

# Impeachment

## Overview

What is it?

What does the Constitution say?

Brief synopsis of the presidents who have been (or nearly) impeached

More details on these presidents

## Brief (oversimplified) synopsis of issue.....

Andrew Johnson

1. fired Senate-confirmed cabinet official

Richard Nixon

1. Watergate...used federal dollars to spy on the Democrats to win an election

Bill Clinton

1. had an affair with a White House intern, lied

Donald Trump

1. Withheld aid from Ukraine, asked for political favors to win an election
2. Encouraged January 6 insurrection

What is it?

What does the Constitution say?

➤ The Constitution, Article II, Section 4

↳ “The President, Vice President ... shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors. “

➤ The Constitution, Article I, Section 3

↳ “The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the US is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two-thirds of the Members present. “

↳ “Judgment in Cases of Impeachments 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, but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment, and Punishment, according to Law.”

Important to note: Impeachment is inherently a political process, not a legal one.

## The process to Impeach:

House of Representatives (investigation and impeachment vote)

↳ A simple majority is needed to impeach

↳ 218 votes (50% plus 1)

Senate (removal from office vote)

↳ A two-thirds vote is needed to remove from office

↳ 67 votes (two-thirds)

➤ Upon conviction, the official is automatically removed from office and may also be barred from holding future office. The removed official is also liable to criminal prosecution.

➤ *The new President may not grant a pardon in the impeachment case, but may in any later criminal case*

Why does the Chief Justice preside over Impeachment hearings?

The Constitution specifies only four points about the Senate impeachment trial of a president:

- (1) The Senate “shall have the sole power to try all impeachments”;
- (2) when sitting as a court of impeachment, senators “shall be on oath or affirmation”;
- (3) conviction of any accused officer requires “concurrence of two thirds of the members present”; and
- (4) when the president is the accused, “the Chief Justice shall preside.”

It is crucial to note why the chief justice appears only in presidential impeachment proceedings. The simple answer has to do with the often-forgotten constitutional power of the vice president to serve as president – meaning presiding officer — of the Senate. In any impeachment case other than that of the president, the vice president can preside. However, the Framers recognized that it would be unseemly at best for the person who would assume the presidency in the event of conviction by the Senate to preside over the president’s trial.

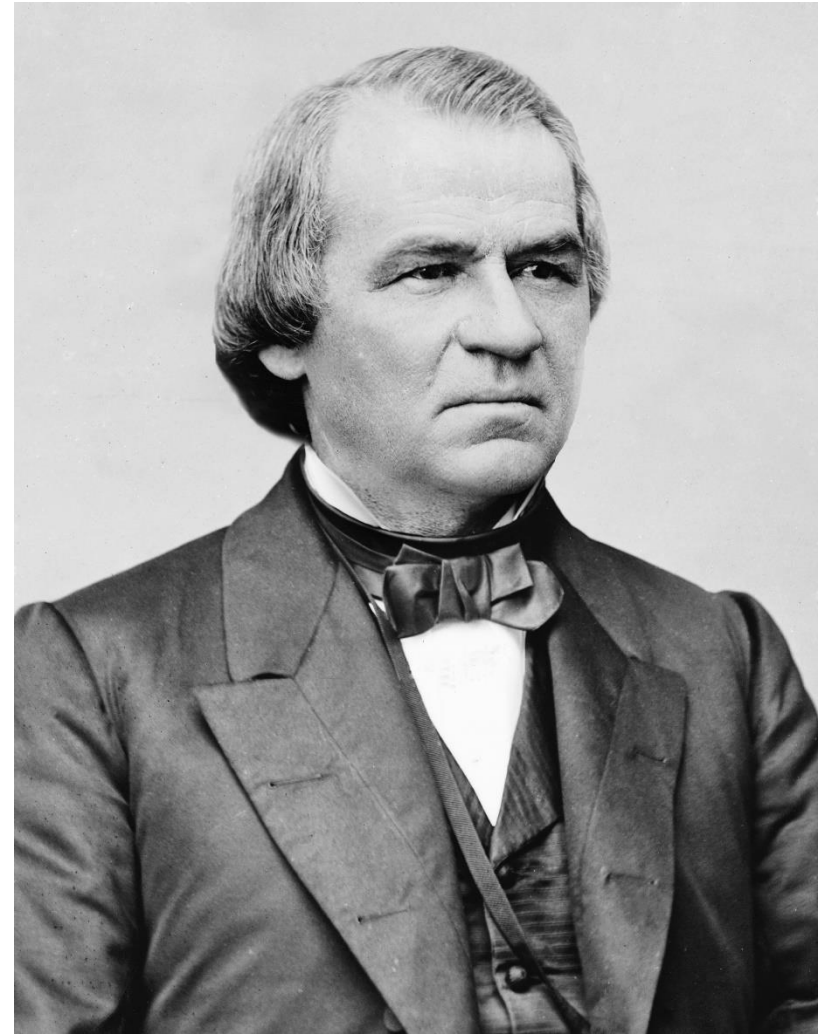
To prevent that obvious conflict of interest, they specified the chief justice as a stand-in presiding officer in presidential impeachment trials.

