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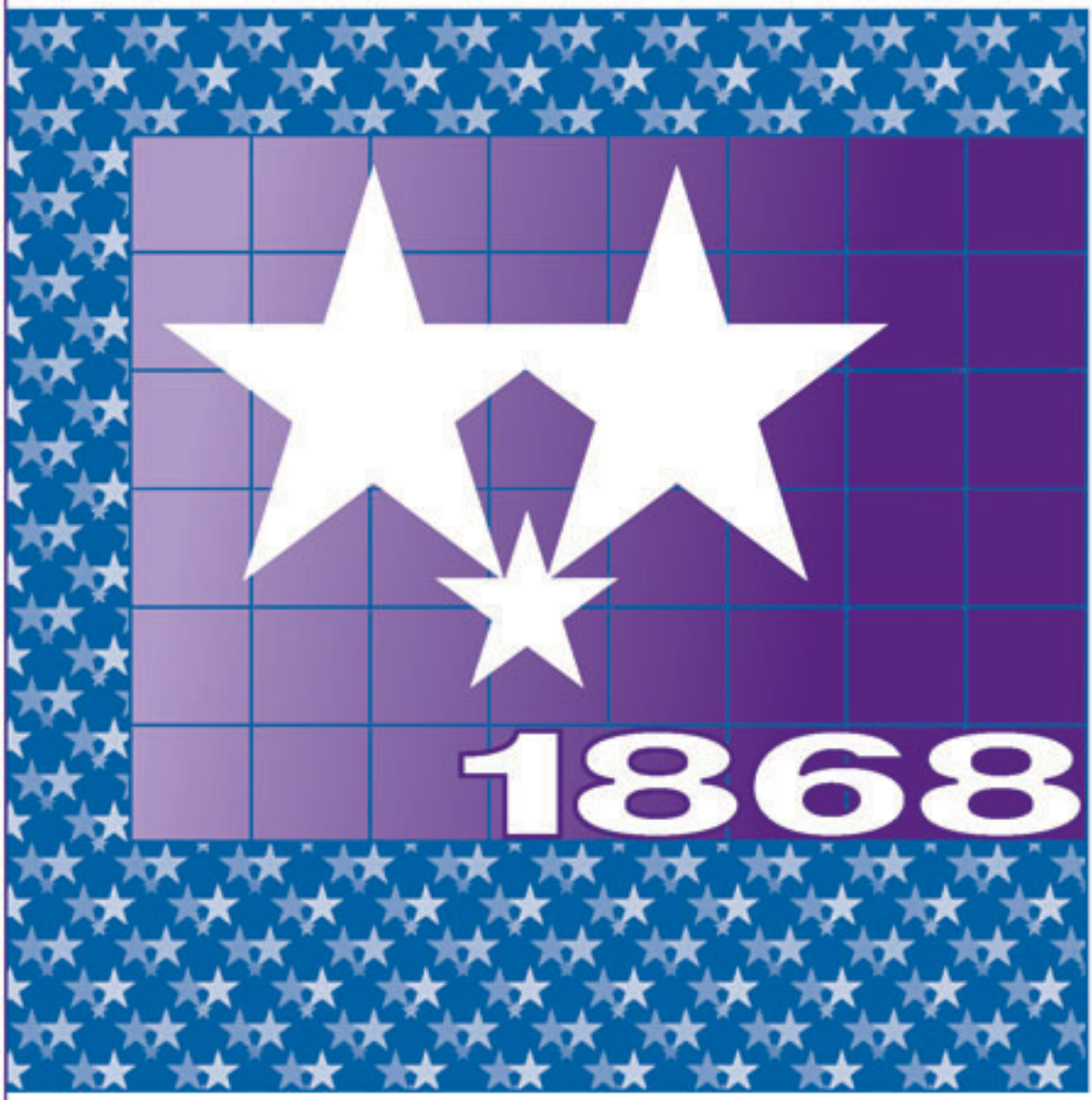
THE TRIAL OF PRESIDENT ANDREW JOHNSON



A Re-creation of President Andrew Johnson's Impeachment Trial in 1868 for High Crimes and Misdemeanors

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THE TRIAL OF PRESIDENT ANDREW JOHNSON

A re-creation of President Andrew Johnson's impeachment trial in 1868 for high crimes and misdemeanors

BILL LACEY, author of THE TRIAL OF PRESIDENT ANDREW JOHNSON, has written for **Interact** since 1974. He has authored/edited more than 25 simulations, re-creations, and similar role-playing works. Among the items he has written, he is most proud of GREEKS, SKINS, and CHRISTENDOM. Bill uses many of his creations in his history classes at Fountain Valley High School, Fountain Valley, California.

Interact
10200 Jefferson Boulevard
P.O. Box 802
Culver City, CA 90232
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v1.0

PURPOSE - 1

> *... this re-creation, by showing a president of the United States being tried for high crimes and misdemeanors in the Senate, will shed considerable light on the personalities and the issues of this divisive and critical period in our history ...*

It seems incredible that any elected official would dare call the president of the United States "ungrateful, despicable, besotted (and) traitorous," yet in the months of early 1868, these words—and others even worse—were leveled at President Andrew Johnson. He was the target for so much abuse, it appeared that he had no friends at all. In fact, his enemies in Congress would soon impeach and try to remove him from office.

What events could have caused such vile and hateful words to appear in the newspapers and to be spoken in private conversations of that time? This re-creation's objective is not to examine in great detail the reasons for Reconstruction policy differences between the executive and legislative branches during the late 1860s. But this re-creation, by showing a president of the United States being tried for high crimes and misdemeanors in the Senate, will shed considerable light on the personalities and the issues of this divisive and critical period in our history.

The American presidency has been served by the great, the near great, the mediocre, and the incompetent. Andrew Johnson remains the only president to date who has been impeached and tried by the United States Senate. Only one other came close; Richard Nixon avoided this ultimate constitutional weapon by resigning in 1974 after a House committee recommended his impeachment for his alleged involvement in covering up the infamous Watergate scandal.

By participating in this re-creation your students will specifically experience the following:

Knowledge

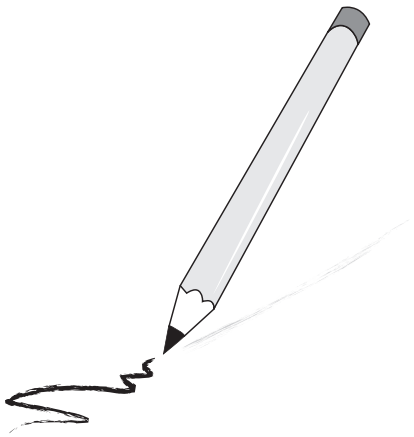
1. The major issues of the post-Civil War era
2. How the delicate balance of power in our government works and how it was tipped in favor of the legislative branch for a few years during the Reconstruction Era
3. How a trial of an impeached official is carried out following the procedure established in Article I, Section 3, Clauses 6 and 7, and Article II, Section 4 of our Constitution
4. The procedure of a "court" trial
5. The words "impeachment," "high crimes and misdemeanors," and "treason" as they apply to Andrew Johnson in this trial

Skills

1. Taking notes during a trial and using them to decide President Johnson's guilt or innocence
2. Utilizing oral skills to sway several people toward one side or the other
3. Writing questions and summation statements for speeches to be used, if members of the prosecution or defense teams

Feelings

1. Empathizing with a person who plays a vital role in a court trial
2. Developing a feeling of the guilt or innocence of the defendant, President Andrew Johnson
3. Sensing what it was like to have the congressional power to remove a president from office



Consider helping your students take notes in various ways during this trial:

1. *On 3" x 5" cards attorneys can reduce their questions—ones they ask witnesses—to sentence fragments.*
2. *Witnesses can annotate their background information by reducing key information to one 3" x 5" card—back to back.*
3. *Senators will have to take brief notes during the trial in order to judge President Johnson's guilt or innocence.*

HISTORICAL ACCURACY

How accurate is this re-creation?

You should note that while this re-creation has been carefully researched, some liberties have been taken to maintain continuity and student interest. Noteworthy points of history and their modification, if any, are given below.

1. Some of the witnesses and attorneys (managers) are composites (e.g., a witness is sometimes a combination of several people who gave testimony at the real trial).
2. The questions the managers ask are designed to capture the same line of questioning the managers used at the trial, but, of course, are not the exact questions asked.
3. The opening and closing statements are composites of actual speeches and strong opinions held by both sides during and after the trial. Much of the trial was spent listening to decidedly turgid and pompous harangues by both teams of managers. This was the style of the day, and then, as perhaps now, beautiful and persuasive oratory brought favorable verdicts. These speeches have been "up-dated" to be shorter and clearer.
4. President Andrew Johnson never appeared before the Senate, much as he wanted to and much as his bitter rival, Thaddeus Stevens, wanted him to do so. Johnson was counseled by a small but farsighted group of friends that his hot temper and argumentative disposition would aid in the prosecution's case and dignify the radical Republicans' cause against the president. Therefore, Johnson, as in history, is a non-participant in this re-creation.
5. A real attempt has been made to keep the Senate trial procedure as accurate as possible. The student who plays the chief justice acts as the presiding judge; he/she should follow the Trial Sequence on pages 5-6 in the Student Guide. Since a president's trial had never happened before, Chief Justice Salmon Chase set his own procedure, which, many persons believed favored Johnson.
6. A Western Union telegraph operator and newspaper man did appear in the trial, but fictional names are used in this re-creation.
7. The trial lasted from March 5 to May 26 with many recesses and breaks. (Obviously, you must stress to your students that the real trial lasted more than one to two hours.)
8. Johnson was acquitted, as you know, by a close vote, 35-19, only one vote short of the two-thirds needed for removal. Your class can alter history if the testimony and persuasive speeches dictate it.

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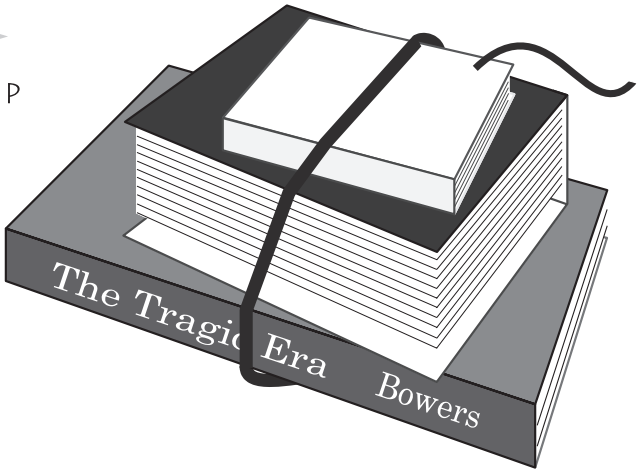
TEACHING TIP

Help students think of your class as something special ...

Have your friendly school librarian set up a special library shelf that says ...

ANDREW JOHNSON RE-CREATION RESERVE SHELF



Note: *You will not need to duplicate the bulleted items the first time you use this re-creation, for Interact has given you different colored handouts for those students playing roles. If you choose to use the SENATOR'S CONFIDENTIAL FORM and the HISTORICAL AFTERMATH—optional activities—you will have to duplicate them. All other necessary items are in the Student Guide.*

Before the trial

1. See note at left the first time you use this re-creation. For subsequent classes—or if you are using this trial with more than one class—duplicate the number in parentheses, using the masters in this Teacher Guide.

