

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.

adopted in 1935, to allow the appointment of a committee to receive evidence (Rule XI). Amendments to the rules were also reported in the 93d Congress, pending impeachment proceedings in the House in relation to President Richard Nixon, but the Senate did not formally consider them.⁽¹⁴⁾ The Senate has also, when commencing a particular impeachment trial, adopted supplemental rules governing pleadings, requests, stipulations, and motions.⁽¹⁵⁾

When the Senate is notified by the House of the adoption of a resolution and articles of impeachment, the Senate messages to the House, pursuant to Rule I of the impeachment trial rules, its readiness to receive the managers for the presentation of articles; Rule II provides the procedure for the appearance of the managers and exhibition of the articles to the Senate.⁽¹⁶⁾

Rules VIII through X of the rules for impeachment trials provide that a summons be issued to the person impeached, that the summons be returned, and that the respondent appear and answer the articles against him. Under Rules VIII and X, the trial

¹⁴. See § 11.2, *infra*.

¹⁵. See §§ 11.7, 11.8, *infra*.

¹⁶. See § 111.4, *infra*.

proceeds as on a plea of not guilty if the respondent does not appear either in person or by attorney.⁽¹⁷⁾

Under Rule III, the Senate proceeds to consider the articles of impeachment on the day following the presentation of articles. Organizational questions arising before the actual commencement of an impeachment trial have been held debatable and not subject to Rule XXIV of the rules for impeachment trials, which prohibits debate except when the doors of the Senate are closed for deliberation.⁽¹⁸⁾

Senate Rules for Impeachment Trials

Senate Manual §§ 100–126 (1973). For amendments to the rules for impeachment trials, reported in the 93d Congress but not considered by the Senate, see § 11.2, *infra*.

I. Whensoever the Senate shall receive notice from the House of Representatives that managers are appointed on their part to conduct an impeachment against any person and are directed to carry articles of impeachment to the Senate, the Secretary of the Senate shall immediately inform the House of Representatives that the

¹⁷. See §§ 11.5, 11.9, *infra*, for the summons and its return. As indicated in § 11.9, the respondent has not always appeared in person before the Senate sitting as a Court of Impeachment.

¹⁸. See § 11.11, *infra*.

Senate is ready to receive the managers for the purpose of exhibiting such articles of impeachment, agreeably to such notice.

II. When the managers of an impeachment shall be introduced at the bar of the Senate and shall signify that they are ready to exhibit articles of impeachment against any person, the Presiding Officer of the Senate shall direct the Sergeant at Arms to make proclamation, who shall, after making proclamation, repeat the following words, viz: "All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against _____": after which the articles shall be exhibited, and then the Presiding Officer of the Senate shall inform the managers that the Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives.

III. Upon such articles being presented to the Senate, the Senate shall, at 1 o'clock afternoon of the day (Sunday excepted) following such presentation, or sooner if ordered by the Senate, proceed to the consideration of such articles and shall continue in session from day to day (Sundays excepted) after the trial shall commence (unless otherwise ordered by the Senate) until final judgment shall be rendered, and so much longer as may, in its judgment, be needful. Before proceeding to the consideration of the articles of impeachment, the Presiding Officer shall administer the oath hereinafter provided to the members of the Senate then present and to the other members of the Senate as they shall

appear, whose duty it shall be to take the same.

IV. When the President of the United States or the Vice President of the United States, upon whom the powers and duties of the office of President shall have devolved, shall be impeached, the Chief Justice of the Supreme Court of the United States shall preside; and in a case requiring the said Chief Justice to preside notice shall be given to him by the Presiding Officer of the Senate of the time and place fixed for the consideration of the articles of impeachment, as aforesaid, with a request to attend; and the said Chief Justice shall preside over the Senate during the consideration of said articles and upon the trial of the person impeached therein.

V. The Presiding Officer shall have power to make and issue, by himself or by the Secretary of the Senate, all orders, mandates, writs, and precepts authorized by these rules or by the Senate, and to make and enforce such other regulations and orders in the premises as the Senate may authorize or provide.

VI. The Senate shall have power to compel the attendance of witnesses, to enforce obedience to its orders, mandates, writs, precepts, and judgments, to preserve order, and to punish in a summary way contempts of, and disobedience to, its authority, orders, mandates, writs, precepts, or judgments, and to make all lawful orders, rules, and regulations which it may deem essential or conducive to the ends of justice. And the Sergeant at Arms, under the direction of the Senate, may employ such aid and assistance as may be necessary to enforce, execute, and carry into effect the law-

ful orders, mandates, writs, and precepts of the Senate.

VII. The Presiding Officer of the Senate shall direct all necessary preparations in the Senate Chamber, and the Presiding Officer on the trial shall direct all the forms of proceedings while the Senate is sitting for the purpose of trying an impeachment, and all forms during the trial not otherwise specially provided for. And the Presiding Officer on the trial may rule all questions of evidence and incidental questions, 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 a division, unless the yeas and nays be demanded by one-fifth of the members present, when the same shall be taken.