Andrew Johnson

1808 – 1875 (president 1865-1869)

Only member of a Confederate state who did not resign from Congress when the Civil War started. Joined Lincoln in 1865.

- President Johnson was impeached because he fired an official (Edward Stanton, Secretary of War) who was protected under the Tenure of office Act and because the house felt he had brought the office of president into disgrace
- Motivations driving Congressional action:
  - ↪ They considered the firing of Stanton by Johnson to be a crime under The Tenure of Office Act.
  - ↪ It was a Political Move to disenfranchise Johnson after his Alienation of Congress at their attempts at reconstruction
  - ↪ Anger that Johnson told states to ignore Federal laws.
- Eleven articles of impeachment.
- Survives removal from office by one vote
  - ↪ Johnson made bribes and promised things to secure supportive votes!
  - ↪ He pointed out that – if removed – his successor would be Ohio Senator Wade, who supported women's rights. Plus, Wade would be an obstacle to Grant's political ambitions.



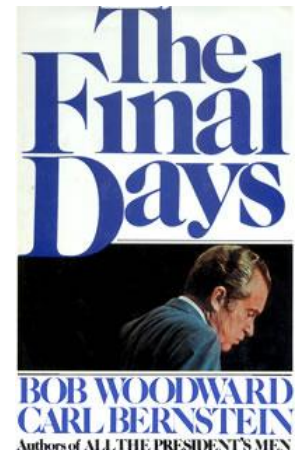
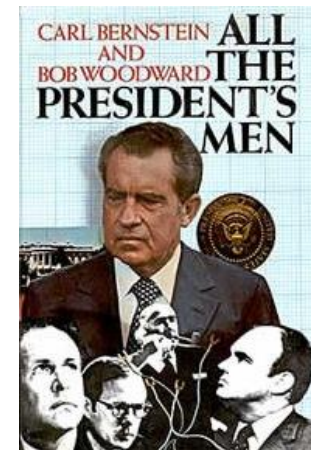
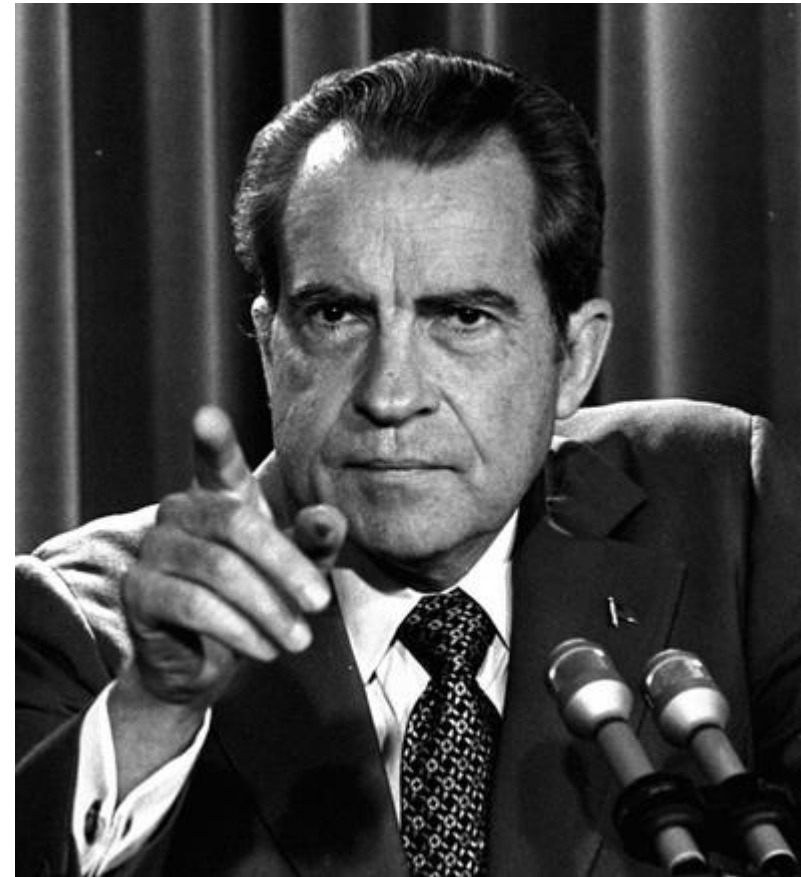
*\*Considered one of the worse presidents in US history*

Richard Nixon

1913 – 1994 (president 1969-1974)

He served as Representative and Senator from California, and lost the Presidency to Kennedy in 1960 before winning later.