   Prosecution
   - LEGAL PLAN FOR THE PROSECUTION (three: one for each representative: Butler, Stevens, and Bingham—six pages, back to back)
   - PROSECUTION WITNESS: General William H. Emory (four: one for Emory, three for prosecutors—one page)
   - PROSECUTION WITNESS: Zachariah T. Pitts (four: one for Pitts, three for prosecutors—one page)
   - PROSECUTION WITNESS: Leonard Vorst (four: one for Vorst, three for prosecutors—one page)

   Defense
   - LEGAL PLAN FOR THE DEFENSE (three: one each for Stanberg, Evarts, and Curtis—six pages, back to back)
   - DEFENSE WITNESS: General Lorenzo Thomas (four: one for Thomas, three for defense attorneys—two pages, back to back)
   - DEFENSE WITNESS: General William Tecumseh Sherman (four: one for Sherman, three for defense attorneys—one page)
   - DEFENSE WITNESS: Secretary of Navy Gideon Welles (four: one for Welles, three for defense attorneys—one page)

   Other
   - CHIEF JUSTICE SALMON P. CHASE (one: one page)
   - SERGEANT-AT-ARMS (one: one page)

   Optional
   * SENATOR'S CONFIDENTIAL FORM (class set, two pages, back to back)
   * HISTORICAL AFTERMATH (class set, two pages, back to back)

TEACHING TIP

The overview might be a textbook assignment, lecture, slide show, or short film. Of course, you might wish to vary the TEACHING SUGGESTIONS sequence beginning on the next page and have students read the Background Essay before this overview.

2. Build up enthusiasm days before the classroom trial by teasing your students with chalkboard quotes. ***Examples:*** ***"****Impeachment is done! Removal is nigh." "The president is a drunkard!" "The South should be punished." "The Devil himself eats and sleeps in the White House." "Ben Wade for president." "Conviction—we don't need a trial!"*
3. About two days before the trial begins, give an overview of the historical setting, issues, and trial that students will re-create.
4. Decide who will play Chase, the sergeant-at-arms, the prosecution, the defense, and the witnesses; or have students volunteer for the roles. (The author recommends that you dictate who plays each role so that the trial is carried out on the highest level of decorum, seriousness, and responsibility.) Pass out role-playing sheets to these students several days in advance since they have quite a bit to digest prior to the trial beginning.
5. Tell the remaining students that they will be senators convened as a court to try President Andrew Johnson for "high crimes and misdemeanors" while in office. As senators, they alone will decide if there is enough evidence to convict and remove President Johnson from office.

TEACHING TIP

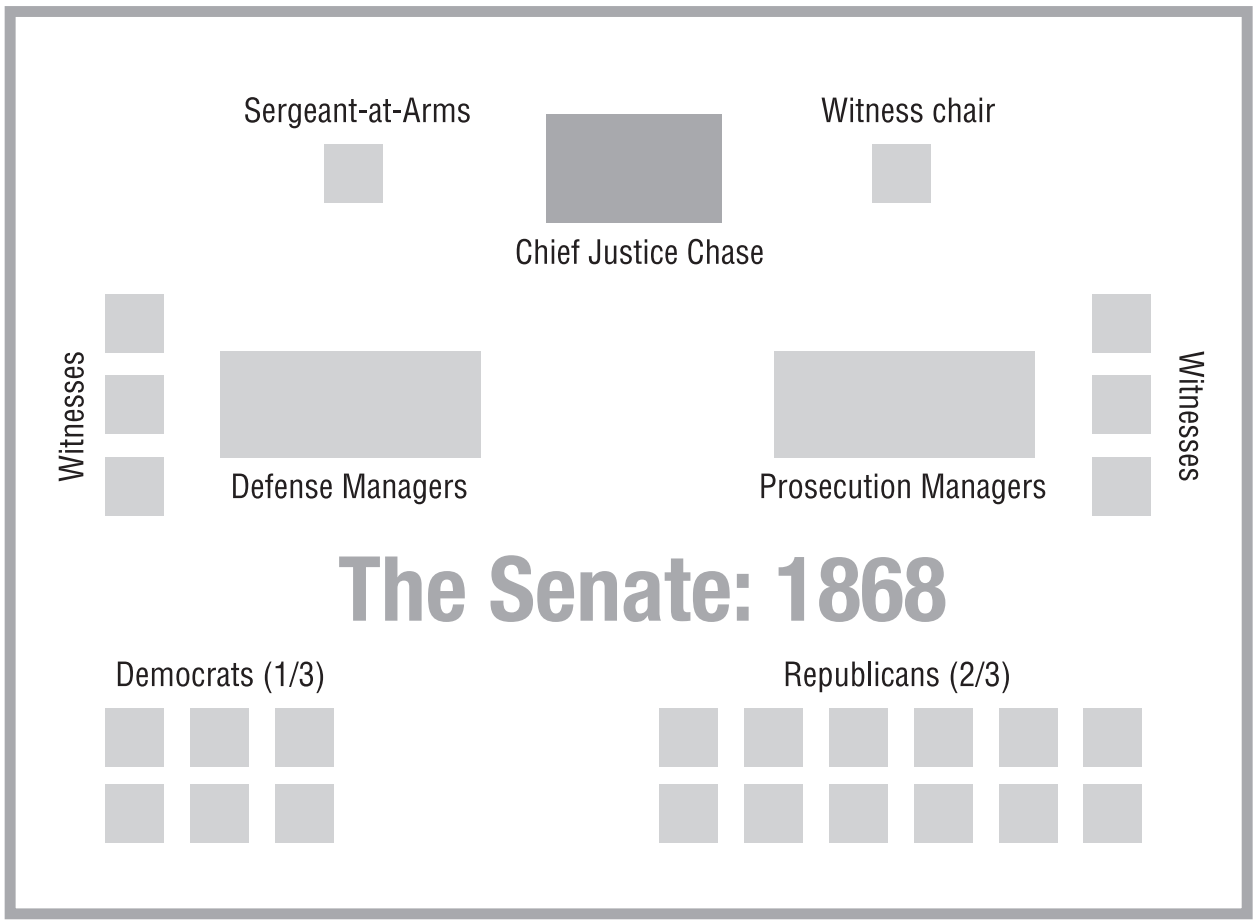
Encourage students whom you have selected to be the chief justice and other roles where they sit behind desks to make name tags for themselves such as the one above.

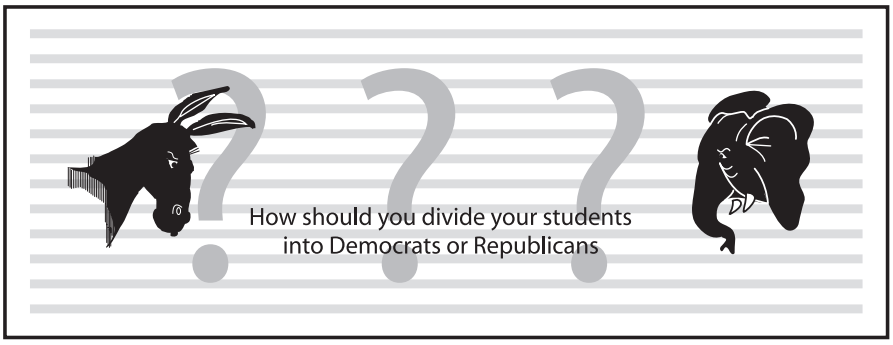
Day 1: Trial preparation

1. Hand out the Student Guides and have class members read the Overview, Purpose, and Brief Summary of Major Roles.
2. Announce who will role-play the major roles and that everyone else will be senators. If you have decided to use it, pass out the SENATOR'S CONFIDENTIAL FORM to the senators. The other role players already have their instructions (see Setup Directions on page 6).
3. Have the senators read the Background Essay while allowing the prosecution managers and defense managers time to talk with their respective witnesses about their testimony tomorrow. (You may wish to add a text assignment such as outlining the Background Essay.)

Days 2–3: The trial

1. Arrange your room before class to re-create the Senate. Here is a possible room arrangement:





2. There are four possible ways to divide your senators into Democrats and Republicans:
   a. The least controversial and dullest way is to randomly assign about 50 percent to be Radical Republicans, 25 percent to be open-minded, and 25 percent to be supporters of the president.
   b. Another way is to assign students whose last names begin with A to M to be Radical Republicans, who want Johnson removed regardless of the evidence or persuasive oratory; students, N to Q, are "fence-straddlers," who are open-minded but leaning slightly toward considering the president being guilty; students, R to Z, are "friends" of Andrew Johnson, or at least supporters of his cause and the future of the presidency.
   c. A third way is to make all students with brown and black hair Radical Republicans, who are for conviction; those with light brown and red hair are Republicans, who are slightly suspicious of the president; and blondes are Democrats, who support the president.
   d. Finally, you can make brown-eyed students senators who want conviction; blue-eyed students Republicans who want moderation; and hazel- and black-eyed students Democrats who believe in the president's innocence.
3. Have students take out their Student Guides and turn to the Trial Sequence on page 5. Start with #1 and have the senators seat themselves; then continue with #2, etc.
4. **Special note:** Thaddeus Stevens (#3), one of the key movers of the impeachment proceedings, was a dying man (he died in August 1868, three months after the trial). The student playing the ashen-faced Stevens has to be carried in by two strong male senators; they carry him in on a chair and place him near the prosecution manager's table in front of the Republican section.
5. Chase is in charge of the trial, following the Trial Sequence.

6. Remind students that the Articles of Impeachment are on page 7 in their Student Guides and that they should read them silently as the sergeant-at-arms reads them aloud.
7. Before the prosecution begins its opening statement, remind the senators about filling out the SENATOR'S CONFIDENTIAL FORM.
8. The trial will likely take two class periods to complete; hence, have Chase declare a recess whenever appropriate.
9. After the trial is over, tell students to finish and/or polish their written responsibilities, either now or as homework. Also, tell them to read the Debriefing on page 8 in their Student Guides. (You may also want them to write out answers to the Debriefing Questions as preparation for tomorrow's group discussion.)

Day 4: Debriefing

1. If you have duplicated it, give each student a copy of the HISTORICAL AFTERMATH handout. If not, read aloud to the class.
2. Have students read and follow the Debriefing instructions on page 8 of their Student Guides.
3. Assign students to small discussion groups by having them number off 1 to 5. Then have all 1s sit in a circle, all 2s, and so on.
4. Appoint one student in each group as chairperson and one student as recorder.
5. The chairperson should then lead the group through the questions. The recorder should take notes on the main agreements and disagreements.
6. Finally, after 25–30 minutes of discussion, have all groups sit in one large circle. Sit in this circle, yourself, and chair the discussion with the entire group. Ask each recorder to give one major agreement and one major disagreement. Allow additional comments if time permits.
7. Following this circle discussion, you may wish to assign an essay based on the re-creation. (If so, **Interact's** STEPS writing program can be of major service. See our catalog or call our toll-free number 1 (800) 421-4246 for information.)

