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Impeachment: An Overview of Constitutional Provisions, Procedure, and Practice

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Summary

The impeachment process provides a mechanism for removal of the President, Vice President, and other federal civil officers found to have engaged in “treason, bribery, or other high crimes and misdemeanors.” The Constitution places the responsibility and authority to determine whether to impeach and to draft articles of impeachment in the hands of the House of Representatives. A number of means have been used to trigger the House’s investigation, but the ultimate decision in all instances as to whether or not impeachment is appropriate rests with the House. Should the House vote to impeach and vote articles of impeachment specifying the grounds upon which impeachment is based, the matter is then presented to the Senate for trial.

Under the Constitution, the Senate has the unique power to try an impeachment. The decision as to whether to convict on each of the articles must be made separately. A conviction must be supported by a two-thirds majority of the Senators present. A conviction on any one of the articles of impeachment brought against an individual is sufficient to constitute conviction in the trial of the impeachment. Should a conviction occur, then the Senate must determine what the appropriate judgment is in the case. The Constitution limits the judgment to either removal from office or removal and prohibition against holding any future offices of “honor, Trust or Profit under the United States.” The precedents in impeachment suggest that removal may flow automatically from conviction, but that the Senate must vote to prohibit the individual from holding future offices of public trust, if that judgment is also deemed appropriate. A simple majority vote is required on a judgment. Conviction on impeachment does not foreclose the possibility of criminal prosecution arising out of the same factual situation. The Constitution precludes the President from extending executive clemency to anyone to preclude their impeachment by the House or trial or conviction by the Senate.