



Written by [Steve Byas](#) on November 4, 2019

Published in the November 4, 2019 issue of [the New American](#) magazine. Vol. 35, No. 21

## The Impeachment of President Andrew Johnson

Opponents reviled the president, even accusing him of various and sundry crimes. Some in Congress attempted to portray him as a would-be dictator who consistently disregarded the Constitution of the United States. Others expressed shock at his boorish, un-presidential behavior, arguing that he was no longer “fit to retain the office of president.” They particularly denounced what they described as his “intemperate, inflammatory and scandalous harangues.”



For his part, the president denounced his detractors by name, accusing them of desiring to “destroy our institutions,” and welcomed the vitriol against his enemies coming from those in the audience at his raucous political rallies. His detractors detested him, largely because he was perceived as the major obstacle in advancing their radical political agenda. The president even had to deal with, and eventually fire, a high-ranking member of his own administration who was in league with his opponents in Congress.

While the above may sound like a description of our present-day politics, it is actually a summary of the political environment of the years immediately after the Civil War, when the intense political battles of the time led to the first impeachment of a U.S. president, Andrew Johnson.

Impeachment is the first step of a process to remove a federal official from his office. The Constitution provides that impeachment — roughly the equivalent of an indictment in a criminal proceeding — requires a majority vote in the U.S. House of Representatives. The Constitution explicitly stipulates the possible reasons that a president can be impeached: treason, bribery, high crimes, and misdemeanors. If impeached, the House then selects prosecutors, known as managers, who attempt to prove their case to the U.S. Senate, which is empaneled as a jury. With the chief justice of the U.S. Supreme Court presiding, the Constitution requires a two-thirds vote of the Senate to convict, with the resulting punishment being removal from office.

Once removed from office, the president then becomes subject to the regular courts of justice, if he is accused of committing a crime.

The Framers of the Constitution did not intend for the process of impeachment of a president to be used to overturn an election, or as an alternative way to settle intense political disputes. But the conditions found at the conclusion of the Civil War, a war that had taken hundreds of thousands of American lives on the battlefield, produced some of the bitterest political contests in the country’s history.

Perhaps a more tactful politician could have successfully navigated the conditions faced by Andrew Johnson — a civil war followed by the murder of President Abraham Lincoln. Lincoln, the first Republican Party president, unsure of whether he could otherwise be reelected in 1864, made Johnson, a former Democratic senator from Tennessee, his running mate, on a National Union ticket. Johnson was the lone Southerner to refuse to resign his seat in the Senate when his state seceded in 1861, and



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Lincoln made him the military governor of Tennessee when Union troops had retaken that state. Finally, in 1865, he took office as vice president.

Still, as a Southern Democrat, Johnson was viewed with suspicion by the Republicans in Congress who hoped to take advantage of the bitterness of the war and Reconstruction policies to keep themselves in power, instead of the Democrats who had dominated American politics for a generation before the war.

Johnson probably could have survived politically, and even been triumphantly elected in his own right in 1868, had he chosen to go along with this partisan agenda of the Radical Republicans (the dominant faction of the party, who wanted to punish the South for the Civil War and tar the entire Democratic Party as the “party of treason”).

## **Johnson Opposes Radical Reconstruction**

But Johnson did not go along. First of all, he was not a Republican, but a Tennessee Democrat, and he was what one would expect from a Democrat from Tennessee, a state that had produced such fiery politicians as Andrew Jackson, Sam Houston, and David Crockett. Johnson’s father had died when Andrew was but three years old, leaving the family in poverty. For all the talk of politicians such as Andrew Jackson and Abraham Lincoln about their poverty-stricken childhoods, perhaps no president arose from more humble circumstances than Johnson. He was unable to read until his teenage years, and his wife later taught him to write.

When Johnson was only 19 years old, he opened his own tailor shop, before eventually getting involved in politics, winning posts as an alderman, mayor, state representative, state senator, member of Congress, governor, and U.S. senator. He was a Jacksonian Democrat who believed in limited government. A successful politician in Tennessee during those years had to be tough. As David Donald wrote in an *American Heritage* article, “Why They Impeached Andrew Johnson,” Johnson was “indifferent to prudence.... Apprenticed in the rough-and-tumble politics of frontier Tennessee, where orators exchanged violent personalities, crude humor, and bitter denunciations, Johnson continued to make stump speeches from the White House.”

When several Southern states left the Union, he stubbornly refused to resign his seat in the Senate, and mostly blamed the slave-holding aristocracy for inflaming public opinion in the South to take that step. But as former Chief Justice William Rehnquist wrote in his book *Grand Inquests*, Johnson “did not think the goal of the Civil War should be to abolish slavery. He was a co-sponsor of the Crittenden-Johnson resolution that passed Congress in 1861, declaring that in prosecuting the war the North had no desire to interfere with the domestic institutions of any of the states.” In other words, while he personally detested the institution of slavery, the war to him was all about the restoration of the Union. Johnson’s actions following the end of the war can be understood best with that in mind.

