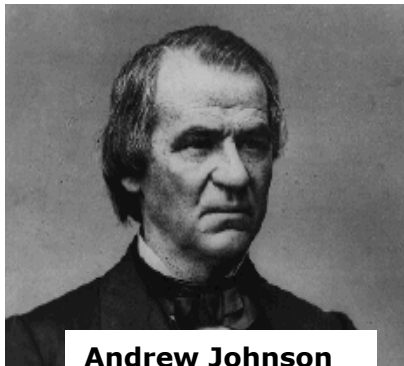


Chapter 3

President Johnson Impeached

Many scholars have called the American presidency the most powerful office in the world. However, the President is not above the law, and the Founding Fathers made provisions for his removal from office should he ever break the law. The Constitution provides that the House of Representatives can impeach the President for “high crimes and misdemeanors,” and that the Senate might then remove him from office providing two-thirds of its members find him guilty as charged.



Andrew Johnson

Three serious attempts have been made to impeach and convict an American president. President Andrew Johnson was impeached by the House of Representatives, and stood trial before the US Senate. Nearly a century later, in August 1974, President Richard Nixon resigned his office before the House of Representatives could vote a bill of impeachment. And most recently, in 1999, President William Jefferson Clinton was impeached, and like Johnson, faced a trial by the US Senate. This chapter tells the story of the Johnson impeachment and asks the reader to decide whether he should have been convicted and removed from office.

Issues to be Considered

For nearly two years, Congress and the President disagreed sharply over the issues of Reconstruction, including re-admission of Southern states to the Union, treatment of Confederate leaders, and protection for the freedman. After literally hundreds of angry exchanges with Congress, Andrew Johnson gave the radicals in Congress an issue that they could unite upon with other members of Congress. He fired his Secretary of War, Edwin Stanton, although the Tenure of Office Act prohibited the US President, without the Senate's consent, from dismissing any cabinet member he had appointed. Dispensing with the need for a bill of particulars, the House of Representatives voted to impeach the President. Later they charged him with eleven counts of ‘high crimes and misdemeanors,’ relating primarily to Stanton's dismissal.

Many historians have pointed out that the case against Andrew Johnson was both flimsy and false. In a technical sense, he had not even violated the Tenure of Office Act because Lincoln and not Johnson had appointed Stanton. But the issues involved in the impeachment were greater than the mere question of whether Johnson had violated that particular law. For two years, Andrew Johnson had opposed every effort made by Congress to protect the rights of the freedman. He had encouraged Southerners to violate the rights of blacks while he brazenly pardoned the Confederates for their part in the War against the Union. The issue of impeaching and convicting President Johnson also pitted the power of Congress against the powers of the President. Would Congress or the President prevail?

This chapter raises three issues related to the trial of Andrew Johnson:

- Had President Johnson actually committed an impeachable offense?
- Should the Reconstruction policies of the Congress or the President be followed?
- What effects would conviction on these charges have on the power of future presidents?

A Short Biography of Andrew Johnson

Like President Jackson, Andrew Johnson was born to poverty in North Carolina, and eventually migrated to Tennessee. Like Abraham Lincoln, he was self-educated. Johnson married a schoolteacher who taught him to read and write. While very young, he was apprenticed to a tailor and made his living at that trade. But Andrew Johnson's real love was politics. He was first elected to office at the age of twenty-one, and in quick order, he became mayor, state legislator, US Representative, and US Senator. He fought for the rights of the poor whites in the South who opposed the rich plantation owners. Like many who could not afford slaves, he hated and opposed slavery without either liking African-Americans or wishing to either free them or give them rights.

When the Civil War began, almost all of the South's Congressmen except Andrew Johnson resigned their seats in the House and Senate. Johnson remained faithful to the Union and continued to hold his seat in the Senate. After his state was occupied by Union troops, Abraham Lincoln rewarded Johnson with an appointment as wartime governor of Tennessee. Johnson's bold and courageous administration of his state's government won him the President's respect. When Lincoln needed a running mate in the election campaign of 1864 to underscore his policy of reuniting the country, he chose the tailor from Tennessee. Following Lincoln's assassination, Andrew Johnson became President of the United States. Despite a brief political "honeymoon" with Congress, Johnson's earned the hatred of the Radical Republicans who wished to use Reconstruction to protect the rights of the freed slaves and strengthen the Republican party. Instead, Johnson used his powers to pardon southern leaders, vetoed bills designed to help the freedman, and soon entered into a full-fledged verbal battle with radical leaders like Charles Sumner and Thaddeus Stevens.

