

# Twenty Questions About Impeaching A Vice President

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In-depth Report: [Prosecute Bush/Cheney](#)

## **1. Q: How long would it take to eject a vice president from office by impeachment?**

A: Theoretically it could be done in a day. In the morning a member of the House of Representatives could propose one or more Articles of Impeachment and then a vote could be called. A simple majority (50% plus one vote) is all that is needed to impeach. In the afternoon the Senate could try the case. A two-thirds vote is needed in the Senate to convict.

## **2. Q: Why is it so simple?**

A: Because ejecting a person from high office is political, not judicial. The only punishment to be meted out is removal from office.

## **3. Q: What is an impeachable offense?**

A: An impeachable offense can be as nebulous as "He practices cronyism." We can call this a misdemeanor. According to the Constitution, Article II, Section 4, "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 high Crimes and Misdemeanors." President Gerald Ford was correct when he said in 1970 that, "An impeachable offense is whatever the majority of the House of Representatives considers it to be at any given moment in its history."

## **4. Q: Is there any good argument against impeaching a vice president based on the notion that the person of greater authority - the president - should take responsibility for whatever happens in his administration?**

A: No, none whatsoever.

## **5. Q: Would the Senate have to provide such things as reasonable time for the defense to prepare its case, and a close scrutinizing of evidence?**

A: No. The Senate is procedurally bound only by the rules it makes for itself. The Constitution of the United States, Article I, Section 5 (2), says, "Each House may determine the Rules of its Proceedings."

## **6. Q: Doesn't the accused have rights? Where are the wheels of justice here?**

A: Justice does not come into it. Think of it this way: If a congresswoman has done a fabulous job for two years, but fails to win reelection, does she have any redress? Of course not. She holds office at the pleasure of the voters, and they indicate their pleasure every two years. A president takes office at the pleasure of the voters, but he holds onto office at the pleasure of Congress. At any time in our history, Congress could have ejected a president or a vice president.

**7. Q: Has this ever happened?**

A: Congress has never impeached a vice president, but it impeached two presidents - Andrew Johnson and William Clinton. In both cases, the Senate subsequently failed to convict. Many people mistakenly believe that Richard Nixon, too, was impeached. The House Judiciary Committee had voted three Articles of Impeachment against him, but the matter was never put to the full House for a vote because Mr. Nixon promptly resigned.

**8. Q: What does an impeachment trial look like?**

A: It is held in the Senate Chamber and looks like a normal Senate session, except that all Senators are sworn in as jurors. Article I, Section 3 (6) of the Constitution says, "When sitting for that Purpose, they shall be on Oath or Affirmation." The man of the hour may attend or send someone to represent him. He can plead guilty or refute the charges. Each Senator must stand at her place and pronounce her judgment as 'guilty' or 'not guilty.' The Constitution requires that the Chief Justice of the Supreme Court come over to the Senate Chamber to preside when a president is being impeached. In 1986, the Senate extended this to cover vice presidents.

**9. Q: Is it easy to eject a vice president with whom the people are dissatisfied?**

A: Yes, it's a snap. It takes only one House member to propose impeachment. Then, 219 out of the 435 members must agree, if all are present and voting (fewer, if some are absent from the House or abstain from voting). So your question boils down to: Are there 219 House members willing to vote to impeach? The answer is "Yes, if they feel that it is in their interest" - whatever way they may calculate that interest. Part of their calculation may be to look ahead and see if 67 Senators would be willing to convict the vice president.

**10. Q: The number sixty-seven seems very high. Would it ever be possible to get that many votes?**

A: It is possible to get the full 100 Senate votes if all you are asking about is 'possibility'. In reality, during President Andrew Johnson's impeachment trial in 1867, only a single vote in the Senate spared him from conviction (since there were fewer states then, the two-thirds majority was smaller than 67). At Clinton's trial, the vote on one of his two Articles of Impeachment was 55-45. On the second one, it was 50-50.

