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§ 18. Impeachment of Judge Ritter

Authorization of Investigation

§ 18.1 The Committee on the Judiciary reported in the 73d Congress a resolution authorizing an investigation into the conduct of Halsted Ritter, a U.S. District Court judge; the resolution was referred to the Union Calendar and considered and adopted in the House as in the Committee of the Whole by unanimous consent.

On May 29, 1933, Mr. J. Mark Wilcox, of Florida, placed in the hopper a resolution (H. Res. 163) authorizing the Committee on the Judiciary to investigate the conduct of Halsted Ritter, District Judge for the U.S. District Court for the Southern District of Florida, to determine whether in the opinion of the committee he had been guilty of any high crime or misdemeanor. The resolution was referred to the Committee on the Judiciary.(20)

gress, see H. JOUR. 3, 73d Cong. 1st Sess., Mar. 9, 1933.

On May 24, 1933, the Senate acquitted Judge Louderback on all articles. See 6 Cannon's Precedents § 524.

20. 77 CONG. REC. 4575, 73d Cong. 1st Sess.

On June 1, 1933, the Committee on the Judiciary reported House Resolution 163 (H. Rept. No. 191) with committee amendments; the resolution was referred to the Committee of the Whole House on the state of the Union, since the original resolution contained an appropriation.(21)

On the same day, Hatton W. Sumners, of Texas, Chairman of the Committee on the Judiciary, asked unanimous consent to consider House Resolution 163 in the House as in the Committee of the Whole. The resolution and committee amendments read as follows:

HOUSE RESOLUTION 163

Resolved, That the Committee on the Judiciary is authorized and directed, as a whole or by subcommittee, to inquire into and investigate the official conduct of Halsted L. Ritter, a district judge for the United States District Court for the Southern District of Florida, to determine whether in the opinion of said committee he has been guilty of any high crime or misdemeanor which in the contemplation of the Constitution requires the interposition of the Constitutional powers of the House. Said committee shall report its findings to the House, together with such resolution of impeachment or other recommendation as it deems proper.

Sec. 2. For the purpose of this resolution, the committee is authorized to

21. *Id.* at p. 4796.

sit and act during the present Congress at such times and places in the District of Columbia and elsewhere, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearing, to employ such clerical, stenographic, and other assistance, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, to have such printing and binding done, and to make such expenditures not exceeding $5,000, as it deems necessary.

With the following committee amendments:

Page 2, line 5, strike out the words "to employ such clerical, stenographic, and other assistance"; and in line 9, on page 2, strike out "to have such printing and binding done, and to make such expenditures, not exceeding $5,000."

After brief debate, the House as in the Committee of the Whole adopted the resolution as amended by the committee amendments.(1)

The Committee on the Judiciary made no report to the House, prior to the expiration of the 73d Congress, in the matter of charges against Judge Ritter, but a subcommittee of the committee investigated the charges and gathered testimony and evidence pursuant to House Resolution 163.

The evidence gathered was the basis for House Resolution 422 in the 74th Congress, impeaching Judge Ritter, and both that resolution and the report of the Committee on the Judiciary in the 74th Congress (H. Rept. No. 2025) referred to the investigation conducted under House Resolution 163, 73d Congress.

The Chairman of the subcommittee, Malcolm C. Tarver, of Georgia, made a report recommending impeachment to the full committee; the report was printed in the Record in the 74th Congress.(2)

Presentation of Charges

§ 18.2 In the 74th Congress, a Member rose to a question of constitutional privilege and presented charges against Judge Ritter, which were referred to the Committee on the Judiciary.

On Jan. 14, 1936, Mr. Robert A. Green, of Florida, a member of the Committee on the Judiciary, rose to a question of constitutional

1. *Id.* at pp. 4784, 4785.

The House adopted a resolution, reported by the Committee on Accounts, authorizing payment out of the contingent fund for expenses of the Committee on the Judiciary in conducting its investigation under H. Res. 163; see H. Res. 172, 77 CONG. REC. 5429, 5430, 73d Cong. 1st Sess., June 9. 1933.

2. 80 CONG. REC. 408–10, 74th Cong. 2d Sess., Jan. 14, 1936.

privilege and on his own responsibility impeached Judge Halsted Ritter for high crimes and misdemeanors. Although he presented no resolution, he delivered lengthy and specific charges against the accused. He indicated his intention to read, as part of his speech, a report submitted to the Committee on the Judiciary by Malcolm C. Tarver, of Georgia, past Chairman of a subcommittee of the Committee on the Judiciary, which subcommittee had investigated the charges against Judge Ritter pursuant to House Resolution 163, adopted by the House in the 73d Congress.

In response to inquiries, Mr. Green summarized the status of the investigation and his reason for rising to a question of constitutional privilege:

> MR. [JOHN J.] O'CONNOR [of New York]: Of course, ordinarily the matter would be referred to the Committee on the Judiciary. Does the gentleman think he must proceed longer in the matter at this time?
>
> MR. GREEN: My understanding is, I may say to the chairman of the Rules Committee, that the articles of impeachment will be referred to the Committee on the Judiciary for its further consideration and action. I do not intend to consume any more time than is absolutely necessary.
>
> MR. [THOMAS L.] BLANTON [of Texas]: Will the gentleman yield?
>
> Mr. Green: I yield.
>
> MR. BLANTON: What action was taken on the Tarver report? If this official is the kind of judge the Tarver report indicates, why was he not then impeached and tried by the Senate?
>
> MR. GREEN: That is the question that is now foremost in my mind. Since Judge Tarver's service as chairman of the Judiciary Subcommittee he has been transferred from the House Judiciary Committee to the House Committee on Appropriations. He is not now a member of the Judiciary Committee.
>
> I firmly believe that when our colleagues understand the situation thoroughly, there will be no hesitancy in bringing about Ritter's impeachment by a direct vote on the floor of the House. My purpose in this is to get it in concrete form, in compliance with the rules of the House, so that the direct impeachment will be handled by the Committee on the Judiciary. At present impeachment is not before the committee. This will give the Judiciary something to act upon.
>
> MR. BLANTON: Was he not impeached in the House before when the Tarver investigation was made?
>
> Mr. Green: No. He was never impeached. There was a resolution passed by the House directing an investigation to be made by the Judiciary Committee.
>
> MR. BLANTON: Was that not a resolution that followed just such impeachment charges in the House as the gentleman from Florida is now making?
>
> MR. GREEN: I understand that articles of impeachment have not been heretofore filed in this case.
>
> MR. BLANTON: Was the Tarver report, to which the gentleman has re-

ferred, filed with the Judiciary Committee?

MR. GREEN: It is my understanding that it is now in their hands.(3)

Mr. Green inserted the text of the Tarver report, which recommended impeachment, in his remarks.(4)

At the conclusion of Mr. Green's remarks, Mr. O'Connor moved that "the proceedings be referred to the Committee on the Judiciary." The motion was agreed to.(5)

§ 18.3 The Committee on the Judiciary reported in the 74th Congress a resolution impeaching Judge Halsted Ritter on four articles of impeachment; the resolution referred to the investigation undertaken pursuant to authorizing resolution in the 73d Congress.

On Feb. 20, 1936, Mr. Hatton W. Sumners, of Texas, introduced House Resolution 422, impeaching Judge Ritter; the resolution was referred to the Committee on the Judiciary.(6) On the same day, Mr. Sumners, Chairman of the committee, submitted a privileged report on the charges of official misconduct against Judge Ritter (H. Rept. No. 2025). The report, which was referred to the House Calendar and ordered printed, read as follows:

> The Committee on the Judiciary, having had under consideration charges of official misconduct against Halsted L. Ritter, a district judge of the United States for the Southern District of Florida, and having taken testimony with regard to the official conduct of said judge under the authority of House Resolution 163 of the Seventy-third Congress, report the accompanying resolution of impeachment and articles of impeachment against Halsted L. Ritter to the House of Representatives with the recommendation that the same be adopted by the House and presented to the Senate.(7)

The resolving clause of the resolution recited that the evidence taken by a subcommittee of the Committee on the Judiciary under House Resolution 163 of the 73d Congress sustained impeachment.(8)

Consideration and Adoption of Articles of Impeachment

§ 18.4 The House considered and adopted a resolution and articles of impeachment against Judge Halsted Ritter,

3. 80 CONG. REC. 404, 405, 74th Cong. 2d Sess.

4. *Id. at pp. 408–410.*

5. *Id.* at p. 410.

6. 80 CONG. REC. 2534, 74th Cong. 2d Sess.

7. *Id.* at p. 2528.

8. For the text of the resolution and articles of impeachment, see § 18.7, infra.

pursuant to a unanimous-consent agreement fixing the time for and control of debate.

On Mar. 2, 1936, Mr. Hatton W. Sumners, of Texas, called up for immediate consideration a resolution (H. Res. 422), which the Clerk read at the direction of Speaker Joseph W. Byrns, of Tennessee. Mr. Sumners indicated his intention to conclude the proceedings and have a vote on the resolution before adjournment. The House agreed to his unanimous-consent request for consideration of the resolution:[9]

THE SPEAKER: The gentleman from Texas asks unanimous consent that debate on this resolution be continued for 4½ hours, 2½ hours to be controlled by himself and 2 hours by the gentleman from New York [Mr. Hancock]; and at the expiration of the time the previous question shall be considered as ordered. Is there objection?

There was no objection.

The resolving clause to the articles read as follows:

RESOLUTION

Resolved, That Halsted L. Ritter, who is a United States district judge for the southern district of Florida, be impeached for misbehavior, and for high crimes and misdemeanors; and that the evidence heretofore taken by the subcommittee of the Committee on the Judiciary of the House of Representatives under House Resolution 163 of the Seventy-third Congress sustains articles of impeachment, which are hereinafter set out; and that the said articles be, and they are hereby, adopted by the House of Representatives, and that the same shall be exhibited to the Senate in the following words and figures, to wit: . . .[10]

The House then discussed the maintenance of order during debate on the resolution:

MR. [WILLIAM B.] BANKHEAD [of Alabama]: Mr. Speaker, I realize that there is a full membership of the House here today, and properly so, because impeachment proceedings are a matter of grave importance.

The proceedings are inquisitorial, and in order that we may arrive at a correct judgment with reference to the matter and form an intelligent opinion as to how we shall vote, it is absolutely necessary and essential that we have order in the Chamber during the proceedings.

I know it is difficult at all times to get gentlemen to refrain from conversation, but I make a special appeal to the membership of the House on this occasion, in view of the serious importance of the proceedings, that they will be quiet and listen to the speakers so that we may vote intelligently on this matter. [Applause.]

THE SPEAKER: The Chair wishes to emphasize what the gentleman from

9. 80 CONG. REC. 3066–69, 74th Cong. 2d Sess.

10. *Id.* at p. 3066. For the full text of the resolution and articles, see § 18.7, infra.

Alabama has said. There is but one way to maintain order, and that is for Members to cease conversation, because a little conversation here and a little there creates confusion that makes it difficult for speakers to be heard.(11)

Time for debate having expired, Speaker Byrns stated that pursuant to the order of the House the previous question was ordered. By the yeas and nays, the House agreed to the resolution of impeachment—yeas 181, nays 146, present 7, not voting 96.(12)

Election of Managers

§ 18.5 The House adopted resolutions appointing managers to conduct the impeachment trial, empowering the managers to employ staff and to prepare and conduct impeachment proceedings, and notifying the Senate that the House had adopted articles and appointed managers.

On Mar. 6, 1936,(13) following the adoption of articles of impeachment on Mar. 2, Mr. Hatton W. Sumners, of Texas, offered resolutions of a privileged nature related to impeachment proceedings against Judge Ritter:

IMPEACHMENT OF HALSTED L. RITTER

MR. SUMNERS of Texas: Mr. Speaker, I send to the desk the three resolutions which are the usual resolutions offered when an impeachment has been voted by the House, and I ask unanimous consent that they may be read and considered en bloc.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, reserving the right to object, I do not know that I understand the situation we are in at the present time. Will the gentleman restate his request?

THE SPEAKER:(14) The request is to have read the three resolutions and have them considered en bloc.

MR. SUMNERS of Texas: I may say to the gentleman from New York, they are the three resolutions usually offered and they are in the language used when the House has voted an impeachment.

MR. SNELL: And the gentleman from Texas wants them considered at one time?

MR. SUMNERS of Texas: Yes.

There being no objection, the Clerk read the resolutions, as follows:

HOUSE RESOLUTION 439

Resolved, That Hatton W. Sumners, Randolph Perkins, and Sam Hobbs, Members of this House, be, and they are hereby, appointed managers to conduct the impeachment against Halsted L. Ritter, United States district judge for the southern district of Florida; that said managers are hereby instructed to ap-

11. *Id.* at p. 3069.

12. *Id.* at p. 3091.

13. 80 CONG. REC. 3393, 3394, 74th Cong. 2d Sess.

