

of Indiana, overruled the point of order on two grounds: (1) the answer of the respondent is always, when messaged to the House, referred to the managers, who then prepare a replication to the House and (2) any Member of the House, whether a manager or not, may propose additional articles of impeachment.⁽¹⁷⁾

§ 9.7 The answer of the respondent to articles of impeachment, and supplemental rules to govern the trial, are messaged to the House by the Senate and referred to the managers on the part of the House.

On Apr. 6, 1936, the answer of respondent Judge Halsted Ritter to the articles of impeachment against him, and supplemental Senate rules, were messaged to the House by the Senate and referred to the managers on the part of the House.⁽¹⁸⁾

§ 10. Replication; Amending Adopted Articles

The replication is the answer of the House to the respondents' an-

17. 3 Hinds' Precedents § 2418.

For preparation of the replication in the later practice see § 10.3, *infra*.

18. See 110.2, *infra*.

swer to the articles of impeachment. In recent instances, the managers on the part of the House have submitted the replication to the Senate on their own initiative, without the House voting thereon.⁽¹⁹⁾

The House has always reserved the right to amend the articles of impeachment presented to the Senate and has frequently so amended the articles pursuant to the recommendations of the managers on the part of the House.⁽²⁰⁾

Cross References

Managers and their powers generally, see § 9, *supra*.

Motions to strike articles of impeachment in the Senate, see § 12, *infra*.

Respondent's answer filed in the Senate, see § 11, *infra*.

Reservation of Right to Amend Articles

§ 10.1 In the later practice, the reservation by the House of the right to amend articles of impeachment presented to the Senate has been delivered orally in the Senate by the House managers, and has

19. See § 10.3, *infra*.

20. See § 10.1, *infra*, for the reservation of the right to amend articles and §§ 10.4–10.6, *infra*, for the procedure in so amending them.

not been included in the resolution of impeachment.

On Mar. 10, 1936, the managers on the part of the House to conduct the trial of impeachment against Judge Halsted Ritter appeared in the Senate. After the articles of impeachment adopted by the House had been read to the Senate, Manager Hatton W. Sumners, of Texas, orally reserved the right of the House to further amend or supplement them:

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.⁽¹⁾

A similar procedure had been followed in the Robert Archbald and Harold Louderback impeachment proceedings, with the managers orally reserving in the Senate the right of the House to amend articles, without such reservation being included in the resolution and articles of impeachment.⁽²⁾

Prior to the Archbald impeachment, language reserving the right of the House to amend articles was voted on by the House and included at the end of the articles presented to the Senate. For example, the House in the Andrew Johnson impeachment agreed to a reservation-of-amendment clause by unanimous consent following the adoption of articles against the President, and it was included in the formal articles presented to the Senate.⁽³⁾

Answer of Respondent and Replication of House

§ 10.2 The answer of the respondent in impeachment

1. 80 CONG. REC. 3488, 74th Cong. 2d Sess.
2. 6 Cannon's Precedents §§ 501, 515.
3. 3 Hinds' Precedents § 2416.

proceedings is messaged by the Senate to the House together with any supplemental Senate rules therefore, and are referred to the managers on the part of the House.

On Apr. 6, 1936,⁽⁴⁾ the answer of respondent Judge Halsted Ritter to the articles of impeachment against him and the supplemental rules adopted by the Senate for the trial were messaged to the House by the Senate and referred to the managers on the part of the House:

IMPEACHMENT OF HALSTED L. RITTER

The Speaker laid before the House the following order from the Senate of the United States:

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

APRIL 3, 1936.

Ordered, That the Secretary of the Senate communicate to the House of Representatives an attested copy of the answer of Halsted L. Ritter United States district judge for the southern district of Florida, to the articles of impeachment, as amended, and also a copy of the order entered on the 12th ultimo prescribing supplemental rules for the said impeachment trial.

The answer and the supplemental rules to govern the impeachment trial

4. 80 CONG. REC. 5020, 74th Cong. 2d Sess.

were referred to the House managers and ordered printed.

§ 10.3 In the Halsted Ritter and Harold Louderback impeachments, the managers on the part of the House prepared the replication of the House to the respondent's answer; in contrast to earlier practice, the replication was submitted to the Senate without being voted on by the House.

On Apr. 6, 1936, Mr. Hatton W. Sumners, of Texas, one of the managers on the part of the House in the impeachment trial of Judge Ritter, filed in the Senate the replication of the House to the answer filed by the respondent, the answer having been referred in the House to the managers. The replication had been prepared and submitted to the Senate by the managers alone, and it was not reported to or considered by the House for adoption.⁽⁵⁾

Similarly, the replication in the impeachment of Judge Louderback was filed in the Senate by the managers without being reported to or considered by the House.⁽⁶⁾ In the impeachment trial of Judge Robert Archbald in

5. 80 CONG. REC. 4971, 4972, 74th Cong. 2d Sess.

6. 6 Cannon's Precedents § 522.

1912, however, the replication was reported by the managers to the House where it was considered and adopted.⁽⁷⁾

Procedure in Amending Articles of Impeachment

§ 10.4 Articles of impeachment which have been exhibited to the Senate may be subsequently modified or amended by the adoption of a resolution in the House.

On Mar. 30, 1936,⁽⁸⁾ a resolution (H. Res. 471) was offered in the House by Mr. Hatton W. Sumners, of Texas, a manager on the part of the House for the impeachment trial against Judge Halsted Ritter. The resolution amended the articles voted by the House against Judge Ritter on Mar. 2, 1936, by adding three new articles. The House agreed to the resolution after a discussion by Mr. Sumners of the nature of the changes and of the power of the managers to report amendments to the articles. Mr. Sumners summarized the changes as follows:

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 G.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.⁽⁹⁾

§ 10.5 A resolution reported by the managers proposing amendments to the articles of impeachment previously adopted by the House is privileged.

9. For discussion of the power of the managers on the part of the House to prepare amendments to the articles and to report them to the House, see §9, *supra*.

7. 6 Cannon's Precedents § 506.

8. 80 CONG. REC. 4597-99, 74th Cong. 2d Sess.

On Mar. 30, 1936,⁽¹⁰⁾ Mr. Hatton W. Sumners, of Texas, one of the managers on the part of the House for the Halsted Ritter impeachment trial, offered as privileged a resolution amending the articles of impeachment that had been adopted by the House.⁽¹¹⁾

§ 10.6 Where the House agrees to an amendment to articles of impeachment it has adopted, the House directs the Clerk by resolution to so inform the Senate.

On Mar. 30, 1936,⁽¹²⁾ the House adopted amendments to the articles previously adopted in the impeachment of Judge Halsted Ritter. Mr. Hatton W. Sumners, of Texas, offered and the House

adopted a privileged resolution informing the Senate of such action:

MR. 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.

C. TRIAL IN THE SENATE

§ 11. Organization and Rules

The standing Senate rules governing procedure in impeachment trials originally date from 1804 and continue from Congress to

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

11. For a discussion of the power of the managers to prepare and report to the House amendments to the articles of impeachment, see § 9, *supra*.

12. 80 CONG. REC. 4601, 74th Cong. 2d Sess.

Congress unless amended; the rules are set forth in the Senate Manual as "Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials."⁽¹³⁾ The last amendment to the impeachment trial rules was

13. See *Senate Manual* §§ 100–126 (1973). The rules are set out in full below.

For adoption of rules to govern impeachment trials in 1804, see 3 Hinds' Precedents § 2099.