity to review the evidence before the chamber voted to convict or acquit. The purpose of the committees was to streamline impeachment trials, which otherwise would have taken up a great deal of the chamber's time. Defendants challenged the use of these committees, claiming them to be a violation of their fair trial rights as well as the Senate's constitutional mandate, as a body, to have "sole power to try all impeachments." Several impeached judges sought court intervention in their impeachment proceedings on these grounds, but the courts refused to become involved due to the Constitution's granting of impeachment and removal power solely to the legislative branch, making it a political question.



Depiction of the impeachment trial of President Andrew Johnson, in 1868, Chief Justice Salmon P. Chase presiding.

History

In the United Kingdom, impeachment was a procedure whereby a member of the House of Commons could accuse someone of a crime. If the Commons voted for the impeachment, a trial would then be held in the House of Lords. Unlike a bill of attainder, a law declaring a person guilty of a crime, impeachments did not require royal assent, so they could be used to remove troublesome officers of the Crown even if the monarch was trying to protect them.

The monarch, however, was above the law and could not be impeached, or indeed judged guilty of any crime. When King Charles I was tried before the Rump Parliament of the New Model Army in 1649 he denied that they had any right to legally indict him, their king, whose power was given by God and the laws of the country, saying: "no earthly power can justly call me (who is your King) in question as a delinquent ... no learned lawyer will affirm that an impeachment can lie against the King." While the House of Commons pronounced him guilty and ordered his execution anyway, the jurisdictional issue tainted the proceedings.

With this example in mind, the delegates to the Philadelphia Convention chose to include an impeachment procedure in Article II, Section 4 of the Constitution which could be applied to any government official; they explicitly mentioned the President to ensure there would be no ambiguity. Opinions differed, however, as to the reasons Congress should be able to initiate an impeachment. Initial drafts listed only treason and bribery, but George Mason favored impeachment for "maladministration" (incompetence). James Madison argued that impeachment should only be for criminal behavior, arguing that a maladministration standard would effectively mean that the President would serve at the pleasure of the Senate.^[7] Thus the delegates adopted a compromise version allowing impeachment for "treason, bribery and other high crimes and misdemeanors."

The precise meaning of the phrase "high crimes and misdemeanors" is somewhat ambiguous; some scholars, such as Kevin Gutzman, argue that it can encompass even non-criminal abuses of power. Whatever its theoretical scope, however, Congress traditionally regards impeachment as a power to use only in extreme cases. The House of Representatives has actually *initiated* impeachment proceedings 62 times since 1789. Two cases did not come to trial because the individuals had left office.







Actual impeachments of 19 federal officers have taken place. Of these, 15 were federal judges: thirteen district court judges, one court of appeals judge (who also sat on the Commerce Court), and one Supreme Court Associate Justice. Of the other four, two were Presidents, one was a Cabinet secretary, and one was a U.S. Senator. Of the 19 impeached officials, eight were convicted. One, former judge Alcee Hastings, was elected as a member of the United States House of Representatives after being removed from office.




The 1797 impeachment of Senator William Blount of Tennessee stalled on the grounds that the Senate lacked jurisdiction over him. No other member of Congress has ever been impeached. The Constitution does give authority to the Senate and House, so that each body may expel its own members. (see List of United States senators expelled or censured and List of United States Representatives expelled, censured, or

reprimanded). Expulsion removes the individual from functioning as a representative or senator because of their misbehavior, but unlike impeachment, expulsion cannot result in barring an individual from holding future office.

