



INTERNATIONAL



Federalism and the Presidential System in the United States: Why Impeachment?

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“Enlightened statesmen will not always be at the helm.”
James Madison, *Selections from The Federalist No. 10*, p. 11.

Initially, American democracy did not directly adopt a system with ‘checks and balances’ within a simple three branch republic. Instead, this very structure evolved within the transitional framework of a Confederation of States. More specifically, the American presidential system came to be when the Federal Union was forged over a decade after the American Revolution started and was designed in order to engage in an efficient federal government as opposed to the lacking organizational efficiency of a prior factional and Confederate state system.

Outside of the United States and especially in Europe, the term ‘impeachment’ appears as a vague insistency upon the eventual ‘ousting’ an unfit president but is not completely comprehended for various reasons. The first reason is that most systems within Europe are parliamentary in nature, or a combination of the two. For better, or in many a case for worse, the presidential system as a rule has been represented more so within Central America and the South and African continents.¹ The second reason for a lack of comprehension outside of the United States, as well as from within, of the political and not legal impeachment process, is the actual history that led up to its installation into American democratic politics. The newly instated Federal government, its three-branch balance of power redacted during The Constitutional Convention of 1787, was quite different from The Articles of Confederation of 1776. Overall, for most delegates at the time, monarchy was to be avoided and an excessively strong executive was feared as well, but the inefficiency of the Confederation brought with it the need for a proper Federal Union in order to appropriately operate what would become a true nation-state as a Union and Republic, not just a loosely combined confederation of states.

Also, it must not be forgotten that the American democracy based on inclusive equality and liberty did not exist either in its current form until quite recently. The America of the ‘Founding Fathers’ included very few to actually participate: white male property owners and taxpayers to be more specific. While some could say that such limits on participation were common within the social context of the day, the abysmal lack of inclusion and thus lack of a true representative democracy as we consider today was great, even as it was simultaneously revolutionary at the time. Still, the oldest founded democracy in history had no valid contemporary model to base itself upon through this period so that one must appreciate that the forging of American democracy is just that: a simple beginning within a strict context of in-

¹ **Domínguez, Jorge I. & Jones, Anthony** eds. *The Construction of Democracy: Lessons from Practice and Research*, The Johns Hopkins University Press: Baltimore, 2007, p. 107.



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tent based upon realities that are now over 200 years old—to negate their context is to negate their present validity or lack thereof. More than anything else, one must always keep in mind that the actual ‘ousting’ of an unfit president through the impeachment process has never come to be. Both Presidents Johnson and Clinton were saved from that disgrace based upon favorable Senate rulings while Nixon resigned even before the process began. Really, the impeachment process is a straight out negation of democratic electoral rule: the legislative decides to reverse the ‘will of the people’ by removing their elected president from office. There are no new elections scheduled in order to elect a new president with full legitimization in the eyes of the people.

Historical context: the creation of the executive and the introduction of impeachment

In order to comprehend the context in which the impeachment process was envisioned, first one must contemplate the very existence of the legislative and executive branches at the moment of their creation. At the time, The Articles of the Confederation had set up a loose pact between the colonial states so as to allow them to declare independence and fight the American Revolution in order to liberate the colonies from the control of the British monarchy. The Confederate States remained as such even after the conclusion of the war in 1783 after signing the final Peace of Paris treaty. Hostilities had ended after the battle of Yorktown in 1781. Not until 1787 would the Federal Union be formally put together and enshrined within the Constitution.² Under the Articles of Confederation, each state was guaranteed its “‘sovereignty, freedom and independence’” which meant that some states even operated with a legislative branch only or others with executive councils. In both cases legislative rule was inefficient, and the despotism that had been supposedly avoided by eliminating the executive branch of the government was replaced by a new legislative kind. Thomas Paine, a critic of British monarchical rule writing of Pennsylvania, insisted: “It was supposed that what is called the executive part of government was the only dangerous part.”³ For the framers of the Constitution, the need for an executive was apparent in order to stem the power of the state legislatures, espe-

² **Library of Congress.** “The Treaty of Paris”. <http://www.loc.gov/rr/program/bib/ourdocs/paris.html>

³ **Engel, Jeffrey A.** “The Constitution”. *Impeachment: An American History*, Random House: New York, 2018, pp. 14-15.



cially due to their factionalism. After over a decade of loose state cooperation culminating not only in the a successful military campaign ending in the independence of the colonies from the strongest world empire of the time, the first president, which was assumed to be an initially reluctant Washington, was given what Madison termed as the “energy”⁴ to balance out the new American democratic system. By confidence in Washington’s very virtue, and his initial unwillingness to even take the job, a great deal of power was awarded to one man.