Over the past two decades Interact authors have found cooperative learning to be a tremendous stimulus to helping students learn subject matter while developing a sense of classroom community.

LEGAL PLAN FOR THE PROSECUTION - 1

(For Benjamin Butler, Thaddeus Stevens, and John Bingham)

All three of you are appalled by President Johnson's incompetent actions.

You three men were chosen from the House of Representatives by the Senate to prosecute Andrew Johnson, president of the United States, for violating the duties and responsibilities of his office. According to the Constitution, Article II, Section 4, Johnson is guilty of "high crimes and misdemeanors." He has threatened the balance of power in the federal government by his several acts:

- removing a cabinet member without the approval of the Senate, which confirmed the appointment originally (violation of the Tenure of Office Act);
- casting personal threats against certain members of Congress in public speeches, which is to say, he has behaved and acted beneath the station of his office, which he assumed not on his own, but upon the death of Abraham Lincoln;
- preparing to establish a dictatorship in America by asking the military commander of the capital to strengthen his troops at the time he sought to physically remove Secretary of War Edwin Stanton from his office;
- appearing drunk at the second inauguration of President Lincoln on March 4, 1865, and making a fool of himself trying to deliver a speech while under the influence of alcohol;
- was guilty of treasonable acts (Article III, Section 3, Clause 1) by "giving ... aid and comfort" to the enemy of the Union when he pardoned several of the Confederate leaders before they were forced to accept the conditions of reconstruction set forth by congressionally imposed policies of readmitting the South into the Union.

All of you hate the president with a passion. You, Thaddeus Stevens, have said, "If you don't kill the beast, it will kill you." As the prosecution managers, you know you have plenty of Senate support for conviction. There are 15 to 20 senators, either Democrats or shaky Republicans, who worry about a Congress-dominated government if Johnson is indeed convicted and removed from the presidency. You are aware, too, that since there is no vice president, the successor to the nation's highest office is a friend, the president pro-tempore of the Senate, Ben Wade, who, as Washington gossips tell it, has already put together his cabinet since he is so positive that you three will win a conviction.

LEGAL PLAN FOR THE PROSECUTION - 2

Opening statement

Speak forcefully with a moral indignation that you hope will influence the senators. You should not read the following outline verbatim, but you should cover all these points.

Consider putting such opening statement arguments and questions on 3" x 5" (or 4" x 6") note cards. You don't have to write down your information verbatim. Instead, practice giving such statements or asking such questions from sentence fragment notes you have placed on such cards.

- This case is not being argued in order to test the Tenure of Office Act's constitutionality. It is being argued to prove that the president violated this act.
- Johnson used several derogatory names in his speeches. When he was referring to Congress, he said words such as "Judas," "traitor," "hireling," "traducers," and "gang." Such behavior besmirches the dignity of the presidential office. Johnson should be removed!
- The powers Johnson possessed as commander-in-chief do not give him the right to bolster troop strength to forcibly oust a cabinet member from office. Johnson is a would-be dictator preparing to reduce the powers of other officials and increase his own. Edwin M. Stanton has done nothing to merit dismissal. He showed, under both presidents Lincoln and Johnson, that he is a hard-working, effective secretary of war.
- Andrew Johnson is a man who does not measure up to the office he now holds. His behavior is that of a semi-savage backwoodsman. He is rough and inflexible. He has gone out of his way to declare war on Congress with his incredible record of vetoes! What if Washington, Jefferson, Madison, or Monroe were of the same nature as this "beast," this "offspring of assassination"? The country would be in ruins if earlier leaders had been Andrew Johnsons.

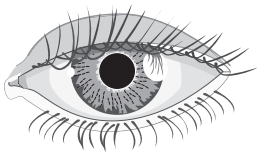
Examination of your witnesses

You have three witnesses. Ask them the following questions plus any others that you think might help your case.

General William H. Emory

1. General, what is your responsibility in the army?
2. Did you ever meet with President Johnson?
3. What was the first meeting about?
4. What was the second meeting about?
5. What was the president's behavior like? Describe what his disposition was.
6. Did the president ever communicate to you a desire to see an increase in the strength of the military force in Washington?
7. Do you believe President Johnson, as the commander-in-chief of the army and navy, has the right to issue orders to you, a general?

LEGAL PLAN FOR THE PROSECUTION - 3



Establish eye contact as you question witnesses.

Zachariah T. Pitts

1. Mr. Pitts, how long have you worked for Western Union?
2. Do you consider yourself an honest man with fair intelligence?
3. Do you think you possess a good enough memory to recall a particular event surrounding the speech President Johnson made in September 1866, more than one and a half years ago?
4. In the president's speech, as reported to you for transmission over your wire service, who in Congress was singled out?
5. Is this particular reporter in the Senate at this time? Please point him out.
6. What words or labels did you read in the reporter's copy which appeared in the written version of the speech?
7. Mr. Pitts, do you think a president, held up as a model for public service, should use such words to criticize other nationally known federal officers?
8. Finally, Mr. Pitts, do you yourself have any ill feelings toward President Johnson which might prejudice you in this testimony you have just given?

Leonard Vorst

1. Mr. Vorst, how long have you been covering political events in this country?
2. Do you consider yourself an honest and accurate reporter of the news?
3. Were you present at the so-called Cleveland speech delivered in September 1866 by the president?
4. Did the president mention in his attack on the Congress any specific names? To whom did he refer?
5. Did the president label these men specifically?
6. Are you sure that there was a direct connection between one man's name and a libelous label?
7. For example, if I said, "Mr. Davis is a coward," is that similar to what the president said about a particular member of Congress?
8. Do you, Mr. Vorst, recognize the Western Union telegraph operator who says he transmitted your report over his wire service?
9. Would you say that if Mr. Pitts transmitted directly off your notes, the facts and quotations are as accurate as humanly possible?
10. Sir, how far away from the president were you standing as he delivered his speech?

Cross-examination of defense witnesses

After the defense managers have examined the defense witnesses, ask these witnesses these questions and any others that you believe are relevant.

General Lorenzo Thomas

1. General, on what recent job has the War Department sent you around the country?
2. Do you think your job inspecting cemeteries is an important one?
3. Who gave you the orders to inspect military cemeteries?
4. General, do you plan to retire soon?
5. Is it not true that General Ulysses Grant, as general of the army, has already recommended you for retirement, and that the president's order merely forestalled the inevitable?
6. General, your reputation in Washington is one of an old drunken soldier, isn't it?
7. Were you the president's first choice to replace Edwin M. Stanton as secretary of war? Who was?
8. Did you intend to use force to oust Mr. Stanton from his office?
9. Sir, did you know that the president was violating the Tenure of Office Act and hence his constitutional duty when he sent you to remove Stanton from his office?

General William Tecumseh Sherman

1. General, we, too, are honored by your presence, but frankly sir, we are hard pressed to come up with a good reason for your being here. Do you believe the mere fact that you were offered the secretary of war position before the other two generals makes the president any less guilty of violating the Tenure of Office Act?
2. The defense shrewdly twisted the fact that if you—at an earlier time—had been appointed secretary of war, the Congress would never have tested the president's violation of the Tenure of Office Act. Do you think this whole impeachment matter is just over Johnson's violation of this act? (Allow time for answer.) Let me assure you, general, if the violation had not taken place, the president would still be on trial.

Caution:

Never ask a cross-examination question unless you are quite certain you know how the question will be answered!

Many lawyers have sunk their own ships by getting carried away and asking a question before they carefully anticipated the answer.

Secretary of the Navy Gideon Welles

1. Mr. Chief Justice, we the prosecution managers see no relevance in Mr. Secretary Welles' testimony to the case. The issue of this case remains the same: Did the president violate the Tenure of Office Act by conspiring to illegally try to oust a hard-working and efficient cabinet member from office? Note well that Mr. Stanton is not on trial.
2. We, the prosecution managers, ask the Senate to find Mr. Welles' testimony inadmissible and therefore to strike it from the record. *(Justice Chase will ask for a standing vote of the Senate. If a majority present vote "aye," the testimony will be stricken; if "nay," then you should ask Welles a few questions you have prepared in advance.)*

Closing statement

You will deliver this summation of your case after the defense has made its closing statement. You should not read the following outline verbatim, but you should cover all the points.

Speak slowly and deliberately with all the confidence of a person who knows his case is won.

Look the senators right in the eye as you make your final summation.

- Andrew Johnson has betrayed his countrymen in his desire to perpetuate his power.
  a. He has deliberately broken a law: the Tenure of Office Act.
  b. In doing so, he has heaped scorn upon lawmakers' heads.
  c. He has dismissed a faithful public servant of many years because of a mild disagreement, knowing as he did so, that he was breaking the law.
- President Johnson has an abnormal curiosity about our military forces.
  a. Presidents usually leave logistics and statistics to their army and navy chiefs of staff. Why is Johnson so curious about such matters? Is it because he wants to become a dictator?
- There is overwhelming evidence that the president slandered several fine men in the Congress, some of whom are members of this very body.
  a. Mr. Pitts and Mr. Vorst, both experts in their fields, have testified with expertise and clarity, and their testimony stands, even though the defense has tried, pitifully, to discredit it.
- The testimony of General Sherman is irrelevant.
  a. We respect him as a war hero.
  b. But his only point was that he was asked to be secretary of war and he refused—before Johnson finally settled on that buffoon General Thomas.

LEGAL PLAN FOR THE PROSECUTION - 6

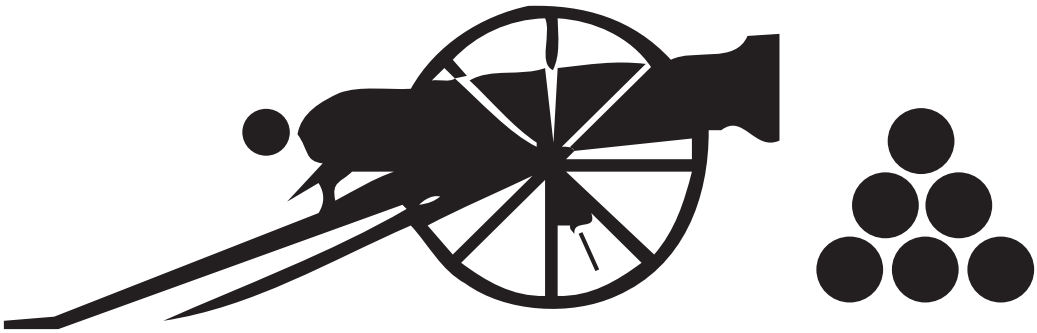
- The president is incompetent.
  a. He not only tried to carry out an illegal act in removing Secretary Stanton; he also picked a third-rate man to do it, General "look-the-deal-over-and-have-a-drink" Thomas.
- The testimony of Secretary Welles is irrelevant.
  a. He admits he dislikes Mr. Stanton.
  b. And, even if Mr. Stanton did help with the veto message—as an act of loyalty to the man who was to try to kick him out, I might add—it does not bear on Johnson's guilt in breaking this law once the veto was overridden.
- In summary, for all these reasons and for all the reasons specified in the Articles of Impeachment, Andrew Johnson should be removed from office. Is he guilty for obstructing justice? *Yes!* Is he guilty of a conspiracy to remove Secretary of War Stanton illegally from office? *Yes!* Is he guilty of maligning and besmirching the reputations of certain congressmen whose only "crime" is disagreeing with the president on government policy? *Yes!* Is he guilty of degrading this high office he accidentally holds with his erratic and drunken behavior? *Yes!* President Johnson is without doubt guilty of high crimes and misdemeanors and should be removed from office—*immediately!*

Pause dramatically before you deliver your final word.