Federal officials impeached

#	Date of Impeachment	Accused	Office	Accusation(s)	Result ^[Note 1]	References
1	July 7, 1797	 <u>William Blount</u>	<u>United States Senator (Tennessee)</u>	Conspiring to assist Britain in capturing Spanish territory	Senate refused to accept impeachment of a Senator by the House of Representatives, instead expelling him from the Senate on their own authority ^{[8][Note 2]}	^[9]
2	March 2, 1803	<u>John Pickering</u>	Judge (District of New Hampshire)	Drunkenness and unlawful rulings	Removed on March 12, 1804 ^{[8][10]}	^{[9][10]}
3	March 12, 1804	 <u>Samuel Chase</u>	Associate Justice (Supreme Court of the United States)	Political bias and arbitrary rulings, promoting a partisan political agenda on the bench ^[11]	Acquitted on March 1, 1805	^{[8][10]}
4	April 24, 1830	 <u>James H. Peck</u>	Judge (District of Missouri)	Abuse of power ^[12]	Acquitted on January 31, 1831 ^{[8][10]}	^{[9][10]}
5	May 6, 1862	 <u>West Hughes Humphreys</u>	Judge (Eastern, Middle, and Western Districts of Tennessee)	Supporting the Confederacy	Removed and disqualified on June 26, 1862 ^{[9][8][10]}	^{[9][10]}
6	February 24, 1868	 <u>Andrew Johnson</u>	<u>President of the United States</u>	Violating the <u>Tenure of Office Act</u>	Acquitted on May 26, 1868 ^[8]	^[9]
7	February 28, 1873	 <u>Mark W. Delahay</u>	Judge (District of Kansas)	Drunkenness	Resigned on December 12, 1873 ^{[10][13]}	^{[10][13]}

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8	March 2, 1876	 <u>William W. Belknap</u>	United States Secretary of War	Graft/corruption	Acquitted after his resignation on August 1, 1876. ^[8]	^[9]
9	December 13, 1904	<u>Charles Swayne</u>	Judge (Northern District of Florida)	Failure to live in his district, abuse of power ^[14]	Acquitted on February 27, 1905 ^{[8][10]}	^{[9][10]}
10	July 11, 1912	 <u>Robert Wodrow Archbald</u>	Associate Justice (United States Commerce Court) Judge (Third Circuit Court of Appeals)	Improper acceptance of gifts from litigants and attorneys	Removed and disqualified on January 13, 1913 ^{[9][8][10]}	^{[9][10]}
11	April 1, 1926	 <u>George W. English</u>	Judge (Eastern District of Illinois)	Abuse of power	Resigned on November 4, 1926, ^{[9][8]} proceedings dismissed on December 13, 1926 ^{[9][10]}	^{[9][10]}
12	February 24, 1933	<u>Harold Louderback</u>	Judge (Northern District of California)	Corruption	Acquitted on May 24, 1933 ^{[8][10]}	^{[9][10]}
13	March 2, 1936	<u>Halsted L. Ritter</u>	Judge (Southern District of Florida)	Champerty/corruption, tax evasion, practicing law while a judge	Removed on April 17, 1936 ^{[8][10]}	^{[9][10]}
14	July 22, 1986	 <u>Harry E. Claiborne</u>	Judge (District of Nevada)	Tax evasion	Removed on October 9, 1986 ^{[8][10]}	^{[9][10]}
15	August 3, 1988	 <u>Alcee Hastings</u>	Judge (Southern District of Florida)	Accepting a bribe, and committing perjury during the resulting investigation	Removed on October 20, 1989 ^{[8][10]}	^{[9][10]}
16	May 10, 1989	 <u>Walter Nixon</u>	Chief Judge (Southern District of Mississippi)	Perjury	Removed on November 3, 1989 ^{[8][10][Note 3]}	^{[9][10]}

#	Date of Impeachment	Accused	Office	Accusation(s)	Result ^[Note 1]	References
17	December 19, 1998	 <u>Bill Clinton</u>	<u>President of the United States</u>	<u>Perjury and obstruction of justice</u>	<u>Acquitted on February 12, 1999</u> ^[8]	^[9]
18	June 19, 2009	 <u>Samuel B. Kent</u>	<u>Judge (Southern District of Texas)</u>	<u>Sexual assault, and obstruction of justice during the resulting investigation</u>	<u>Resigned on June 30, 2009,</u> ^{[10][15]} <u>proceedings dismissed on July 22, 2009</u> ^{[8][10][16]}	^{[10][17]}
19	March 11, 2010	 <u>Thomas Porteous</u>	<u>Judge (Eastern District of Louisiana)</u>	<u>Making false financial disclosures</u>	<u>Removed and disqualified on December 8, 2010</u> ^{[8][10][18]}	^{[10][19]}

Demands for impeachment

While the actual impeachment of a federal public official is a rare event, demands for impeachment, especially of presidents, are common,^{[20][21]} going back to the administration of George Washington in the mid-1790s. In fact, most of the 63 resolutions mentioned above were in response to presidential actions.