VIII. Upon the presentation of articles of impeachment and the organization of the Senate as hereinbefore provided, a writ of summons shall issue to the accused, reciting said articles, and notifying him to appear before the Senate upon a day and at a place to be fixed by the Senate and named in such writ, and file his answer to said articles of impeachment, and to stand to and abide the orders and judgments of the Senate thereon; which writ shall be served by such officer or person as shall be named in the precept thereof, such number of days prior to the day fixed for such appearance as shall be named in such precept, either by the delivery of an attested copy thereof to the person accused, or if that can not

conveniently be done, by leaving such copy at the last known place of abode of such person, or at his usual place of business in some conspicuous place therein; or if such service shall be, in the judgment of the Senate, impracticable, notice to the accused to appear shall be given in such other manner, by publication or otherwise, as shall be deemed just; and if the writ aforesaid shall fail of service in the manner aforesaid, the proceedings shall not thereby abate, but further service may be made in such manner as the Senate shall direct. If the accused, after service, shall fail to appear, either in person or by attorney, on the day so fixed therefore as aforesaid, or, appearing, shall fail to file his answer to such articles of impeachment, the trial shall proceed, nevertheless, as upon a plea of not guilty. If a plea of guilty shall be entered, judgment may be entered thereon without further proceedings.

IX. At 12:30 o'clock afternoon of the day appointed for the return of the summons against the person impeached, the legislative and executive business of the Senate shall be suspended, and the Secretary of the Senate shall administer an oath to the returning officer in the form following, viz: "I, ———, do solemnly swear that the return made by me upon the process issued on the ——— day of ———, by the Senate of the United States, against ———, is truly made, and that I have performed such service as therein described: So help me God." Which oath shall be entered at large on the records.

X. The person impeached shall then be called to appear and answer the articles of impeachment against him. If

he appear, or any person for him, the appearance shall be recorded, stating particularly if by himself, or by agent or attorney, naming the person appearing and the capacity in which he appears. If he do not appear, either personally or by agent or attorney, the same shall be recorded.

XI. That in the trial of any impeachment the Presiding Officer of the Senate, upon the order of the Senate, shall appoint a committee of twelve 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, 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.

XII. At 12:30 o'clock afternoon of the day appointed for the trial of an impeachment, the legislative and executive business of the Senate shall be suspended, and the Secretary shall give notice to the House of Representatives that the Senate is ready to proceed upon the impeachment of ———, in the Senate Chamber, which chamber is prepared with accommodations for the reception of the House of Representatives.

XIII. The hour of the day at which the Senate shall sit upon the trial of an impeachment shall be (unless otherwise ordered) 12 o'clock m.; and when the hour for such thing shall arrive, the Presiding Officer of the Senate shall so announce; and thereupon the Presiding Officer upon such trial shall cause proclamation to be made, and the business of the trial shall proceed. The adjournment of the Senate sitting in said trial shall not operate as an adjournment of the Senate; but on such adjournment the Senate shall resume the consideration of its legislative and executive business.

XIV. The Secretary of the Senate shall record the proceedings in cases of impeachment as in the case of legislative proceedings, and the same shall be reported in the same manner as the legislative proceedings of the Senate.

XV. Counsel for the parties shall be admitted to appear and be heard upon an impeachment.

XVI. All motions made by the parties or their counsel shall be addressed to the Presiding Officer, and if he, or any Senator, shall require it, they shall be

committed to writing, and read at the Secretary's table.

XVII. Witnesses shall be examined by one person on behalf of the party producing them, and then cross-examined by one person on the other side.

XVIII. If a Senator is called as a witness, he shall be sworn, and give his testimony standing in his place.

XIX. If a Senator wishes a question to be put to a witness, or to offer a motion or order (except a motion to adjourn), it shall be reduced to writing, and put by the Presiding Officer.

XX. At all times while the Senate is sitting upon the trial of an impeachment the doors of the Senate shall be kept open, unless the Senate shall direct the doors to be closed while deliberating upon its decisions.

XXI. All preliminary or interlocutory questions, and all motions, shall be argued for not exceeding one hour on each side, unless the Senate shall, by order, extend the time.

XXII. The case, on each side, shall be opened by one person. The final argument on the merits may be made by two persons on each side (unless otherwise ordered by the Senate upon application for that purpose), and the argument shall be opened and closed on the part of the House of Representatives.

XXIII. On the final question whether the impeachment is sustained, the yeas and nays shall be taken on each article of impeachment separately; and if the impeachment shall not, upon any of the articles presented, be sustained by the votes of two-thirds of the members present, a judgment of acquittal shall be entered; but if the person accused in such articles of impeachment shall be convicted upon any of said ar-

ticles by the votes of two-thirds of the members present, the Senate shall proceed to pronounce judgment, and a certified copy of such judgment shall be deposited in the office of the Secretary of State.

XXIV. All the orders and decisions shall be made and had by yeas and nays, which shall be entered on the record, and without debate, subject, however, to the operation of Rule VII, except when the doors shall be closed for deliberation, and in that case no member shall speak more than once on one question, and for not more than ten minutes on an interlocutory question, and for not more than fifteen minutes on the final question, unless by consent of the Senate, to be had without debate; but a motion to adjourn may be decided without the yeas and nays, unless they be demanded by one-fifth of the members present. The fifteen minutes herein allowed shall be for the whole deliberation on the final question, and not on the final question on each article of impeachment.