14. Joseph W. Byrns (Tenn.).

pear before the Senate of the United States and at the bar thereof in the name of the House of Representatives and of all the people of the United States to impeach the said Halsted L. Ritter of high crimes and misdemeanors in office and to exhibit to the Senate of the United States the articles of impeachment against said judge which have been agreed upon by this House; and that the said managers do demand that the Senate take order for the appearance of said Halsted L. Ritter to answer said impeachment, and demand his impeachment, conviction, and removal from office.

HOUSE RESOLUTION 440

Resolved, That a message be sent to the Senate to inform them that this House has impeached for high crimes and misdemeanors Halsted L. Ritter, United States district judge for the southern district of Florida, and that the House adopted articles of impeachment against said Halsted L. Ritter, judge as aforesaid, which the managers on the part of the House have been directed to carry to the Senate, and that Hatton W. Sumners, Randolph Perkins, and Sam Hobbs, Members of this House, have been appointed such managers.

HOUSE RESOLUTION 441

Resolved, That the managers on the part of the House in the matter of the impeachment of Halsted L. Ritter, United States district judge for the southern district of Florida, be, and they are hereby, authorized to employ legal, clerical, and other necessary assistants and to incur such expenses as may be necessary in the preparation and conduct of the case, to be paid out of the contingent fund of the House on vouchers approved by the managers, and the managers have power to send for persons and papers, and also that the managers have authority to file with the Secretary of the Senate, on the part of the House of Representatives, any subsequent pleadings which they shall deem necessary: *Provided,* That the total expenditures authorized by this resolution shall not exceed $2,500.

MR. SNELL: Mr. Speaker, may I ask the gentleman from Texas one further question? Is this exactly the procedure that has always been followed by the House under similar conditions?

MR. SUMNERS of Texas: Insofar as I know, it does not vary from the procedure that has been followed since the beginning of the Government.

The resolutions were agreed to.

House-Senate Communications

§ 18.6 The House having notified the Senate of its impeachment of Judge Halsted Ritter, the Senate communicated its readiness to receive the House managers and discussed the Senate rules for impeachment trials.

On Mar. 9, 1936, Vice President John N. Garner laid before the Senate a communication from the House of Representatives:

HOUSE RESOLUTION 440
IN THE HOUSE
OF REPRESENTATIVES,
United States, March 6, 1936.

Resolved, That a message be sent to the Senate to inform them that this House has impeached for high crimes and misdemeanors Halsted L. Ritter, United States district judge for the southern district of Florida, and that

the House adopted articles of impeachment against said Halsted L. Ritter, judge as aforesaid, which the managers on the part of the House have been directed to carry to the Senate, and that Hatton W. Sumners, Randolph Perkins, and Sam Hobbs, Members of this House, have been appointed such managers.

The Senate adopted the following order:

Ordered, That the Secretary inform the House of Representatives that the Senate is ready to receive the managers appointed by the House for the purpose of exhibiting articles of impeachment against Halsted L. Ritter, United States district judge for the southern district of Florida, agreeably to the notice communicated to the Senate, and that at the hour of 1 o'clock p.m. on Tuesday, March 10, 1936, the Senate will receive the honorable managers on the part of the House of Representatives, in order that they may present and exhibit the said articles of impeachment against the said Halsted L. Ritter, United States district judge for the southern district of Florida.

THE VICE PRESIDENT: The Secretary will carry out the order of the senate [15]

Senator Elbert D. Thomas, of Utah, discussed the function of the Senate in sitting as a court of impeachment and inquired whether any review was being undertaken of the Senate rules for impeachment trials.

Senator Henry F. Ashurst, of Arizona, responded that the Senate Committee on the Judiciary had considered the rules and cited a change recently made in the rules for impeachment trials:

It will be remembered that in the trial of the Louderback case it was suggested that the trial was dreary, involved, and protracted, and that it was not according to public policy to have 96 Senators sit and take testimony. Subsequently, not a dozen, not 20, but at least 40 Senators urged that the Senate Committee on the Judiciary give its attention to the question whether or not a committee appointed by the Presiding Officer could take the testimony in impeachment trials, whereupon a resolution was introduced by the chairman of the Senate Committee on the Judiciary and was adopted. I ask that that resolution be incorporated in my remarks at this point.

THE PRESIDENT PRO TEMPORE:[16] Without objection, it is so ordered.

The resolution is as follows (Submitted by Mr. Ashurst):

Resolved, That in the trial of any impeachment the Presiding Officer of the Senate, upon the order of the Senate, shall appoint a committee of 12 Senators to receive evidence and take testimony at such times and places as the committee may determine, and for such purpose the committee so appointed and the chairman thereof, to be elected by the committee, shall (unless otherwise ordered by the Senate) exercise all the powers and functions conferred upon the Senate and the Presiding Officer of the Senate, respectively,

15. 80 CONG. REC. 3423, 3424, 74th Cong. 2d Sess.

16. Key Pittman (Nev.).

under the rules of procedure and practice in the Senate when sitting on impeachment trials.

Unless otherwise ordered by the Senate, the rules of procedure and practice in the Senate when sitting on impeachment trials shall govern the procedure and practice of the committee so appointed. The committee so appointed shall report to the Senate in writing a certified copy of the transcript of the proceedings and testimony had and given before such committee, and such report shall be received by the Senate and the evidence so received and the testimony so taken shall be considered to all intents and purposes, subject to the right of the Senate to determine competency, relevancy, and materiality, as having been received and taken before the Senate, but nothing herein shall prevent the Senate from sending for any witness and hearing his testimony in open Senate, or by order of the Senate having the entire trial in open Senate.

MR. ASHURST: The resolution was agreed to by the Senate. It does not provide for a trial by 12 Senators. It simply provides that a committee of 12, appointed by the Presiding Officer of the Senate, may take the testimony, the Senate declaring and determining in advance whether it desires that procedure, or otherwise, and that after such evidence is taken by this committee of 12, the Senate reviews the testimony in its printed form, and the Senate may take additional testimony or may then rehear the testimony of any of the witnesses heard by the committee. The Senate reserves to itself every power and every authority it has under the Constitution.

It could not be expected that I would draw, present, and urge the Senate to pass such resolution and then subsequently decline to defend it, but I am not defending it more than to say that, in my opinion, it is perfectly constitutional to do what the resolution provides. If the Senate so desired, it could appoint a committee to take the testimony, which would be reduced to writing, and be laid before the Senators the next morning in the Congressional Record. If a Senator were absent during one day of the trial, he could read the testimony as printed the next morning.(17)

Senator Warren R. Austin, of Vermont, of the Committee on the Judiciary, asked unanimous consent to have printed in the Record a ruling, cited in 3 Hinds' Precedents section 2006, that an impeachment trial could only proceed when Congress was in session.(18)

Initiation of Impeachment Trial

§ 18.7 The managers on the part of the House appeared in the Senate, read the articles, reserved their right to amend them, and demanded that Judge Halsted Ritter be put to answer the charges; the Senate organized for

17. 80 CONG. REC. 3424, 3425, 74th Cong. 2d Sess. For the adoption of the change referred to by Senator Ashurst, see 79 CONG. REC. 8309, 8310, 74th Cong. 1st Sess., May 28, 1935.

18. *Id.* at p. 3426.

trial as a Court of Impeachment.

On Mar. 10, 1936, pursuant to the Senate's order of Mar. 9, the managers on the part of the House appeared before the bar of the Senate and were announced by the Secretary to the majority, who escorted them to their assigned seats.

Vice President John N. Garner directed the Sergeant at Arms to make proclamation:

> The Sergeant at Arms, Chesley W. Jurney, made proclamation, as follows:
>
> Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against Halsted L. Ritter, United States district judge in and for the southern district of Florida.[19]

Representative Hatton W. Sumners, of Texas, read the resolution adopted by the House (H. Res. 439) which directed the managers to appear before the bar of the Senate. Representative Sam Hobbs, of Alabama, read the articles of impeachment, the Vice President requesting that he stand at the desk in front of the Chair:[20]

> Mr. Manager Hobbs, from the place suggested by the Vice President, said:
>
> Mr. President and gentlemen of the Senate:
>
> ARTICLES OF IMPEACHMENT AGAINST HALSTED L. RITTER
>
> House Resolution 422, Seventy-fourth Congress, second session
>
> Congress of the United States of America
>
> IN THE HOUSE OF REPRESENTATIVES, UNITED STATES
>
> *March 2, 1936.*
>
> *Resolved,* That Halsted L. Ritter, who is a United States district judge for the southern district of Florida, be impeached for misbehavior and for high crimes and misdemeanors; and that the evidence heretofore taken by the subcommittee of the Committee on the Judiciary of the House of Representatives under House Resolution 163 of the Seventy-third Congress sustains articles of impeachment, which are hereinafter set out; and that the said articles be, and they are hereby, adopted by the House of Representatives, and that the same shall be exhibited to the Senate in the following words and figures, to wit:
>
> Articles of impeachment of the House of Representatives of the United States of America in the name of themselves and of all of the people of the United States of America against Halsted L. Ritter, who was appointed, duly qualified, and commissioned to serve, during good behavior in office, as United

19. 80 CONG. REC. 3485, 74th Cong. 2d Sess.

For the text of the proceedings in the Senate upon the appearance of the managers to present the articles of impeachment against Judge Ritter, see § 11.4, supra.

20. 80 CONG. REC. 3486–88, 74th Cong. 2d Sess.

States district judge for the southern district of Florida, on February 15, 1929.

ARTICLE I

That the said Halsted L. Ritter, having been nominated by the President of the United States, confirmed by the Senate of the United States, duly qualified and commissioned, and while acting as a United States district judge for the southern district of Florida, was and is guilty of misbehavior and of a high crime and misdemeanor in office in manner and form as follows, to wit: On or about October 11, 1929, A. L. Rankin (who had been a law partner of said judge immediately before said judge's appointment as judge), as solicitor for the plaintiff, filed in the court of the said Judge Ritter a certain foreclosure suit and receivership proceeding, the same being styled "Bert E. Holland and others against Whitehall Building and Operating Company and others" (No. 678–M–Eq.). On or about May 15, 1930, the said Judge Ritter allowed the said Rankin an advance of $2,500 on his fee for his services in said case. On or about July 2, 1930, the said Judge Ritter by letter requested another judge of the United States District Court for the Southern District of Florida, to wit, Hon. Alexander Akerman, to fix and determine the total allowance for the said Rankin for his services in said case for the reason as stated by Judge Ritter in said letter, that the said Rankin had formerly been the law partner of the said Judge Ritter, and he did not feel that he should pass upon the total allowance made said Rankin in that case, and that if Judge Akerman would fix the allowance it would relieve the writer, Judge Ritter, from any embarrassment if thereafter any question should arise as to his, Judge Ritter's favoring said Rankin with an exorbitant fee.

Thereafterward, notwithstanding the said Judge Akerman, in compliance with Judge Ritter's request, allowed the said Rankin a fee of $15,000 for his services in said case, from which sum the said $2,500 theretofore allowed the said Rankin by Judge Ritter as an advance on his fee was deducted, the said Judge Ritter, well knowing that at his request compensation had been fixed by Judge Akerman for the said Rankin's services in said case, and notwithstanding the restraint of propriety expressed in his said letter to Judge Akerman, and ignoring the danger of embarrassment mentioned in said letter, did fix an additional and exorbitant fee for the said Rankin in said case. On or about December 24, 1930, when the final decree in said case was signed, the said Judge Ritter allowed the said Rankin, additional to the total allowance of $15,000 theretofore allowed by Judge Akerman, a fee of $75,000 for his services in said case, out of which allowance the said Judge Ritter directly profited. On the same day, December 24, 1930, the receiver in said case paid the said Rankin, as part of his said additional fee, the sum of $25,000, and the said Rankin on the same day privately paid and delivered to the said Judge Ritter the sum of $2,500 in cash; $2,000 of said $2,500 was deposited in bank by Judge Ritter on, to wit, December 29, 1930, the remaining $500 being kept by Judge Ritter and not deposited in bank until, to wit, July 10, 1931. Between the time of such initial payment on said additional fee and April 6, 1931, the said receiver paid said Rankin thereon $5,000. On or about April 6, 1931, the said Rankin received the balance of the said additional fee allowed him by Judge Ritter, said balance amounting to $45,000. Shortly thereafter, on or about April 14, 1931, the said Rankin paid and delivered to the said Judge Ritter, privately, in cash,

an additional sum of $2,000. The said Judge Halsted L. Ritter corruptly and unlawfully accepted and received for his own use and benefit from the said A. L. Rankin the aforesaid sums of money, amounting to $4,500.

Wherefore the said Judge Halsted L. Ritter was and is guilty of misbehavior and was and is guilty of a high crime and misdemeanor.