While almost all of them were for the most part frivolous and were buried as soon as they were introduced, several did have their intended effect. Treasury Secretary Andrew Mellon^[22] and Supreme Court Justice Abe Fortas both resigned in response to the threat of impeachment hearings, and, most famously, President Richard Nixon resigned from office after the House Judiciary Committee had already reported articles of impeachment to the floor.





Impeachment in the states



State legislatures can impeach state officials, including governors. The court for the trial of impeachments may differ somewhat from the federal model—in New York, for instance, the Assembly (lower house) impeaches, and the State Senate tries the case, but the members of the seven-judge New York State Court of Appeals (the state's highest, constitutional court) sit with the senators as jurors as well.^[23] Impeachment and removal of governors has happened occasionally throughout the history of the United States, usually for corruption charges. A total of at least eleven U.S. state governors have faced an impeachment trial; a twelfth, Governor Lee Cruce of Oklahoma, escaped impeachment conviction by a single vote in 1912. Several others, most recently Connecticut's John G. Rowland, have resigned rather than face impeachment, when events seemed to make it inevitable.^[24] The most recent impeachment of a state governor occurred on January 14, 2009, when the Illinois House of Representatives voted 117-1 to impeach Rod Blagojevich on corruption charges;^[25] he was subsequently removed from office and barred from holding future office by the Illinois Senate on January 29. He was the eighth U.S. state governor to be removed from office.

The procedure for impeachment, or removal, of local officials varies widely. For instance, in New York a mayor is removed directly by the governor "upon being heard" on charges—the law makes no further specification of what charges are necessary or what the governor must find in order to remove a mayor.

State and territorial officials impeached

Date	Accused	Office	Result
1804	 <u>William W. Irvin</u>	<u>Associate Judge, Fairfield County, Ohio Court of Common Pleas</u>	Removed
1832	 <u>Theophilus W. Smith</u>	<u>Associate Justice, Illinois Supreme Court</u>	Acquitted ^[26]
February 26, 1862	 <u>Charles L. Robinson</u>	<u>Governor of Kansas</u>	Acquitted ^[27]
February 26, 1862	<u>John Winter Robinson</u>	<u>Secretary of State of Kansas</u>	Removed on June 12, 1862 ^[28]
February 26, 1862	<u>George S. Hillyer</u>	<u>Kansas State auditor</u>	Removed on June 16, 1862 ^[28]
1871	 <u>William Woods Holden</u>	<u>Governor of North Carolina</u>	Removed
1871	 <u>David Butler</u>	<u>Governor of Nebraska</u>	Removed ^[27]
February 1872	 <u>Harrison Reed</u>	<u>Governor of Florida</u>	Acquitted ^[29]
1872	 <u>Henry C. Warmoth</u>	<u>Governor of Louisiana</u>	"suspended from office," though trial was not held ^[30]