XXV. Witnesses shall be sworn in the following form, viz: "You, ——, do swear (or affirm, as the case may be) that the evidence you shall give in the case now pending between the United States and ——, shall be the truth, the whole truth, and nothing but the truth: So help you God." Which oath shall be administered by the Secretary, or any other duly authorized person.

Form of a subpoena be issued on the application of the managers of the impeachment, or of the party impeached, or of his counsel

To ——, greeting:

You and each of you are hereby commanded to appear before the Senate of

the United States, on the _____ day of _____, at the Senate Chamber in the city of Washington, then and there to testify your knowledge in the cause which is before the Senate in which the House of Representatives have impeached _____.

Fail not.

Witness _____, and Presiding Officer of the Senate, at the city of Washington, this _____ day of _____, in the year of our Lord _____, and of the Independence of the United States the _____.

_____,
Presiding Officer of the Senate.

Form of direction for the service of said subpoena

The Senate of the United States to _____, greeting:

You are hereby commanded to serve and return the within subpoena according to law.

Dated at Washington, this _____ day of _____, in the year of our Lord _____, and of the Independence of the United States the _____.

_____,
Secretary of the Senate.

Form of oath to be administered to the members of the Senate sitting in the trial of impeachments

“I solemnly swear (or affirm, as the case may be) that in all things appertaining to the trial of the impeachment of _____, now pending, I will do impartial justice according to the Constitution and laws: So help me God.”

Form of summons to be issued and served upon the person impeached
THE UNITED STATES OF AMERICA, ss:
The Senate of the United States to _____, greeting:

Whereas the House of Representatives of the United States of America

did, on the _____ day of _____, exhibit to the Senate articles of impeachment against you, the said _____, in the words following:

[Here insert the articles]

And demand that you, the said _____, should be put to answer the accusations as set forth in said articles, and that such proceedings, examinations, trials, and judgments might be thereupon had as are agreeable to law and justice.

You, the said _____, are therefore hereby summoned to be and appear before the Senate of the United States of America, at their Chamber in the city of Washington, on the _____ day of _____, at 12:30 o'clock afternoon, then and there to answer to the said articles of impeachment, and then and there to abide by, obey, and perform such orders, directions, and judgments as the Senate of the United States shall make in the premises according to the Constitution and laws of the United States.

Hereof you are not to fail.

Witness _____, and Presiding Officer of the said Senate, at the city of Washington, this _____ day of _____, in the year of our Lord _____, and of the Independence of the United States the _____.

_____,
Presiding Officer of the Senate.

Form of precept to be indorsed on said writ of summons

THE UNITED STATES OF AMERICA, ss:
The Senate of the United States to _____, greeting:

You are hereby commanded to deliver to and leave with _____, if

conveniently to be found, or if not, to leave at his usual place of abode, or at his usual place of business in some conspicuous place, a true and attested copy of the within writ of summons, together with a like copy of this precept; and in whichsoever way you perform the service, let it be done at least ——— days before the appearance day mentioned in the said writ of summons.

Fail not, and make return of this writ of summons and precept, with your proceedings thereon indorsed, on or before the appearance day mentioned in the said writ of summons.

Witness ———, and Presiding Officer of the Senate, at the city of Washington, this ——— day of ———, in the year of our Lord ———, and of the Independence of the United States the ———.

Presiding Officer of the Senate.

All process shall be served by the Sergeant at Arms of the Senate, unless otherwise ordered by the court.

XXVI. If the Senate shall at any time fail to sit for the consideration of articles of impeachment on the day or hour fixed therefor, the Senate may, by an order to be adopted without debate, fix a day and hour for resuming such consideration.

Cross References

Functions of the Senate in impeachment generally, see § 1, *supra*.

House-Senate relations generally, see Ch. 32, *infra*.

Senate notified of adoption of impeachment resolution and election of managers by the House, see § 9, *supra*.

Collateral References

Functions and practice of the Senate in impeachments, see Riddick, Senate

Procedure 495–504, S. Doc. No. 93–21, 93d Cong. 1st Sess. (1973); Riddick, Procedure and Guidelines for Impeachment Trials in the United States Senate, S. Doc. No. 93–102, 93d Cong. 2d Sess. (1974).

Standing rules of the Senate generally, see Riddick, Senate Procedure 774–779, S. Doc. No. 93–21, 93d Cong. 1st Sess. (1973).

Senate Rules for Impeachment Trials

§ 11.1 After impeachment proceedings had been instituted in the House against President Richard Nixon, the Senate adopted a resolution for the study and review of Senate rules and precedents applicable to impeachment trials.

On July 29, 1974,⁽¹⁹⁾ during the pendency of an investigation in the House of alleged impeachable offenses committed by President Nixon, the Senate adopted a resolution related to its rules on impeachment:

MR. [MICHAEL J.] MANSFIELD [of Montana]: Mr. President, I have at the desk a resolution, submitted on behalf of the distinguished Republican leader, the Senator from Pennsylvania (Mr. Hugh Scott), the assistant majority leader, the distinguished Senator from

¹⁹ 120 CONG. REC. 25468, 93d Cong. 2d Sess.

West Virginia (Mr. Robert C. Byrd), the assistant Republican leader, the distinguished Senator from Michigan (Mr. Griffin), and myself, and I ask that it be called up and given immediate consideration.

