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Justice Chase's Impeachment and Judicial
Independence

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In its first and only impeachment trial of a Supreme Court Justice, the U.S. Senate in 1805 acquitted Samuel Chase of charges against him, a historic decision that raises profoundly important questions about judicial independence and accountability and illuminates the challenges facing Justice Clarence Thomas.

American politics, fraught with heated partisan divisions, had reached a fever pitch in the early 19th century when Justice Chase was brought before the bar of the Senate. Thomas Jefferson, leader of the Republicans, had defeated the Federalist incumbent John Adams in the Election of 1800, the most acrimonious presidential race in the young nation's history.

Three decisions marked 1803 as one of the most important years in American history for judicial power, the Supreme Court and American Constitutionalism. Each one exacerbated the partisan tensions that characterized the political landscape.

In 1803, the Supreme Court, led by Chief Justice John Marshall, an ardent Federalist, delivered a landmark ruling—*Marbury v. Madison*—in which the Court, for the first time, exercised the power of judicial review. The action instilled in many Jeffersonian Republicans a deep fear that the Federalist-dominated Court would abuse its power to control the legislative and executive branches.

In 1803, the Jeffersonian-controlled Congress impeached and convicted Federal Judge John Pickering, an action that foreshadowed grounds for the impeachment of Justice Chase.

Pickering, a strong Federalist, was removed from office by the Senate, which concluded that his habitual intoxication on the bench rendered him unfit to perform his judicial duties. The Article III requirement of "good behavior" as the standard for holding a judgeship implied that a judge might be removed for "misbehavior." Pickering's drunkenness, it was reasoned, constituted misconduct within the scope of "high crimes and misdemeanors," a constitutional offense that warranted impeachment and removal.

The choice of Pickering for the first judicial impeachment was a clever and strategic move for the Republicans. It was easily defended on grounds that a judge should be above reproach and, with the removal of a district judge, the way was paved to hunt bigger game.

On May 2, 1803, Justice Chase, riding circuit as Judge Chase, placed his fate in the hands of the Republicans when he delivered an inflammatory charge to a grand jury in Baltimore, barely two months after the initiation of impeachment proceedings against Judge Pickering and the delivery of Chief Justice Marshall's opinion in *Marbury v. Madison*. Chase knew there could not have been a more inopportune time to vent his Federalist opinions, which included denunciations of the Jeffersonians and their intention to bring down constitutional principles and republican values. Henry Adams was right when he said that if there was one judge in the United States who "should have known the peril in which the judiciary stood, it was Justice Samuel Chase of Maryland, who had done more than all

the other judges to exasperate the democratic majority."

Chase's misbehavior on the bench was notorious. He had driven eminent lawyers from his courtroom and outraged the public and distinguished members of the bar by his conduct of trials. He made little effort to hide his Federalist sympathies and contempt for Republicans.

Judge Chase's conduct of sedition trials, said Adams, "had strained the law in order to convict for the government." Chase's zeal had carried him so far in the trial of John Fries that President John Adams felt constrained to pardon Fries to save him from the gallows. His misbehavior suggested to scholars that he was more a hangman than a judge.

Chase was indicted by the House on eight articles of impeachment. The most damaging of the articles were those relating to his conduct of the trial of James Callender under the Sedition Act of 1798. They alleged that Judge Chase prejudged Callender's guilt, that he maliciously and illegally excluded testimony by a defense witness, that he refused to discharge a juror who, before trial, admitted that he had a predisposition to find the defendant guilty, and that he had been intolerably rude to the defendant's attorneys. In sum, he had conducted himself in a manner "highly disgraceful to the character of a judge."

In Federalist No. 65, Alexander Hamilton asked: "Who would be willing to stake his life and his estate upon the verdict of a jury acting under the auspices of judges who had predetermined his guilt?" Despite the lengthy and credible charges of impeachment against Judge Chase, the Senate, under the control of the Jeffersonians, nevertheless acquitted Chase on every charge. Ironically, the Republicans held enough seats

to cross the threshold requirement of two-thirds of the chamber to convict Chase and remove him from the Court.

What explains the refusal of the Jeffersonians to convict Chase? In a word, the admiration of judicial independence and its importance in our constitutional scheme. In addition, Jefferson was given the opportunity to appoint new judges which, in the estimation of party members, was bringing the precious element of balance to the federal judiciary. And, it should be noted, nobody discounted the fact that Chase was widely regarded as hero of the American Revolution. He fought the Stamp Act and other oppressive measures enacted by Parliament, and he had signed the Declaration of Independence. Chase's heroics saved him from conviction and removal.