On May 29, 1865, Johnson issued a general amnesty proclamation for most of those who had fought in Confederate uniforms. While it excluded many higher-ranking Confederate military and civil officers, they could apply for individual pardons. He then moved to recognize several Southern state governments as legitimate. Perhaps angering the Republicans more than anything else, Johnson was ambivalent about voting rights for former slaves. Without the votes of free blacks, the Republican Party feared it was doomed in the South, and their majority in Congress would end once those states predictably elected Democrats to Congress.



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With this in mind, Congress passed the Civil Rights Act of 1866, which defined citizenship to include any person born in the United States under U.S. jurisdiction as a citizen. This was designed to make all the former slaves citizens. No doubt many members of Congress were sincerely desirous of protecting the freedmen, but the political consideration was of at least equal importance. Johnson, however, vetoed the bill, arguing that it was transferring too much power from the states to the federal government. While it is possible that the Democrat Johnson wanted to see his political party regain its majority status in Congress, this fidelity to the concept of federalism was then a cardinal principle of his Democratic Party.

Nevertheless, Congress overrode Johnson's veto, and the Civil Rights Act became law. Later, these provisions of the Civil Rights Act were placed into the 14th Amendment, which was then sent to the states for ratification.

## **Congressional Elections of 1866 Embolden the Radicals**

After the congressional elections in the fall of 1866 produced increased power for the Radical Republicans, Johnson was seen more and more as the chief obstacle to their domination of the government. The Radical Republicans soon used that augmented power to target Johnson for political elimination.

With the passage of the Reconstruction Act of 1867 (over Johnson's veto), Congress provided for military rule of the prostrate South. Since Johnson, by virtue of his office as president, was constitutionally the commander-in-chief of the armed forces of the United States, these Radicals feared Johnson could frustrate their goals of using the military occupation of the South to keep the Republican Party in power. The Reconstruction Act divided the former Confederate states into five military districts, each ruled by a general. This general was given vast power to suspend or even remove civil officers who were considered obstacles to the achievement of the act's goals, among which were forcing the states to grant the right to vote to former slaves and to ratify the 14th Amendment. (Dubious methods such as this used to get the 14th Amendment ratified are among the reasons that some historians and legal experts question the validity of the 14th Amendment, an amendment that has been frequently abused to advance all sorts of leftist causes, such as forcing the states to accept same-sex "marriage.")

This need to use the Army to advance the Radical Republican agenda was the genesis of the passage of the Command of the Army Act, which provided that all presidential orders to any Army officer must go through the commanding general of the Army. Johnson reluctantly signed that law, but then Congress passed the Tenure of Office Act, which required that all federal officers who had received Senate confirmation could not be removed by the president without the Senate's consent. Johnson's veto was predictably overridden by a Congress intent on neutering him.

Both of these laws were of questionable constitutionality, and Johnson opted to challenge the Tenure of Office Act by removing Secretary of War Edwin Stanton, and replacing him with General Ulysses Grant. Stanton was among those Cabinet officers who had served under President Lincoln, and Stanton had both secretly and openly colluded with the Radical Republicans in Congress to frustrate Johnson's actions. As John Dwyer explained in his book *The War Between the States: America's Uncivil War*, "[Stanton] had served three presidents, from two parties, and he had wrought a sad record of duplicity, perfidy, and self-serving in every administration." Dwyer added that Stanton had been an "in-house spy"



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for the president's political opponents.

Johnson's suspension of Stanton, and the subsequent substitution of Grant, took place during one of the Senate's then-frequent adjournments. When the Senate reconvened in January 1868, they voted 35-16 to not agree to the suspension of Stanton. Grant quickly left the office, but Johnson refused to accept Stanton's return to the War Department. Instead, he selected General Lorenzo Thomas, the adjutant general of the Army, as an interim replacement for Stanton.

The Radicals, who had been looking for an excuse to rid themselves of Johnson, moved quickly. Within a matter of days, the Reconstruction Committee of the House of Representatives submitted an impeachment resolution to the full House, which read, "Resolved, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors in office."

Stanton barricaded himself in his office at the War Department, with armed volunteers used to keep Johnson from removing him by force.