PROSECUTION WITNESS: Gen. William H. Emory

You are General William H. Emory, commander of military forces in the city of Washington. The prosecution managers have selected you to testify about President Johnson's meetings with you in September 1867 and February 1868. On that first date, the president summoned you to ask you about the numbers and strength of the military force in Washington, D.C. You will tell the Senate that when you told him, Johnson seemed very concerned. He told you that there should be more troops.

The second time President Johnson called you to the White House (on February 22, 1868, the day Secretary of War Edwin Stanton was dismissed), the president was again concerned about the strength of troops. When you told him the low number, the president was disappointed. You remember that he became angry. Johnson asked you why you had not increased the strength of the military forces. You then told him that you could not accept orders to increase the strength of armies from anyone other than General Grant, still general of all Union armies. The president then got furious. He asked you if you didn't recognize that he was commander-in-chief of the country's military forces. Despite your belief that your orders come from General Ulysses Grant only, you gave only a nod and a smile and a noncommittal answer. Then the president dismissed you.



As you were leaving the White House, you had some negative thoughts about an angry president in peacetime "throwing his weight around." Why was he so curious about the size of the military forces around Washington? Was he planning something?

Regardless of these momentary negative feelings, your testimony should be unbiased, for you have no personal ill feelings against President Johnson.

Note: You will meet with the prosecution prior to the trial to go over your testimony, but you should be aware that the defense will also question you. In order to avoid embarrassment on the stand, make certain you carefully study the above information.

PROSECUTION WITNESS: Zachariah T. Pitts

You are a Western Union employee with four years' service in Cleveland, Ohio. You have been called by the prosecution managers to testify on the content of the president's speech in Cleveland in September 1866. This speech was sent out over your wire service to newspapers all over the country soon after it was delivered. Although your testimony should be brief, the prosecution hopes the information you will give will damage the president's case since you were the one who sent news of the president's speech in Cleveland to all parts of the country. (A newspaper reporter gave you what he had written down and you promptly sent it.)

As you recall the reporter's summary (you don't remember his name), Johnson's speech did specify the names of certain congressmen such as Thaddeus Stevens, Wendell Phillips, and Charles Sumner. You also recall the reporter using words like "gang," "traitor" (several times), "hirelings," and "Judas." Yet, as you recall, no man's name was directly attached to one of the emotionally charged labels. You remember the reporter's news copy as being sloppy and hard to read. Much of it had no quote marks around most passages.

You will likely be asked whether reporters sometimes change sentences to fit their own particular writing styles and whether reporters sometimes change a few words to exaggerate or add emotionalism. Tell the Senate that, in your opinion, members of the press frequently do make these changes; but, in this particular case, you don't recall.

You have no personal feelings one way or the other about President Johnson. You are called to testify as a witness, and as a citizen you feel it was your duty to do so as honestly and clearly as you can.

Note: You will meet with the prosecution prior to the trial to go over your testimony, but you should be aware that the defense will also question you. In order to avoid embarrassment on the stand, make certain you carefully study the above information.

Decide how the person you are role-playing would dress and act when coming to testify before the Senate of the United States in Washington, D.C. Then try your best to create such a costume and personality so that your testimony will sound convincing.

PROSECUTION WITNESS: Leonard Vorst

You are Leonard B. Vorst, a veteran newspaper correspondent/journalist with the *St. Louis Tribune.* For 20 years you have covered elections and political events around the country. You are now called to testify on words you gave to a Western Union telegraph operator. The words came directly from a speech President Andrew Johnson gave in September 1866.

You have heard that the Western Union telegraph operator who says he transmitted your notes over his wire service will testify. He will likely identify you as that reporter, but your many travels all over the country have blurred your recollection. You don't believe you'll be able to identify the operator in Cleveland who sent out your story. In fact, you hate the idea of being identified as "that reporter" in this case.

When you are asked questions about your reporting accuracy, show that you regard such questions as personally insulting. Bring out your 20 years of solid and competent news reporting. If the operator wired out what was on your notes, then that information was accurate—*period.* You don't remember recopying your notes, but you almost always do (a habit from your early reporting days).

To increase your credibility, think about how this person would dress and act. Then try your best to create such a costume, body language, and speaking style.

The prosecution wants to make you credible so that they can prove the president did indeed slander and then libel several congressmen in a public speech in September 1866.

Be firm in your conviction that you heard President Johnson mention Wendell Phillips, Charles Sumner, and Thaddeus Stevens and call them "Judas," "traitors," "hirelings," and part of a "gang." Since your vantage point was only 100 feet or so away from Johnson and since you have good hearing, you are convinced you took accurate notes on that day.

When the defense managers ask you about whether you ever change certain words and sentence structure within speeches, you should tell the Senate that all reporters do this. In fact, you should respond that competent reporters quite often change words to be more colorful or emotional. But the usual reason for such changes is that most reporters can only write so fast and what they miss from a speech has to be filled in to complete any major news story. When the defense asks you about your changing words, answer back, "Sir, I'm very good at what I do. If I have altered certain words or sentences, I am not aware that the final printed version is meaningfully different."

Note: You will meet with the prosecution prior to the trial to go over your testimony, but you should be aware that the defense will also question you. In order to avoid embarrassment on the stand, make certain you carefully study the above information.

LEGAL PLAN FOR THE DEFENSE - 1

(For Henry Stanberg, William Evarts, and Benjamin Curtis)

You have been chosen by the president to represent him before the Senate of the United States. You are very aware this is the first time in the 92-year history of the United States that a president has been impeached. After studying all the details related to the trial, you are thoroughly convinced that President Johnson may be crude and intemperate, but he is not guilty of any crime justifying impeachment. In fact, you sincerely believe the Radical Republicans are trying to railroad him out of office.

Speak with deadly fervor, for you are appalled by this attempt to unjustly remove the president of the United States from his office ... What a dangerous precedent such an action would establish!

Consider putting such opening statement arguments on 3" x 5" (or 4" x 6") note cards ... You don't have to write down your information verbatim. Instead, practice giving such statements from sentence fragment notes you have placed on such small note cards.

Opening statement

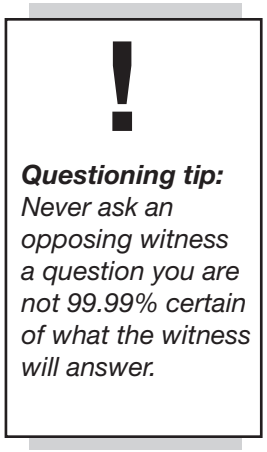
Speak forcefully with a moral indignation that you hope will influence the senators. You should not read the following outline verbatim, but you should cover all the points.

- The charges are political, not criminal, and have been made up by power-hungry, spineless politicians who would have Congress make a mockery of the office of president.
  a. It is not a crime to be outspoken and to disagree with the majority of Congress.
  b. Free speech is a right given the president as well as other men.
- As commander-in-chief of the army and navy, the president has a right to know of their strength.
- The president has the constitutional authority to appoint his own cabinet members; surely he has the same authority to replace them.
  a. The cabinet was designed to aid the president, and when one member acts to hinder, not help, the president, surely he has the right to remove him.
  b. Any act passed by Congress usurping the president's power in this area is clearly unconstitutional.
- If this impeachment succeeds, based as it is on political, not criminal, grounds, it will destroy the balance of power between the president and Congress. The result will be having a president who is nothing but a figurehead.
- All we ask is that you judge Andrew Johnson fairly in regard to crime—not in regard to his politics!

LEGAL PLAN FOR THE DEFENSE - 2

Cross-examination of prosecution witnesses

After the prosecution managers have examined the prosecution witnesses, ask these witnesses these questions and any others that you believe are relevant.



General William M. Emory

1. General, these meetings you testified about. You describe the president as "angry" and "furious." Is that right?
2. The president is not known as a friendly chap. Could this reaction to your answers about troop strength possibly be normal reactions from a commander-in-chief concerned about protection of his city?
3. General, is there any way the president's actions and concerns could be construed as the actions and concerns of a would-be dictator about to forcibly remove enemies from office?
4. Did you know that Secretary of War Stanton was dismissed from office on the same day you saw the president?
5. Was there any mention of Secretary of War Stanton in your second meeting?
6. General, do you have any personal feelings against the president which might prejudice you in this case?

Zachariah T. Pitts

1. Mr. Pitts, do you honestly believe you can remember the exact words from a reporter's copy from one speech several months ago? Sir, you have an exceptional memory, is that not so?
2. With your superlative memory, sir, do you recall the labels "traitor" or "gang" ever being applied directly—be careful here, you're under oath—to any one individual so as to legally constitute libel?
3. This reporter you mentioned, was his copy that you used to send over your wire service clearly written, with direct quotes and the like?
4. Are most reporters' copy of news events which you have sent usually rewritten and clear?
5. Since you send so much of this type of news, is it your opinion that reporters frequently change sentence structure to fit their particular writing style?
6. And do these reporters often, frequently, or at least many times change certain words to add color or emotional impact to their stories?
7. What is the reporters' intent when they decide to change sentence structure or certain words?
8. Have you ever listened to a speech and then written down what you have heard?

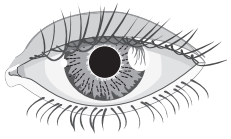
9. Is it not difficult to catch the exact words—to say nothing of the gist of what is being said—when in fact all the reporter has is a notebook and pencil?
10. Shall I demonstrate how hard it is by handing you a tablet and pencil and allowing you to write down what I say?

Leonard Vorst

1. Mr. Vorst, 20 years is a long time to cover speeches, campaigns, and political events in this country. Have you enjoyed your profession?
2. Speaking honestly, after 20 years aren't you a bit bored covering these events month after month?
3. Moreover, don't you find yourself "daydreaming" occasionally and missing a few words here and there?
4. Mr. Vorst, are you positive—remember you're under oath—that when the president supposedly mentioned the names of certain congressmen—and remember no written proof exists that he did—he also labelled them with inflammatory words like "traitor" or "gang"?
5. You said you were 100 feet away. Is this considered close to the speaker? Can you miss certain words if the speaker turns to address an audience on all sides of him?
6. Mr. Vorst, are you in the habit of recopying your notes before handing them to a telegraph operator?
7. In this instance, in September 1866, did you recopy your notes *before* Mr. Pitts transmitted them?
8. Is there some doubt then that Mr. Pitts transmitted exactly what the president said? Or perhaps he sent off what he thought you meant when your notes weren't clear enough to read?

Examination of your witnesses

You have three witnesses. Ask them the questions below plus any others that you think might help your case.



