

Lesson Plan: Can the 14th Amendment be used to ensure Trump can't run for office again?

Overview

President Donald Trump became the first U.S. president to be impeached twice after his second impeachment on January 13, 2020. You can learn more about [that here](#). The Republican-led Senate decided not to try him until after his term ended naturally on January 20. But could a section of an amendment put in place to punish Confederate officers in 1868 be used to keep President Trump from running for office in the future?

The 14th Amendment, passed during Reconstruction to address discrimination toward non-white citizens including newly freed slaves, is well known for its promise of equal protection under the law. But a less frequently cited part of the Amendment is Section 3, which states that any person who has taken an oath to protect the Constitution can be barred from holding office if they participated in an insurrection against the United States or helped enemies thereof. This lesson would look at the history of the section, why it was included, what was the fallout afterwards and whether it could be invoked today.

Subjects

U.S. History, U.S. Government, Civics

Estimated Time

One 90-minute or two 50-minute class periods

Grade Level

9-12

Objectives:

- Students will be able to explain the 14th Amendment, Section 3's origin, history, and use against Victor Berger in 1919.
- Students will be able to argue whether or not President Trump should be held accountable by the 14th Amendment 14, Section 3 based on the speech he gave before the Capitol insurrection.

Warm-up Activities:

- Examine Section 3 of the 14th Amendment ratified in 1868, using this primary source analysis [sheet](#).
- Read some background of the [14th Amendment](#) and the text of the Amendment itself.

Activities:

1. In small groups have students answer these questions, using this Washington Post [article](#) from Jan. 12, 2021.
 1. What was the historical context of the 14th Amendment? What was happening at the time and who was it targeted at?
 2. What was the fallout of the section being ratified?
 3. What provisions were created that softened the section's impact?
 1. Would those provisions hold up today?
 4. How does the author believe this section would be held up today?
2. As a class, talk about the case of Victor Berger, the known precedent for enacting section 3.
 1. From wisconsinhistory.org:
 1. "Long before the start of the war, Berger had established himself as an opponent of war and militarism, a stance he continued to hold throughout the war. In 1918 Berger again won a seat in Congress, but the House of Representatives refused to permit him to take his seat for violating the federal Espionage Act. The previous year Berger had supported the anti-war statement of the Socialist party, which had denounced World War I as a tool of U.S. capitalism and imperialism. The government had also suspended mailing privileges for his newspaper because of his continued opposition to the war."
 2. "Wisconsin's governor, Emanuel Philipp, called a special election to fill Berger's seat in 1919, but voters again elected Berger to Congress. The House still refused to seat him. Berger ran once again in 1920 but was defeated by Republican William Stafford. Although he lost the 1920 election, Berger's espionage conviction was overturned and his mailing privileges were restored. In 1922 Berger ran for Congress and won. This time the House allowed Berger to take his seat, and he served for three successive terms. While in office, he proposed pensions for the elderly, unemployment insurance and public housing. Defeated in 1928, Berger returned to Milwaukee and resumed his newspaper career until his untimely death in a streetcar accident on July 16, 1929."
 2. Why was Berger originally denied a seat in Congress? Do you think it was a good use of Section 3?
3. Relate the origins and the Berger example to the January 6 Capitol insurrection (this step can be completed as homework, a remote assignment, a second class or the second half of a ninety minute class)
 1. In an argumentative paper, a class debate or socratic seminar, have students answer the following question:

1. Should President Trump be banned from holding office in the future based on what he said before and during the insurrection?
2. [Annotated copy of the speech](#) — Students can work through the highlighted parts of the speech and note of both violent and peaceful parts spoken. Or if this is done as a class, pick a few of the annotated lines and discuss their implication and meaning as a class.
 1. This could also serve as a really good resource in examining primary vs. secondary sources, with the annotated explanations seen as the secondary source.

Extension Activity: Run an inaugural ceremony in your classroom. The teacher or a student in class can serve as the Chief Justice of the United States and administer the oath of office to a student that has been elected President of the United States.

Article II, Section I of the United States Constitution — "I (state your name) do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Once the oath has been administered, have the new president deliver the inaugural address that they wrote as a part of this lesson.



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