THE PRESIDING OFFICER:⁽²⁰⁾ The clerk will state the resolution.

The legislative clerk read as follows:

S. RES. 370

Resolved, That the Committee on Rules and Administration is directed to review any and all existing rules and precedents that apply to impeachment trials with a view to recommending any revisions, if necessary, which may be required if the Senate is called upon to conduct such a trial.

Resolved further, That the Committee on Rules and Administration is instructed to report back no later than 1 September 1974, or on such earlier date as the Majority and Minority Leaders may designate, and

Resolved further, That such review by that Committee shall be held entirely in executive sessions.

THE PRESIDING OFFICER: Without objection, the Senate will proceed to its immediate consideration.

The question is on agreeing to the resolution.

The resolution (S. 370) was agreed to.

Parliamentarian's Note: The Senate, unlike the House, is a continuing legislative body. Therefore, the standing rules of the Senate, including the rules for impeachment trials, continue from Congress to Congress unless amended.⁽²¹⁾

20. Jesse Helms (N.C.).

21. See Rule XXXII, *Senate Manual* § 32.2 (1973).

§ 11.2 The Senate having directed its Committee on Rules and Administration to review Senate rules and precedents applicable to impeachment trials (pending impeachment proceedings in the House against President Richard Nixon), the committee reported back various amendments to those Senate rules, which amendments were not considered in the Senate.

On July 29, 1974, during the pendency of an investigation in the House of alleged impeachable offenses committed by President Nixon, the Senate adopted Senate Resolution 370, directing its Committee on Rules and Administration to review any and all existing rules and precedents that apply to impeachment trials, with a view to recommending any necessary revisions.

The Committee on Rules and Administration reported (S. Rept. No. 93-1125) on Aug. 22, 1974, a resolution (S. Res. 390) amending the Rules of Procedure and Practice in the Senate when Sitting on Impeachment Trials. The resolution was not considered by the Senate.

The amendments provided: (1) that the Chief Justice, when presiding over impeachment trials of

the President or Vice President, be administered the oath by the Presiding Officer; (2) that the term "person accused" in reference to the respondent, be changed in all cases to "person impeached"; (3) that the Presiding Officer rule on all questions of evidence "including, but not limited to, questions of relevancy, materiality, and redundancy," such decision to be voted upon on demand "without debate" and such vote to be "taken in accordance with the Standing Rules of the Senate"; (4) that a committee of 12 Senators may receive evidence "if the Senate so orders" the appointment of such a committee by the Presiding Officer; (5) that the Senate may order another hour than 12:30 m. o'clock for commencing impeachment proceedings; and other clarifying changes. Other amendments proposed certain rules governing the trial and procedures for voting on the articles:⁽¹⁾

XVI. All motions, objections, requests, or applications whether relating to the procedure of the Senate or relating immediately to the trial (including questions with respect to admission of evidence or other questions arising during the trial) made by the parties or their counsel shall be addressed to the Presiding Officer only,

1. S. Res. 390, 120 CONG. REC. 29811-13, 93d Cong. 2d Sess., Aug. 22, 1974.

and if he, or any Senator, shall require it, they shall be committed to writing, and read at the Secretary's table. . . .

XIX. If a Senator wishes a question to be put to a witness, or to a manager, or to counsel of the person impeached, or to offer a motion or order (except a motion to adjourn), it shall be reduced to writing, and put by the Presiding Officer. The parties or their counsel may interpose objections 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. Ruling on any such objection shall be made as provided in Rule VII. It shall not be in order for any Senator to engage in colloquy.

XX. At all times while the Senate is sitting upon the trial of an impeachment the doors of the Senate shall be kept open, unless the Senate shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or, if objection is heard, the motions shall be voted on without debate by the yeas and nays, which shall be entered on the record.

XXI. All preliminary or interlocutory questions, and all motions, shall be argued for not exceeding one hour (unless the Senate otherwise orders) on each side. . . .

XXIII. An article of impeachment shall not be divisible for the purpose of voting thereon at any time during the trial. Once voting has commenced on an article of impeachment, voting shall be continued until voting has been completed on all articles of impeachment unless the Senate adjourns for a period not to exceed one day or ad-

journals sine die. On the final question whether the impeachment is sustained, the yeas and nays shall be taken on each article of impeachment separately; and if the impeachment shall not, upon any of the articles presented, be sustained by the votes of two-thirds of the members present, a judgment of acquittal shall be entered; but if the person impeached shall be convicted upon any such article by the votes of two-thirds of the members present, the Senate may proceed to the consideration of such other matters as may be determined to be appropriate prior to pronouncing judgment. Upon pronouncing judgment, a certified copy of such judgment shall be deposited in the office of the Secretary of State. A motion to reconsider the vote by which any article of impeachment is sustained or rejected shall not be in order.

FORM OF PUTTING THE QUESTION ON
EACH ARTICLE OF IMPEACHMENT

The Presiding Officer shall first state the question; thereafter each Senator, as his name is called, shall rise in his place and answer: guilty or not guilty.