Look your witnesses right in the eye. Be friendly. Try your best to set them at ease.

General Lorenzo Thomas

1. General Thomas, tell us about your meeting with the president on February 21.
2. I understand that he gave you two orders on that morning. What were the contents of those written orders? *(You may tell the witness to use notes if he has the information copied down.)*
3. And did you deliver the order written to Secretary of War Stanton?
4. What was Stanton's reaction?
5. Do you remember any of that conversation with the secretary in that morning meeting?

6. Did Stanton appear willing to obey that order and leave the office to you as his successor?
7. After this initial meeting with Stanton, did you go back to the White House and tell the president anything?
8. Was there a second meeting with Secretary of War Stanton? If there was such a meeting, tell us about it.
9. Do you hold any grudges or dislike for Edwin M. Stanton?
10. Why did you decide to accept the president's offer to be secretary of war on a temporary basis?

Your next witness is a genuine war hero. Lay patriotism on thick when you introduce this distinguished general. Show him how much you respect him in hopes that your respect for him will influence the senators' respect for his testimony. All the senators know of General Sherman's great contributions to the Union victory in the recent Civil War.

General William Tecumseh Sherman

1. General, let me say what an honor it is to have such a distinguished person—a hero—in our midst. It is our pleasure, sir, although the prosecution managers seem a bit stunned by a man of your magnitude appearing as a defense witness.
2. General, you are a loyal and honest soldier in the army, is that right?
3. You've always tried to carry out your duties in a most efficient and proper way?
4. For those senators who may not know, what were some of your military feats in the recent Civil War?
5. Did your feats help shorten the Civil War by making many Southerners fearful of continuing the fight?
6. Sir, did the president, just months ago, offer you the position of secretary of war before he offered this position to General George H. Thomas and General Lorenzo Thomas?
7. Obviously you didn't accept. Why, general?
8. The prosecution managers are just slightly flabbergasted by your presence here today to help defend the president. Sir, why did you decide to take the stand in this case?
9. General, is it possible, if a man of your fame, your popularity, your stature, had been appointed secretary of war months ago by President Johnson, that this ridiculous trial, because of the honor you would have brought to that office, might never have happened?
10. Sir, do you think that this mere fact that you could have been secretary of war might give these senators here some hard thoughts about trying a president for violating the Tenure of Office Act if you were in that position?

LEGAL PLAN FOR THE DEFENSE - 5

Here is another distinguished American who is testifying for your side.

Don't let the senators overlook your witnesses' integrity—and contribution to America!

Secretary of the Navy Gideon Welles

1. Mr. Secretary Welles, to refresh the memories of the senators here today, what has been your official government job? How long have you held this position?
2. How did you achieve the fame and respect you now enjoy?
3. Mr. Secretary, how would you rate your memory and your ability to judge human character?
4. What is your personal opinion of Secretary of War Edwin M. Stanton? Did you ever recommend to the president that Stanton be removed? Please explain.
5. Sir, we would like to focus on a few important cabinet meetings. Just after Congress passed the Tenure of Office Act and waited for your signature in March 1867—last year—the president in a cabinet meeting asked those present for advice about the act. What was the response of his cabinet about the constitutionality of the Tenure of Office Act?
6. Did they feel the president should veto it?
7. Since the president was not a lawyer and was also extremely busy, what did he request of a few cabinet members?
8. To help write the veto message of the Tenure of Office Act, what two men were solicited?
9. Repeat, please, Mr. Secretary. The two men chosen to write the veto message to the Tenure of Office Act were Secretary of State Seward and who?
10. Is that correct then? Had Secretary of War Stanton himself helped write the message by which President Johnson vetoed the act which Congress had passed to keep Stanton in office?
11. Did Congress then override the veto with at least a two-thirds vote?

LEGAL PLAN FOR THE DEFENSE - 6

Speak slowly and deliberately with all the confidence of a person who knows his case is won.

Look the senators right in the eye as you make you final summation.

Closing statement

You will deliver this summation of your case after all your witnesses have been examined and cross-examined. You should not read the following outline verbatim, but you should cover all these points.

- The removal of Secretary of War Stanton is justified.
  a. The president has the right to remove any cabinet member who disrupts the harmony of his administration.
  b. Stanton's behavior has been sullen and uncooperative. He has been a "wart on Johnson's skin."
  c. However, Stanton has not actually been removed; he has only been suspended.
  d. General Thomas was appointed only as a temporary replacement.
  e. The Tenure of Office Act, therefore, was not violated.
- The president is commander-in-chief. Consequently, he has the right to know all the facts concerning the military. Such knowledge only makes him a better president, not a dictator.
- The president's speeches in various cities were given as "campaign speeches."
  a. He has the right to give private citizens his personal opinions about members of Congress.
  b. Besides, his speeches were not accurately reported, as the witnesses Vorst and Pitts testified.
- The person who should be impeached is not President Johnson, but Secretary of War Edwin M. Stanton.
  a. He, along with Secretary of State Seward, actually helped write the president's veto against the Tenure of Office Act.
  b. He has barricaded himself in the secretary of war's office and refused to give it up, in open defiance of the president.
- In summary, when this infamous trial is over and years have passed, may each of you be able to exclaim, "Here I faithfully discharged the highest duty on earth. Here I nobly discarded all passion, prejudice, and feeling. Here I did my whole duty, regardless of consequences. And here I find my own name inscribed in letters of gold, flashing and shining, upon the immortal rolls where the names of all just men and true patriots are recorded."

"Gentlemen, Andrew Johnson is not guilty of the charges before you."

DEFENSE WITNESS: General Lorenzo Thomas - 1

You are Adjutant General Lorenzo Thomas, the first defense witness. Tall, thin, a bit vain and foolish, you are a 62-year-old military man whose golden warrior years are over. In fact, General Ulysses Grant had recently recommended you for retirement before your appointment as secretary of war ad interim. During the last days of your career Secretary of War Edwin M. Stanton ordered you to inspect military cemeteries. In short, your military career was ending with you being a messenger boy.

You were not the president's first choice to replace ad interim the vacancy left by the dismissal of Secretary of War Stanton, but since General George H. Thomas, a military hero of the recent Civil War, had refused, you accepted the post without hesitation as a chance to serve your president. (You also accepted it to "stay off the bottle," a habit which has made you the object of derision in Washington gossip circles.)

Considered harmless and rather dull, you will be able to withstand the blistering attacks the prosecution managers will launch at you. They will say you were the president's co-conspirator, working to force Secretary of War Stanton to vacate his office in the War Department Building. "Co-conspirator" is a term that baffles you a bit, since all you did was accept a temporary position in the president's cabinet.

Do not bring in this background sheet when you role-play. Instead, have studied it well enough that you can answer most questions without referring to what is written here—with this exception ... Any letters or written orders you received you should have copied on official looking paper so that you can read them dramatically when appropriate.

Your testimony should focus on your involvement in trying to remove Stanton from the Department of War office. On February 21, 1868, at 9 a.m., you were given a written order from the president authorizing you to act as secretary of war ad interim effective immediately. The letter stated: "Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge."

The president gave you a second written order and instructed you to give it to Edwin M. Stanton, secretary of war. The letter read: "Sir, by virtue of the power and authority vested in me as president by the Constitution and laws of the United States, you are hereby removed from office as secretary for the Department of War, and your functions as such will terminate upon receipt of this communication. You will transfer to General Lorenzo Thomas, who has this day been authorized and empowered to act as secretary of war ad interim, all records, books, papers, and other public property now in your custody and charge."

DEFENSE WITNESS: General Lorenzo Thomas - 2

When you arrived at the Department of War office moments later, you said to Stanton, “I am directed by the president to give you this.” After reading the order, Stanton appeared flabbergasted but managed to ask you: “Do you wish me to vacate at once, or am I to be permitted to stay long enough to remove my property?” “At your pleasure,” you replied. To which Stanton retorted: “I don’t know whether I shall obey your order or not.” After a brief meeting you returned to the White House and told the president that there would be no trouble in the switch-over.

That afternoon, you returned to the War Department after hearing that Stanton would resist and disobey the order. In fact, the president had ordered you to “go and take charge.” Reaching Stanton’s office about 1 p.m., you exchanged greetings with the secretary of war, and, in very polite but firm conversation, you and Stanton ordered each other out of the office. Stanton, you remember, said, “I am secretary of war. I order you out of this office and to your own.” Another minute or two of testing each other’s will followed before Stanton, seeing that you would not use violence, offered you a drink of whiskey. You took the small vial, after Stanton had checked to see in the light if both vials were equally full. You drank the liquid. (After all, you had always respected Stanton as a person and you never turned down a free drink of spirits.)

Stanton and you amiably chatted for a while about your past duty of inspecting military cemeteries—a task he had sent you on. Finally, seeing this topic as a ruse to get you to acknowledge him as the secretary of war, you ended the chat and left Stanton in his office. Since that time you have learned that Stanton disobeyed the order to leave and has “barricaded” himself in the War Department, preferring to eat and sleep there in fear of arrest outside the premises. Because Stanton resisted and because the Senate never confirmed your appointment, you never actually served as secretary of war.

Note: You will meet with the defense prior to the trial to go over your testimony, but you should be aware that the prosecution will also question you. In order to avoid embarrassment on the stand, make certain you carefully study the above information.

AT ACTING TIP

Go to some library books which have pictures of generals who fought in the American Civil War, 1861–1865. See if you can create at least some of a military costume patterned after what they actually wore. Then ask yourself: How would this particular general walk and talk?

DEFENSE WITNESS: Gen. William Tecumseh Sherman

Go to some library and find a picture of Sherman. He was a genuine hero during the American Civil War, 1861–1865. Can you create at least some of a military costume such as he wore? And how do you suppose he walked and talked?

Finally, see if you can find his nickname. It should really give you a hint about how you might role-play this famous general.

You are General William Tecumseh Sherman, one of the many Union generals to attain fame in the recent Civil War. In the South, your name causes hated memories of your infamous March to the Sea, an organized movement of Union troops through Georgia from Atlanta to Savannah. Since soldiers under your command burned, pillaged, and raped at will, your name is an angry scar on the heart of Dixie. To you, the march was strictly a military move to cut the South in two, halt resistance where you found it, and destroy arms and ammunition, to say nothing of bringing fear to Southern noncombatants. Northerners agree with you. They regard your feats during the war as heroic. They feel your strategy and tactics helped the war end sooner.

You have been called by the defense managers as a "surprise witness"—surprise in the sense that the prosecution managers are awed that such an important general would appear in these proceedings in support of the president. Your testimony surrounds the several interviews you had with the president related to the Stanton case, for you did have several such meetings with Johnson. Although your testimony is of minor importance to the trial, your mere appearance lends credibility and clout to the president's case.

A few months ago, President Johnson did ask you to become his own secretary of war before either General George Thomas or General Lorenzo Thomas. You declined. You thought deeply about it, but you declined with this comment: "It is not my interest to replace Stanton." You realized that removing Stanton by force would be the very thing the enemies of the president would want. Such an action would make them your enemies, too. But you also turned down the president because you wanted to spend time with your family.