ARTICLE II

That the said Halsted L. Ritter, while holding the office of United States district judge for the southern district of Florida, having been nominated by the President of the United States, confirmed by the Senate of the United States, duly qualified and commissioned, and while acting as a United States district judge for the southern district of Florida, was and is guilty of misbehavior and of high crimes and misdemeanors in office in manner and form as follows, to wit:

On the 15th day of February 1929 the said Halsted L. Ritter, having been appointed as United States district judge for the southern district of Florida, was duly qualified and commissioned to serve as such during good behavior in office. Immediately prior thereto and for several years the said Halsted L. Ritter had practiced law in said district in partnership with one A. L. Rankin, which partnership was dissolved upon the appointment of said Ritter as said United States district judge.

On the 18th day of July 1928 one Walter S. Richardson was elected trustee in bankruptcy of the Whitehall Building & Operating Co., which company had been adjudicated in said district as a bankrupt, and as such trustee took charge of the assets of said Whitehall Building & Operating Co., which consisted of a hotel property located in Palm Beach in said district. That the said Richardson as such trustee operated said hotel property from the time of his said appointment until its sale on the 3d of January 1929, under the foreclosure of a third mortgage thereon. On the 1st of November and the 13th of December 1929, the said Judge Ritter made orders in said bankruptcy proceedings allowing the said Walter S. Richardson as trustee the sum of $16,500 as compensation for his services as trustee. That before the discharge of said Walter S. Richardson as such trustee, said Richardson, together with said A. L. Rankin, one Ernest Metcalf, one Martin Sweeney, and the said Halsted L. Ritter, entered into an arrangement to secure permission of the holder or holders of at least $50,000 of first-mortgage bonds on said hotel property for the purpose of filing a bill to foreclose the first mortgage on said premises in the court of said Halsted L. Ritter, by which means the said Richardson, Rankin, Metcalf, Sweeney, and Ritter were to continue said property in litigation before said Ritter. On the 30th day of August 1929, the said Walter S. Richardson, in furtherance of said arrangement and understanding, wrote a letter to the said Martin Sweeney, in New York, suggesting the desirability of contacting as many first mortgage bondholders as possible in order that their cooperation might be secured, directing special attention to Mr. Bert E. Holland, an attorney, whose address was in the Tremont Building in Boston, and who, as cotrustee, was the holder of $50,000 of first-mortgage bonds, the amount of bonds required to institute the contemplated proceedings in Judge Ritter's court.

On October 3, 1929, the said Bert E. Holland, being solicited by the said Sweeney, requested the said Rankin and Metcalf to prepare a complaint to file in said Judge Ritter's court for foreclosure of said first mortgage and the appointment of a receiver. At this time Judge Ritter was holding court in Brooklyn, N.Y.,

and the said Rankin and Richardson went from West Palm Beach, Fla., to Brooklyn, N.Y., and called upon said Judge Ritter a short time previous to filing the bill for foreclosure and appointment of a receiver of said hotel property.

On October 10, 1929, and before the filing of said bill for foreclosure and receiver, the said Holland withdrew his authority to said Rankin and Metcalf to file said bill and notified the said Rankin not to file the said bill. Notwithstanding the said instructions to said Rankin not to file said bill, said Rankin, on the 11th day of October, 1929, filed said bill with the clerk of the United States District Court for the Southern District of Florida, but with the specific request to said clerk to lock up the said bill as soon as it was filed and hold until Judge Ritter's return so that there would be no newspaper publicity before the matter was heard by Judge Ritter for the appointment of a receiver, which request on the part of the said Rankin was complied with by the said clerk.

On October 16, 1929, the said Holland telegraphed to the said Rankin, referring to his previous wire requesting him to refrain from filing the bill and insisting that the matter remain in its then status until further instruction was given; and on October 17, 1929, the said Rankin wired to Holland that he would not make an application on his behalf for the appointment of a receiver. On October 28, 1929, a hearing on the complaint and petition for receivership was heard before Judge Halsted L. Ritter at Miami, at which hearing the said Bert E. Holland appeared in person before said Judge Ritter and advised the judge that he wished to withdraw the suit and asked for dismissal of the bill of complaint on the ground that the bill was filed without his authority.

But the said Judge Ritter, fully advised of the facts and circumstances hereinbefore recited, wrongfully and oppressively exercised the powers of his office to carry into execution said plan and agreement theretofore arrived at, and refused to grant the request of the said Holland and made effective the champertous undertaking of the said Richardson and Rankin and appointed the said Richardson receiver of the said hotel property, notwithstanding that objection was made to Judge Ritter that said Richardson had been active in fomenting this litigation and was not a proper person to act as receiver.

On October 15, 1929, said Rankin made oath to each of the bills for intervenors which were filed the next day.

On October 16, 1929, bills for intervention in said foreclosure suit were filed by said Rankin and Metcalf in the names of holders of approximately $5,000 of said first-mortgage bonds, which intervenors did not possess the said requisite $50,000 in bonds required by said first mortgage to bring foreclosure proceedings on the part of the bondholders.

The said Rankin and Metcalf appeared as attorneys for complainants and intervenors, and in response to a suggestion of the said Judge Ritter, the said Metcalf withdrew as attorney for complainants and intervenors and said Judge Ritter thereupon appointed said Metcalf as attorney for the said Richardson, the receiver.

And in the further carrying out of said arrangement and understanding, the said Richardson employed the said Martin Sweeney and one Bemis, together with Ed Sweeney, as managers of said property, for which they were paid the sum of $60,000 for the management of said hotel for the two seasons the property remained in the custody of said Richardson as receiver.

On or about the 15th of May 1930 the said Judge Ritter allowed the

said Rankin an advance on his fee of $2,500 for his services in said case.

On or about July 2, 1930, the said Judge Ritter requested Judge Alexander Akerman, also a judge of the United States District Court for the Southern District of Florida, to fix the total allowance for the said Rankin for his services in said case, said request and the reasons therefor being set forth in a letter by the said Judge Ritter, in words and figures as follows, to wit:

JULY 2, 1930.

Hon. ALEXANDER AKERMAN,
United States District Judge,
Tampa, Fla.

MY DEAR JUDGE: In the case of *Holland et al.* v. *Whitehall Building & Operating Co.* (No. 678–M–Eq.), pending in my division, my former law partner, Judge A. L. Rankin, of West Palm Beach, has filed a petition for an order allowing compensation for his services on behalf of the plaintiff.

I do not feel that I should pass, under the circumstances, upon the total allowance to be made Judge Rankin in this matter. I did issue an order, which Judge Rankin will exhibit to you, approving an advance of $2,500 on his claim, which was approved by all attorneys.

You will appreciate my position in the matter, and I request you to pass upon the total allowance which should be made Judge Rankin in the premises as an accommodation to me. This will relieve me from any embarrassment hereafter if the question should arise as to my favoring Judge Rankin in this matter by an exorbitant allowance.

Appreciating very much your kindness in this matter, I am,

Yours sincerely,

HALSTED L. RITTER.

In compliance with said request the said Judge Akerman allowed the said Rankin $12,500 in addition to the $2,500 theretofore allowed by Judge Ritter, making a total of $15,000 as the fee of the said Rankin in the said case.

But notwithstanding the said request on the part of said Ritter and the compliance by the said Judge Akerman and the reasons for the making of said request by said Judge Ritter of Judge Akerman, the said Judge Ritter, on the 24th day of December 1930, allowed the said Rankin an additional fee of $75,000.

And on the same date when the receiver in said case paid to the said Rankin as a part of said additional fee the sum of $25,000, said Rankin privately paid and delivered to said Judge Ritter out of the said $25,000 the sum of $2,500 in cash, $2,000 of which the said Judge Ritter deposited in a bank and $500 of which was put in a tin box and not deposited until the 10th day of July 1931, when it was deposited in a bank with an additional sum of $600.

On or about the 6th day of April 1931, the said Rankin received as a part of the $75,000 additional fee the sum of $45,000, and shortly thereafter, on or before the 14th day of April 1931, the said Rankin paid and delivered to said Judge Ritter, privately and in cash, out of said $45,000 the sum of $2,000.

The said Judge Halsted L. Ritter corruptly and unlawfully accepted and received for his own use and benefit from the said Rankin the aforesaid sums of $2,500 in cash and $2,000 in cash, amounting in all to $4,500.

Of the total allowance made to said A. L. Rankin in said foreclosure suit, amounting in all to $90,000, the following sums were paid out by said Rankin with the knowledge and consent of said Judge Ritter, to wit, to said Walter S. Richardson, the sum of $5,000; to said Metcalf, the sum of $10,000; to Shutts and Bowen, also attorneys for the receiver, the sum of

$25,000; and to said Halsted L. Ritter, the sum of $4,500.

In addition to the said sum of $5,000 received by the said Richardson, as aforesaid, said Ritter by order in said proceedings allowed said Richardson a fee of $30,000 for services as such receiver.

The said fees allowed by said Judge Ritter to A. L. Rankin (who had been a law partner of said judge immediately before said judge's appointment as judge) as solicitor for the plaintiff in said case were excessive and unwarranted, and said judge profited personally thereby in that out of the money so allowed said solicitor he received personally, privately, and in cash $4,500 for his own use and benefit.

While the Whitehall Hotel was being operated in receivership under said proceeding pending in said court (and in which proceeding the receiver in charge of said hotel by appointment of said judge was allowed large compensation by said judge) the said judge stayed at said hotel from time to time without cost to himself and received free rooms, free meals, and free valet service, and, with the knowledge and consent of said judge, members of his family, including his wife, his son, Thurston Ritter, his daughter, Mrs. M. R. Walker, his secretary, Mrs. Lloyd C. Hooks, and her husband, Lloyd C. Hooks, each likewise on various occasions stayed at said hotel without cost to themselves or to said judge, and received free rooms, and some or all of them received from said hotel free meals and free valet service; all of which expenses were borne by the said receivership to the loss and damage of the creditors whose interests were involved therein.

The said judge willfully failed and neglected to perform his duty to conserve the assets of the Whitehall Building & Operating Co. in receivership in his court, but to the contrary, permitted waste and dissipation of its assets, to the loss and damage of the creditors of said corporation, and was a party to the waste and dissipation of such assets while under the control of his said court, and personally profited thereby, in the manner and form hereinabove specifically set out.

Wherefore the said Judge Halsted L. Ritter was and is guilty of misbehavior and was and is guilty of a high crime and misdemeanor in office.

ARTICLE III

That the said Halsted L. Ritter, having been nominated by the President of the United States, confirmed by the Senate of the United States, duly qualified and commissioned, and while acting as a United States district judge for the southern district of Florida, was and is guilty of a high crime and misdemeanor in office in manner and form as follows, to wit:

That the said Halsted L. Ritter, while such judge, was guilty of a violation of section 258 of the Judicial Code of the United States of America (U.S.C. Annotated, title 28, sec. 373), making it unlawful for any judge appointed under the authority of the United States to exercise the profession or employment of counsel or attorney, or to be engaged in the practice of the law, in that after the employment of the law firm of Ritter & Rankin (which, at the time of the appointment of Halsted L. Ritter to be judge of the United States District Court for the Southern District of Florida, was composed of Halsted L. Ritter and A. L. Rankin) in the case of Trust Co. of Georgia and Robert G. Stephens, trustees, against Brazilian Court Building Corporation and others, No. 5704 in the Circuit Court of the Fifteenth Judicial Circuit of Florida, and after the final decree had been entered in said cause, and after the fee of $4,000 which had been agreed upon at the

outset of said employment had been fully paid to the firm of Ritter & Rankin, and after Halsted L. Ritter had on, to wit, February 15, 1929, become judge of the United States District Court for the Southern District of Florida, Judge Ritter on, to wit, March 11, 1929, wrote a letter to Charles A. Brodek, of counsel for Mulford Realty Corporation (the client which his former law firm had been representing in said litigation), stating that there had been much extra and unanticipated work in the case; that he was then a Federal judge; that his partner, A. L. Rankin, would carry through further proceedings in the case, but that he, Judge Ritter, would be consulted about the matter until the case was all closed up; and that "this matter is one among very few which I am assuming to continue my interest in until finally closed up"; and stating specifically in said letter:

"I do not know whether any appeal will be taken in the case or not; but if so, we hope to get Mr. Howard Paschal or some other person as receiver who will be amenable to our directions, and the hotel can be operated at a profit, of course, pending the appeal. We shall demand a very heavy supersedeas bond, which I doubt whether D'Esterre can give."

And further that he was "of course, primarily interested in getting some money in the case," and that he thought "$2,000 more by way of attorneys' fees should be allowed"; and asked that he be communicated with direct about the matter, giving his post-office box number. On, to wit, March 13, 1929, said Brodek replied favorably, and on March 30, 1929, a check of Brodek, Raphael & Eisner, a law firm of New York City, representing Mulford Realty Corporation, in which Charles A. Brodek, senior member of the firm of Brodek, Raphael & Eisner, was one of the directors, was drawn, payable to the order of "Hon. Halsted L. Ritter" for $2,000, and which was duly endorsed "Hon. Halsted L. Ritter. H. L. Ritter" and was paid on, to wit, April 4, 1929, and the proceeds thereof were received and appropriated by Judge Ritter to his own individual use and benefit, without advising his said former partner that said $2,000 had been received, without consulting with his said former partner thereabout, and without the knowledge or consent of his said former partner, appropriated the entire amount thus solicited and received to the use and benefit of himself, the said Judge Ritter.