## Johnson Is Impeached

Despite the impeachment resolution not even bothering to cite a reason for the charges against the president, the House passed it on February 24 by a resounding 126-47. Eventually, the House would lodge 11 articles of impeachment against Johnson, the first eight of which centered upon Stanton's firing. The ninth asserted that Johnson had spoken directly with a general in violation of the Command of the Army Act, while the 10th asserted that the president had delivered "intemperate, inflammatory and scandalous harangues" against Congress and its laws. As John F. Kennedy wrote in his book *Profiles in Courage*, "The eleventh was a deliberately obscure conglomeration of all the charges in the [preceding] articles, which had been designed by [U.S. Representative] Thaddeus Stevens to furnish a common ground for those who favored conviction but were unwilling to identify themselves on basic issues."

For the first time in U.S. history, a president of the United States had been impeached, and his chance of surviving a vote in the U.S. Senate did not look good. While every Democratic member was expected to vote not guilty to the impeachment, the Republicans enjoyed more than a two-thirds majority in the Senate. To keep his office, Johnson would need six Republicans to break ranks and cast not-guilty verdicts.

To increase the chances of conviction, Congress attempted to rush Colorado Territory into statehood, despite its mere 40,000 population at the time. Johnson vetoed the bill.

Kennedy wrote, "As the trial progressed, it became increasingly apparent that the impatient Republicans did not intend to give the president a fair trial on the formal issues upon which the impeachment was drawn, but intended instead to depose him from the White House on any grounds, real or imagined, for refusing to accept their policies. Telling evidence in the president's favor was arbitrarily excluded.... Attempted bribery and other forms of pressure were rampant."

William Evarts, Johnson's chief counsel during the trial, called the Radicals on their hypocrisy. On one hand, they denied they were a court, and therefore did not have to afford Johnson all the protections ordinarily given an accused person in a trial, but on the other hand, Evarts said, if the Senate was not sitting as a court, then they were enacting a bill of attainder (specifically forbidden by the Constitution).



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Johnson had exercised his rights as a citizen to get his case into the courts because violating an unconstitutional law is not a crime, Evarts argued, adding that no evidence had been introduced that Johnson had any evil intent. "Remove the president, and the constitutional division of powers will cease. We must then swing into the omnipotence of Congress."

Evarts added that every president, dating back to Washington, had enjoyed the power to remove his subordinates in the executive branch from power. Lastly, he produced a memorial published during the term of Lincoln, which argued that the president should be aided by a Cabinet that agrees with him "in political principle and general policy," noting that it was signed by some of Johnson's most ardent senatorial critics, including Charles Sumner and John Sherman.

## **Senator Ross — A Profile in Courage**

Finally, Radical hopes for a conviction came down to a new senator from Kansas, Edmund Ross. Ross was a reliable vote for most of the Radical Republican agenda, and he was not in sympathy with Johnson either personally or politically. But as Ross told another senator, "So far as I am concerned, though a Republican and opposed to Mr. Johnson and his policy, he shall have as fair a trial as an accused man ever had on this earth."

Soon, Senator Ross found himself the target of pressure. He even received mail threatening his assassination. Yet Ross was determined to vote the way that he thought was best for his country. When the roll was called on Article 11, the omnibus article and the first one taken up because it was thought it would garner the most votes, silence swept through the chamber. "It was a tremendous responsibility," Ross later recalled the scene. "Every fan was folded, not a foot moved, not the rustle of a garment, not a whisper was heard" as Ross's name was called.

"I almost literally looked down into my open grave," Ross wrote. "Friendships, position, fortune, everything that makes life desirable to an ambitious man were about to be swept away by the breath of my mouth, perhaps forever." Senators leaned forward in their seats, while others leaned over their desks, many with their hand to an ear to hear Ross's vote.

Finally, Ross broke the silence. "Not guilty."

Johnson had remained president by a margin of one vote, 35 guilty to 19 not guilty.

The Senate then called a 10-day recess, in a vain effort to secure an additional vote. During this time, Ross again received pressure, with one wire informing him that "Kansas repudiates you as she does all perjurers and skunks." Representative James Blaine of Maine denounced him as a "rascal." Kennedy wrote, "A justice of the Kansas Supreme Court telegraphed him that 'the rope with which Judas Iscariot hanged himself is lost, but [Kansas Senator] Jim Lane's pistol is at your service.' "

No wonder that Paul Johnson, author of *A History of the American People*, concluded, "No constructive purpose was served by this vendetta, and the only political consequence was the discrediting of those who conducted it."

Ross was not returned to office by the Kansas Senate, and neither were any of the other six Republican senators who voted to acquit President Johnson. But Ross explained years later that he had no regrets. "In a large sense, the independence of the executive office as a coordinate branch of the government was on trial. If ... the president must step down ... a disgraced man and a political outcast ... upon



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insufficient proofs and from partisan considerations, the office of president would be degraded.” Ross added that a guilty verdict would have subjected the United States to “that intolerance which so often characterizes the sway of great majorities and makes them dangerous.”

Truly, the failure of the Senate to convict President Andrew Johnson was a victory not only for one man, but for the Constitution and our country.

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