Nearly everyone in the country regards you as an important man, including the awe-struck senators trying President Johnson. The mere fact that the president offered you the position of secretary of war to replace Stanton at an earlier date will definitely give the senators some hard thoughts. They will wonder: *Would the House have dared to pass the Tenure of Office Act if the country had known that its passage would keep its hero Sherman from heading the War Department, especially since he would be replacing a most controversial and often dislikable Stanton? Would the Senate now be trying Andrew Johnson for violating the Tenure Act if Sherman were his secretary of war?* Your inner answer to both of these questions is "I don't think so." Be prepared to act out your beliefs.

Note: You will meet with the defense prior to the trial to go over your testimony, but you should be aware that the prosecution will also question you. In order to avoid embarrassment on the stand, make certain you carefully study the above information.

DEFENSE WITNESS: Secretary of Navy Gideon Welles

Go to some library and find a picture of Welles. Note how he looked and dressed. This is a distinguished American. How should you walk and talk to convey his integrity and his contributions to his country?

You are Gideon Welles, Lincoln's and now Johnson's reliable secretary of the navy. A former Jeffersonian Democrat, you left the Democrats to join the new Republican Party because of the issue of slavery. As a politician, journalist, and friend, you have a remarkable memory for a face, a name, and a personality. You also are known as an uncanny judge of men.

To most Americans, your fame rests on your successful blockade of Southern ports during the recent war. While serving wisely and honorably during the Civil War in Lincoln's cabinet, you became a close observer and critic of the War Department and its secretary, Edwin M. Stanton. You were often amazed by the demands and orders Stanton made without Lincoln's affirmation. When Johnson became president, you very early recommended to him that he oust certain cabinet members. You then specifically counseled the new president on Stanton's duplicity and power. A moderate, you saw the fearful rise of Radical Republicans in Congress who wished to punish the South after the war.

Your testimony should relate to your being at important cabinet meetings in February of this year. At one particular meeting, on February 21, the president dropped a "bombshell" at the end of the meeting: he announced that he had removed Secretary of War Stanton, who conveniently was not in attendance, and had appointed General Lorenzo Thomas as his successor. The president described how he had General Thomas deliver the order to Stanton. He explained that Stanton had agreed to leave the office as soon as he could remove his papers. Most of the cabinet members agreed that Stanton's removal was a good thing.

Months earlier, after Congress had passed the Tenure of Office Act on March 2, 1867, the president discussed this act with the cabinet, asking for and receiving advice. As a member of the president's cabinet, you were in unanimous agreement that the Tenure of Office Act was unconstitutional; the cabinet advised Johnson to veto it.

Since the president was very busy—and he wasn't sure of all the legal ramifications—he asked the cabinet's aid in writing the veto message. Two members of the cabinet, both former eminent lawyers, were selected to help write the veto: Secretary of State William Seward and Secretary of War Edwin M. Stanton. So Stanton had actually helped write the message which had vetoed the act which Congress had passed to keep Stanton in office!

As an observer of human behavior, you find it hard to believe that Stanton has any support at all from Congress at this time. Only those senators who truly hate the president can overlook, in your mind, Stanton's duplicity in this matter.

Note: You will meet with the defense prior to the trial to go over your testimony, but you should be aware that the prosecution will also question you. In order to avoid embarrassment on the stand, make certain you carefully study the above information.

CHIEF JUSTICE SALMON P. CHASE

You have one of the most important roles of the trial, chief justice of the United States. President Abraham Lincoln appointed you in 1864, in spite of his personal dislike for you.

You were born in New Hampshire and trained for a career in law at Dartmouth College. Since adulthood, you have spoken out strongly against slavery and its extension into the new territories. From 1849 to 1855 you were one of Ohio's senators; from 1856 to 1870 you served as that state's governor. With Lincoln's election to the presidency in 1860, you were chosen to be secretary of the treasury. However, you were offered the vacancy on the nation's highest bench in 1864, and you accepted it.

The biggest event in your life awaits you as the Senate prepares to hear the case against impeached President Andrew Johnson. The Constitution specifies in Article I that the chief justice presides over impeachment trials in the Senate. Although most senators feel you are a neutral in the case, some are sure you believe the charges against Johnson to be ridiculous and trumped-up by the vindictive, disagreeable faction of the Senate called the Radical Republicans. During the trial you must be majestic and dignified. If possible, wear a black, silk robe to set off your bald head, bushy eyebrows, and thick lips. You will set the tone for an orderly and fair trial or a confusing, unsuccessful one. Use your gavel often and follow the Trial Sequence on pages 5-6 in the Student Guide. In many instances you will have to make a quick decision on procedure. Whenever either manager team challenges you, remain resolute in your purpose to be scrupulously fair.

Dressing for your part will enhance your performance.

Since this trial is unique in American history, you will make certain procedural decisions that separate it from a typical court case. Some of these changes will be:

1. You swear in all senators with the oath found in the Trial Sequence. Break the oath into phrases as you read it and as the senators respond.
2. When an objection is voiced by either manager team, you will take a vote of the *entire* Senate on its decision to *overrule* or to *sustain* the objection. A majority (one more than half) will carry the "standing" vote. (Have all in favor, stand; then, all opposed, stand. To sustain the objection, a majority of those senators present, not just those voting, must vote "aye.")

SERGEANT-AT-ARMS

You will carry out the duties specified in the Trial Sequence on pages 5–6 of the Student Guide. Notice that you have numerous statements to make as the trial progresses. Study these statements carefully. Practice saying them aloud so that you sound authoritative and official during the trial.

Your responsibility is to help the chief justice whenever he needs help. Therefore, focus your attention upon him throughout the trial. Very possibly your responsibility to keep order during the trial will be an easy responsibility to carry out. Since the trial lasts only two class periods, class interest should be high and discipline problems few. However, be prepared to warn and, if necessary, escort trouble-makers out of the classroom if they disrupt the trial.

Your body language should be that of a person whose attention is totally focused upon the task at hand: ***keeping order****.*

Another important responsibility you have is reading the lengthy Articles of Impeachment. Study these articles thoroughly and practice reading them aloud so that you are familiar with the words. Speak in a dignified and serious voice while reading these articles.

SENATOR'S CONFIDENTIAL FORM - 1

Directions: To help you judge this case, neatly write the most pertinent information in the spaces below.

Senator's name:

	Prosecution	Defense
Opening Statements		
First Prosecution Witness: GERALD EMORY		
Second Prosecution Witness: ZACHARIAH PITTS		
Third Prosecution Witness: LEONARD VORST		

SENATOR'S CONFIDENTIAL FORM - 2

Directions: To help you judge this case, neatly write the most pertinent information in the spaces below.

Senator's name:

	Prosecution	Defense
First Defense Witness: GENERAL THOMAS		
Second Defense Witness: GENERAL SHERMAN		
Third Defense Witness: SECRETARY OF THE NAVY WELLES		
Closing Statements:		

I vote (guilty/not guilty) because ...

Signed:

HISTORICAL AFTERMATH - 1

What happened after the trial?

Looking back on the era of reconstruction, 1865–1877, even with its bitter and impassioned feelings, it is still hard to believe how President Andrew Johnson and the Congress in their battle to control policy relating toward the South could allow this struggle to reach such proportions as to end in a trial to remove Johnson from office. Such a trial, of course, was unique in our history. On May 16 and again on May 26, the Senate, by a vote of 35–19, one short of conviction, acquitted President Johnson of charges specified in the 11 Articles of Impeachment.

Much has been written about the causes and the results of the Johnson trial, but most American students and adults are not overly familiar with the trial. Therefore, the purpose of this re-creation has been to acquaint you with this unique event in our history and with the impeachment process, since it came so very close to being used again in 1974 against President Richard Nixon.

Almost a dangerous precedent

By nearly convicting and removing a president from office in 1868 during a public and political trial—for what most historians consider insubstantial reasons—the Congress came close to setting a dangerous precedent. As Raoul Bugh, an authority of impeachment, has written:

> *The impeachment and trial of Andrew Johnson ... represents a gross abuse of the impeachment process, an attempt to punish the president for differing with and obstructing the policy of Congress. It was the culmination of a sustained effort to make him subservient to Congress, to alter the place of coordinate branches in the constitutional scheme. It undermined the separation of powers and constituted a long stride toward the very "legislative tyranny" feared and fenced in by the Founding Fathers.*

Had the charges against President Johnson succeeded, then no future chief executive would be able to differ from Congress for fear of impeachment and removal from office.

A "profile in courage"

Much has been made of one particular senator, Edmund G. Ross of Kansas, and his decisive vote for acquittal. The late President John F. Kennedy in his Pulitzer Prize-winning study, *Profiles in Courage,* has singled out Ross as a man who described his agony before the final vote as a man who "looked down into my open grave." Yet Ross is only one of the seven Republican senators who voted along with the 12 Democratic senators for acquittal. What Ross and his political associates did took courage, for all seven were never elected to public office again. Senators Fessenden, Fowler, Grimes, Henderson, Ross, Trumbull, and Van Winkle were forced to seek careers in other fields despite the fact of their little-known impact on our constitutional history.

What happened to President Johnson?

What of the president as a result of the trial? His term would run out 10 months later. He continued his policy of obstruction; he vetoed all bills relating to congressional reconstruction. Johnson issued new proclamations of amnesty, one on July 4, 1868, pardoning most of the remaining Confederates, and another on December 25, 1868, encompassing the rest. Yet Johnson's own party did not grant him his party's nomination in 1868 to run for a term on his own in the presidency. It was given to military hero and friend of Radical Republicans, Ulysses Grant, who ironically at one time had turned down the chance to be Johnson's replacement for Stanton as secretary of war. Some House and Senate officers talked of further attempts to impeach and remove Johnson after the final vote in May; however, the movement all but ended when the president's most venomous opponent, Thaddeus Stevens, died in August. One historian commented: "It was as if an immense balloon filled with foul air had burst."

Andrew Johnson left the White House in March 1869 to the new president, Ulysses Grant, whose administration would be mired in scandal and corruption over the next few years. Johnson returned to Tennessee in 1871, ran for the Senate, and lost. In 1872 he ran for his old House seat and lost again. Determined as ever, he was finally elected to the Senate in 1874 so that he returned to the Washington scene in early 1875.

Johnson's second career in the Senate was short-lived. In late July 1875 he suffered a paralytic stroke, and on July 31, at the age of 68, he died. Believing he was a defender of the Constitution all of his political life, he was buried with his head resting on a copy of the Constitution.

The process of impeachment in the following years

The process of impeachment was used several times during this Reconstruction Era, especially against governors and judges who in any era were perhaps deserving of conviction. Not until 1974, however, were Americans reminded of impeachment. At that time, Richard Nixon, fearing this ultimate constitutional weapon, resigned from the presidency. Nixon's resignation turned Americans' eyes back into history so that our nation re-examined the Johnson trial. Our nation recalled once again just how close this country had earlier come to an enormous political mistake. In fact, the farce had ended "one vote short of a national disgrace."

The very law which was contested in the trial, the Tenure of Office Act, was sparingly used after 1868. In 1926, the United States Supreme Court finally struck the act down as unconstitutional, and it disappeared from history.