At the time said letter was written by Judge Ritter and said $2,000 received by him, Mulford Realty Corporation held and owned large interests in Florida real estate and citrus groves, and a large amount of securities of the Olympia Improvement Corporation, which was a company organized to develop and promote Olympia, Fla., said holdings being within the territorial jurisdiction of the United States district court, of which Judge Ritter was a judge from February 15, 1929.

Which acts of said judge were calculated to bring his office into disrepute, constitute a violation of section 258 of the Judicial Code of the United States of America (U.S.C., Annotated, title 28, sec. 373), and constitute a high crime and misdemeanor within the meaning and intent of section 4 of article II of the Constitution of the United States.

Wherefore, the said Judge Halsted L. Ritter was and is guilty of a high misdemeanor in office.

ARTICLE IV

That the said Halsted L. Ritter, while holding the office of United States district judge for the southern district of Florida, having been nominated by the President of the United States, confirmed by the Senate of the United States, duly qualified and commissioned, and while acting as a

United States district judge for the southern district of Florida, was and is guilty of misbehavior and of high crimes and misdemeanors in office in manner and form as follows, to wit:

The said Judge Ritter by his actions and conduct, as an individual and as such judge, has brought his court into scandal and disrepute, to the prejudice of said court and public confidence in the administration of justice in his said court, and to the prejudice of public respect for and confidence in the Federal judiciary:

1. In that in the Florida Power Co. case (Florida Power & Light Co. against City of Miami and others, No. 1183–M–Eq.), which was a case wherein said judge had granted the complainant power company a temporary injunction restraining the enforcement of an ordinance of the city of Miami, which ordinance prescribed a reduction in the rates for electric current being charged in said city, said judge improperly appointed one Cary T. Hutchinson, who had long been associated with and employed by power and utility interests, special master in chancery in said suit, and refused to revoke his order so appointing said Hutchinson. Thereafter, when criticism of such action had become current in the city of Miami, and within 2 weeks after a resolution (H. Res. 163, 73d Cong.) had been agreed to in the House of Representatives of the Congress of the United States authorizing and directing the Judiciary Committee thereof to investigate the official conduct of said judge and to make a report concerning said conduct to said House of Representatives, an arrangement was entered into with the city commissioners of the city of Miami or with the city attorney of said city by which the said city commissioners were to pass a resolution expressing faith and confidence in the integrity of said judge, and the said judge recuse himself as judge [in] said power suit. The said agreement was carried out by the parties thereto, and said judge, after the passage of such resolution, recused himself from sitting as judge in said power suit, thereby bartering his judicial authority in said case for a vote of confidence. Nevertheless, the succeeding judge allowed said Hutchinson as special master in chancery in said case a fee of $5,000, although he performed little, if any, service as such, and in the order making such allowance recited: "And it appearing to the court that a minimum fee of $5,000 was approved by the court for the said Cary T. Hutchinson, special master in this cause."

2. In that in the Trust Co. of Florida cases (Illick against Trust Co. of Florida et al., No. 1043–M–Eq., and Edmunds Committee et al. against Marlon Mortgage Co. et al., No. 1124–M–Eq.) after the State banking department of Florida, through its comptroller, Honorable Ernest Amos, had closed the doors of the Trust Co. of Florida and appointed J. H. Therrell liquidator for said trust company, and had interviewed in the said Illick case, said Judge Ritter wrongfully and erroneously refused to recognize the right of said State authority to administer the affairs of the said trust company, and appointed Julian S. Eaton and Clark D. Stearns as receivers of the property of said trust company. On appeal, the United States Circuit Court of Appeals for the Fifth Circuit reversed the said order or decree of Judge Ritter, and ordered the said property surrendered to the State liquidator. Thereafter, on, to wit, September 12, 1932, there was filed in the United States District Court for the Southern District of Florida the Edmunds Committee case, supra. Marion Mortgage Co. was a subsidiary of the Trust Co. of Florida. Judge Ritter being absent from his district at the time of the filing of said case, an application for the appointment of receivers therein was

presented to another judge of said district, namely, Honorable Alexander Akerman. Judge Ritter, however, prior to the appointment of such receivers, telegraphed Judge Akerman, requesting him to appoint the aforesaid Eaton and Stearns as receivers in said case, which appointments were made by Judge Akerman. Thereafter the United States Circuit Court of Appeals for the Fifth Circuit reversed the order of Judge Akerman, appointing said Eaton and Stearns as receivers in said case. In November 1932 J. H. Therrell, as liquidator, filed a bill of complaint in the Circuit Court of Dade County, Fla.—a court of the State of Florida—alleging that the various trust properties of the Trust Co. of Florida were burdensome to the liquidator to keep, and asking that the court appoint a succeeding trustee. Upon petition for removal of said cause from said State court into the United States District Court for the Southern District of Florida, Judge Ritter took jurisdiction, notwithstanding the previous rulings of the United States Circuit Court of Appeals above referred to, and again appointed the said Eaton and Stearns as the receivers of the said trust properties. In December 1932 the said Therrell surrendered all of the trust properties to said Eaton and Stearns as receivers, together with all records of the Trust Co. of Florida pertaining thereto. During the time said Eaton and Stearns, as such receivers, were in control of said trust properties, Judge Ritter wrongfully and improperly approved their accounts without notice or opportunity for objection thereto to be heard. With the knowledge of Judge Ritter, said receivers appointed the sister-in-law of Judge Ritter, namely, Mrs. G. M. Wickard, who had had no previous hotel-management experience, to be manager of the Julia Tuttle Hotel and Apartment Building, one of said trust properties. On, to wit, January], 1933, Honorable J. M. Lee succeeded Honorable Ernest Amos as comptroller of the State of Florida and appointed M. A. Smith liquidator in said Trust Co. of Florida cases to succeed J. H. Therrell. An appeal was again taken to the United States Circuit Court of Appeals for the Fifth Circuit from the then latest order or decree of Judge Ritter, and again the order or decree of Judge Ritter appealed from was reversed by the said circuit court of appeals, which held that Judge Ritter, or the court in which he presided, had been without jurisdiction in the matter of the appointment of said Eaton and Stearns as receivers. Thereafter, and with the knowledge of the decision of the said circuit court of appeals, Judge Ritter wrongfully and improperly allowed said Eaton and Stearns and their attorneys some $26,000 as fees out of said trust-estate properties, and endeavored to require, as a condition precedent to releasing said trust properties from the control of his court, a promise from counsel for the said State liquidator not to appeal from his order allowing the said fees to said Eaton and Stearns and their attorneys.

3. In that the said Halsted L. Ritter, while such Federal judge, accepted, in addition to $4,500 from his former law partner as alleged in article I hereof, other large fees or gratuities, to wit, $7,500 from J. R. Francis, on or about April 19, 1929, J. R. Francis at this said time having large property interests within the territorial jurisdiction of the court of which Judge Ritter was a judge. On, to wit, the 4th day of April 1929 the said Judge Ritter accepted the sum of $2,000 from said Brodek, Raphael & Eisner, representing Mulford Realty Corporation, through his attorney, Charles A. Brodek, as a fee or gratuity, at which time the said Mulford Realty Corporation held and owned large

interests in Florida real estate and citrus groves, and a large amount of securities of the Olympia Improvement Corporation, which was a company organized to develop and promote Olympia, Fla., said holdings being within the territorial jurisdiction of the United States District Court of which Judge Ritter was a judge from February 15, 1929.

4. By his conduct as detailed in articles I and II hereof.

Wherefore, the said Judge Halsted L. Ritter was and is guilty of misbehavior, and was and is guilty of high crimes and misdemeanors in office.

Attest:

JOSEPH W. BYRNS,
Speaker of the House of Representatives.
SOUTH TRIMBLE,
Clerk.

Representative Sumners entered a reservation of the right of the House to amend or supplement the articles and demanded that the respondent be put to trial:

MR. MANAGER SUMNERS: Mr. President, the House of Representatives, by protestation, saving themselves the liberty of exhibiting at any time hereafter any further articles of accusation or impeachment against the said Halsted L. Ritter, district judge of the United States for the southern district of Florida, and also of replying to his answers which he shall make unto the articles preferred against him, and of offering proof to the same and every part thereof, and to all and every other article of accusation or impeachment which shall be exhibited by them as the case shall require, do demand that the said Halsted L. Ritter may be put to answer the misdemeanors in office which have been charged against him in the articles which have been exhibited to the Senate, and that such proceedings, examinations, trials, and judgments may be thereupon had and given as may be agreeable to law and justice.

Mr. President, the managers on the part of the House of Representatives, in pursuance of the action of the House of Representatives by the adoption of the articles of impeachment which have just been read to the Senate, do now demand that the Senate take order for the appearance of the said Halsted L. Ritter to answer said impeachment, and do now demand his impeachment, conviction, and removal from office.

THE VICE PRESIDENT: The Senate wild take proper order and notify the House of Representatives.[1]

The most senior Member of the Senate, Senator William E. Borah, of Idaho, then administered the oath to Vice President Garner, who administered the oath to the other Senators present.

The Sergeant at Arms made proclamation that the Senate was then sitting as a Court of Impeachment. Orders were adopted notifying the House of the organization of the court and issuing a summons to the respondent.[2]

§ 18.8 In response to a summons, Judge Halsted Ritter

1. *Id.* at p. 3488.
2. *Id.* at pp. 3488, 3489. For the text of the proceedings whereby the Senate organized for the Ritter impeachment trial, see § 11.5, supra.

appeared before the Senate sitting as a Court of Impeachment.

On Mar. 12, 1936, respondent Halsted Ritter appeared before the Court of Impeachment pursuant to the summons previously issued, and filed an entry of appearance: (3)

THE VICE PRESIDENT: (4) . . . The Secretary will read the return of the Sergeant at Arms.

The Chief Clerk read as follows:

SENATE OF THE UNITED STATES,
OFFICE OF THE SERGEANT AT ARMS.

The foregoing writ of summons addressed to Halsted L. Ritter, and the foregoing precept, addressed to me, were duly served upon the said Halsted L. Ritter by me by delivering true and attested copies of the same to the said Halsted L. Ritter at the Carlton Hotel, Washington, D.C., on Thursday, the 12th day of March 1936, at 11 o'clock in the forenoon of that day.

CHESLEY W. JURNEY,
Sergeant at Arms,
United States Senate.

THE VICE PRESIDENT: The Secretary of the Senate will administer the oath to the Sergeant at Arms.

The Secretary of the Senate, Edwin A. Halsey, administered the oath to the Sergeant at Arms, as follows:

You, Chesley W. Jurney, do solemnly swear that the return made by you upon the process issued on the 10th day of March 1936 by the Senate of the United States against Halsted L. Ritter, United States district judge for the southern district of Florida, is truly made, and that you have performed such service as therein described. So help you God.

THE VICE PRESIDENT: The Sergeant at Arms will make proclamation.

The Sergeant at Arms made proclamation as follows:

Halsted L. Ritter! Halsted L. Ritter! Halsted L. Ritter! United States district judge for the southern district of Florida, appear and answer to the articles of impeachment exhibited by the House of Representatives against you.

The respondent, Halsted L. Ritter, and his counsel, Frank P. Walsh, Esq., of New York City, N.Y., and Carl T. Hoffman, Esq., of Miami, Fla., entered the Chamber and were conducted to the seats assigned them in the space in front of the Secretary's desk, on the right of the Chair.

THE VICE PRESIDENT: Counsel for the respondent are advised that the Senate is now sitting for the trial of articles of impeachment exhibited by the House of Representatives against Halsted L. Ritter, United States district judge for the southern district of Florida.

MR. WALSH (of counsel): May it please you, Mr. President, and honorable Members of the Senate, I beg to inform you that, in response to your summons, the respondent, Halsted L. Ritter, is now present with his counsel and asks leave to file a formal entry of appearance.

THE VICE PRESIDENT: Is there objection? The Chair hears none, and the appearance will be filed with the Secretary, and will be read.

The Chief Clerk read as follows:

3. 80 CONG. REC. 3646, 3647, 74th Cong. 2d Sess.

4. John N. Garner (Tex.).

IN THE SENATE OF THE UNITED STATES OF AMERICA SITTING AS A COURT OF IMPEACHMENT

MARCH 12, 1936.

The United States of America v. *Halsted L. Ritter*

The respondent, Halsted L. Ritter, having this day been served with a summons requiring him to appear before the Senate of the United States of America in the city of Washington, D.C., on March 12, 1936, at 1 o'clock afternoon to answer certain articles of impeachment presented against him by the House of Representatives of the United States of America, now appears in his proper person and also by his counsel, who are instructed by this respondent to inform the Senate that respondent stands ready to file his pleadings to such articles of impeachment within such reasonable period of time as may be fixed.