XXIV. All the orders and decisions may be acted upon without objection, or, if objection is heard, the orders and decisions shall be voted on without debate by yeas and nays, which shall be entered on the record, subject, however, to the operation of Rule VII, except when the doors shall be closed for deliberation, and in that case no member shall speak more than once on one question, and for not more than ten minutes on an interlocutory question, and for not more than fifteen minutes on the final question, unless by consent of the Senate, to be had without debate; but a motion to adjourn may be

decided without the yeas and nays, unless they be demanded by one-fifth of the members present. The fifteen minutes here in allowed shall be for the whole deliberation on the final question, and not on the final question on each article of impeachment.

§ 11.3 The Senate amended its rules for impeachment trials in the 74th Congress to allow a committee of 12 Senators to receive evidence and take testimony.

On May 28, 1935, the Senate considered and agreed to a resolution (S. Res. 18) amending the rules of procedure and practice in the Senate when sitting on impeachment trials. The resolution added a new rule relating to the reception of evidence by a committee appointed by the Presiding Officer:

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 twelve 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, 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.⁽²⁾

Appearance of Managers

§ 11.4 The managers on the part of the House appear in the Senate to exhibit the articles of impeachment at the time messaged for that purpose by the Senate.

On Mar. 9, 1936,⁽³⁾ the Senate messaged to the House its readiness to receive the managers on the part of the House to present articles of impeachment against

2. 79 CONG. REC. 8309, 8310, 74th Cong. 1st Sess.

3. 80 CONG. REC. 3449, 74th Cong. 2d Sess.

U.S. District Judge Halsted Ritter at a specified time:

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had—

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.

On Mar. 10, the managers on the part of the House appeared in the Senate pursuant to the order and the following proceedings took place:

THE VICE PRESIDENT:⁽⁴⁾ Will the Senator from North Carolina suspend in order to permit the managers on the part of the House of Representatives in the impeachment proceedings to appear and present the articles of impeachment?

MR. [JOSIAH W.] BAILEY [of North Carolina]: Mr. President, may I take my seat with the right to resume at the end of the impeachment proceedings?

THE VICE PRESIDENT: The Senator will have the floor when the Senate resumes legislative session.

4. John N. Garner (Tex.).

IMPEACHMENT OF HALSTED L. RITTER

At 1 o'clock p.m. the managers on the part of the House of Representatives of the impeachment of Halsted L. Ritter appeared below the bar of the Senate, and the secretary to the majority, Leslie L. Biffle, announced their presence, as follows:

I have the honor to announce the managers on the part of the House of Representatives to conduct the proceedings in the impeachment of Halsted L. Ritter, United States district judge in and for the southern district of Florida.

THE VICE PRESIDENT: The managers on the part of the House will be received and assigned their seats.

The managers, accompanied by the Deputy Sergeant at Arms of the House of Representatives, William K. Weber, were thereupon escorted by the secretary to the majority to the seats assigned to them in the area in front and to the left of the Chair.

THE VICE PRESIDENT: The Chair understands the managers on the part of the House of Representatives are ready to proceed with the impeachment. The Sergeant at Arms will 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.

MR. [JOSEPH T.] ROBINSON [of Arkansas]: I suggest the absence of a quorum.

THE VICE PRESIDENT: The clerk will call the roll.

The legislative clerk (Emery L. Frazier) galled the roll, and the following Senators answered to their names. . . .

THE VICE PRESIDENT: Eighty-six Senators have answered to their names. A quorum is present. The managers on the part of the House will proceed.

MR. MANAGER [HATTON W.] SUMNERS [of Texas]: Mr. President, the managers on the part of the House of Representatives are here present and ready to present the articles of impeachment which have been preferred by the House of Representatives against Halsted L. Ritter, a district judge of the United States for the southern district of Florida.

The House adopted the following resolution, which, with the permission of the Senate, I will read:

HOUSE RESOLUTION 439

IN THE HOUSE
OF REPRESENTATIVES,
March 6, 1936.

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 appear 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.

JOSEPH W. BYRNS,
*Speaker of the
House of Representatives.*

Attest:

SOUTH TRIMBLE, *Clerk.*

[Seal of the House of Representatives.]

Mr. President, with the permission of the Vice President and the Senate, I will ask Mr. Manager Hobbs to read the articles of impeachment.

THE VICE PRESIDENT: Mr. Manager Hobbs will proceed, and the Chair will take the liberty of suggesting that he stand at the desk in front of the Chair, as from that position the Senate will probably be able to hear him better.

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

[Mr. Hobbs read the resolution and articles of impeachment].

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 will take proper order and notify the House of Representatives.⁽⁵⁾

***Organization of Senate as
Court of Impeachment***

§ 11.5 Following the appearance of the managers and their presentation of the articles of impeachment to the Senate, the oath is adminis-

5. 80 CONG. REC. 3485-89, 74th Cong. 2d Sess.

tered, the Senate organizes for the trial of impeachment and notifies the House thereof, the articles are printed for the use of the Senate, a summons is issued for the appearance of the respondent, and provision is made for payment of trial expenses.

On Mar. 10, 1936,⁽⁶⁾ immediately following the presentation of articles of impeachment against Judge Halsted Ritter by the managers on the part of the House to the Senate, the following proceedings took place in the Senate:

MR. [HENRY F.] ASHURST [of Arizona]: Mr. President, I move that the senior Senator from Idaho [Mr. Borah], who is the senior Senator in point of service in the Senate, be now designated by the Senate to administer the oath to the Presiding Officer of the Court of Impeachment.