Johnson defended his actions as President by claiming to be following Lincoln's Reconstruction policy. But Johnson lacked Lincoln's political skills, eloquence, wisdom, and sense of humor. Where Lincoln was flexible and able to compromise, Johnson was rigid and righteous. While Lincoln sought the support of Radical Republicans, Johnson courted the favor of southern and northern Democrats. And where Lincoln, with his wit, charm and eloquence, was able to win the respect of those who disagreed with him, Johnson often antagonized his own supporters. Within two years of his ascent to the office of U.S. President, Andrew Johnson was impeached and faced trial before the US Senate. The following account summarizes the events that led to Johnson's ordeal:

The Road to Impeachment

March 4, 1864: Johnson appeared to be drunk at Lincoln's Inaugural.

April 14, 1865: Lincoln was assassinated.

April 15, 1865: Andrew Johnson became America's 17th president. While passions against the South were still running high following the War and the assassination, Johnson sided with the Radicals.

March 1866: Congress passed a civil rights bill forbidding states to discriminate against citizens on the basis of race or color. This law would have made the Black Codes illegal. In a harshly worded message, Johnson vetoed the Civil Rights Act, arguing (possibly correctly) that the Constitution did not give Congress this power to protect the rights of individuals. That was a power reserved to the states

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June 1866: Congress passed Amendment 14 to the Constitution and sent it to the states to ratify. The amendment would give Congress the power to prevent states from discriminating against citizens on the basis of race. It would make all men equal under the law, but would also disenfranchise confederate leaders and suspending payments of the Confederate debt. Johnson vehemently opposed this amendment and advised Southern states not to ratify it.

July 1866: In New Orleans, Louisiana, thirty-seven Negroes and three white sympathizers were killed by police and white citizens. Again Johnson took no action, deferring to local authorities.

Fall of 1866: On a political tour of the mid-west, Johnson urged voters to elect Democrats to oppose radical Republicans. He denounced his opponents in language similar to his February, 22nd speech:

"Though the powers of hell, death and Thaddeus Stevens combine, there is no power that can control me save you (the people) and God."

March 1867: Congress passed the First Reconstruction Act. This law required Southern states to ratify the 14th Amendment. States that refused to ratify this amendment would be occupied by Federal troops. The army would be assigned to supervise elections to Constitutional Conventions. Delegates to these conventions would write constitutions giving equal rights to black people. The troops would remain until the southern states formed governments with participation by all American males, including the freedmen. Johnson vetoed the Reconstruction Act. When it was passed over his veto, he advised southerners not to obey it by refusing to ratify the 14th Amendment. When military occupation was forced on ten Southern states, Johnson used his influence to prevent the army from encouraging black participation in politics.

March 1867: Congress passed the Tenure of Office Act. This act stated that without Senate approval the President could not fire officials whom he had appointed with the advice and consent of the Senate. Johnson vetoed the bill, but it passed over his objections.

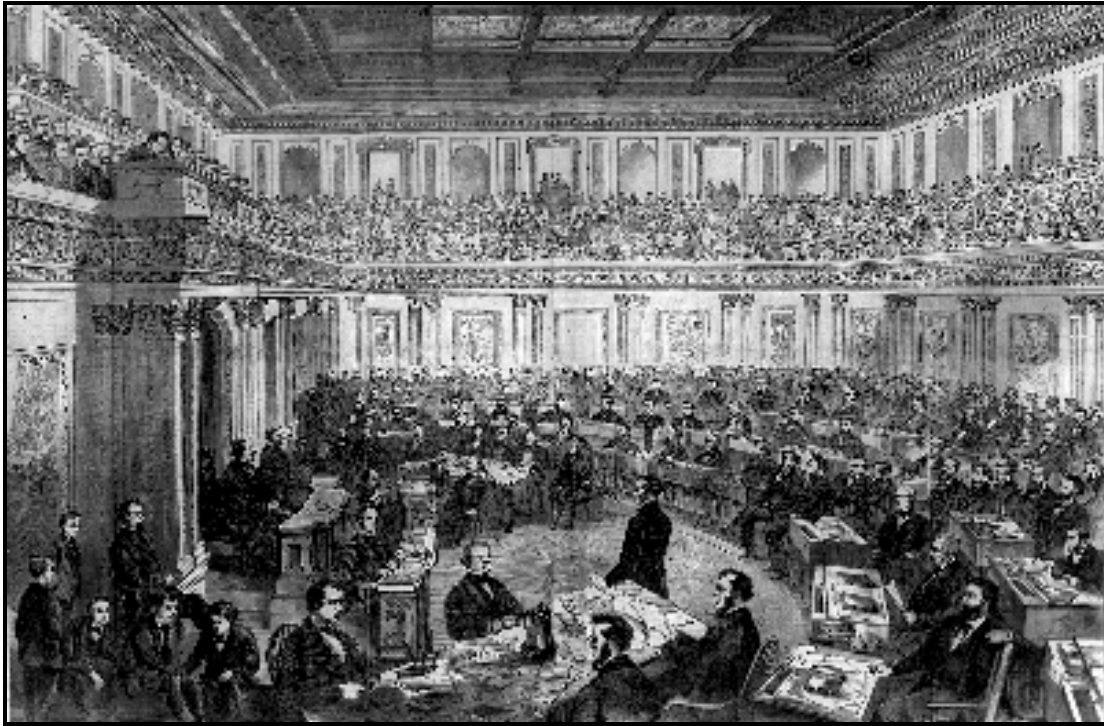
February, 1868: Johnson fired his Secretary of War, Edwin Stanton, and appointed a successor. There is some question as to whether the Tenure of Office Act covered the Stanton dismissal since Lincoln had appointed him. Nevertheless, Congress interpreted this action as a violation of the Tenure Act.