Dated March 12, 1936.

§ 18.9 The Senate, sitting as a Court of Impeachment, excused a Senator from service at his request, fixed a trial date, allowed respondent 18 days to file his answer, and adopted supplemental rules for trial.

On Mar. 12, 1936, the Senate convened as a Court of Impeachment in the Halsted Ritter case. Preceding the administration of the oath to members not theretofore sworn, the court granted the request of Senator Edward P. Costigan, of Colorado, that he be excused from service on the Court of Impeachment. Senator Costigan caused to be printed in the Record the reasons for his request, based on a long personal acquaintance with the respondent.(5)

The Senate ratified an agreement, between the managers and counsel for the respondent, as to the time permitted the respondent to file his answer with the Court of Impeachment:

MR. [JOSEPH T.] ROBINSON [of Arkansas]: Mr. President, I think there is not a clear understanding as to the arrangement which has been entered into between the managers and the counsel for the respondent. It is my understanding, and if I am in error someone who is better informed will please correct me, that the agreement is that counsel for the respondent will place their response in the possession of the managers on the part of the House not later than the 26th instant, and that the Court may reconvene again on the 30th when the response will be filed in the Senate.

THE VICE PRESIDENT:(6) Is there objection to that agreement?

There was no objection.(7)

The Court of Impeachment adopted a motion fixing the trial date at Apr. 6, 1936.(8)

The court adopted supplemental rules, which Senator Henry F.

5. 80 CONG. REC. 3646, 74th Cong. 2d Sess.

6. John N. Garner (Tex.).

7. 80 CONG. REC. 3647, 74th Cong. 2d Sess.

8. *Id.* at p. 3648.

Ashurst, of Arizona, stated to be the same as those adopted in the trial of Judge Harold Louderback:

Ordered, That in addition to the rules of procedure and practice in the Senate when sitting on impeachment trials, heretofore adopted, and supplementary to such rules, the following rules shall be applicable in the trial of the impeachment of Halsted L. Ritter, United States judge for the southern district of Florida:

1. In all matters relating to the procedure of the Senate, whether as to form or otherwise, the managers on the part of the House or the counsel representing the respondent may submit a request or application orally to the Presiding Officer, or, if required by him or requested by any Senator, shall submit the same in writing.

2. In all matters relating immediately to the trial, such as the admission, rejection, or striking out of evidence, or other questions usually arising in the trial of causes in courts of justice, if the managers on the part of the House or counsel representing the respondent desire to make any application, request, or objection, the same shall be addressed directly to the Presiding Officer and not otherwise.

3. It shall not be in order for any Senator, except as provided in the rules of procedure and practice in the Senate when sitting on impeachment trials, to engage in colloquy or to address questions either to the managers on the part of the House or to counsel for the respondent, nor shall it be in order for Senators to address each other; but they shall address their remarks directly to the Presiding Officer and not otherwise.

4. The parties may, by stipulation in writing filed with the Secretary of the Senate and by him laid before the Senate or presented at the trial, agree upon any facts involved in the trial; and such stipulation shall be received by the Senate for all intents and purposes as though the facts therein agreed upon had been established by legal evidence adduced at the trial.

5. The parties or their counsel may interpose objection to witnesses answering questions propounded at the request of any Senator, and the merits of any such objection may be argued by the parties or their counsel; and the Presiding Officer may rule on any such objection, which ruling shall stand as the judgment of the Senate, unless some Member of the Senate shall ask that a formal vote be taken thereon, in which case it shall be submitted to the Senate for decision; or he may, at his option, in the first instance submit any such question to a vote of the Members of the Senate. Upon all such questions the vote shall be without debate and without a division, unless the ayes and nays be demanded by one-fifth of the Members present when the same shall be taken.[9]

Amendment of Articles of Impeachment

§ 18.10 The House adopted a resolution, reported as privileged by the managers on the part of the House in the Halsted Ritter impeachment, amending the articles previously voted by the House.

9. *Id.*

On Mar. 30, 1936,[10] Mr. Hatton W. Sumners, of Texas, called up the following privileged resolution (H. Res. 471) amending the articles of impeachment against Judge Ritter:

Resolved, That the articles of impeachment heretofore adopted by the House of Representatives in and by House Resolution 422, House Calendar No. 279, be, and they are hereby, amended as follows:

Article III is amended so as to read as follows:

ARTICLE II

That the said Halsted L. Ritter, having been nominated by the President of the United States, confirmed by the Senate of the United States, duly qualified and commissioned, and, while acting as a United States district judge for the southern district of Florida, was and is guilty of a high crime and misdemeanor in office in manner and form as follows, to wit:

That the said Halsted L. Ritter, while such judge, was guilty of a violation of section 258 of the Judicial Code of the United States of America (U.S.C., Annotated, title 28, sec. 373), making it unlawful for any judge appointed under the authority of the United States to exercise the profession or employment of counsel or attorney, or to be engaged in the practice of the law, in that after the employment of the law firm of Ritter & Rankin (which at the time of the appointment of Halsted L. Ritter to be judge of the United States District Court for the Southern District of Florida, was composed of Halsted L. Ritter and A. L. Rankin) in the case of *Trust Co. of Georgia and Robert G. Stephens, Trustee* v. *Brazilian Court Building Corporation et al.*, no. 5704, in the Circuit Court of the Fifteenth Judicial Circuit of Florida, and after the fee of $4,000 which had been agreed upon at the outset of said employment had been fully paid to the firm of Ritter & Rankin, and after Halsted L. Ritter had, on, to wit, February 15, 1929, become judge of the United States District Court for the Southern District of Florida, Judge Ritter on, to wit, March 11, 1929, wrote a letter to Charles A. Brodek, of counsel for Mulford Realty Corporation (the client which his former law firm had been representing in said litigation), stating that there had been much extra and unanticipated work in the case, that he was then a Federal judge; that his partner, A. L. Rankin, would carry through further proceedings in the case, but that he, Judge Ritter, would be consulted about the matter until the case was all closed up; and that "this matter is one among very few which I am assuming to continue my interest in until finally closed up"; and stating specifically in said letter:

"I do not know whether any appeal will be taken in the case or not, but, if so, we hope to get Mr. Howard Paschal or some other person as receiver who will be amenable to our directions, and the hotel can be operated at a profit, of course, pending the appeal. We shall demand a very heavy supersedeas bond, which I doubt whether D'Esterre can give"; and further that he was "of course primarily interested in getting some money in the case", and that he thought "$2,000 more by way of attorney's fees should be allowed"; and asked that he be communicated with direct about the matter, giving his post-office box number. On, to wit, March 13, 1929, said Brodek replied favorably, and on March 30, 1929, a check of Brodek, Raphael & Eisner,

10. 80 CONG. REC. 4597–99. 74th Cong. 2d Sess.

a law firm of New York City, representing Mulford Realty Corporation, in which Charles A. Brodek, senior member of the firm of Brodek, Raphael & Eisner, was one of the directors, was drawn, payable to the order of "Hon. Halsted L. Ritter" for $2,000 and which was duly endorsed "Hon. Halsted L. Ritter. H. L. Ritter" and was paid on, to wit, April 4, 1929, and the proceeds thereof were received and appropriated by Judge Ritter to his own individual use and benefit, without advising his said former partner that said $2,000 had been received, without consulting with his former partner thereabout, and without the knowledge or consent of his said former partner, appropriated the entire amount thus solicited and received to the use and benefit of himself, the said Judge Ritter.

At the time said letter was written by Judge Ritter and said $2,000 received by him, Mulford Realty Corporation held and owned large interests in Florida real estate and citrus groves, and a large amount of securities of the Olympia Improvement Corporation, which was a company organized to develop and promote Olympia, Fla., said holdings being within the territorial jurisdiction of the United States district court, of which Judge Ritter was a judge from, to wit, February 15, 1929.

After writing said letter of March 11, 1929, Judge Ritter further exercised the profession or employment of counsel or attorney, or engaged in the practice of the law, with relation to said case.

Which acts of said judge were calculated to bring his office into disrepute, constitute a violation of section 258 of the Judicial Code of the United States of America (U.S.C., Annotated, title 28, sec. 373), and constitute a high crime and misdemeanor within the meaning and intent of section 4 of article II of the Constitution of the United States.

Wherefore, the said Judge Halsted L. Ritter was and is guilty of a high misdemeanor in office.

By adding the following articles immediately after article III as amended:

ARTICLE IV

That the said Halsted L. Ritter, having been nominated by the President of the United States, confirmed by the Senate of the United States, duly qualified and commissioned, and, while acting as a United States district judge for the southern district of Florida, was and is guilty of a high crime and misdemeanor in office in manner and form as follows, to wit:

That the said Halsted L. Ritter, while such judge, was guilty of a violation of section 258 of the Judicial Code of the United States of America (U.S.C., Annotated, title 28, sec. 373), making it unlawful for any judge appointed under the authority of the United States to exercise the profession or employment of counsel or attorney, or to be engaged in the practice of the law, in that Judge Ritter did exercise the profession or employment of counsel or attorney, or engaged in the practice of the law, representing J. R. Francis, with relation to the Boca Raton matter and the segregation and saving of the interest of J. R. Francis therein, or in obtaining a deed or deeds to J. R. Francis from the Spanish River Land Co. to certain pieces of realty, and in the Edgewater Ocean Beach Development Co. matter, for which services the said Judge Ritter received from the said J. R. Francis the sum of $7,500.

Which acts of said judge were calculated to bring his office into disrepute, constitute a violation of the law above recited, and constitute a high crime and misdemeanor within the meaning and intent of section 4 of article II of the Constitution of the United States.

Wherefore the said Judge Halsted L. Ritter was and is guilty of a high misdemeanor in office.

ARTICLE V

That the said Halsted L. Ritter, having been nominated by the President of the United States, confirmed by the Senate of the United States, duly qualified and commissioned, and, while acting as a United States district judge for the southern district of Florida, was and is guilty of a high crime and misdemeanor in office in manner and form as follows, to wit:

That the said Halsted L. Ritter, while such judge, was guilty of violation of section 146(b) of the Revenue Act of 1928, making it unlawful for any person willfully to attempt in any manner to evade or defeat the payment of the income tax levied in and by said Revenue Act of 1928, in that during the year 1929 said Judge Ritter received gross taxable income—over and above his salary as judge—to the amount of some $12,000, yet paid no income tax thereon.

Among the fees included in said gross taxable income for 1929 were the extra fee of $2,000 solicited and received by Judge Ritter in the Brazilian Court case, as described in article III, and the fee of $7,500 received by Judge Ritter from J. R. Francis.

Wherefore the said Judge Halsted L. Ritter was and is guilty of a high misdemeanor in office.

ARTICLE VI

That the said Halsted L. Ritter, having been nominated by the President of the United States, confirmed by the Senate of the United States, duly qualified and commissioned, and, while acting as a United States district judge for the southern district of Florida, was and is guilty of a high crime and misdemeanor in office in manner and form as follows, to wit:

That the said Halsted L. Ritter, while such judge, was guilty of violation of section 146(b) of the Revenue Act of 1928, making it unlawful for any person willfully to attempt in any manner to evade or defeat the payment of the income tax levied in and by said Revenue Act of 1928, in that during the year 1930 the said Judge Ritter received gross taxable income—over and above his salary as judge—to the amount of, to wit, $5,300, yet failed to report any part thereof in his income-tax return for the year 1930, and paid no income tax thereon.

Two thousand five hundred dollars of said gross taxable income for 1930 was that amount of cash paid Judge Ritter by A. L. Rankin on December 24, 1930, as described in article I.

Wherefore the said Judge Halsted L. Ritter was and is guilty of a high misdemeanor in office.

Original article IV is amended so as to read as follows:

"ARTICLE VII

"That the said Halsted L. Ritter, while holding the office of United States district judge for the southern district of Florida, having been nominated by the President of the United States, confirmed by the Senate of the United States, duly qualified and commissioned, and, while acting as a United States district judge for the southern district of Florida, was and is guilty of misbehavior and of high crimes and misdemeanors in office in manner and form as follows, to wit:

"The reasonable and probable consequence of the actions or conduct of Halsted L. Ritter, hereunder specified or indicated in this article, since he became judge of said court, as an individual or as such judge, is to bring his court into scandal and disrepute, to the prejudice of said court and public confidence in the admin-

istration of justice therein, and to the prejudice of public respect for and confidence in the Federal judiciary, and to render him unfit to continue to serve as such judge:

"1. In that in the Florida Power Co. case (*Florida Power & Light Co.* v. *City of Miami et al.*, no. 1183–M–Eq.), which was a case wherein said judge had granted the complainant power company a temporary injunction restraining the enforcement of an ordinance of the city of Miami, which ordinance prescribed a reduction in the rates for electric current being charged in said city, said judge improperly appointed one Cary T. Hutchinson, who had long been associated with and employed by power and utility interests, special master in chancery in said suit, and refused to revoke his order so appointing said Hutchinson. Thereafter, when criticism of such action had become current in the city of Miami, and within 2 weeks after a resolution (H. Res. 163, 73d Cong.) had been agreed to in the House of Representatives of the Congress of the United States, authorizing and directing the Judiciary Committee thereof to investigate the official conduct of said judge and to make a report concerning said conduct to said House of Representatives, an arrangement was entered into with the city commissioners of the city of Miami or with the city attorney of said city by which the said city commissioners were to pass a resolution expressing faith and confidence in the integrity of said judge, and the said judge recuse himself as judge in said power suit. The said agreement was carried out by the parties thereto, and said judge; after the passage of such resolution, recused himself from sitting as judge in said power suit, thereby bartering his judicial authority in said case for a vote of confidence. Nevertheless, the succeeding judge allowed said Hutchinson as special master in chancery in said case a fee of $5,000, although he performed little, if any, service as such, and in the order making such allowance recited: 'And it appearing to the court that a minimum fee of $5,000 was approved by the court for the said Cary T. Hutchinson, special master in this cause.'

