

Trump can get both impeached and reelected

by JOSHUA SPIVAK

With Congress and President Trump hurtling to a potential impeachment vote at the same time as the country is gearing up for a brutal presidential election battle, there is an odd possibility—albeit an unlikely one—that Trump could be removed by impeachment, but then come back to regain the presidency a few months later, in the 2020 election.

This improbable result comes from the reality that the law of impeachment does not automatically prevent an impeached and convicted official from running again, which Trump could be able to do as a Republican or Independent candidate come November. The provision in the Constitution that provides for impeachment presents a separate requirement for disqualification from holding office. This has been interpreted to mean that Congress has to have a separate vote to bar an impeached official from running in the future, though unlike impeachment, the most common interpretation holds that this vote may only require a majority of the Senate.

It seems unlikely that the Senate would vote to oust the president and then not get a majority to prevent him from running again in 2020. But if an impeachment happens on narrow grounds, there is a possibility that the Republican-controlled Senate could vote against disqualification in order to give voters the maximum ability to make a choice. This position has already been touted by some scholars. If Trump does have a chance to run, he would seem to have a very strong position in the GOP primary (one that may change in the case of impeachment,) and he and his supporters have worked very hard to ensure an indomitable position in the Republican National and State Committees. At this point, the party is looking to cancel primaries because of Trump's strength. It is not clear that even an impeachment would make a full hole in that support. Beyond that, due to his seemingly unbreakable level of support with a fraction of the population, he may be able to run a surprisingly effective third party race.

If Trump somehow threads the needle and is both impeached and retains an ability to run for office in 2020, he could follow in the path of a few odd individuals who managed a quick turnaround in their political fortunes. There is a history of quick—in some cases instantaneous—comebacks from seemingly crushing defeats, especially if a plurality could push you over the edge, as already happened with Trump in the key states that allowed him to win the Electoral College in 2016. A recent noteworthy example occurred in March when Fall River Mayor Jaisel Correia II was kicked out of office in a recall election. On that same day, due to a five-candidate race, Correia went on to win the election to replace himself. He was not out of office for even a moment. This isn't the even the first time that a candidate has won a replacement race after his own ouster.

Many other candidates have taken a similar tack. The first Governor to be removed in a recall, North Dakota's Lynn Frazier back in 1921, went on to win a Senate race 18 months later.

Perhaps most famously, then-Arkansas Governor Bill Clinton lost reelection in 1980 and came back from the political graveyard to recapture the office in 1982. Andrew Johnson, who survived an impeachment vote in 1868, came back to win a Senate seat in Tennessee and Richard Nixon lost the presidential vote in 1960 and the California Governor race in 1962 before winning the White House in 1968.

Whatever the record, Trump should not put too much hope in this plan. Comebacks are rarities on the presidential level. Only five presidents—Thomas Jefferson, Andrew Jackson, William Henry Harrison, Grover Cleveland and Richard Nixon—lost in a general election and came back to win the White House in a future race. Among that group, only Cleveland had previously held the presidency—and he won a popular majority in his 1888 loss, only to lose the Electoral College.

An impeachment is likely the end of the line for their electoral career. It may be difficult to imagine that a Senate that votes to kick a president out would not at the same prevent a future run for office. But nothing about the Trump presidency has been usual. Past officials show that comebacks, while challenging, are always a possibility.

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