Of course, a great deal of concern was also generated by the very creation of the elected president, not because the delegates had no faith in Washington—on the contrary—what they did have was a fear of the consecutive presidents that were to come in the future. Benjamin Franklin is quoted as saying, “The first man put at the helm will be a good one [yet] nobody knows what sort may come afterwards.”⁵ Consequently, the discussion began about how to remove a president if he was considered to be unfit for office during his four-year term. Historically, impeachment was actually a British practice at the time that had been used upon the English shores as well as in the colonies in order to remove corrupt judges and ministers, while relatively rare during both the seventeenth and eighteenth centuries simply because it opposed the sovereign’s will, and in the case a republic, the people’s. Eventually impeachment was agreed upon in the event that the president ‘needed to go.’ This was in lieu of the only other perceivable alternative, assassination, which the delegates saw as violent and unlawful option that would more than likely doom the republic to an untimely end.⁶

Then came the discussion upon the proper terminology: “peculation” (the embezzlement of public funds), “betray his trust to foreign powers”, “treason”, “bribery” and “maladministration”. Maladministration was eventually removed on Madison’s insistence that doing one’s job poorly was not a justification for impeachment and that should be left to the people to decide. Eventually, the delegates settled on the following: “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 Crimes and Misdemeanors”.⁷ While Treason and Bribery are rather clear to modern ears, “Crimes and Misdemeanors” complicate things a bit in the sense that it seems that the framers of the Constitution meant them as *political* crimes and misdemeanors, not legally criminal unless re-

⁴ Engel, Jeffrey A. “The Constitution”. *Impeachment: An American History*, Random House: New York, 2018, p. 25.

⁵ Engel, Jeffrey A. “The Constitution”. *Impeachment: An American History*, Random House: New York, 2018, p. 29.

⁶ Engel, Jeffrey A. “The Constitution”. *Impeachment: An American History*, Random House: New York, 2018, pp. 31-36.

⁷ Engel, Jeffrey A. “The Constitution”. *Impeachment: An American History*, Random House: New York, 2018, pp. 41.



► **The actual ‘ousting’ of an unfit president through the impeachment process has never come to be. Both Presidents Johnson and Clinton were saved from that disgrace based upon favorable Senate rulings while Nixon resigned even before the process began**

lating to presidential activities, which then can be considered as political crimes and misdemeanors against the people anyway. A standing president cannot be tried for illegal crimes while in office. He or she has immunity from prosecution until they have served their time in office. These ‘Crimes and Misdemeanors’ regarding impeachment are explained by Alexander Hamilton as the following:

“The subjects of [presidential impeachment] are those offenses which proceed from the misconduct of public men, in other words, form the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be dominated POLITICAL as they relate chiefly to injuries done immediately to the society itself.”⁸

In other words, no future president would be impeached based upon a difference of opinion or policy, but instead crimes that injure the republic and infringe upon the ‘public trust’—any other crimes could be addressed after the president left office.

Andrew Johnson

President Andrew Johnson, the president that served Lincoln’s term after his assassination and had the honor of being the first to be impeached, was saved in the end by seven Republicans that broke ranks and voted “Not guilty” in the Senate. Strangely enough, Johnson was impeached in the House even before the presentation of articles (articles represent a sort of indictment so the that the trial then can be held in the Senate). Overall, Johnson’s impeachment was based upon policy differences: for example, his rejection of the 14th Amendment meant to grant citizenship to all those born in the Unites States, with the newly released slaves in mind. It was vetoed by Johnson and overridden by the Congress by a two-thirds vote. The actual impeachment was spurred by Johnson insistence upon the removal of Edwin M. Stanton, the Secretary of War, from office after the Tenure of Office Act had been passed through Congress, vetoed by Johnson and then overridden again in Congress, effectively not allowing him to fire Stanton.⁹ While some historians will differ as to why he was really impeached, on the whole it

⁸ **Barker, Scott S.** *Impeachment: A Political Sword*, History Publishing Company LLC: Palisades New York, 2018, p. 2.