**11. Q: Regarding the current vice president, Richard Cheney, are we precluded from impeaching during the time that his former assistant, Mr. Lewis Libby, is facing prosecution for alleged crimes?**

A: No. There is no reason to hold back - the Libby case may take years. However, persons wishing to take care not to prejudice Mr. Libby's trial may wisely urge that any impeachable offense brought forward against the vice president be of a type pertaining specifically to

him.

**12. Q: Could the president offer a pardon to thwart the process of impeachment?**

A: No. The Constitution puts only one restriction on the president's power to pardon, namely it cannot be used in cases of impeachment.

**13. Q: Does this mean that if by any chance Mr. Cheney has committed a crime he can never enjoy a pardon?**

A: No, it does not mean that. President Bush, or a later president, could pardon Mr. Cheney. The president is prevented only from interfering in the process of impeachment.

**14. Q: Could Mr. Cheney seek a presidential pardon right now?**

A: Yes. Indeed, for all we know, the current president may be holding a batch of signed (and witnessed) pardons in his desk at this very moment.

**15. Q: Are you suggesting that President Bush could pardon a person's crime in advance of the person being convicted of any crime?**

A: Yes. The elder President Bush (president from 1989 to 1993) issued a pardon a few weeks before he left office, for Caspar Weinberger, who at that point had not been convicted of anything. Quite possibly his motive was to avoid being subpoenaed as a witness at Weinberger's trial. As a witness, Bush could be cross-examined and his own dealings in the Iran-Contra affair could have been revealed.

**16. Q: Did the president dishonor the Constitution by doing that?**

A: No. He played the Constitution for all it is worth. That is what the Constitution is for. It is not an idealistic statement; it is a scheme for allocating power and controlling power by checks and balances. The Founding Fathers put many restraints on the president but gave him his head when it came to pardons. They probably wanted the president to have bargaining chips that he could use in difficult or dangerous circumstances.

**17. Q: Strategically, from the viewpoint of the current vice-president, what would be the best move to make if rumors of impeachment start to swirl?**

A: Presuming that Mr. Cheney would hate to lose the position of immense power that he now occupies, his options would be a) to hasten to correct any offending behaviors, or b) to try to get the president ejected from office, in which case he himself would immediately become president.

**18. Q: When a vice president leaves office before his term is up, how is he replaced?**

A: If a vice president dies, resigns, or is impeached, the president can nominate any American-born citizen, age 35 or older. That nomination must then be confirmed by a majority in both Houses of Congress before the person can be sworn in as the new vice president.

**19. Q: How can a citizen start impeachment activity?**

A: By 'talking it up,' by seeking publicity for the idea, and by persuading a Congressperson to propose it. Since 2001 when President George W. Bush took office, there have been numerous public calls for his impeachment and some of these extend their proposal to include the impeachment of Vice President Richard Cheney, Secretary of Defense Donald Rumsfeld, and Attorney General Alberto Gonzales. One proposal that names all of those persons is sponsored by Ramsey Clark, who was Attorney General in the 1960s. So far, 607,000 citizens have signed his petition. Number 16 in Clark's list of complaints sounds particularly relevant to the vice president, namely "refusal to provide information and records [needed for] legislative oversight of executive functions."

## **20. Q: Is Mr. Cheney currently threatened with any prosecutions?**

A: The case of *Rodriguez v. Bush*, names Bush, Cheney, and several others as defendants in a RICO suit. This is not a criminal prosecution, but is a civil suit that asks for criminal penalties, if appropriate. 'RICO' stands for Racketeer Influenced and Corrupt Organizations Act. A judge recently transferred this case to the U.S. District Court for the Southern District of New York because it accuses the government of crimes related to September 11th and the U.S. Attorney has decided to coordinate numerous September 11th cases at that court. The mainstream media never mentions the *Rodriguez v. Bush* case, but it is available on the Internet.

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