"2. In that in the Trust Co. of Florida cases (*Illick* v. *Trust Co. of Florida et al.*, no. 1043–M–Eq., and *Edmunds Committee et al.* v. *Marion Mortgage Co. et al.*, no. 1124–M–Eq.), after the State Banking Department of Florida, through its comptroller, Hon. Ernest Amos, had closed the doors of the Trust Co. of Florida and appointed J. H. Therrell liquidator for said trust company, and had intervened in the said Illick case, said Judge Ritter wrongfully and erroneously refused to recognize the right of said State authority to administer the affairs of the said trust company and appointed Julian S. Eaton and Clark D. Stearns as receivers of the property of said trust company. On appeal the United States Circuit Court of Appeals for the Fifth Circuit reversed the said order or decree of Judge Ritter and ordered the said property surrendered to the State liquidator. Thereafter, on, to wit, September 12, 1932, there was filed in the United States District Court for the Southern District of Florida the Edmunds Committee case, supra. Marion Mortgage Co. was a subsidiary of the Trust Co. of Florida. Judge Ritter being absent from his district at the time of the filing of said case, an application for the appointment of receivers therein was presented to another judge of said district, namely, Hon. Alexander Akerman. Judge Ritter, however, prior to the appointment of such receivers, telegraphed Judge Akerman, requesting him to appoint the aforesaid Eaton and Stearns as receivers in said case, which appointments were made by Judge Akerman. Thereafter the United

States Circuit Court of Appeals for the Fifth Circuit reversed the order of Judge Akerman, appointing said Eaton and Stearns as receivers in said case. In November 1932 J. H. Therrell, as liquidator, filed a bill of complaint in the Circuit Court of Dade County, Fla.—a court of the State of Florida—alleging that the various trust properties of the Trust Co. of Florida were burdensome to the liquidator to keep, and asking that the court appoint a succeeding trustee. Upon petition for removal of said cause from said State court into the United States District Court for the Southern District of Florida, Judge Ritter took jurisdiction, notwithstanding the previous rulings of the United States Circuit Court of Appeals above referred to, and again appointed the said Eaton and Stearns as the receivers of the said trust properties. In December 1932 the said Therrell surrendered all of the trust properties to said Eaton and Stearns as receivers, together with all records of the Trust Co. of Florida pertaining thereto. During the time said Eaton and Stearns, as such receivers, were in control of said trust properties. Judge Ritter wrongfully and improperly approved their accounts without notice or opportunity for objection thereto to be heard. With the knowledge of Judge Ritter, said receivers appointed the sister-in-law of Judge Ritter, namely, Mrs. G. M. Wickard, who had had no previous hotel-management experience, to be manager of the Julia Tuttle Hotel and Apartment Building, one of said trust properties. On, to wit, January 1, 1933, Hon. J. M. Lee succeeded Hon. Ernest Amos as comptroller of the State of Florida and appointed M. A. Smith liquidator in said Trust Co. of Florida cases to succeed J. H. Therrell. An appeal was again taken to the United States Circuit Court of Appeals for the Fifth Circuit from the then latest order or decree of Judge Ritter, and again the order or decree of Judge Ritter appealed from was reversed by the said circuit court of appeals which held that the State officer was entitled to the custody of the property involved and that said Eaton and Stearns as receivers were not entitled to such custody. Thereafter, and with the knowledge of the decision of the-said circuit court of appeals, Judge Ritter wrongfully and improperly allowed said Eaton and Stearns and their attorneys some $26,000 as fees out of said trust-estate properties and endeavored to require, as a condition precedent to releasing said trust properties from the control of his court, a promise from counsel for the said State liquidator not to appeal from his order allowing the said fees to said Eaton and Stearns and their attorneys.

"3. In that the said Halsted L. Ritter, while such Federal judge, accepted, in addition to $4,500 from his former law partner, as alleged in article I hereof, other large fees or gratuities, to wit, $7,500 from J. R. Francis, on or about April 19, 1929, J. R. Francis at this said time having large property interests within the territorial jurisdiction of the court of which Judge Ritter was a judge; and on, to wit, the 4th day of April 1929 the said Judge Ritter accepted the sum of $2,000 from Brodek, Raphael & Eisner, representing Mulford Realty Corporation as its attorneys, through Charles A. Brodek, senior member of said firm and a director of said corporation, as a fee or gratuity, at which time the said Mulford Realty Corporation held and owned large interests in Florida real estate and citrus groves and a large amount of securities of the Olympia Improvement Corporation, which was a company organized to develop and promote Olympia, Florida, said holdings being within the territorial jurisdiction of the United States District

Court of which Ritter was a judge from, to wit, February 15, 1929.

"4. By his conduct as detailed in articles I, II, III, and IV hereof, and by his income-tax evasions as set forth in articles V and VI hereof.

"Wherefore the said Judge Halsted L. Ritter was and is guilty of misbehavior, and was and is guilty of high crimes and misdemeanors in office."

The House adopted the resolution amending the articles after Mr. Sumners discussed its provisions and stated his opinion that the managers had the power to report amendments to the articles:

MR. SUMNERS of Texas: Mr. Speaker, the resolution which has just been read proposes three new articles. The change is not as important as that statement would indicate. Two of the new articles deal with income taxes, and one with practicing law by Judge Ritter, after he went on the bench. In the original resolution, the charge is made that Judge Ritter received certain fees or gratuities and had written a letter, and so forth. No change is proposed in articles 1 and 2. In article 3, as stated, Judge Ritter is charged with practicing law after he went on the bench. That same thing, in effect, was charged, as members of the committee will remember, in the original resolution, but the form of the charge, in the judgment of the managers, could be improved. These charges go further and charge that in the matter connected with J. R. Francis, the judge acted as counsel in two transactions after he went on the bench, and received $7,500 in compensation. Article 7 is amended to include a reference to these new charges. There is a change in the tense used with reference to the effect of the conduct alleged. It is charged, in the resolution pending at the desk, that the reasonable and probable consequence of the alleged conduct is to injure the confidence of the people in the courts—I am not attempting to quote the exact language—which is a matter of form, I think, more than a matter of substance.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, will the gentleman yield?

MR. SUMNERS of Texas: Yes.

MR. SNELL: I may not be entirely familiar with all this procedure, but as I understand, what the gentleman is doing here today, is to amend the original articles of impeachment passed by the House.

MR. SUMNERS of Texas: That is correct.

MR. SNELL: The original articles of impeachment came to the House as a result of the evidence before the gentleman's committee. Has the gentleman's committee had anything to do with the change or amendment of these charges?

MR. SUMNERS of Texas: No; just the managers.

MR. SNELL: As a matter of procedure, would not that be the proper thing to do?

MR. SUMNERS of Texas: I do not think it is at all necessary, for this reason: The managers are now acting as the agents of the House, and not as the agents of the Committee on the Judiciary. Mr. Manager Perkins and Mr. Manager Hobbs have recently extended the investigation made by the committee.

MR. SNELL: Mr. Speaker, will the gentleman yield further?

MR. SUMNERS of Texas: Yes.

MR. SNELL: Do I understand that the amendments come because of new information that has come to you as managers that never was presented to the Committee on the Judiciary?

MR. SUMNERS of Texas: Perhaps it would not be true to answer that entirely in the affirmative, but the changes are made largely by reason of new evidence which has come to the attention of the committee, and some of these changes, more or less changes in form, have resulted from further examination of the question. This is somewhat as lawyers do in their pleadings. They often ask the privilege of making an amendment.

MR. SNELL: And the gentleman's position is that as agents of the House it is not necessary to have the approval of his committee, which made the original impeachment charges?

MR. SUMNERS of Texas: I have no doubt about that; I have no doubt about the accuracy of that statement.

§ 18.11 Following the amendment of the articles of impeachment against Judge Halsted Ritter, the House adopted a resolution to inform the Senate thereof.

On Mar. 30, 1936,[11] following the amendment by the House of the articles in the impeachment against Judge Ritter, the Senate was informed by resolution thereof:

MR. [HATTON W.] SUMNERS of Texas: Mr. Speaker, I offer the following privileged resolution.

The Clerk read as follows:

HOUSE RESOLUTION 472

Resolved, That a message be sent to the Senate by the Clerk of the House informing the Senate that the House of Representatives has adopted an amendment to the articles of impeachment heretofore exhibited against Halsted L. Ritter, United States district judge for the southern district of Florida, and that the same will be presented to the Senate by the managers on the part of the House.

And also, that the managers have authority to file with the Secretary of the Senate, on the part of the House any subsequent pleadings they shall deem necessary.

The resolution was agreed to.

A motion to reconsider was laid on the table.

On Mar. 31, the amendments to the articles were presented to the Court of Impeachment and printed in the Record;[12] counsel for the respondent was granted 48 hours to file his response to the new articles.

Motions to Strike Articles

§ 18.12 During the impeachment trial of Judge Halsted Ritter, the respondent moved to strike Article I or, in the

11. 80 CONG. REC. 4601, 74th Cong. 2d Sess.

12. *Id.* at pp. 4654–56.

alternative, to require election as to Articles I and II, and moved to strike Article VII.

On Mar. 31, 1936,[13] the respondent, Judge Ritter, filed the following motion:

In the Senate of the United States of America sitting as a Court of Impeachment. *The United States of America v. Halsted L. Ritter, respondent*

MOTION TO STRIKE ARTICLE I, OR, IN THE ALTERNATIVE, TO REQUIRE ELECTION AS TO ARTICLES I AND II; AND MOTION TO STRIKE ARTICLE VII

The respondent, Halsted L. Ritter, moves the honorable Senate, sitting as a Court of Impeachment, for an order striking and dismissing article I of the articles of impeachment, or, in the alternative, to require the honorable managers on the part of the House of Representatives to elect as to whether they will proceed upon article I or upon article II, and for grounds of such motion respondent says:

1. Article II reiterates and embraces all the charges and allegations of article I, and the respondent is thus and thereby twice charged in separate articles with the same and identical offense, and twice required to defend against the charge presented in article I.

2. The presentation of the same and identical charge in the two articles in question tends to prejudice the respondent in his defense, and tends to oppress the respondent in that the articles are so framed as to collect, or accumulate upon the second article, the adverse votes, if any, upon the first article.

3. The Constitution of the United States contemplates but one vote of the Senate upon the charge contained in each article of impeachment, whereas articles I and II are constructed and arranged in such form and manner as to require and exact of the Senate a second vote upon the subject matter of article I.

MOTION TO STRIKE ARTICLE VII

And the respondent further moves the honorable Senate, sitting as a Court of Impeachment, for an order striking and dismissing article VII, and for grounds of such motion, respondent says:

1. Article VII includes and embraces all the charges set forth in articles I, II, III, IV, V, and VI.

2. Article VII constitutes an accumulation and massing of all charges in preceding articles upon which the Court is to pass judgment prior to the vote on article VII, and the prosecution should be required to abide by the judgment of the Senate rendered upon such prior articles and the Senate ought not to countenance the arrangement of pleading designed to procure a second vote and the collection or accumulation of adverse votes, if any, upon such matters.

3. The presentation in article VII of more than one subject and the charges arising out of a single subject is unjust and prejudicial to respondent.

4. In fairness and justice to respondent, the Court ought to require separa-

13. 80 CONG. REC. 4656, 4657, 74th Cong. 2d Sess.

tion and singleness of the subject matter of the charges in separate and distinct articles, upon which a single and final vote of the Senate upon each article and charge can be had.

(Signed) FRANK P. WALSH,
CARL T. HOFFMAN,
Of Counsel for Respondent.

Mr. Hoffman, counsel for respondent, argued that Article II duplicated charges set forth in Article I. He also contended that the rule of duplicity, or the principle of civil and criminal pleading that one count should contain no more than one charge or cause of action, was violated by Article VII.