- Watergate came to encompass an array of clandestine and often illegal activities undertaken by members of the Nixon administration, including bugging the offices of political opponents and people of whom Nixon or his officials were suspicious; ordering investigations of activist groups and political figures; and using the Federal Bureau of Investigation, the Central Intelligence Agency, and the Internal Revenue Service as political weapons
- Watergate...
  - ↪ the break-in,
  - ↪ use of FBI, CIA, IRS and Plumbers to intimidate witnesses
  - ↪ Woodward/Bernstein,
  - ↪ “Saturday Night Massacre” Attorney general and three lower ranking Justice Department officials resigned rather than fire the special prosecutor
  - ↪ “US v. Nixon (1974) the Court rules that claims of executive privilege could not stop audio tapes release.
  - ↪ the “Smoking Gun” tape with missing 18 minutes.
- The House Judiciary Committee approved 3 articles of impeachment against Nixon for obstruction of justice, abuse of power, and contempt of Congress. With his complicity in the cover-up made public and his political support completely eroded, Nixon resigned from office on August 9, 1974
  - ↪ There were 69 people indicted and 48 people – many of them top Nixon administration officials –convicted



**RESIGNED BEFORE IMPEACHMENT VOTE**

## Bill Clinton

1946 – living (president 1993-2001)

The first President from the baby boomer generation. Previously governor of Arkansas (about 11 years) and Attorney General of Arkansas (2 years)

- The charges for which Clinton was impeached stemmed from a sexual harassment lawsuit filed against Clinton by Paula Jones. During pre-trial discovery in the lawsuit, Clinton gave testimony denying that he had engaged in a sexual relationship with White House intern Monica Lewinsky.
  - Born in San Francisco, BA from Lewis and Clark College in Oregon; now earned her Master's degree in psychology in London and is a social activist speaking out against cyberbullying.
- House votes on articles of impeachment:
  - ↳ Lying under oath to a federal grand jury
    - House: Vote passed (228 for / 206 against)
    - Senate: Vote fails (45 guilty / 55 not guilty)
  - ↳ Obstructing justice
    - House: Vote passed (221 for / 212 against)
    - Senate: Vote fails (50 guilty / 50 not guilty)
  - ↳ Abuse of power
    - House: Vote fails (148 for / 284 against)
  - ↳ Perjury in Paula Jones Case
    - House: Vote fails (205 for, 229 against)



Donald Trump

1946 – living (president 2017-2021)

Millionaire businessman and media personality before entering politics.

### Impeachment 1 (re.Ukraine)

- He had solicited foreign interference in the 2020 U.S. presidential election to help his re-election bid, and then obstructed the inquiry itself by telling his administration officials to ignore subpoenas for documents and testimony.
  - ↪ Withheld military aid to Ukraine and an invitation for their leader to visit the White House, until Ukraine announced an investigation into Biden's son
  - ↪ Sought to get Ukraine to promote a discredited conspiracy theory that Ukraine – not Russia – was behind the 2016 interference in the election.
- House votes on articles of impeachment: Party line vote
  - ↪ Abuse of power
    - House: Vote passed (230 for / 197 against)
    - Senate: Vote fails (48 guilty / 52 not guilty)
  - ↪ Obstruction of Congress
    - House: Vote passed (229 for / 198 against)
    - Senate: Vote fails (47 guilty / 53 not guilty)





## Impeachment 2 (re.January 6)

- Trump called on his supporters to come to Washington D.C. on January 6, on the day that Congress was counting the electoral votes, to a rally on the National Mall. At the rally, Trump as well as other speakers repeated the false claims that the election was stolen, used the word "fight", made an analogy to boxing, and suggested that his supporters had the power to prevent President-elect Joe Biden from taking office.
  - ↳ These events were preceded by numerous unsuccessful attempts by Trump to overturn the 2020 presidential election, as well as his pushing of voter fraud conspiracy theories on his social media channels before, during, and after the election
  - ↳ When the United States Congress convened to certify the electoral votes of the presidential election, supporters of Trump crossed the Mall and stormed the United States Capitol in an attempt to prevent the tabulation of votes and protest against Biden's win. Trump supporters unlawfully entered the Capitol
    - ↳ Five people died, including a Capitol police officer
- The House of Representatives adopted one article of impeachment against Trump of "incitement of insurrection", alleging that he had incited the January 6 attack of the U.S. Capitol.
  - ↳ Article I: "Incitement of Insurrection" accuses Trump of having "willfully made statements that encouraged — and foreseeably resulted in — imminent lawless action at the Capitol" As a result of incitement by Trump, "a mob unlawfully breached the Capitol" and "engaged in violent, deadly, destructive, and seditious acts"
- House votes on articles of impeachment:
  - ↳ Incitement of Insurrection
    - House: Vote passed (232 for / 197 against)
    - Senate: Vote fails (57 guilty / 43 not guilty)

### NOTE

- Ten Republican representatives voted for the second impeachment, the most pro-impeachment votes ever from a president's party. This was also the first presidential impeachment in which all majority caucus members voted unanimously for impeachment.
- The 14<sup>th</sup> Amendment to the US Constitution Section 3 states that a person who participated in insurrection after having taken an oath to support the Constitution is disqualified from holding future office. *Expect this to become a legal issue if he were to announce a run for reelection.*