⁹ **Trefousse, Hans L.** *Impeachment of a President: Andrew Johnson, the Blacks and Reconstruction*, Fordham University Press: New York, 1999, p. 131-134.



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seemed to be that the Republican Party, was “convinced that Reconstruction could not be completed successfully as long as Johnson occupied the White House.”¹⁰ Johnson, a Southern Democrat and former plantation slave owner, had joined the Republican ticket as Vice President with Lincoln. In 1960 he had already broken with his associates regarding the question of secession, and he would continue to break with even the moderate Republicans regarding Reconstruction during his mandate.¹¹ Instead of working towards Southern Reconstruction by endorsing even a limited freedmen suffrage and property rights, Johnson instead strove to reestablish the ‘old order’ of the South by pardoning top Confederate officials and not facilitating the transfer of land holdings to blacks. Black Codes, “reducing freedmen to serfdom” appeared throughout the South.¹² While a majority of Johnson’s countrymen at the time shared in his racial prejudices both in the North and the South, the future of Reconstruction as envisioned by the Republican party included black suffrage. Overall, Johnson’s reluctance to smoothly implement Reconstruction in the South, a Reconstruction in which the Republicans concluded as vital the elevation of the black community as citizens, is what broke relations with both the radical and moderate Republicans of the time.

Eventually, at Johnson’s Impeachment trial, the Senate concluded that the offences were simply not impeachable—all eleven articles presented by the House. The main one, the insistence that he was not allowed to fire the Secretary of War, was eventually considered as an “impropriety of forcing an unwanted confidential adviser upon an unwilling president.”¹³ As the stability of the very “survival of the divisions of power in government” became possibly more important than enduring Johnson’s own tenure, the Senate trial came to an end with a ‘Not guilty’ verdict. Eric Foner, American historian, makes that clear when describing the articles that the House sent to the Senate:

¹⁰ Trefousse, Hans L. *Impeachment of a President: Andrew Johnson, the Blacks and Reconstruction*, Fordham University Press: New York, 1999, p. 140.

¹¹ Trefousse, Hans L. *Impeachment of a President: Andrew Johnson, the Blacks and Reconstruction*, Fordham University Press: New York, 1999, p. 7.

¹² Trefousse, Hans L. *Impeachment of a President: Andrew Johnson, the Blacks and Reconstruction*, Fordham University Press: New York, 1999, p. 12-13.

¹³ Trefousse, Hans L. *Impeachment of a President: Andrew Johnson, the Blacks and Reconstruction*, Fordham University Press: New York, 1999, p. 174.



“Nowhere were the real reasons Republicans wanted to dispose of Johnson mentioned—his political outlook, the way he had administered the Reconstruction Acts, and his sheer incompetence. In a Parliamentary system, Johnson would have long since departed, for nearly all Republicans by now agreed with Supreme Court justice David Davis, who described the President as ‘obstinate, self-willed, combative,’ and totally unfit for office. But these, apparently, were not impeachable offenses.”¹⁴