Mr. Sumners argued in response that Article II was clearly not a duplication of Article I, two distinct charges being presented. As to Article VII, Mr. Sumners contended that impeachment was essentially an ouster proceeding as opposed to a criminal proceeding. He referred to the fact that the articles of impeachment against Judge Harold Louderback had contained a similar article charging that "by specifically alleged conduct" the respondent "has done those things the reasonable and probable consequences of which are to arouse a substantial doubt as to his judicial integrity.(14)

At the suggestion of the Chair, decision on the motions of respondent were reserved for investigation and deliberation:

MR. [HENRY F.] ASHURST [of Arizona]: Mr. President, I assume that the Presiding Officer will desire to take some time to examine all the pleadings and will not be prepared to announce a decision on this point until the next session of the Court?

THE PRESIDING OFFICER [NATHAN L. BACHMAN (Tenn.)]: It is the opinion of the present occupant of the chair that while the necessity for early decision is apparent, the importance of the matter would justify the occupant of the chair in saying that no decision should be made until the proceedings are printed and every member of the Court has an opportunity to investigate and consider them. Is there objection to that suggestion of the Chair? The Chair hears none.(15)

§ 18.13 On the respondent's motion to strike, the Chair overruled that part of the motion which sought to strike Article I or to require election between Articles I and II; the Chair submitted that part of the motion which sought to strike Article VII to the Court of Impeachment, which overruled that part of the motion.

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14. *Id.* at p. 4658.

For Article V, as amended, in the Louderback impeachment, charging such conduct as to destroy public confidence in the court, see 6 Cannon's Precedents § 520.

15. *Id.* at p. 4659.

On Apr. 3, 1936,[16] the following disposition was made of the motion of the respondent, Judge Halsted Ritter, to strike certain articles:

THE PRESIDING OFFICER [NATHAN L. BACHMAN (Tenn.)]: On the motion of the honorable counsel for the respondent to strike article I of the articles of impeachment or, in the alternative, to require the honorable managers on the part of the House to make an election as to whether they will stand upon article I or upon article II, the Chair is ready to rule.

The Chair is clearly of the opinion that the motion to strike article I or to require an election is not well taken and should be overruled.

His reason for such opinion is that articles I and II present entirely different bases for impeachment.

Article I alleges the illegal and corrupt receipt by the respondent of $4,500 from his former law partner, Mr. Rankin.

Article II sets out as a basis for impeachment an alleged conspiracy between Judge Ritter; his former partner, Mr. Rankin; one Richardson, Metcalf & Sweeny; and goes into detail as to the means and manner employed whereby the respondent is alleged to have corruptly received the $4,500 above mentioned.

The two allegations, one of corrupt and illegal receipt and the other of conspiracy to effectuate the purpose, are, in the judgment of the Chair, wholly distinct, and the respondent should be called to answer each of the articles.

What is the judgment of the Court with reference to that particular phase of the motion to strike?

MR. [WILLIAM H.] KING [of Utah]: Mr. President, if it be necessary, I move that the ruling of the honorable Presiding Officer be considered as and stand for the judgment of the Senate sitting as a Court of Impeachment.

THE PRESIDING OFFICER: Is there objection? The Chair hears none, and the ruling of the Chair is sustained, by the Senate.

With reference to article VII of the articles of impeachment, formerly article IV, the Chair desires to exercise his prerogative of calling on the Court for a determination of this question.

His reason for so doing is that an impeachment proceeding before the Senate sitting as a Court is sui generis, partaking neither of the harshness and rigidity of the criminal law nor of the civil proceedings requiring less particularity.

The question of duplicity in impeachment proceedings presented by the honorable counsel for the respondent is a controversial one, and the Chair feels that it is the right and duty of each Member of the Senate, sitting as a Court, to express his views thereon.

Precedents in proceedings of this character are rare and not binding upon this Court in any course that it might desire to pursue.

The question presented in the motion to strike article VII on account of duplicity has not, so far as the Chair is advised, been presented in any impeachment proceeding heretofore had before this body.

The Chair therefore submits the question to the Court.

16. 80 CONG. REC. 4898, 74th Cong. 2d Sess.

MR. [HENRY F.] ASHURST [of Arizona]: Mr. President, under the rules of the Senate, sitting as a Court of Impeachment, all such questions, when submitted by the Presiding Officer, shall be decided without debate and without division, unless the yeas and nays are demanded by one-fifth of the Members present, when the yeas and nays shall be taken.

THE PRESIDING OFFICER: The Chair therefore, will put the motion. All those in favor of the motion of counsel for the respondent to strike article VII will say "aye." Those opposed will say "no."

The noes have it, and the motion in its entirety is overruled.

§ 18.14 During the impeachment trial of Judge Halsted Ritter, the managers on the part of the House made and the Senate granted a motion to strike certain specifications from an article of impeachment.

On Apr. 3, 1936,[17] during the impeachment trial of Judge Ritter, the managers on the part of the House moved that two counts be stricken. The motion was granted by the Senate:

MR. MANAGER [HATTON W.] SUMNERS [of Texas] (speaking from the desk in front of the Vice President): Mr. President, the suggestion which the managers desire to make at this time has reference to specifications 1 and 2 of article VII. These two specifications have reference to what I assume counsel for respondent and the managers as well, recognize are rather involved matters, which would possibly require as much time to develop and to argue as would be required on the remainder of the case.

The managers respectfully move that those two counts be stricken. If that motion shall be sustained, the managers will stand upon the other specifications in article VII to establish article VII. The suggestion on the part of the managers is that those two specifications in article VII be stricken from the article.

THE PRESIDING OFFICER:[18] What is the response of counsel for the respondent?

MR. [CHARLES L.] MCNARY [of Oregon]: Mr. President, there was so much rumbling and noise in the Chamber that I did not hear the position taken by the managers on the part of the House.

THE PRESIDING OFFICER: The managers on the part of the House have suggested that specifications 1 and 2 of article VII be stricken on their motion. . . .

MR. HOFFMAN [of counsel]: Mr. President, the respondent is ready to file his answer to article I, to articles II and III as amended, and to articles IV, V, and VI. In view of the announcement just made asking that specifications 1 and 2 of article VII be stricken, it will be necessary for us to revise our answer to article VII and to eliminate paragraphs 1 and 2 thereof. That can be very speedily done with 15 or 20 minutes if it can be arranged for the

17. 80 CONG. REC. 4899, 74th Cong. 2d Sess.

18. Nathan L. Bachman (Tenn.).

Senate to indulge us for that length of time.

THE PRESIDING OFFICER: Is there objection to the motion submitted on the part of the managers?

MR. HOFFMAN: We have no objection.

THE PRESIDING OFFICER: The motion is made. Is there objection? The Chair hears none, and the motion to strike is granted.

MR. [JOSEPH T.] ROBINSON [of Arkansas]: Mr. President, it would seem that in the interest of the conservation of time and for the convenience of the Court, the motion should have been made prior to the decision on the question involved in the motion of counsel to strike certain articles. I merely make that observation for the consideration of the Court.

Answer and Replication

§ 18.15 In the Ritter impeachment trial, an answer to the charges was filed by the respondent, and a replication thereto was submitted by the managers.

On Apr. 3, 1936, the answer of the respondent in the Ritter impeachment was read in the Senate, ordered printed, and messaged to the House. The answer stated that the facts set forth therein did not constitute impeachable high crimes and misdemeanors and that the respondent was not guilty of the offenses charged.(19)

On Apr. 6, the respondent's answer was laid before the House and referred to the managers on the part of the House.(20) On the same day, the managers filed a replication in the Senate, sitting as a Court of Impeachment, to the answer of the respondent Judge Ritter. The replication was prepared and submitted by the managers on their own initiative, the House not having voted thereon:(1)

REPLICATION OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA TO THE ANSWER OF HALSTED L. RITTER, DISTRICT JUDGE OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA, TO THE ARTICLES OF IMPEACHMENT, AS AMENDED, EXHIBITED AGAINST HIM BY THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA

The House of Representatives of the United States of America, having considered the several answers of Halsted L. Ritter, district judge of the United States for the southern district of Florida, to the several articles of impeachment, as amended, against him by them exhibited in the name of themselves and of all the people of the United States, and reserving to themselves all advantages of exception to the insufficiency, irrelevancy, and impertinency of his answer to each and all of the several articles of impeachment, as amended, so exhibited against the said Halsted L. Ritter, judge as aforesaid, do say:

19. 80 CONG. REC. 4899–4906, 74th Cong. 2d Sess.

20. *Id.* at p. 5020.

1. *Id.* at pp. 4971, 4972.

(1) That the said articles, as amended do severally set forth impeachable offenses, misbehaviors, and misdemeanors as defined in the Constitution of the United States, and that the same are proper to be answered unto by the said Halsted L. Ritter, judge as aforesaid, and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

(2) That the said House of Representatives of the United States of America do deny each and every averment in said several answers, or either of them, which denies or traverses the acts, intents, misbehaviors, or misdemeanors charged against the said Halsted L. Ritter in said articles of impeachment, as amended, or either of them, and for replication to said answers do say that Halsted L. Ritter, district judge of the United States for the southern district of Florida, is guilty of the impeachable offenses, misbehaviors, and misdemeanors charged in said articles, as amended, and that the House of Representatives are ready to prove the same.

HATTON W. SUMNERS,
On behalf of the Managers.

The Trial; Arguments

§ 18.16 Opening statements and closing arguments in an impeachment trial may consist of statements by the managers on the part of the House and statements by counsel for the accused.

On Apr. 6, 1936,[2] in the impeachment trial of Judge Halsted Ritter, opening statements were made in the Senate by the managers on the part of the House and by counsel for the accused.[3] The respondent himself testified before the Court of Impeachment.[4] Final arguments were made on Apr. 13 and 14 first by Mr. Sam Hobbs, of Alabama, for the managers, then by Mr. Walsh for the respondent, and finally by Mr. Hatton W. Sumners, of Texas, for the managers, the arguments being limited by an order adopted on Apr. 13:

> Ordered, That the time for final argument of the case of Halsted L. Ritter shall be limited to 4 hours, which said time shall be divided equally between the managers on the part of the House of Representatives and the counsel for the respondent, and the time thus assigned to each side shall be divided as each side for itself may determine.[5]

Mr. Hobbs argued three principles bearing on the weight of evidence and burden of proof in an impeachment trial:

> The statement of the law of the case, as we see it, will largely be left to the distinguished chairman of the Judici-

2. 80 CONG. REC. 4972–82, 74th Cong. 2d Sess.

3. For precedents during the trial as to the evidence, see §§ 12.7–12.9, supra.

4. 80 CONG. REC. 5370–86, 74th Cong. 2d Sess., Apr. 11 and Apr. 13, 1936.

5. *Id.* at p. 5401.
For final arguments on Apr. 13, 1936, *see id.* at pp. 5401–10; for Apr. 14, 1936, *see id.* at pp. 5464–73.

ary Committee of the House [Mr. Manager Sumners], the chairman of the managers on the part of the House in this case, and I will not attempt to go into that, save to observe these three points which, to my mind, should be in the minds of the Members of this high Court of Impeachment at all times in weighing this evidence:

First, that impeachment trials are not criminal trials in any sense of the word.

Second, that the burden of proof in this case is not "beyond a reasonable doubt", as it is in criminal cases.

Third, that the presumption of innocence, which attends a defendant in a criminal case, is not to be indulged in behalf of the respondent in an impeachment trial. Those three principles of law, I believe, are well recognized, and we respectfully ask the Members of this high Court of Impeachment to bear them in mind.

The present distinguished senior Senator from Nebraska [Mr. Norris], when acting as one of the managers on the part of the House in the impeachment trial of Judge Robert W. Archbald, made as clear and cogent a statement as has ever been made upon the subject of impeachable conduct. With his kind permission, I should like to take that as my text, so to speak, for the remarks that will follow:

> If judges can hold their offices only during good behavior, then it necessarily and logically follows that they cannot hold their offices when they have been convicted of any behavior that is not good. If good behavior is an essential of holding the office, then misbehavior is a sufficient reason for removal from office.[6]

6. *Id.* at p. 5401.

Mr. Walsh concluded his argument based on the lack of evidence of charges and on the good character and reputation of the respondent:

> Gentlemen, all I can say to you is that if this case were being tried in an ordinary court a demurrer to the evidence would be sustained. The law is that those bringing these charges must prove the receipt of income; they must prove the amount that was paid out against that income; they must prove what his exemptions were; they must prove what his allowances were; they must prove a tax liability. Those matters would all have been looked into, and as we look into them in this case there is no tax liability. When Judge Ritter swears he did not defraud the Government of a dollar, when he says that the $6.25 tax was not due because his exemptions exceeded that sum, the court would direct a verdict in his favor.
>
> In 1930 Judge Ritter had a loss which, added to his taxes and other expenditures, gave him a leeway of $4,600 over and above the income that he could be charged with having received. He testified to this, and you ought to believe that he testified to the truth, for a charge must be supported by something greater, I say, than the mere assertion of counsel, and nothing else has been introduced in this case in support of that charge. If Judge Ritter were found guilty upon that charge, which was filed in this Court on March 30, 1936—after he came here to defend himself against the other charges—that would be a monstrous thing. Those bringing the charge did not, nor

could they, make proof that Judge Ritter owed his Government a cent of income taxes or that Judge Ritter did anything improper in the filing of his return. It ought to be the pleasure of this body to acquit him of the charges with respect to income taxes, because the law protects him, because he is innocent of any offense in that regard.

