Final Arguments

§ 12.12 Following the presentation of evidence in an impeachment trial, the Court of Impeachment adopts an order setting the time to be allocated for final arguments.

On Apr. 13, 1936, the Senate sitting as a Court of Impeachment in the trial of Judge Halsted Ritter adopted, at the close of the presentation of evidence, an order limiting final arguments:

> *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.[9]

9. 80 CONG. REC. 5401, 74th Cong. 2d Sess. An identical order was adopted in the Harold Louderback impeachment trial (see 6 Cannon's Precedents § 524).

Orders for final arguments have varied as to the time and number of arguments permitted, although in one instance—the trial of President Andrew Johnson—no limitations were imposed as to the time for and number of final arguments. See 3 Hinds' Precedents § 2434.

§ 13. Voting; Deliberation and Judgment

The applicable rules on impeachment trials provide for deliberation behind closed doors, for a vote on the articles of impeachment, and for pronouncement of judgment. (See Rules XXIII and XXIV.)[10] Except for organizational questions, debate is in order during an impeachment trial only while the Senate is deliberating behind closed doors, at which time the respondent, his counsel, and the managers are not present. Rule XXIV, of the rules for impeachment trials, provides that orders and decisions shall be determined by the yeas and nays without debate.[11]

Under article I, section 3, clause 6 of the U.S. Constitution, a two-thirds vote is required to convict the respondent on an article of impeachment, the articles being voted on separately under Rule XXIII of the rules for impeachment trials.[12]

10. The Senate rules on impeachment are set out in § 11, supra.

11. For debate on organizational questions before trial commences, see § 11.11, supra.

12. Overruled in the Ritter impeachment trial was a point of order that the respondent was not properly convicted, a two-thirds vote having been obtained on an article which cumulated offenses (see §§ 13.5, 13.6, infra).

Article I, section 3, clause 7 provides for removal from office upon conviction and also allows the further judgment of disqualification from holding and enjoying "any office of honor, trust or profit under the United States." In the most recent conviction by the Senate, of Judge Ritter in 1936, it was held for the first time that no vote was required on removal following conviction, inasmuch as removal follows automatically from conviction under article II, section 4.[13] But the further judgment of disqualification requires a majority vote.[14]

Cross References

Constitutional provisions governing judgment in impeachment trials, see § 1, supra.

Deliberation, vote and judgment in the Ritter impeachment trial, see § 18, infra.

Grounds for impeachment and conviction generally, see § 3, supra.

Judicial review of impeachment convictions, see § 1, supra.

Trial and judgment where person impeached has resigned, see § 2, supra.

Collateral Reference

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

13. See § 13.9, infra.

14. See § 13.10, infra.

Deliberation Behind Closed Doors

§ 13.1 Final arguments having been presented to a Court of Impeachment, the Senate closes the doors in order to deliberate in closed session, and the respondent, his counsel, and the managers withdraw.

On Apr. 15, 1936, the Senate convened sitting as a Court of Impeachment in the trial of Judge Halsted Ritter. Final arguments had been completed on the preceding day. The following proceedings took place:

IMPEACHMENT OF HALSTED L. RITTER

The Senate, sitting for the trial of the articles of impeachment against Halsted L. Ritter, judge of the United States District Court for the Southern District of Florida, met at 12 o'clock meridian.

The respondent, Halsted L. Ritter, with his counsel, Frank P. Walsh, Esq., and Carl T. Hoffman, Esq., appeared in the seats assigned them.

THE VICE PRESIDENT:[15] The Sergeant at Arms by proclamation will open the proceedings of the Senate sitting for the trial of the articles of impeachment.

The Sergeant at Arms made the usual proclamation.

On request of Mr. Ashurst, and by unanimous consent, the reading of the

15. John N. Garner (Tex.).

Journal of the proceedings of the Senate, sitting for the trial of the articles of impeachment, for Tuesday, April 14, 1936, was dispensed with, and the Journal was approved. . . .

THE VICE PRESIDENT: Eighty-six Senators have answered to their names. A quorum is present.

DELIBERATION WITH CLOSED DOORS

MR. [HENRY F.] ASHURST [of Arizona]: I move that the doors of the Senate be closed for deliberation.

THE VICE PRESIDENT: The question is on the motion of the Senator from Arizona.

The motion was agreed to.

The respondent and his counsel withdrew from the Chamber.

The galleries having been previously cleared, the Senate (at 12 o'clock and 8 minutes p.m.) proceeded to deliberate with closed doors.

At 4 o'clock and 45 minutes p.m. the doors were opened.[16]

Rule XX of the rules of the Senate on impeachment trials provides: "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."

Rule XXIV provides for debate, during impeachment trials, only when the Senate is deliberating in closed session, wherein "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. . . . 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."

Orders for Time and Method of Voting

§ 13.2 Following or during deliberation behind closed doors, the Senate sitting as a Court of Impeachment adopts orders to provide the time and method of voting.

On Apr. 15, 1936, the Senate, sitting as a Court of Impeachment in the trial of Judge Halsted Ritter, opened its doors after having deliberated in closed session. By unanimous consent, the order setting a date for the taking of a vote was published in the Record:

Ordered, by unanimous consent, That when the Senate, sitting as a Court, concludes its session on today it take a recess until 12 o'clock tomorrow, and that upon the convening of the

16. 80 CONG. REC. 5505, 74th Cong. 2d Sess. In the Ritter case, the managers on the part of the House were not present when the Senate closed its doors. Where they are present, they withdraw. See, for example, 6 Cannon's Precedents § 524 (Harold Louderback).