Johnson was a white supremacist that condemned Negro suffrage to the very end, and even after the Impeachment process was over he “continued his policies of obstruction.” As it has been extensively expressed, he was not Lincoln, but in many an opinion the impeachment process was upheld as originally meant by those that had originally defined it. Remember, Madison was clear upon it being based upon a direct crime towards the people, not partisan opinion and a leader’s incompetence. Also, it is important to keep in mind that the time under consideration was post-Civil war America and the Civil Rights movement would not come to be for almost another century while leading one to ponder on the government’s lost opportunity to advance race relations throughout the country, not just the South. Still, while some concluded that the impeachment process was in fact a “‘a dull blade,’ ineffectual for the removal of Presidents” it was proven that a difference of opinion in policy or personal character of the president should not be grounds for removal. Regardless, the “resilience of the American System” was put to the test and did not fail as no serious violence took place during the process.¹⁵ However you look at it, President Johnson, while not admired by many a contemporary for a variety of reasons, underwent an impeachment that was ultimately unsuccessful simply because the grounds, under which the whole process was invented in the first place, were respected. Impeachment should not be based upon policy disagreement, but upon “Treason, Bribery, and High Crimes and Misdemeanors” against the American people—and in this case solely within the context of the limited circle of American people at the time: quite non-inclusive when one especially takes into account the recently freed slave population’s treatment, citizens or not, and Johnson’s insistence upon impeding their suffrage and integration within society. At the time, these were policy decisions, not punishable offences.

Richard Nixon

Nixon never underwent the process in part because he resigned ahead of time as public opinion in his favor waned and he eventually lost the support of his own Republican party. The threat of impeachment for Nixon was not based upon the crimi-

¹⁴ **Meacham, Jon.** “Andrew Johnson”. *Impeachment: An American History*, Random House: New York, 2018, p. 94.

¹⁵ Trefousse, Hans L. *Impeachment of a President: Andrew Johnson, the Blacks and Reconstruction*, Fordham University Press: New York, 1999, p. 182-183.



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nal investigation due to the break-in in June of 1972 of the Democratic National Committee, but instead as the result of the cover-up that took place afterwards. Watergate was not the impeachable offense, but instead the series of events termed as the ‘Saturday Night Massacre’ that brought impeachment into the picture. In July of 1973, Archibald Cox, Watergate special prosecutor and the Watergate Special Prosecution Force learned that Nixon had been secretly recording telephone conversations and they believed that said recordings would serve as evidence in their investigation. Cox wanted ten recorded conversations, but Nixon decided to rid himself of the prosecutor before it reached the Supreme Court. On October 20, 1973 he was successful in firing him after the Attorney General Elliot Richardson and Deputy Attorney General William French Smith resigned in refusal of doing so. Solicitor General Robert F. Bork, now acting attorney general, agreed to fire Cox and to send the FBI to seal Cox’s, Richardson and Smith’s offices. Until that time, impeachment had not really even been considered by the “political class and the country’s media elite, let alone most Americans.” Support for Nixon’s removal from office went from 19 to 38 percent after the firing, but still 51 percent still opposed impeachment at the time.¹⁶

Even before Cox’s firing, the FBI became entangled in the Watergate investigation since the break-in involved wiretapping, a federal crime. In June of 1972, when confronted with a link to the Committee to Re-elect the President, Nixon ordered H. R. Haldeman, his chief of staff, to get the CIA to lie to the FBI so that they would believe it had something to do with national security, hoping the investigation would end, an action that would later be referred to as the ‘smoking gun.’ Nixon’s personal lawyer, Herbert Kalmbach, paid off the burglars’ families to stay quiet but it did not stop there. In a recorded conversation on September 15, 1972, Nixon made clear how he expected the IRS to investigate his political enemies. At this point during the fall of 1972, Nixon still maintained a rather sizable lead in the polls and he won the election by a ‘landslide.’ Meanwhile, on March 21, 1973, White House counsel John Dean warned Nixon that the payoff to the burglars’ families may incur a further 1 million dollars. On April 30, 1973, Nixon forced his chief of staff Haldeman and domestic affairs adviser John Ehrlichman to resign, firing Dean as well over the Watergate scandal: Dean then

¹⁶ **Naftali, Timothy.** “Richard Nixon”. *Impeachment: An American History*, Random House: New York, 2018, p. 94.