Have you considered the importance of one vote

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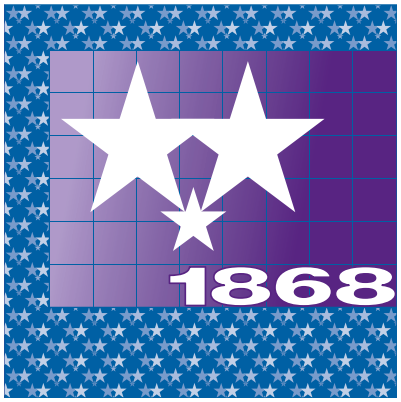


THE TRIAL OF PRESIDENT ANDREW JOHNSON

A re-creation of President Andrew Johnson's impeachment trial in 1868 for high crimes and misdemeanors

Student Guide

OVERVIEW

At 10 a.m. on Friday, April 15, 1865, Vice President Andrew Johnson took the oath of office to become the 17th president of the United States. About two and a half hours earlier, President Abraham Lincoln, destined to become one of the most revered of all Americans, had died after lying in a coma for nine hours. His condition was a result of a pistol head-wound inflicted by the vengeful assassin, John Wilkes Booth.

With Lincoln gone, Americans, still apprehensive about the week-old armistice of the Civil War, read about the new president and wondered if he could fill the position and administer justice to a beaten and almost devastated South.

Johnson, noted for his uncompromising, temperamental, and stubborn disposition, wasted no time in forging ahead with his Lincolnlike moderate program to end the bitter sectional hatred and reunite the Union. His task was one of the most unique challenges in American history.

From the beginning of his presidency, Johnson, a former governor and senator from Tennessee, a southern state, met open hostility and resentment from a group of vindictive northern senators; to them Johnson was not only a morally weak and disgusting office holder but also a powerful force opposing their plan to punish the South as a conquered nation.

The battle between Johnson and these radical Republicans was more than a personal one. Johnson's disregard for the Tenure of Office Act was used merely as a pretext by Congress to try to bring down a president whom they hated. From 1865 to 1868 both factions, the presidency and Congress, were locked in combat for supremacy that challenged the Constitution itself. Eventually, Johnson was impeached and nearly removed from office. The impeachment pro-ceedings and Johnson's trial before 54 senators remains a fascinating and unique event in our history.

PURPOSE

By participating in the trial of Johnson as a student of American history, you can achieve several objectives. First, you will gain knowledge about the important people and issues of the Reconstruction Era. Second, you will see how the trial of an impeached official is carried out, and, in the process, you will witness how delicately balanced the federal government's branches are. Third, you will learn to use the terms "traitor," "impeachment," and "high crimes and misdemeanors" with a new understanding. Fourth, you will develop or sharpen skills in note-taking, speech-making, and decision-making as they apply to the trial. Fifth, playing the role of "manager" (attorney), witness, or senator will give you a sense of what it must have been like to be a participant in a most unique trial—the *one* time in two centuries of our history that an American president was impeached and almost removed from office.

BACKGROUND ESSAY

All across America persons avidly read their local newspapers in anticipation of the upcoming trial.

***New York Chronicle** March 22, 1868*

Johnson's trial in Senate begins tomorrow in Washington! ...
Large crowds pack Senate galleries ... President remains calm

by Samuel Nicholson

President Andrew Johnson, the 17th man to hold that office, will undergo the strongest test of his political life tomorrow when the United States Senate resumes its trial of him after a ten day delay granted to the defense manager.

The president is relying on the talent, skills, and expertise of his legal friends Henry Stanberg, William Evarts, and Benjamin Curtis to extricate him from a position no chief executive has ever been in—forced removal from office! Last February 24, the House of Representatives voted 126 to 47 to impeach—in effect, *indict*—President Johnson for high crimes and misdemeanors during his time in office which began three years ago with the death of Abraham Lincoln. Without any debate, discussion, or formal written impeachments, the House voted to impeach President Johnson. Once the House so acts, the Constitution provides (Article I, Section 6) that "the Senate shall have the sole power to try all impeachments" with the chief justice of the Supreme Court presiding over the trail. The trial is set to begin tomorrow.

What is impeachment? Impeachment, of course, is an old process going back to the Magna Carta of early Britain. Impeachment is the final legal resort by which the people, through their representatives, may remove an official whom they feel has been corrupt or despotic, while holding office. It must be clear to the reader, and to the members of the Senate, that impeachment is not meant to mean "guilty" or removal. The process used by the House last February is *an indictment*; that is, the lower house felt there was enough evidence against the president to proceed to a trial for *possible* removal by the Senate. The battle President Johnson faces tomorrow is an uphill and tortuous one. Since Johnson as vice president was sworn in on April 15, 1865, to fill the vacancy left by the assassination of President Lincoln, he and the Congress have been on a collision course.

"... a creature of disgust..." One might even say the fires of hatred between Johnson and the Congress were stoked before that day of tragedy. Many Washington pundits, and this includes legislators, swear by the fact that Johnson became a "creature of disgust" on the day he was inaugurated vice president, March 4,1865. On that day of Lincoln's second inaugural, the then vice president was visibly drunk, slurring his words and embarrassing all those around him. Friends of Johnson say that although he had a "few shots" of brandy, the drinking was for his nerves and general condition following a recent bout with typhoid fever. Some senators, after Johnson gave a "long intemperate harangue," were thinking of asking him to resign on the spot.

Whatever the senators' view, the president in April and May of 1865 took on the most pressing issues of his office: restoring the Southern states to the Union and trying to disperse sectional hatred. Feeling that the president, not Congress, was responsible for "reconstructing" the South after the Civil War, Johnson disappointed the so-called radicals in Congress by adopting the "lenient" plan of Abraham Lincoln almost in its entirety. He officially recognized the reconstructed governments of Tennessee, Arkansas, Virginia, and Louisiana. Since he also was concerned that policy toward the South be consistent and fair, he retained the entire cabinet of Lincoln for months following Lincoln's death. Finally, apart from Lincoln's plan, the president then pardoned several more high-ranking Confederate officials and prepared for the complete restoration of the South back into the Union, asking for little or no help from the Congress.

Many members of Congress looked at the president with rancor. To them the war was not a rebellion of *individuals* to be pardoned and forgiven so easily. Senator Charles Sumner of Massachusetts, speaking against the Lincoln-Johnson theory of reconstruction, saw the war as a rebellion of *states*,

House Majority Leader Thaddeus Stevens passionately hated President Johnson.

or political units, which had committed "state suicide" when they seceded from the Union. Going one step further, House Majority Leader Thaddeus Stevens, who incidentally called the president "the beast," believed the South fought the Civil War as a separate nation and therefore should be treated in defeat as a conquered nation, harshly and vindictively. Many Congressmen worried, too, that if too many of the Confederate leaders were pardoned and forgiven, they would soon be re-elected to Congress and combine with northern Democrats to destroy the Republican Party.

Congress asserts its power The Congress soon proved to be the stronger. In March 1867, the Radical Republicans, who made up about fifty percent of Congress, passed, over Johnson's vetoes, a number of measures to reconstruct the South and its divided society. The guidelines and schedules for change were harsh and inflexible. But the president would promptly dismiss any military governor who carried out his job too harshly.

As if the dismissal of military governors and the vetoes were not enough to irritate Congress, Johnson, against the advice of friends, made a sweep of some Northern cities (including Philadelphia and Cleveland) to justify his plan of reconstruction. In some of those impromptu addresses, the president was quoted by some newspapers to have made scurrilous attacks on certain members of Congress, including Thaddeus Stevens and Wendell Phillips. Some who were present in Cleveland claim the temperamental president used the word "traitor" more than once. And he spoke in a most undignified and unbecoming manner. With the battle lines clearly drawn, all that was needed for an attempt by Congress to remove the president was a pretext—and it came last February.

The Tenure of Office Act In a direct attempt to provoke a president Congress had come to despise more each month, Congress passed the Tenure of Office Act in March 1867. This act declared that a president would be guilty of a "high misdemeanor" if he removed from office a federal official who had been appointed with the advice and consent of the Senate; and 2) that cabinet members were to hold office one month more than the term of the president who appointed them. This act, in effect, would prevent Johnson from removing any cabinet member he had appointed or had allowed to remain from Lincoln's cabinet.

Believing this law to be unconstitutional, the president was determined to put it to the test, and on February 21 of this year, he demanded the resignation of Edwin M. Stanton, the secretary of war whom Johnson believed had recently cooperated with Johnson's enemies in Congress, the Radical Republicans. Johnson's open defiance of an act of Congress plus his arrogant behavior resulted in the impeachment vote in the House on February 24.

Preparing their case for the defense of the president as best they could, the defense managers on the trial's first day, March 13, asked for a 40-day extension to give them time to prepare a proper defense for the president. Henry Stanberg, William Evarts, Benjamin Curtis, and others of the defense were stunned when the Senate consented to allow only 10 more days for preparation.

The prosecution of the president in the Senate will be guided by these managers: Representatives Benjamin Butler, John Bingham, and Thaddeus Stevens. The attitude of the prosecution is best summed up by Senator Charles Sumner, who said recently: "We stand face to face with an enormous and malignant usurper, through whom the Republic is imperiled."

What is President Johnson? Is Johnson a "beast," a "malignant usurper," unfit for the presidency? Or is he a champion for the fallen Lincoln, a courageous president who in a moment of strength, stated: "I am right. I know I am right"? Will this trial, to be presided over by the Chief Justice of the Supreme Court Salmon P. Chase, end with justice or in shame?

BRIEF SUMMARY OF MAJOR ROLES

(All of you will receive special identity handouts.)

The chief justice of the United States will act as the judge during the proceedings.

Chief Justice Salmon P. Chase

You are in charge of the trial with the same powers over procedure as a judge in a courtroom. Make sure the trial is fair and that witnesses present their testimony in an orderly manner. The success of the entire trial depends on your role and responsibility. Act with dignity and fairness.

Sergeant at arms

Your responsibility is to help the chief justice keep the trial running smoothly. You will do this by speaking several key statements and by keeping order at all times.

Prosecution managers—Benjamin Butler, Thaddeus Stevens, and John Bingham

You three will prosecute President Johnson for "high crimes and misdemeanors," using a strategy plan provided in this re-creation. The responsibility of preparing questions for witnesses, reading opening and closing statements, and delivering persuasive and clear speeches against the president you will divide equally among yourselves.

Defense managers—Henry Stanberg, William Evarts, and Benjamin Curtis

Three of you will defend President Johnson with the aid of a strategy plan provided in this re-creation. The responsibility of asking and preparing questions for witnesses, reading opening and closing statements, and delivering persuasive and clear speeches for the president's case should be divided equally among you.

Prosecution witness General William H. Emory

A key witness for the prosecution, you have the responsibility to testify about President John-son's curiosity regarding the strength and numbers of federal troops around Washington, D.C.

Prosecution witness Zachariah T. Pitts

You are a Western Union telegraph operator called to testify for the prosecution about controversial presidential speeches given in August and September 1866. Since your sincerity and job skills will be challenged, your preparation is very important.