The motion was agreed to; and Mr. Borah advanced to the Vice President's desk and administered the oath to Vice President Garner as Presiding Officer, as follows:

You do solemnly swear that in all things appertaining to the trial of the impeachment of Halsted L. Ritter, United States district judge for the southern district of Florida, now pending, you will do impartial justice according to the Constitution and laws. So help you God.

MR. ASHURST: Mr. President, at this time the oath should be administered

to all the Senators, but I should make the observation that if any Senator desires to be excused from this service, now is the appropriate time to make known such desire. If there be no Senator who desires to be excused, I move that the Presiding Officer administer the oath to the Senators, so that they may form a Court of Impeachment.

THE VICE PRESIDENT:⁽⁷⁾ Is there objection? The Chair hears none, and it is so ordered. Senators will now be sworn.

Thereupon the Vice President administered the oath to the Senators present, as follows:

You do each solemnly swear that in all things appertaining to the trial of the impeachment of Halsted L. Ritter, United States district judge for the southern district of Florida, now pending, you will do impartial justice according to the Constitution and laws. So help you God.

THE VICE PRESIDENT: The Sergeant at Arms will now make proclamation that the Senate is sitting as a Court of Impeachment.

THE SERGEANT AT ARMS: Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence on pain of imprisonment while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against Halsted L. Ritter, United States district judge for the southern district of Florida.

MR. ASHURST: Mr. President, I send to the desk an order, which I ask to have read and agreed to.

THE VICE PRESIDENT: The clerk will read.

6. 80 CONG. REC. 3488, 3489, 74th Cong. 2d Sess.

7. John N. Garner (Tex.).

The Chief Clerk (John C. Crockett) read as follows:

Ordered, That the Secretary notify the House of Representatives that the Senate is now organized for the trial of articles of impeachment against Halsted L. Ritter, United States district judge for the southern district of Florida.

THE VICE PRESIDENT: Without objection, the order will be entered.

MR. ASHURST: Mr. President, I send another proposed order to the desk, and ask for its adoption.

THE VICE PRESIDENT: The clerk will read the proposed order.

The Chief Clerk read as follows:

Ordered, That the articles of impeachment presented against Halsted L. Ritter, United States district judge for the southern district of Florida, be printed for the use of the Senate.

THE VICE PRESIDENT: Without objection, the order will be entered.

MR. ASHURST: Mr. President, I send a further order to the desk, and ask for its adoption.

THE VICE PRESIDENT: The clerk will read the proposed order.

The Chief Clerk read as follows:

Ordered, That a summons to the accused be issued as required by the rules of procedure and practice in the Senate, when sitting for the trial of the impeachment against Halsted L. Ritter, United States district judge for the southern district of Florida, returnable on Thursday, the 12th day of March 1936, at 1 o'clock in the afternoon.

THE VICE PRESIDENT: Is there objection? Without objection, the order will be entered.

MR. [CHARLES L.] MCNARY [of Oregon]: Mr. President, permit me to make an inquiry.

THE VICE PRESIDENT: The Senator will make it.

MR. MCNARY: What record is being made of the Senators who have taken their oaths as jurors?

THE VICE PRESIDENT: No record has been made so far as the Chair knows; but the Chair assumes that any Senator who was not in the Senate Chamber at the time the oath was administered to Senators en bloc will make the fact known to the Chair, so that he may take the oath at some future time.

MR. ASHURST: The Chair is correct in his statement in that any Senator who was not I resent when the oath was taken en bloc, and who desires to take the oath, may do so at any time before the admission of evidence begins.

MR. MCNARY subsequently said: Mr. President, I am advised that the able Senator from New Jersey [Mr. Barbour] will be absent from the city on next Thursday, and would like to be sworn at this time.

THE VICE PRESIDENT: The Senator from Oregon asks unanimous consent that the Senator from New Jersey may take the oath at this time as a juror in the impeachment trial of Halsted L. Ritter.

MR. [ELLISON D.] SMITH [of South Carolina]: Mr. President, in order to save time, I ask the same privilege. I was absent when Senators were sworn as jurors en bloc.

THE VICE PRESIDENT: If there are any other Senators in the Senate Chamber at the moment who did not take their oaths as jurors when Senators were sworn en bloc, it would be advisable that they make it known; and, if agreeable to the Senate, they may all be sworn as jurors at one time.

MR. ASHURST: The Senator from Texas [Mr. Sheppard], who was not present when other Senators were sworn, is now present, and wishes to be sworn.

THE VICE PRESIDENT: Is there objection to such action being taken at this time? The Chair hears none. Such Senators as are in the Chamber at this time who were not present when Senators were sworn en bloc as jurors will raise their right hands and be sworn.

Mr. Barbour, Mr. Overton, Mr. Sheppard, Mr. Smith, and Mr. Townsend rose, and the oath was administered to them by the Vice President.

MR. ASHURST: Mr. President, I move that the Senate, sitting as a Court of Impeachment, adjourn until Thursday next at 1 p.m.