► **While Johnson and Nixon were accused of using presidential authority inappropriately, Clinton was simply accused of lying and covering up the affair with Monica Lewinsky. Adultery was not the question, but instead perjury and obstruction of justice**

was granted immunity to testify in the Senate Watergate Committee hearing and testified to the cover-up.¹⁷

Months later, in October of 1973, after Cox had been fired, the House of Representatives became involved and an impeachment inquiry commenced. In December of 1973, Judge Sirica, presiding over the Watergate grand jury along with his law clerk D. Todd Christofferson, finally listened to the tapes that Cox had subpoenaed. In the light of being indicted and convicted of a felony, along with the impeachment inquiry having started, resignation or a full impeachment trial in the Senate was the choice that Nixon eventually would have to make.

Meanwhile, the true meaning of ‘high crimes and misdemeanors’ was debated: whether the offense had to be the breaking of criminal law or noncriminal ‘political crimes’. Basically, again it had to be decided what was impeachable and what was not. What eventually became clear after the tapes were finally heard by committee members—after a drawn-out fight between the White House and the House of Representatives over Nixon’s manipulation of transcripts vs. tape turnover, subpoenas etc.—was that there had been a crime committed and more importantly a cover-up. Summer of 1974, Nixon’s approval rating was at an all-time low: 24 percent overall approval and 53 percent in support of impeachment.¹⁸ Finally, on July 27, 1974, the committee voted on four separate articles. The first three, obstruction of justice, abuse of powers and refusing to comply with the committee’s subpoenas went through, while Articles about the bombing of Cambodia and Nixon’s tax evasion did not. Again, policy and personal crimes were left out of the picture, the crucial mistake made in the impeachment of Andrew Johnson. The crime had to be made against the society at large through the misuse of presidential authority. Along with a bipartisan coalition and the great number of Republicans and Southern Democrats in support of the first two Articles of impeachment as well, Nixon was on his way out. On August 5, 1974, the White House finally released the transcripts of the of the June 23, 1972 tape in which the president ordered the CIA to obstruct the Watergate investigation and only seven Republican senators sup-

¹⁷ Naftali, Timothy. “Richard Nixon”. *Impeachment: An American History*, Random House: New York, 2018, p. 104-107.

¹⁸ Naftali, Timothy. “Richard Nixon”. *Impeachment: An American History*, Random House: New York, 2018, p. 174.



porting Nixon remained. On August 8, 1974 Nixon announced to the nation his resignation.¹⁹

Briefly: Bill Clinton

Clinton on the other hand maintained a great deal of support from the public during the entire process of impeachment and was not removed when the vote was sent to the Republican Senate for a vote. Actually, lying under oath and the tampering of witnesses is what spurred the investigation of Clinton, the main difference being that while Johnson and Nixon were accused of using *presidential authority*²⁰ inappropriately, Clinton was simply accused of lying and covering up the affair with Monica Lewinsky. Again, not so much the crime but the cover-up was the concern: adultery was not the question, but instead perjury and obstruction of justice. Fortunately for him, although the Republicans had the Senate at the time, with fifty-five out of a hundred seats, conviction was assured only by a two-thirds vote—he simply could not lose twelve Democrats. In the end, only forty-five senators voted guilty on the charge of perjury and regarding obstruction the vote was tied 50 to 50. Overall, the American people seemed to believe that removal from office was ‘out of proportion to the crime’. Newt Gingrich was quoted as saying: “It may have had the right outcome, frankly. We sent the signal—presidents, even when popular, can’t break the law. But at the same time, I think the country didn’t want an impeachment, a conviction in the Senate.”²¹ Here, the reasons behind the outcome of the impeachment process become rather murky in the sense that while it was clear that Clinton did not use his presidential authority in the same way as both Johnson and especially Nixon, public opinion did influence the outcome as represented by the sheer numbers of democratic support within the Senate and some Republican turnover. The question is this: Clinton’s impeachment process was probably not what the Founding Fathers had in mind when proposing the removal of a president from office, particularly since said removal should be based upon “a major breach of the public trust that related to the conduct of his official duties as president;”²² but its failure was ultimately based instead upon a majority vote in Congress supported by public opinion—and in modern-day politics public opinion carries with it an ever-increasing influence upon partisan politics.

¹⁹ Naftali, Timothy. “Richard Nixon”. *Impeachment: An American History*, Random House: New York, 2018, p. 175-180.

