

The President issued an executive order banning the extraction of natural gas on federal land. An oil and gas company that had been drilling for natural gas on federal land sued the President in federal court and sought a preliminary injunction that would prevent the executive order from going into effect.

Before the federal judge ruled on the injunction, an employee of the oil company left an envelope of cash on the judge's doorstep with a note that stated, "Remember who your friends are." The next day, the judge issued a nationwide injunction preventing the executive order from taking effect. Several months later, a local newspaper broke the story about the envelope of cash, the note, and the judge's subsequent ruling. The judge has not been indicted for bribery, but the President has called for the judge's immediate removal.

May the President constitutionally remove the federal judge?

- A. No, because a federal judge can only be removed by impeachment.
- B. No, because the federal judge has not been indicted for bribery.
- C. Yes, because bribery is an impeachable offense.
- D. Yes, because the President's removal power is absolute.

Explanation:

The Constitution divides the federal government into three coequal branches that possess distinct powers (ie, [separation of powers](#)). The **President** has the power to **appoint federal judges** with the Senate's advice and consent. Federal judges have lifetime tenure during good behavior, which helps guarantee judicial independence. And **Congress** has the **sole power to impeach and remove federal judges** for treason, bribery, or other high crimes and misdemeanors, which helps ensure judicial integrity.

Here, the President seeks the removal of the federal judge, who has been accused of bribery. Although bribery is an impeachable offense, only Congress has the power to remove a federal judge by [impeachment](#) (**Choice C**). Therefore, the President may not constitutionally remove the federal judge.

(Choice B) The fact that the federal judge has not been indicted for bribery has no bearing on whether the President can remove the federal judge from office.* That is because the power to impeach and remove federal judges belongs to Congress—not the President.

*An indictment is not required for a federal judge to be impeached and removed from office because the House of Representatives—not a grand jury—determines whether the judge's conduct constitutes an impeachable offense.

(Choice D) The Constitution is silent about the President's [removal](#) of federal executive officers, but the U.S. Supreme Court has repeatedly held that the President has near-absolute authority to remove such officers. But though the President's removal power is broad, it does not include the power to remove federal judges.

Educational objective:

The President has the power to appoint federal judges with the Senate's advice and consent, but Congress has the sole power to impeach and remove federal judges for treason, bribery, or other high crimes and misdemeanors.

References

- U.S. Const. art. II, § 2 (vesting the President with the power to appoint federal judges).
- U.S. Const. art. II, § 4 (stating that Congress may impeach and remove federal judges from office for treason, bribery, or other high crimes and misdemeanors).
- U.S. Const. art. III, § 1 (granting lifetime tenure to federal judges during good behavior).

Federal checks and balances