The motion was agreed to; and (at 1 o'clock and 50 minutes p.m.) the Senate, sitting as a Court of Impeachment, adjourned until Thursday, March 12, 1936, at 1 p.m.

IMPEACHMENT OF HALSTED L. RITTER—
EXPENSES OF TRIAL

MR. [JAMES F.] BYRNES [of South Carolina]: From the Committee to Audit and Control the Contingent Expenses of the Senate, I report back favorably, without amendment, Senate Resolution 244, providing for defraying the expenses of the impeachment proceedings relative to Halsted L. Ritter. I ask unanimous consent for the present consideration of the resolution.

THE VICE PRESIDENT: The resolution will be read.

The Chief Clerk read Senate Resolution 244, submitted by Mr. Ashurst on the 9th instant, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That not to exceed \$5,000 is authorized to be expended from the appropriation for miscellaneous items, contingent expenses of the Senate, to defray the expenses of the Senate in the impeachment trial of Halsted L. Ritter.

§ 11.6 Senators who have not taken the oath following the commencement of the trial take the oath not in legislative session but while the Senate is sitting as a Court of Impeachment, and the Journal Clerk maintains records of those Senators who have taken the oath.

On Mar. 12, 1936, the Senate was conducting legislative business before resolving itself into a Court of Impeachment for further proceedings in the trial of Judge Halsted L. Ritter. When a Senator who had not yet taken the oath for the impeachment trial indicated he wished to be sworn at that time, Vice President John N. Garner, of Texas, ruled as follows:

THE VICE PRESIDENT: After a thorough survey of the situation, the best judgment of the Chair is that Senators who have not heretofore taken the oath as jurors of the court should take it after the Senate resolves itself into a court; all Senators who have not as yet taken the oath as jurors will take the oath at that time.⁽⁸⁾

Later on the same day, it was announced that the Journal Clerk

8. 80 CONG. REC. 3641, 74th Cong. 2d Sess.

had the duty to record the names of those Senators already having taken the oath, there being no other record thereof.⁽⁹⁾

Supplemental Rules for Trial

§ 11.7 For the Halsted Ritter impeachment trial, the Senate sitting as a Court of Impeachment adopted supplemental rules similar to those in the Harold Louderback trial.

On Mar. 12, 1936, the Court of Impeachment in the impeachment trial of Judge Ritter adopted supplemental rules:

MR. [HENRY F.] ASHURST [of Arizona]: . . . Mr. President, in order that Senators, sitting as judges and jurors, may have an opportunity to study this matter, I ask for the adoption, after it shall have been read, of the order which I send to the desk. This is in haec verba the same order that was adopted in the Louderback case.

THE VICE PRESIDENT:⁽¹⁰⁾ The clerk will read.

The Chief Clerk read as follows:

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:

9. *Id.* at p. 3646.

10. John N. Garner (Tex.).

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.⁽¹¹⁾

§ 11.8 Supplemental rules adopted by the Senate for an impeachment trial are messaged to the House and referred to the managers on the part of the House.

On Apr. 6, 1936,⁽¹²⁾ there was laid before the House a message from the Senate informing the House of the adoption of supplemental rules to govern the impeachment trial against Judge Halsted Ritter. They were referred to the managers:

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.

- 11. 80 CONG. REC. 3648, 3649, 74th Cong. 2d Sess. For the adoption of identical supplemental rules in the Louderback case, see 6 Cannon's Precedents § 519.
- 12. 80 CONG. REC. 5020, 74th Cong. 2d Sess.

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 were referred to the House managers and ordered printed.

Appearance and Answer of Respondent

§ 11.9 When and if the respondent appears before the Court of Impeachment, the return of the summons by the Sergeant at Arms is presented and the respondent files an entry of appearance.

On Mar. 12, 1936,⁽¹³⁾ the following proceedings took place before the Court of Impeachment in the Halsted Ritter case:

THE VICE PRESIDENT:⁽¹⁴⁾ . . . 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

- 13. 80 CONG. REC. 3646, 3647, 74th Cong. 2d Sess.
- 14. John N. Garner (Tex.).

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. Journey, 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:

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.

HALSTED L. RITTER,
Respondent.
 CARL T. HOFFMAN,
 FRANK P. WALSH,
Counsel for Respondent.

Parliamentarian's Note: The respondent has not appeared in all cases before the Senate. In this century, Judges Ritter, Harold Louderback, and Robert Archbald appeared in person, but Judge Charles Swayne appeared by attorney. President Andrew Johnson did not appear in 1868. Pursuant to Rule X of the Rules of Procedure and Practice in the Senate when Sitting on Impeachment Trials, the respondent may appear by attorney, and if neither the respondent or his counsel appear, the trial proceeds as upon a plea of not guilty, under Rule VIII.

§ 11.10 The answer of the respondent in an impeachment proceeding is messaged to the House and referred to the managers on the part of the House.

On Apr. 6, 1936,⁽¹⁵⁾ the answer of Judge Halsted Ritter to the articles of impeachment against him was messaged by order from the Senate to the House.

The answer was referred to the managers on the part of the House and ordered printed.

15. 80 CONG. REC. 5020, 74th Cong. 2d Sess.

Debate on Organizational Questions

§ 11.11 Where the Senate is sitting as a Court of Impeachment, organizational questions arising prior to trial are debatable.