²⁰ **Baker, Peter.** “Bill Clinton”. *Impeachment: An American History*, Random House: New York, 2018, pp 216-17.

²¹ Baker, Peter. “Bill Clinton”. *Impeachment: An American History*, Random House: New York, 2018, pp 238-39.

²² Barker, Scott S. *Impeachment: A Political Sword*, History Publishing Company LLC: Palisades New York, 2018, p. 2.



► **The impeachment process was envisioned within the central belief that it did not even have to be initialized by a legal crime, but instead a political crime towards the people as a whole. Also, it in no way should be simply a partisan tool used to attack a political adversary**

Conclusions

Again, the impeachment process was envisioned within the central belief that it did not even have to be initialized by a legal crime, but instead a political crime towards the people as a whole. Also, it in no way should be simply a partisan tool used to attack a political adversary—that was the lesson learned from the Johnson impeachment. While Johnson was on his way out (he had not been nominated as the Democratic Candidate for re-election) it seemed that the Senate eventually voted against impeachment for technical reasons, not partisan, as seven Republicans broke ranks and voted ‘Not guilty.’²³ When Nixon’s impending impeachment came around, even as legislators initially did not really comprehend the impeachment process clearly, it was made easy for them in the sense that Nixon’s actions post-break-in seemingly set out an exemplary road-map for impeachable offenses. Still, Nixon resigned not just because of the extreme nature of his crimes but also because of his lack of support in Congress, Democrat or Republican, again in part because of the overwhelming evidence of his wrongdoing. Clinton, regardless of whether one may categorize his crimes as those committed against the democratic community as a whole and impeachable, public opinion and Democratic support was on his side. So, what comes first: impeachable offenses, partisan support or public opinion?

If we were to simply base such a question upon the institutional importance of the rule of law, impeachable offenses, either simply defined by wrongdoings towards the people as a whole or indictable crimes related to presidential authority, would be first and foremost. In fact, the public’s opportunity to choose a president only comes every four years—the people’s will is cemented within each citizen’s access to suffrage within a representative democratic system, not necessarily the action of the elected officials after the fact, especially within a presidential system. But to deny the weight that public opinion towards individual politicians carries within an American presidential system where individuals, not parties, are voted for, would be unrealistic. Unfortunately, submerging oneself into a theoretical debate as to whether politicians should do what their constituents want or what is ulti-

²³ Meacham, Jon. “Andrew Johnson”. *Impeachment: An American History*, Random House: New York, 2018, p. 93.



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mately best for the public good, particularly in the Trump era, seems almost irrelevant. But it is relevant, more so by its present-day irrelevancy, precisely because that is what impeachment is about, or what it was intended to be: a political prosecution of crimes against the people, the democratic community—post election. The American presidency was created so as to bring balance to a democratic Union plagued by factional state legislatures, and the Impeachment process was added so as to allow for a last resort ‘ousting’ of an unfit leader that had committed a crime against the same people that had brought that leader to power as a complete negation of the people’s initial will.

Even so, especially in modern-day American politics the very configuration of the presidential system and impeachment process make it impossible to separate the rule of law, partisan majority and public opinion, therefore generating a great deal of confusion. First and foremost, the most rampant discussion that follows an impeachment inquiry is whether or not any offences are actually impeachable and why, as it should be under the circumstances. As the United States embarks upon its fourth impeachment inquiry there is much to be considered: the telephone call with the Ukrainian president; the White House transcripts moved to a secret server and then released;²⁴ the recalling of the U.S. ambassador Marie Yovanovitch; Rudy Giuliani’s ‘shadow’ Foreign Policy role and business dealings in Ukraine;²⁵ the White House’s willingness to collaborate with as opposed to stonewalling the impeachment process; and any other circumstances not before mentioned as well as those that may come to light as the House conducts the inquiry. All matters will have to be held up to the Founding Fathers’ criteria and also carefully considered within their present-day context.

