

# The Rule of Law in American Govt: Impeachment

## 1. Role of the House of Representatives in the Impeachment Process

“The House of Representatives ... shall have the sole Power of Impeachment.”

**Art. I, Sec. 2, Cl. 5, U.S. Constitution**

### A. Initiation.

Impeachment proceedings may be commenced in the House of Representatives by a Member declaring a charge of impeachment on his or her own initiative,<sup>1</sup> by a Member presenting a memorial listing charges under oath,<sup>2</sup> or by a Member depositing a resolution in the hopper, which is then referred to the appropriate committee.<sup>3</sup> The impeachment process may be triggered by non-Members, such as when the Judicial Conference of the United States suggests that the House may wish to consider impeachment of a federal judge,<sup>4</sup> where an Independent Counsel advises the House of any substantial and credible information which he or she believes might constitute grounds for impeachment,<sup>5</sup> by message from the President,<sup>6</sup> by a charge from a State or territorial legislature or grand jury,<sup>7</sup> or, finally, by petition.<sup>8</sup>

Resolutions regarding impeachment may be of two types. A resolution impeaching a particular individual who is within the category of impeachable officers under Art. II, Sec. 4 of the Constitution is usually referred directly to the House Committee on the Judiciary. A resolution to authorize an investigation as to whether grounds exist for the House to exercise its impeachment power is referred to the House Committee on Rules.<sup>9</sup> Generally, such a resolution is then referred to the House Judiciary Committee.<sup>10</sup> In the House impeachment investigation with respect to President Richard M. Nixon, a resolution reported out of the House Judiciary Committee, H. Res. 803,<sup>11</sup> was called up for immediate consideration as a privileged matter. The resolution authorized the House Committee on the Judiciary to investigate fully whether sufficient grounds existed for the House to impeach President Nixon, specified powers which the Committee could exercise in conducting this investigation, and addressed funding for that purpose. The resolution was agreed to by the House.<sup>12</sup>

While the House Committee on the Judiciary usually conducts impeachment investigations, such matters have occasionally been referred to another committee, such as the House Committee on Reconstruction in the impeachment of President Andrew Johnson, or to a special or select committee. In addition, an impeachment investigation may be referred by the House Judiciary Committee to one of its subcommittees or to a specially created subcommittee.

### B. Investigation.

In all prior impeachment proceedings, the House has examined the charges prior to entertaining any vote.<sup>13</sup> Usually an initial investigation is conducted by the Judiciary Committee, to which investigating and reporting duties are delegated by resolution after charges have been presented. However, it is possible that this investigation would be carried out by a select or special committee.<sup>14</sup>

The focus of the impeachment inquiry is to determine whether the person involved has engaged in treason, bribery, or other high crimes and misdemeanors. If the House Committee on the Judiciary, by majority vote, determines that grounds for impeachment exist, a resolution impeaching the individual in question and setting forth specific allegations of misconduct, in one or more articles of impeachment, will be reported to the full House.

### C. House Action Subsequent to Receipt of Committee Report.

At the conclusion of debate, the House may consider the resolution as a whole, or may vote on each article separately.<sup>15</sup> In addition, “as is the usual practice, the committee’s recommendations as

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reported in the resolution are in no way binding on the House.” The House may vote to impeach even if the House Judiciary Committee does not recommend impeachment.<sup>16</sup> A vote to impeach by the House requires a simple majority of those present and voting, upon satisfaction of quorum requirements. If the House votes to impeach, managers are then selected to present the matter to the Senate. In recent practice, managers have been appointed by resolution, although historically they occasionally have been elected or appointed by the Speaker of the House pursuant to a resolution conferring such authority upon him.<sup>17</sup>

## D. Notification by the House and Senate Response.

The House will also adopt a resolution in order to notify the Senate of its action.<sup>18</sup> The Senate, after receiving such notification, will then adopt an order informing the House that it is ready to receive the managers.<sup>19</sup> Subsequently, the appointed managers will appear before the bar of the Senate to impeach the individual involved and exhibit the articles against him or her.<sup>20</sup> After this procedure, the managers would return and make a verbal report to the House.<sup>21</sup>

**SOURCE:** Excerpts from T.J. Halsted, “An Overview of the Impeachment Process,” Congressional Research Service, The Library of Congress, 2005 (footnotes omitted). Available at <https://www.senate.gov/reference/resources/pdf/98-806.pdf>