On May 5, 1926, Vice President Charles G. Dawes, of Illinois, held that debate was in order on a motion to fix the opening date of an impeachment trial (of Judge George English), notwithstanding Rule XXIII (now Rule XIV), precluding debate during impeachment trials:

The Chair will state that in impeachment trials had heretofore such questions have been considered as debatable, and that Rule XXIII, which refers to the decision of questions without debate, has been held to apply after the trial has actually commenced. The Senate has always debated the question of the time at which the trial should start, and the Chair is inclined to hold that debate is in order on a question of this sort.⁽¹⁶⁾

Likewise, the rule on debate was held not applicable to an organizational question preceding the trial of President Andrew Johnson.⁽¹⁷⁾

On Mar. 3, 1933, however, following the presentation to the

16. 67 CONG. REC. 8725, 69th Cong. 1st Sess.

17. 3 Hinds' Precedents §2100.

Senate of articles of impeachment against Judge Harold Louderback by the managers on the part of the House, the Vice President, Charles Curtis, of Kansas, held that a motion to defer further consideration of the impeachment charges was not debatable.⁽¹⁸⁾

Appointment of Presiding Officer

§ 11.12 The Senate adopted in the Harold Louderback impeachment trial an order authorizing the Vice President or President pro tempore to name a Presiding Officer to perform the duties of the Chair.

On May 15, 1933, in the Senate sitting as a Court of Impeachment for the trial of Judge Louderback, the following order was adopted:

Ordered. That during the trial of the impeachment of Harold Louderback, United States district judge for the northern district of California, the Vice President, in the absence of the President pro tempore, shall have the right to name in open Senate, sitting for said trial, a Senator to perform the duties of the Chair.

The President pro tempore shall likewise have the right to name in open Senate, sitting for said trial, or, if absent, in writing, a Senator to perform the duties of the Chair; but such

18. 76 CONG. REC. 5473, 72d Cong. 2d Sess.

substitution in the case of either the Vice President or the President pro tempore shall not extend beyond an adjournment or recess, except by unanimous consent.⁽¹⁹⁾

Floor Privileges

§ 11.13 The Senate sitting as a Court of Impeachment may allow floor privileges during the trial to assistants and clerks, to the managers, and to the respondent's counsel.

On Apr. 8, 1936, requests were made in the Senate, sitting as a Court of Impeachment in the trial of Judge Halsted Ritter, to allow certain assistants and others the privilege of the Senate floor. By unanimous consent, the Senate extended floor privileges to the clerk of the House Committee on the Judiciary, a special agent of the FBI, and an assistant to the respondent's counsel.⁽²⁰⁾

In the Louderback trial, requests were made by the House managers that the clerk of the House Committee on the Judiciary and a member of the bar be permitted to sit with the managers during the trial. The Senate voted to allow the requests, after the Presiding Officer of the Senate

19. 77 CONG. REC. 3394, 73d Cong. 1st Sess.

20. 80 CONG. REC. 5132, 74th Cong. 2d Sess.

indicated he wished to submit the question to the Senate.⁽¹⁾

Parliamentarian's Note: In an impeachment trial, the managers on the part of the House and counsel for the respondent have the privilege of the Senate floor under the Senate rules for impeachment trials.

§ 12. Conduct of Trial

The conduct of an impeachment trial is governed by the standing rules of the Senate on impeachment trials and by any supplemental rules or orders adopted by the Senate for a particular trial.⁽²⁾

An impeachment trial is a full adversary proceeding, and counsel are admitted to appear, to be heard, to argue on preliminary and interlocutory questions, to deliver opening and final arguments, to submit motions, and to present evidence and examine and cross-examine witnesses.⁽³⁾

1. 6 Cannon's Precedents § 522.
2. For the text of the rules for impeachment trials, see § 11, *supra*. For supplemental rules adopted by the Senate, see §§ 11.7, 11.8, *supra*. For examples of orders adopted during or for the trial, see §§ 11.12, *supra* (appointment of Presiding Officer), 12.1, *infra* (opening arguments), 12.9, *infra* (return of evidence), and 12.12, *infra* (final arguments).
3. See Rules XV–XXII of the rules for impeachment trials set out in § 11, *supra*.

The Presiding Officer rules on questions of evidence and on incidental questions subject to a demand for a formal vote, or may submit questions in the first instance to the Senate under Rule VII of the rules for impeachment trials.⁽⁴⁾

The trial may be temporarily suspended for the transaction of legislative business or for the reception of messages.⁽⁵⁾

Collateral Reference

Riddick, Procedure and Guidelines for Impeachment Trials in the United States Senate, S. Doc. No. 93–102 93d Cong. 2d Sess. (1974).

Opening Arguments

§ 12.1 The Senate sitting as a Court of Impeachment customarily adopts an order providing for opening arguments to be made by one person on behalf of the man-

4. See § 12.7, *infra*, for rulings on admissibility of evidence and §§ 12.3, 12.4, *infra*, for rulings on motions to strike articles.
5. See §§ 12.5, 12.6, *infra*. Rule XIII of the rules for impeachment trials provides that the adjournment of the Senate sitting as a Court of Impeachment shall not operate to adjourn the Senate, but that the Senate may then resume consideration of legislative and executive business.