Take this whole case in its entirety, gentlemen. I have tried to argue it on the facts. I have drawn no conclusions which I did not honestly believe came from these facts. My argument is backed up by the belief that you must recognize and accept his innocence as he stood here, a brave and manly man, testifying in opposition to these charges which have been made against him. It will not do to say that he undermined the dignity or the honor of the court. He did nothing in his whole career in Florida, according to the witnesses, which would belittle that dignity or besmirch his honor.

There is another thing I wish to call to your attention. I know and you know that a judge ought to have a good reputation. In this case, however, where a charge is made against his integrity, where a charge of corruption is made against him, he put his reputation in that community in evidence before this body.[7]

Mr. Sumners began and concluded his argument, the final argument in the case, as follows:

We do not assume the responsibility, Members of this distinguished Court, of proving that the respondent in this case is guilty of a crime as that term is known to criminal jurisprudence. We do assume the responsibility of bringing before you a case, proven facts, the reasonable and probable consequences of which are to cause the people to doubt the integrity of the respondent presiding as a judge among a free people.

We take the position, first, that justice must be done to the respondent. The respondent must be protected against those who would make him afraid. But we take the position also that when a judge on the bench, by his own conduct, does that which makes an ordinary person doubt his integrity, doubt whether his court is a fair place to go, doubt whether he, that ordinary person, will get a square deal there; doubt whether the judge will be influenced by something other than the sworn testimony, that judge must go.

This august body writes the code of judicial ethics. This Court fixes the standard of permissible judicial conduct. It will not be, it cannot be, that someone on the street corner will destroy the confidence of the American people in the courts of this country. That cannot happen if the courts are kept clean. If confidence in the courts of this country is destroyed it is going to be destroyed from within by the judges themselves. I declare to you, standing in my place of responsibility, that that is one thing which neither the House nor the Senate can permit to be tampered with or which they can be easy about. . . .

Now, let us look at this case. I do not know anything about what happened in Colorado, but when we see this respondent in this record he is down there in Florida as the secretary of a real-estate concern. After that he forms

7. *Id.* at p. 5468.

a copartnership with Mr. Rankin. Two years and three months after that time he occupies a position on the Federal bench, and when the Government put him there, when the people put him there, they said to him, "All we ask of you is to behave yourself." Good behavior! What does that mean? It means obey the law, keep yourself free from questionable conduct, free from embarrassing entanglements, free from acts which justify suspicion; hold in clean hands the scales of justice. That means that he shall not take chances that would tend to cause the people to question the integrity of the court, because where doubt enters confidence departs. Is not that sound? When a judge on the bench, by his own conduct, arouses a substantial doubt as to his judicial integrity he commits the highest crime that a judge can commit under the Constitution. It is not essential to prove guilt. There is nothing in the Constitution and nothing in the philosophy of a free government that holds that a man shall continue to occupy office until it can be established beyond a reasonable doubt that he is not fit for the office. It is the other way. When there is resulting from the judge's conduct a reasonable doubt as to his integrity he has no right to stay longer. He has forfeited his right. It is the high duty of this Court to write the judgment and make effective the terms of that contract. . . .[8]

MR. MANAGER SUMNERS: I do not want to be tedious, but this is very important, because these things go down to the depths of this man's character.

When he wrote this letter he referred to him as "A. L. Rankin, of Andalusia, Ala." Why did he do that? Because the job Rankin was trying to get was in Alabama. Just think of that, and weigh it.

In another letter he said:

> I want to say that Judge Rankin is a man of the highest character and integrity. He is one of the ablest common-law lawyers in the South.

That is a statement made by a judge upon his responsibility.

> We were partners in the practice of law in West Palm Beach before my appointment on the bench. I know of no man better qualified from the standpoint of experience, ability, and character for the position.

And so forth. Then he writes again in another letter that if he is appointed he will raise the bench to a high place.

I say a man who will not speak the truth above his signed name will not swear it, and a man who will not state the truth, and who does those things which arouse doubt as to his integrity must go from the bench.

I appreciate profoundly the attention which the Members of this honorable Court have given the case.

There ought to be a unanimous judgment in this case, and let it ring out from this Chamber all over the Nation that from now on men who hold positions in the Federal judiciary must be obedient to the high principles which in the nature of things it is essential for a judge to manifest.

A few Federal judges can reflect upon the great body of honorable men who hold these high positions.

There is another thing I was about to forget. Of course, the bondholders in Chicago did not protest the $90,000 fee to Rankin. The attorneys for the bond-

8. *Id.* at p. 5469.

holders and Mr. Holland were in the respondent's court at the same time. They came to represent 93 percent of the $2,500,000 of the first-mortgage bonds. They heard the respondent advised of the champertous conduct of Richardson, Rankin et al., and they saw the respondent approve. They were virtually kicked out of the court. They wanted the case out of that court and away from Rankin and the respondent just as quickly as they could get it out, and they would have stood not only for that fee of $90,000 but for more; and any of you practicing law would have done the same thing under the circumstances. You remember McPherson said respondent was positive, very positive, about Mr. Holland. Respondent was a great deal stronger with regard to the attorney for the bondholders. Remember the judge asked Holland, "Who bought you off?" of course they were glad to get out at almost any price.

Members of the Court, there is a great deal more which ought to be said, but you have the record and my time has about expired. I have a duty to perform and you have yours. Mine is finished.

The House has done all the House can do toward protecting the judiciary of the country. The people have trusted in you. Counsel for the respondent kept emphasizing the fact that this respondent stood and swore, stood and swore, stood and swore. I remember that I saw the Members of this honorable Court lift their hands to God Almighty, and, in that oath which they took, pledge themselves to rise above section and party entanglements and to be true to the people of the Nation in the exercise of this high power. I have no doubt you will do it.

I thank this honorable Court for the courtesy and consideration which have been shown to my colleagues and to me as we have tried to discharge our constitutional duty in this matter.[9]

Deliberation and Judgment

§ 18.17 Deliberation was followed by conviction on a general article of impeachment and by judgment of removal from office in the trial of Judge Halsted Ritter.

Final arguments in the Ritter trial having been concluded on Apr. 14, 1936, the Court of Impeachment adjourned until Apr. 15, when the doors of the Senate were closed for deliberation on motion of Senator Henry F. Ashurst, of Arizona. The Senate deliberated with closed doors for 4 hours and 37 minutes. A unanimous-consent agreement entered into while the Senate was deliberating with closed doors was printed in the Record; the order provided for a vote on the articles of impeachment on Friday, Apr. 17.[10]

Deliberation with closed doors was continued on Apr. 16, 1936, for 5 hours and 48 minutes. When the doors were opened, the Senate adopted orders to return evidence

9. *Id.* at pp. 5472, 5473.

10. 80 CONG. REC. 5505, 74th Cong. 2d Sess.

to proper persons, to allow each Senator to file written opinions within four days after the final vote, and to provide a method of vote. The latter order read as follows:

> Ordered, That upon the final vote in the pending impeachment of Halsted L. Ritter, the Secretary shall read the articles of impeachment separately and successively, and when the reading of each article shall have been concluded the Presiding Officer shall state the question thereon as follows:
>
> "Senators, how say you? Is the respondent, Halsted L. Ritter, guilty or not guilty?"
>
> Thereupon the roll of the Senate shall be called, and each Senator as his name is called, unless excused, shall arise in his place and answer "guilty" or "not guilty." (11)

On Apr. 17, 1936, the Senate convened as a Court of Impeachment to vote on the articles against Judge Ritter. Senator Joseph T. Robinson, of Arkansas, announced those Senators absent and excused and announced that pairs would not be recognized in the proceedings. Eighty-four Senators answered to their names on the quorum call.

President pro tempore Key Pittman, of Nevada, proceeded to put the vote on the articles of impeachment, a two-thirds vote being required to convict. The vote was insufficient to convict on the first six articles: Article I: 55 "guilty";—29 "not guilty"; Article II: 52 "guilty"—32 "not guilty"; Article III: 44 "guilty"—39 "not guilty"; Article IV: 36 "guilty"—48 "not guilty"; Article V: 36 "guilty"—48 "not guilty"; Article VI: 46 "guilty"—37 "not guilty." But on the final Article, Article VII, the vote was: 56 "guilty"—28 "not guilty." So the Senate convicted Judge Ritter on the seventh article of impeachment, charging general misbehavior and conduct that brought his court into scandal and disrepute.

Senator Warren R. Austin, of Vermont, made a point of order against the vote on the ground that two-thirds had not voted to convict, Article VII being an accumulation of facts and circumstances. The President pro tempore sustained a point of order that Senator Austin was indulging in argument rather than stating the grounds for his point of order, and overruled Senator Austin's point of order.(12)

Senator Ashurst submitted an order both removing Judge Ritter from office and disqualifying him from holding and enjoying any office of honor, trust, or profit under the United States. Senator Robert M. La Follette, Jr., of Wisconsin,

11. *Id.* at pp. 5558, 5559.

12. *Id.* at p. 5606.

asked for a division of the question, but Senator George W. Norris, of Nebraska, suggested that Senator Ashurst should submit two orders, since removal followed from conviction but disqualification did not. Senator Ashurst thereupon withdrew the original order and submitted an order removing Judge Ritter from office. The President pro tempore ruled that no vote was required on the order, removal automatically following conviction for high crimes and misdemeanors under section 4 of article II of the U.S. Constitution. The President pro tempore then pronounced judgment:

JUDGMENT

The Senate having tried Halsted L. Ritter, United States district judge for the southern district of Florida, upon seven several articles of impeachment exhibited against him by the House of Representatives, and two-thirds of the Senators present having found him guilty of charges contained therein: It is therefore

Ordered and adjudged, That the said Halsted L. Ritter be, and he is hereby, removed from office.

Senator Ashurst submitted a second order disqualifying the respondent from holding an office of honor, trust, or profit under the United States. It was agreed, in reliance on the Robert Archbald proceedings, that only a majority vote was required for passage. The order for disqualification failed on a yea and nay vote—yeas 0, nays 76.

The Senate adopted an order communicating the order and judgment to the House, and the Senate adjourned *sine die* from the Court of Impeachment.(13)

Subsequent to his conviction and removal from office, the respondent brought an action in the U.S. Court of Claims for back salary, claiming that the Senate had exceeded its jurisdiction in trying him for nonimpeachable charges. The Court of Claims dismissed the claim for want of jurisdiction on the ground that the impeachment power was vested in Congress and was not subject to judicial review.(14)

§ 18.18 The order and judgment of the Senate in the Ritter impeachment trial were messaged to the House.

On Apr. 20, 1936,(15) the order and judgment in the Halsted Rit-

13. *Id.* at pp. 5606, 5607.

14. *Ritter* v *United States,* 84 Ct. Cl 293 (1936), cert. denied, 300 U.S. 668 (1937). The opinion of the Court of Claims cited dicta in the case of *Mississippi* v *Johnson*, 71 U.S. 475 (1866), to support the conclusion that the impeachment power was political in nature and not subject to judicial review.

15. 80 CONG. REC. 5703, 5704, 74th Cong. 2d Sess.

ter impeachment trial were received in the House:

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Home, its enrolling clerk, announced that the Senate had ordered that the Secretary be directed to communicate to the President of the United States and the House of Representatives the order and judgment of the Senate in the case of Halsted L. Ritter, and transmit a certified copy of same to each, as follows:

I, Edwin A. Halsey, Secretary of the Senate of the United States of America, do hereby certify that the hereto attached document is a true and correct copy of the order and judgment of the Senate, sitting for the trial of the impeachment of Halsted L. Ritter, United States district judge for the southern district of Florida, entered in the said trial on April 17, 1936.

In testimony whereof, I hereunto subscribe my name and affix the seal of the Senate of the United States of America, this the 18th day of April, A.D. 1936.

EDWIN A. HALSEY,
Secretary of the Senate of the United States.

In the Senate of the United States of America, sitting for the trial of the impeachment of Halsted L. Ritter, United States district judge for the southern district of Florida

JUDGMENT

APRIL 17, 1936.

The Senate having tried Halsted L. Ritter, United States district judge for the southern district of Florida, upon seven several articles of impeachment exhibited against him by the House of Representatives, and two-thirds of the Senators present having found him guilty of charges contained therein: It is therefore

Ordered and adjudged, That the said Halsted L. Ritter be, and he is hereby, removed from office.

Attest:

EDWIN A. HALSEY
Secretary.