

IMPEACHMENT--WHAT DID THE FRAMERS SAY?

To the Founding Fathers who wrote the Constitution, "misdemeanor" did not have the same meaning as today. The phrase "high crimes and misdemeanors" was used in England and colonial America to refer to official offenses for which government officials could be brought to account. They said that the phrase did not mean minor breaches of law as we use it today. In the debates over the Constitution, many delegates argued that impeachment of the Executive was not needed due to his short term of office, and that to allow the legislature to remove him would place him at their mercy.

The following are proposals related to impeachment considered by the Framers of the Constitution in Philadelphia in 1787.

A. *The Executive [will] be made removable by the national Legislature on the request of a majority of the Legislatures of individual States. (Proposed by John Dickenson)*

B. *The Executive [will] be removable on impeachment and conviction of malpractice or neglect of duty. (Proposed by Edmund Randolph)*

D. *[Impeachment] will hold [the Executive] in such dependence that he will be no check on the Legislature...he will be the tool of a faction, or some leading demagogue in the Legislature....If he is to be a check on the Legislature let him not be impeachable. Let him be of short duration, that he may with propriety be re-eligible. (Proposed by Gouverneur Morris)*

E. *[The Executive] to be removable on impeachment, and conviction of malpractice or neglect of duty... (From a Resolution referred to the Committee on Detail of the Convention)*

F. *[The Executive] shall be removed from office on impeachment... and conviction... of treason, bribery, or corruption. (From the report of the Committee on Detail)*

H. *[The Executive] shall be removed from office on impeachment...and conviction... of treason, bribery, or other high crimes and misdemeanors against the United States (Proposed by George Mason after a recommendation of James Madison)*

I. *[The Executive] shall be removed from office on impeachment by the House of Representatives and conviction in the Supreme Court... (Proposed by James Madison and James Pinckney)*

J. *[The Executive] shall be removed from office on impeachment by the House of Representatives and conviction in the Senate... (Proposed by Gouverneur Morris)*

Your teacher will assign you to small groups to function as a Committee on Style to draft the final language of the Constitution as it pertains to the impeachment of the Executive. You may select your language from any of the previous proposals or you may draft completely new language. When all groups have finished, you will present your proposal to the class. Class debate will follow, with the class voting on the final language to be adopted. Compare the language of the class' proposal to the wording of the Constitution.

IMPEACHMENT--WHAT DO OTHERS SAY?

I. *The following statements represent attempts to further define what constitutes an impeachable offense.*

A. *An impeachable offense is "whatever a majority of the House of Representatives considers it to be at a given moment in history. Conviction results from whatever offense two thirds of the other body considers to be sufficiently serious to require removal of the accused from office." Gerald R. Ford, 1970, then a U.S. Representative*

B. *"Only indictable offenses are impeachable; i.e., offenses against federal law." Judge Simon Refkend, Counsel to Supreme Court Justice Douglas, 1970*

C. *"What is impeachable is not necessarily criminal, and what is criminal is not necessarily impeachable." Sen. Joseph Biden, 1998*

D. *Impeachment was intended "for those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They ...relate chiefly to injuries done immediately to the society itself." Alexander Hamilton, 1788, writing in the Federalist No. 65*

With which statement do you agree? Why?

II. Recent investigations of Presidents Nixon and Clinton have yielded some interesting statements by people involved in the two impeachment investigations.

A. *Presidents should be removed "only for serious misconduct dangerous to the system of government" and not for "general misbehavior." Trent Lott, 1974, when he was a Representative and member of the House Judiciary Committee investigating President Nixon.*

B. *"Bad conduct is enough, frankly." Sen. Trent Lott, 1998, Senate Majority Leader during the Clinton impeachment trial*

C. *"There is no question that an admission of making false statements to government officials and interfering with the FBI and the CIA is an impeachable offense." Bill Clinton, 1974, then a law professor at the Univ. of Arkansas, criticizing his opponent in a congressional race for opposing Nixon's resignation.*

What may have caused Lott and Clinton to make the statements at the time they were made?