

The current political controversy surrounding the activities of the President has captured much of the nation's attention. On December 5 Prof. Stuart Chinn, of the University of Oregon Law School, discussed the fundamentals of the impeachment process with Springfield City Club.

Professor Chinn writes and teaches on constitutional law, legislation, and legal and political history. At Oregon Law, he is the associate dean for programs and research and an associate professor of law. His book, [RECALIBRATING REFORM: THE LIMITS OF POLITICAL CHANGE](#) was published by Cambridge University Press in 2014. Additionally, Stuart has published in peer-reviewed venues such as University of Chicago Press, Law & Social Inquiry, and Polity. He has also published (or has articles forthcoming) in law reviews such as the Maryland Law Review, Utah Law Review, and the University of Pennsylvania Journal of Constitutional Law, and others.



Prof. Chinn outlined two fundamental bases for an impeachment action. One, he said, involved issues of specific constitutional conflict. He cited the impeachment of President Andrew Johnson as example – following the conclusion of the Civil War there was a fundamental dispute over the concept of reconstruction and, Prof. Chinn said, a very real chance of renewed military conflict. The very nature of the political structure was in doubt.

The second basis he outlined was what he described as a transgression of “constitutional norms.” As he described the concept, he asked the audience to view government as a system of rules. While often, these rules are embodied in specific forms – laws, regulations, written agreements and standards, overarching these rules are generally a broad set of unstated norms. In many cases, these norms are not even recognized until they are abandoned or violated. They cover not only personal interactions – like the use of what is commonly accepted as “polite” conversation – but also the broadest structural values – such as how the co-equal and quasi-independent branches of the federal government relate one to another.

Prof. Chinn pointed to the impeachment of President Bill Clinton and the proposed impeachment of President Richard Nixon as examples of this second concept. While some of the alleged activities of each President might have violated specific laws, the real issue was that they were alleged to have breached the fundamental social contract. As Benjamin Franklin said, during the debates on Article 2, Section 4, of the Constitution, impeachment should occur when “the chief magistrate has rendered himself obnoxious.”

A questioner disputed the reliance on this theory of norms, noting that at times the norms seem to go awry. It is for that very reason, Prof. Chinn said, that in the case of this basis for

impeachment, it is important to act, rather than simply wait for the results of an election, so that the norms may be preserved.



In response to a question, Prof. Chinn said the role of the Chief Justice could be quite flexible, depending on how the Senate chooses to construct any trial. There are no established rules for an impeachment trial, but it is not anticipated to move forward like the traditional civil or criminal trial in routine judicial proceedings. There are no standards on whether witnesses are examined and cross-examined, for example. While the Chief Justice would be called upon to decide any disputes in trial proceedings, Prof. Chinn noted that the Senate could, by majority vote, overrule any rulings of the Chief Justice.

While Prof. Chinn's discussion was intentionally focused on the objective issues of an impeachment, he did, in response to questions, assert that bribery or attempted bribery and obstruction of justice would probably constitute impeachable offenses, as would obstruction of the privileges and prerogatives of Congress (which was an element in both the Nixon and Clinton situations).