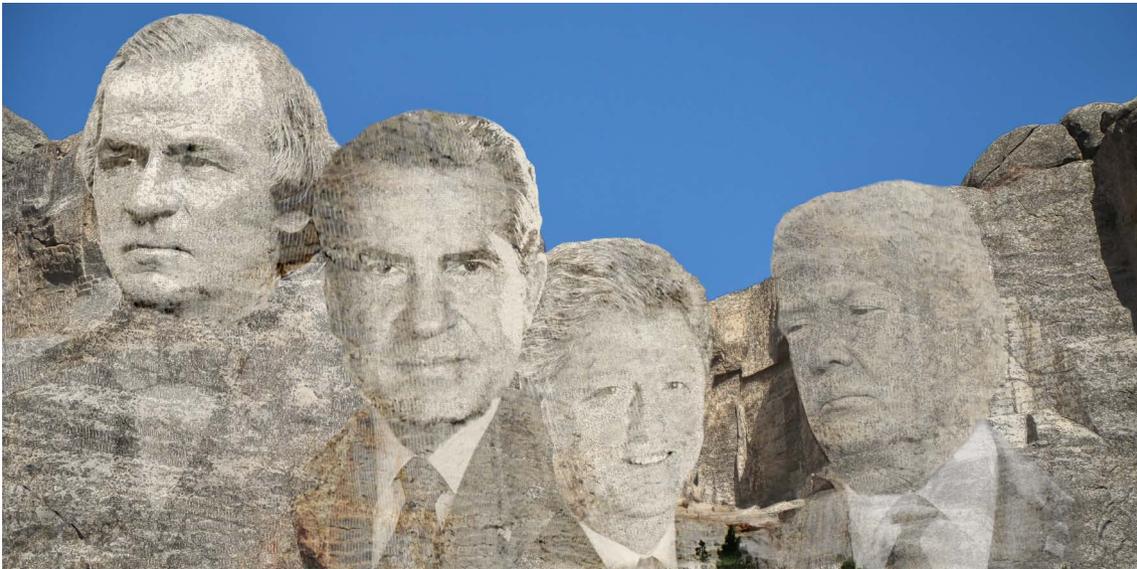
In the end, whether or not such perplexity was intended by the framers of the U.S. Constitution, or whether it is simply the result of political evolution within a historical context, is not clear. What is disturbingly clear when one is to analyze past inquiries and impeachments is the unspecific grounds for the actual process, pos-

²⁴ **Barnes, Julian E., Crowley, Michael, Rosenberg, Matthew, & Mazzetti, Mark**, *White House Classified Computer System Is Used to Hold Transcripts of Sensitive Calls*, The New York Times, September 27, 2019, <https://www.nytimes.com/2019/09/27/us/politics/nsc-ukraine-call.html>

²⁵ **Vogel, Kenneth P., Kramer, Andrew E., Sanger, David E.** *How a Shadow Foreign Policy in Ukraine Prompted an Impeachment Inquiry*, The New York Times, September 28, 2019, <https://www.nytimes.com/2019/09/28/us/politics/how-a-shadow-foreign-policy-in-ukraine-prompted-impeachment-inquiry.html>



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sibly a purposeful lack of specificity allowing for a greater case by case analysis throughout the years of American democracy. Even so, as history shows, the implementation of the impeachment process has up to this very day been ill-defined and even haphazardly applied in every case making its successful outcome—that of actually removing a sitting president from office—beyond complicated. Both partisan politics and public opinion will have their weigh-in on the matter in a big way. After having looked further into historical precedent, what is evident is that many a legislator’s aversion to the entire process is more than comprehensible, even as said process remains indispensable.

“The prosecution of them [impeachments]...will seldom fail to agitate the passions of the whole community, and to divide it into parties, more or less friendly or inimical, to the accused. In many cases, it will connect itself with the pre-existing factions, and will inlist[sic] all their animosities, partialities, influence and interest on one side, or on the other; and in such cases there will always be the greatest danger, that *the decision will be regulated more by the comparative strength of the parties than by the real demonstrations of innocence or guilt.*”

Alexander Hamilton, *The Federalist No 65*²⁶

²⁶ Barker, Scott S. *Impeachment: A Political Sword*, History Publishing Company LLC: Palisades New York, 2018, p. 2-3.



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