At the same time, Johnson replaced several generals who had made strong efforts to protect freedmen's rights in their states. They were replaced with generals who were less likely to help freedmen.

On the question of whether Johnson had actually violated a law, one Republican commented:

"If the great culprit had robbed a till; if he fired a barn; if he had forged a check; he would have been indicted, prosecuted, condemned, sentenced and punished. But the evidence shows that he only oppressed the Negro; that he only conspired with the rebel; that he only betrayed the Union party; that he only attempted to overthrow the Republic – of course that goes unwhipped of justice."⁸

⁸ Quoted in Avery Craven, Reconstruction. Ending the Civil War, p. 84



The Trial of Andrew Johnson

Suggested Students Exercises:

1. Consider the following issues and decide whether Andrew Johnson should have been found guilty of the charges brought against him and whether he should be convicted and removed from office.

- Did Johnson in fact break a law?
- Were his policies bad for the nation?
- Would impeaching and convicting the President on these charges set a dangerous precedent and make future Presidents unable to carry out their duties? Or would conviction give Congress the necessary power to limit future attempts by Presidents to exercise too much power?

The Case to Acquit

Johnson was charged with breaking the Tenure of Office Act, but it is doubtful that he really violated this law. The Act stated that a President may not replace a government official who was appointed with the advice and consent of the Senate without the Senate's approval. Since Lincoln, not Johnson, appointed Stanton, Johnson did not violate the law. Even if Johnson did break this law, it certainly is not very important. The Constitution says that a President can be impeached and convicted only for "high crimes and misdemeanors," not high crimes or misdemeanors. Firing Stanton certainly was not a high crime.

It is true that Johnson opposed Congress's plan of Reconstruction, but so did Abraham Lincoln. All Johnson did was to carry out Lincoln's plan. Is that a crime worthy of removal from office? Johnson was seeking to end the Civil War by bringing the South back into the country as rapidly as possible. Congress was trying to punish the South by putting it under a government of ignorant former slaves who, in many cases, could not even read or write. Is that a crime? Johnson was trying to protect the rights of the states to control their own domestic institutions. Congress was trying to force the dictatorial power of the national government on an unwilling people. Furthermore, Congress did not even represent the country. Southerners were kept out of Congress until they submitted to rule by former slaves.

Finally, if Johnson were convicted because he disagreed with Congress this country would be in terrible shape. No President in the future would dare to oppose Congress. Presidents would be at the mercy of Congress and we would never again have a strong President such as Lincoln, Roosevelt, or Reagan with the courage to do what he believed is right. Presidents in the future could be removed from office because of some minor offense like wearing the wrong colored tie, or dating an intern.

The Case to Convict

Johnson broke the spirit if not the letter of the Tenure of Office Act when he fired Secretary of War Stanton (who was appointed while he was Vice-President) and appointed a successor without Congress's consent. Furthermore, the Constitution states that the President must see that 'the laws are faithfully executed.' By failing to enforce the laws passed by Congress Johnson failed to do his Constitutional duty. Since no President should be above the law, Johnson must be convicted for this behavior.

Johnson should also be convicted because all of his actions were directed at two objectives, to help the traitors who led this country into a disastrous Civil War, and to hurt the Freedman. First, he pardoned rebel leaders. Secondly, he opposed all attempts to give freedmen their rights. He took land from freedmen and gave it to rebels. He advised southern leaders to disobey the Reconstruction Act, shuffled generals around to prevent enforcement of that Act, and vetoed the Civil Rights Bill and the Freedman's Bureau Act. He allowed rioters in Memphis and New Orleans to kill dozens of freedmen.

The Constitution established three branches of government. The legislative makes the law, the executive carries out the law, and the judicial determines whether laws have been broken. Johnson failed to carry out the law. He did not do the job required of him under the Constitution. Not only did he fail to see that the law was faithfully executed, but he advised others not to obey it, and he broke the law by appointing a successor to Stanton. If the President is permitted to break laws that he is supposed to enforce, we might as well do away with Congress and get a King. Future Presidents could get away with murder. Johnson must be convicted.