Prosecution witness Leonard Vorst

You are a newspaper correspondent who, while covering the campaign of 1866, sent President Johnson's speeches over Western Union telegraph wire service. Your testimony centers around whether the president impugned the reputation of certain congressmen and thus publicly debased his office.

Defense witness General Lorenzo Thomas

You are a key defense witness called to testify about the president's handling of the removal of Secretary of War Edwin M. Stanton. A good memory for details and thorough preparation are essential for this pivotal role in this trial.

Defense witness General William Tecumseh Sherman

A hero of the recent Civil War, you are called by the defense not so much for your testimony as for your support of the president in his battle to remain in office.

Defense witness Secretary of Navy Gideon Welles

You are called to testify on behalf of the president's decision to remove Secretary of War Edwin M. Stanton. You are a man with a remarkable memory and a solid reputation for public service and honesty.

ROLE RESPONSIBILITIES

Those of you who choose or are picked to be the chief justice, the defense and prosecution managers, the various witnesses, and the sergeant at arms have the following responsibilities:

Great issues related to our federal Constitution will be discussed as witnesses testify for and against President Johnson.

1. Prepare for your role by carefully reading the Background Essay, the appropriate chapter in your history textbook, and your role handout.
2. Read carefully and follow attentively the Trial Sequence below.
3. After the trial ends, write and turn in a one-page summary of why your character acted as he did and a brief evaluation of how effectively you played your role.

Those of you not listed above will be United States senators hearing the case against President Andrew Johnson. You will be functioning as a jury does in a regular trial. Here are your responsibilities:

1. Listen attentively to witnesses' testimony and the attorneys' opening and closing statements.
2. As the trial progresses, fill out *in detail* the SENATOR'S CONFIDENTIAL FORM. Then at the trial's end, turn in this form, which will contain your verdict and your justification for that verdict.

TRIAL SEQUENCE

Follow this sequence as you re-create the trial:

Note:
Words printed in italics are to be read aloud.

1. First, the senators enter the Senate and sit in the area designated for each political group.
2. The prosecution and defense managers and their witnesses take seats to the sides and between the chairperson's desk, where the chief justice will sit.
3. Thaddeus Stevens is carried in on a chair.
4. The sergeant at arms calls the group to attention. Everyone stands as Chief Justice Chase enters. When he takes his seat, everyone sits down.
5. The secretary of the Senate (the same person as the sergeant at arms) swears in the chief justice with the following oath spoken and repeated by phrases: *"I do solemnly swear/that in all things/pertaining to the trial/of the impeachment of Andrew Johnson, president of the United States/I will do impartial justice/to the Constitution and the laws/so help me God."*
6. The chief justice remains standing and asks that all senators rise for the same oath. The sergeant at arms proceeds through the oath, phrase by phrase. (Historically, each senator was sworn in separately.)
7. Then the chief justice tells the senators: *"Now that the Articles of Impeachment have been brought forth, it is time for you as your constitutional duty to try the President of the United States for 'high crimes and misdemeanors.'"* (He continues with a few more words on how the Senate must show impartiality and justice.)
8. The chief justice also emphasizes that the Senate is now in most respects a courtroom; but unlike a courtroom, the senators may call out an objection. Each objection requires a vote to sustain or overrule it.
9. The chief justice then solemnly asks the sergeant at arms to read the indictment, that is, the Articles of Impeachment.
10. When the sergeant at arms finishes reading, the chief justice calls out: *"Andrew Johnson, president of the United States, appear and answer to the Articles of Impeachment brought against you by the House of Representatives."* A defense manager immediately rises and says: *"Mr. Chief Justice, the president in his absence has directed us to defend him against these charges."*
11. Chief justice introduces managers from both sides and asks the prosecution managers to read their opening statement. They do so.
12. The chief justice asks defense managers to deliver their opening statement. They do so.

13. The prosecution calls General William H. Emory to testify.
14. The defense cross-examines Emory.
15. The prosecution calls Zachariah T. Pitts to testify.
16. The defense cross-examines Pitts.
17. The prosecution calls Leonard Vorst to testify.
18. The defense cross-examines Vorst.
19. The defense calls General Lorenzo Thomas to testify.
20. The prosecution cross-examines Thomas.
21. The defense calls General William Tecumseh Sherman to testify.
22. The prosecution cross-examines Sherman.
23. The defense calls Secretary of Navy Gideon Welles to testify.
24. The prosecution cross-examines Welles.
25. Closing statements are made by defense managers.
26. Closing statements are made by prosecution managers.
27. Following the closing statements, the chief justice reads:
    "By direction of the Senate, the chief justice admonishes the citizens and strangers in the galleries that absolute silence and perfect order are required. It will be a matter of unfeigned regret if any violation of the order of the Senate should necessitate the execution of its further order—that the persons guilty of the disturbance be immediately arrested.
    "Senators, in conformity with the order of the Senate, the chair will now proceed to take the vote on the eleventh article as directed by the rule. The sergeant at arms will now read the eleventh article."
28. The sergeant at arms reads the eleventh article of impeachment.
29. The chief justice then continues: *"Senators, now you have heard the charges repeated and you have listened carefully to the testimony and the oral arguments for and against Andrew Johnson, president of the United States. It is to vote. Sergeant at arms, will you read the question before us."*
30. The sergeant at arms reads: *"Is the respondent, Andrew Johnson, president of the United States, guilty or not guilty of a high crime or misdemeanor as charged in the articles?"*
31. The chief justice says: *"Each senator beginning on my left and working backward, and to the right will stand, give his name, and say 'Guilty' or 'Not Guilty'—as he has decided. Sergeant at arms, you will tally the vote. Remember a two-thirds vote is required for conviction."*
32. The chief justice says: "*Senator Number 1, how say you? Senator Number 2, how say you?"* etc.
33. Once the vote is over, the chief justice says: *"Sergeant at arms, what is the total of the vote?"*
34. The sergeant at arms gives this total.

Option 1: If guilty by at least a two-thirds vote, the chief justice will say: *"The vote being for conviction, the respondent, Andrew Johnson, president of the United States, is hereby removed from office immediately. I will direct a committee from this body to inform the president of its decision. Also, I will in the next two hours administer the oath of office to the Honorable Benjamin Wade, president pro tempore of the Senate, to succeed Mr. Johnson. The Senate is hereby adjourned."* (Note: When the country has no vice president, the president pro-tem of the Senate is next in line to become president, if for any reason that office becomes vacant.)

Option 2: If not guilty, the chief justice will say: *"The vote being for acquittal, the impeachment charges brought forth by the House against President Andrew Johnson are dropped. The court is hereby adjourned."* (Thaddeus Stevens should yell: *"This country is going to the devil!")*

Note:
Attorneys will have detailed handouts to help them question and cross-examine witnesses.

At this moment students role-playing senators will make a dramatic decision.

ARTICLES OF IMPEACHMENT

Note: *On March 3, 1868, the House of Representatives of the U.S. Congress impeached President Andrew Johnson. The actual words of the Articles of Impeachment have been paraphrased below, but all key ideas have been retained.*

To understand the charges against the president, carefully study these 11 Articles of Impeachment.

Article I On February 21,1868, President Johnson unlawfully violated the Constitution and American laws by issuing "an order in writing to remove Edwin M. Stanton from the office of secretary for the Department of War."

Article II On February 21, 1868, President Johnson violated the Tenure of Office Act "with intent to violate the Constitution" by delivering to Lorenzo Thomas a letter authorizing Thomas to act as secretary of war. Since the office was not vacant, President Johnson was guilty of a high misdemeanor.

Article III President Johnson is also guilty of a high misdemeanor for appointing "Lorenzo Thomas to be secretary of war ... without the advice and consent of the Senate—as specified in the Tenure of Office Act."

Articles IV–V President Johnson conspired with Lorenzo Thomas to intimidate and threaten Edwin M. Stanton in order to keep him from holding office. He thereby was guilty of a high crime in office.

Articles VI–VII President Johnson conspired with Lorenzo Thomas to forcibly take U.S. property from the Department of War at a time when such property was controlled by Secretary of War Edwin M. Stanton. He thereby committed a high crime in office.

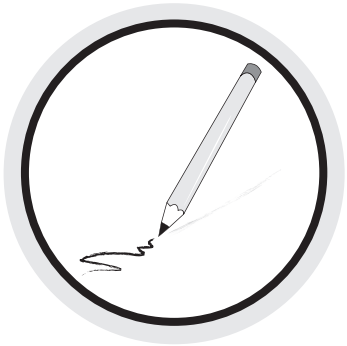
Article VIII On February 21, 1868, President Johnson unlawfully violated the Constitution by attempting to control the disbursement of monies to the military service and the Department of War. He thereby was guilty of a high misdemeanor in office.

Article IX On February 22, 1868, President Johnson disregarded the Constitution and U.S. laws by pressuring General William Emory to violate a sequence of military rank as to when orders are given out. President Johnson was guilty of a high misdemeanor in office because General Emory's lawful superior in this instance was General of the Army Ulysses S. Grant, not the president of the U.S.

Article X On August 1, 1866, President Johnson disregarded the dignity appropriate to his office and caused disharmony between the executive and legislative branches of the government by speaking "certain intemperate, inflammatory, and scandalous harangues"—as well as "loud threats and bitter menaces ... against Congress" while the public laughed and jeered.

Article XI Since President Johnson has been unmindful of the high duties of his office, has disregarded the Constitution, and has violated U.S. laws, he "should be found guilty and removed from office by the Senate of the United States," as provided in Article II, Section 4 of the United States Constitution.

DEBRIEFING



When the trial is finished, your teacher will give you an HISTORICAL AFTERMATH handout, an essay about what happened to some major participants in President Johnson's trial and on how historians, today, view this event. Read the essay and then prepare to discuss the questions following the essay in small group discussion circles in class. (Your teacher may require that you prepare for this debriefing by writing answers to the questions, or your teacher may substitute some other debriefing activity.)

Debriefing questions

1. What testimony was the most effective with you in influencing the verdict you reached?
2. Had you not been told to play a "role" and vote a certain way, would you have voted the same way?
3. Of what acts by a president should "treason, bribery, or other high crimes and misdemeanors" consist? For example, is a president's lying to Congress a "high crime or misdemeanor"? What if the "lie" had to do with foreign policy (e.g., lying about the spying activities of the CIA)? What if the "lie" concerned only the president's knowledge of his party's political campaign activity (e.g., his knowledge that a large contributor to his campaign was sponsoring an ad making a vicious personal attack on the president's opponent)?
4. Former President Ford claimed he pardoned Richard Nixon because he wished to spare the nation the horrible divisiveness that an impeachment trial would bring to the country. Do you think Ford was correct in avoiding an almost certain impeachment trial?
5. To what extent should Congress supervise the president's actions? To what extent should it see to it that the laws it passes are carried out by the executive branch? And if the president is negligent, should he be impeached? For example, what if the president appoints his brother to be head of an agency to enforce air pollution laws and then, even though his brother does nothing to carry out the laws, the president refuses to replace him?
6. Should the impeachment process be amended out of the Constitution? Would the regular courts system do a better job than Congress?

Note:
Questions such as #4 should stimulate real debate among you and your classmates.