1876	 <u>Adelbert Ames</u>	<u>Governor of Mississippi</u>	Resigned ^[27]
1888	 <u>James W. Tate</u>	<u>Kentucky State Treasurer</u>	Removed
1901	<u>David M. Furches</u>	Chief Justice, <u>North Carolina Supreme Court</u>	Acquitted ^[31]
1901	<u>Robert M. Douglas</u>	Associate Justice, <u>North Carolina Supreme Court</u>	Acquitted ^[31]
August 13, 1913 ^[32]	 <u>William Sulzer</u>	<u>Governor of New York</u>	Removed on October 17, 1913 ^[33]
July 1917	 <u>James E. Ferguson</u>	<u>Governor of Texas</u>	Removed ^[34]
October 23, 1923	 <u>John C. Walton</u>	<u>Governor of Oklahoma</u>	Removed
January 21, 1929	<u>Henry S. Johnston</u>	<u>Governor of Oklahoma</u>	Removed
April 6, 1929 ^[35]	 <u>Huey P. Long</u>	<u>Governor of Louisiana</u>	Acquitted
May 1958 ^[36]	<u>Raulston Schoolfield</u>	Judge, Hamilton County, <u>Tennessee Criminal Court</u>	Removed on July 11, 1958 ^[37]
March 14, 1984 ^[38]	<u>Paul Douglas</u>	<u>Nebraska Attorney General</u>	Acquitted by the <u>Nebraska Supreme Court</u> on May 4, 1984 ^[39]
February 6, 1988 ^[40]	<u>Evan Mecham</u>	<u>Governor of Arizona</u>	Removed on April 4, 1988 ^[41]
March 30, 1989 ^[42]	<u>A. James Manchin</u>	<u>West Virginia State treasurer</u>	Resigned on July 9, 1989 before trial started ^[43]
January 25, 1991 ^[44]	<u>Ward "Butch" Burnette</u>	<u>Kentucky Commissioner of Agriculture</u>	Resigned on February 6, 1991 before trial started ^[45]

May 24, 1994 ^[46]	<u>Rolf Larsen</u>	<u>Associate Justice, Pennsylvania Supreme Court</u>	Removed on October 4, 1994, and declared ineligible to hold public office in Pennsylvania ^[47]
October 6, 1994 ^[48]	<u>Judith Moriarty</u>	<u>Secretary of State of Missouri</u>	Removed by the Missouri Supreme Court on December 12, 1994 ^[49]
November 11, 2004 ^[50]	<u>Kathy Augustine</u>	<u>Nevada State Controller</u>	Censured on December 4, 2004, not removed from office ^[51]
April 11, 2006 ^[52]	<u>David Hergert</u>	<u>Member of the University of Nebraska Board of Regents</u>	Removed by the Nebraska Supreme Court on July 7, 2006 ^[53]
January 8, 2009 (first vote) ^[54]	 <u>Rod Blagojevich</u>	<u>Governor of Illinois</u>	95th General Assembly ended
January 14, 2009 (second vote) ^[55]			Removed on January 29, 2009, and declared ineligible to hold public office in Illinois ^[56]
February 11, 2013 ^[57]	 <u>Benigno Fitial</u>	<u>Governor of the Northern Mariana Islands</u>	Resigned on February 20, 2013

See also

- Censure in the United States
- Efforts to impeach George W. Bush
- Impeachment investigations of United States federal officials
- Impeachment investigations of United States federal judges
- Jefferson's Manual
- List of federal political scandals in the United States
- Recall election

Notes

- "Removed and disqualified" indicates that following conviction the Senate voted to disqualify the individual from holding further federal office pursuant to Article I, Section 3 of the United States Constitution, which provides, in pertinent part, that "[j]udgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States."
- During the impeachment trial of Senator Blount, it was argued that the House of Representatives did not have the power to impeach members of either House of Congress; though the Senate never explicitly ruled on this argument, the House has never again impeached a member of Congress. The Constitution allows either House to expel one of its members by a two-thirds vote, which the Senate had done to Blount on the same day the House impeached him (but before the Senate heard the case).
- Judge Nixon later challenged the validity of his removal from office on procedural grounds; the challenge was ultimately rejected as nonjusticiable by the Supreme Court in *Nixon v. United States*, 506 U.S. 224 (1993).

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Further reading

- Lichtman, Allan J. (2017), *The Case for Impeachment*, Dey Street Books, ISBN 978-0062696823

External links

- An Overview of the Impeachment Process (<http://congressionalresearch.com/98-806/document.php>)
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