

December 5, 2017

An Explanation of Impeachment in Preparation for Tomorrow's Vote

Dear Colleague:

Tomorrow, I will bring a privileged resolution to impeach President Donald J. Trump to the floor of the United States House of Representatives for a vote. As a privileged resolution, this vote will occur once the impeachment resolution is read twice on the floor. Over the past few months, I have encountered several questions regarding the impeachment process, impeachment history and whether the offenses perpetrated by the President must be criminal in nature. I trust that the information and resources provided below will allow you to make the best possible decision for yourself, your district and for our nation. As I have said before, this is not about Democrats, it is about democracy. It is not about Republicans, it is about the fate of our Republic. May everyone vote their conscience knowing that history will judge us all.

Process

The House of Representatives provides in the Rules of the House, in very limited circumstances and serious matters, the ability for any Member of the House of Representatives to bring privileged resolutions on the topic of impeachment. Generally, this has been used on a variety of occasions to remove judges from federal appointment. In several instances, it has been used for the Executive, the President of the United States.

The process for offering a privileged resolution is provided below:

- The Member of Congress is recognized on the House floor to read their privileged resolution. give notice of his intention to offer the resolution. The notice consists of the Member reading the text in full.
- Once the resolution has been read, the Speaker of the House of Representatives can must schedule a time within two legislative days for the

vote when the resolution will be considered. The Speaker will determine whether the resolution will be voted on its merits, he may offer a motion to table, or a motion to send to the House Judiciary Committee.

- The Speaker can also schedule time for debate, which would be controlled by the Speaker and the Democratic Leader.
- At the time designated for consideration, the Reading Clerk must read the resolution on the floor a second time before voting commences.
- When the resolution is offered, it could be subject to a motion to table, or a motion to refer to committee.
- Alternatively, the resolution could be debated on the merits, with time divided between the proponent of the resolution and either the Majority Leader, Minority Leader, or a designee, as determined by the Speaker.
- A roll call vote will may occur.

If the resolution passes the House on a simple majority vote, it is referred to the Senate for trial. The Senate would conduct the impeachment trial with the Chief Justice of the United States Supreme Court presiding. If two-thirds of Senators present vote to impeach, the President would be removed from office.

History

The House of Representatives has impeached nineteen people since the ratification of the United States Constitution. This has included several judges, a Senator¹, a Cabinet Member and two Presidents. In the Senate, sixteen impeachment trials have been held, and eight people have been convicted. Of the Presidents who were impeached by the House, none were removed from office. The Senate acquitted both President Andrew Johnson and President William J. Clinton. President Richard M. Nixon resigned before the House took a vote on the articles of impeachment, which were voted out of the Judiciary Committee.

¹ The Supreme Court later overturned the impeachment, stating that Members of Congress are ineligible for impeachment.

Impeachment and Criminal Offenses

A common misconception associated with impeachment proceedings is that an impeachable offense must be explicitly illegal. This is not the case. The impeachment process is political in nature, not criminal. As laid out in Article 2, Section 4 of the Constitution, grounds for impeachment include “high Crimes and Misdemeanors.” Upon first glance, this might seem to imply both felony offenses and less severe misdemeanor offenses. However, this is not the case. The framers of the U.S. Constitution, drawing on impeachment grounds in the English parliament established in 1386, adopted “high Crimes and Misdemeanors” as a term of art meant to describe a variety of offenses sharing an underlying abuse which demonstrated an official’s lack of fitness for office. Today, most constitutional law experts recognize that an impeachable offense does not need to be a crime. In fact, since the Constitution’s adoption, less than a third of the impeachments approved by the House have invoked a criminal statute.

The misdemeanor is defined in the context of impeachment as a misdeed, and high misdemeanors have included behavior other than crimes in a qualifying office under Article 2, Section 4 under the U.S. Constitution throughout the history of impeachment in this country. One of the most important examples are the articles of impeachment against Andrew Johnson, wherein Article 10 it states,

“...utterances, declarations, threats, and harangues, highly censurable in any are peculiarly indecent and unbecoming in the Chief Magistrate of the United States, by means whereof said Andrew Johnson has brought the high office of the President of the United States into contempt, ridicule and disgrace, to the great scandal of all good citizens, whereby said Andrew Johnson, President of the United States, **did commit, and was then and there guilty of a high misdemeanor in office.**”

Summary of Articles of Impeachment

Article I – Associating the Presidency with White Nationalism, Neo-Nazism and Hate

- Donald J. Trump issued a public statement characterizing anti-Semites, bigots, racists, white nationalists, and Ku Klux Klansmen who rallied in Charlottesville, Virginia as “very fine people.”
- Donald J. Trump did not issue a public statement when these hate groups returned to Charlottesville, Virginia chanting “You will not replace us!” He did, however, issue several statements related to players in the National Football League exercising their constitutionally protected right to protest.
- Donald J. Trump shared three videos from a British right-wing extremist that purported to show various violent acts committed by Muslims. The videos were found to be inaccurately titled and characterized.

Article II – Inciting Hatred and Hostility

- Donald J. Trump issued Executive Order 13769, which caused a partial shutdown of immigration from Muslim countries.
- Donald J. Trump issued a public statement that transgender individuals are banned from serving in the United States military.
- Donald J. Trump made a public statement referring to professional football players as “sons of bitches,” therefore denigrating them and their mothers, for exercising their constitutionally protected right to protest.
- Donald J. Trump made a public statement that after being devastated by a Category 4 and Category 5 hurricane, Puerto Ricans “...want everything done for them when it should be a community effort,” inciting racial tensions around the stereotype that people of color need or want handouts.
- Donald J. Trump made a public statement that after being devastated by a Category 4 and Category 5 hurricane in one week, Puerto Ricans had “...thrown our budget a little out of whack.” Similar statements were not made by Mr. Trump about Texas or Florida, which were also devastated by hurricanes in September 2017.

- Donald J. Trump issued a public statement referring to Rep. Frederica Wilson (D-FL-24), a female, African-American Member of Congress as “wacky” and called her a liar.
- Donald J. Trump issued a public statement referring to Rep. Frederica Wilson (D-FL-24), a female, African-American Member of Congress as “wacky” a second time.
- Donald J. Trump issued a public statement referring to Rep. Frederica Wilson (D-FL-24), a female, African-American Member of Congress as “wacky” a third time.

If you have any additional questions, please contact Amena Ross in the Office of Congressman Al Green at 5-7508 or Amena.Ross@mail.house.gov.

Sincerely,

/S/

AL GREEN

Member of Congress