Court on Friday it proceed to vote upon the various articles of impeachment.

Senate Majority Leader Joseph T. Robinson, of Arkansas, explained the purpose of the agreement, which was to postpone the vote until Friday so that a number of Senators who wished to vote could be present for that purpose.[17]

On Apr. 16, 1936, the Senate, after deliberating behind closed doors, agreed to an order providing a method of voting:

> *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."[18]

This method of consideration—that of reading and voting on the articles separately and in sequence—has been used consistently in impeachment proceedings, though in the Andrew Johnson trial Article XI was first voted on.[19]

The form of putting the question and calling the roll in the Johnson trial also differed from current practice, the Chief Justice in that case putting the question "Mr. Senator ———, how say you? Is the respondent, Andrew Johnson, President of the United States, guilty or not guilty of a high misdemeanor, as charged in this article?"[20]

Recognition of Pairs

§ 13.3 Pairs are not recognized during the vote by a Court of Impeachment on articles of impeachment.

On Apr. 17, 1936, the Senate sitting as a Court of Impeachment in the trial of Judge Halsted Ritter convened to vote on the articles of impeachment. Preceding the vote, Senator Joseph T. Robinson, of Arkansas, the Majority Leader, announced as follows:

> I have been asked to announce also that pairs are not recognized in this proceeding.[1]

Likewise, it was announced on May 23, 1933, preceding the vote

17. 80 CONG. REC. 5505, 74th Cong. 2d Sess.
18. Id. at p. 5558.
19. See 3 Hinds' Precedents §§ 2439–2443. 6 Cannon's Precedents § 524.
20. 3 Hinds' Precedents § 2440.
1. 80 CONG. REC. 5602, 74th Cong. 2d Sess.

on the articles impeaching Judge Harold Louderback, that pairs would not be recognized.[2]

Excuse or Disqualification From Voting

§ 13.4 Members of the House and Senate have been excused but not disqualified from voting on articles of impeachment.

On Mar. 12, 1936, preceding the appearance of respondent Judge Halsted Ritter before the Senate sitting as a Court of Impeachment, Senator Edward P. Costigan, of Colorado, asked to be excused from participation in the impeachment proceedings. He inserted in the Record a statement assigning the reasons for his request, based on personal acquaintance with the respondent.[3] Similarly, on Mar. 31, Senator Millard E. Tydings, of Maryland, asked to be excused from participating in the proceedings and from voting on the ground of family illness.[4]

During the consideration in the House of the resolution impeaching Senator William Blount, of Tennessee, his brother, Mr. Thomas Blount, of North Carolina, a Member of the House, asked to be excused from voting on any matter affecting his brother.[5]

In the impeachment of Judge Harold Louderback, two Members of the Senate were excused from voting thereon since they had been Members of the House when Judge Louderback was impeached.[6]

The issue of disqualification from voting either in the House on impeachment or in the Senate on conviction has not been directly presented. During the trial of President Andrew Johnson, a Senator offered and then withdrew a challenge to the competency of the President pro tempore of the Senate, Benjamin F. Wade, of Ohio, to preside over or vote in the trial of the President. Before withdrawing his objection, Senator Thomas A. Hendricks, of Indiana, argued that the President pro tempore was an interested party because of his possible succession to the Presidency. The President pro tempore voted on that occasion.[7]

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2. 77 CONG. REC. 4083, 73d Cong. 1st Sess.

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

4. *Id.* at p. 4654.

5. 3 Hinds' Precedents § 2295.

6. 6 Cannon's Precedents § 516.

7. 3 Hinds' Precedents § 2061.

During the Johnson impeachment, succession to the Presidency was governed by an Act of 1792 providing that the President pro tempore and then the Speaker of the House should succeed to the Presidency,

Speaker Schuyler Colfax, of Indiana, chose to vote on the resolution impeaching President Johnson in 1868, and delivered the following explanatory statement:

> The Speaker said: The occupant of the Chair cannot consent that his constituents should be silent on so grave a question, and therefore, as a member of this House, he votes "ay." On agreeing to the resolution, there are—yeas 126, nays 47. So the resolution is adopted.[8]

It has been generally determined in the House that the individual Member should decide the question whether he is disqualified from voting because of a personal interest in the vote.[9]

after the Vice President. 1 Stat. 239. Presently, 3 USC § 19 provides for the Speaker and then the President pro tempore to succeed to the Presidency after the Vice President, but the 25th amendment to the U.S. Constitution provides a mechanism for selection of a Vice President upon vacancy in that office, by succession to the Presidency or otherwise.

8. 66 CONG. GLOBE 1400, 40th Cong. 2d Sess., Feb. 24, 1868.

In the Johnson impeachment, the minority party members generally refrained from voting on the ballot for the choice of managers following the adoption of articles, where a request to excuse all who sought to be excused had been objected to. 3 Hinds' Precedents § 2417.

9. See Rule VIII clause 1 and comments thereto, *House Rules and Manual* §§ 656–659 (1973).

Points of Order Against Vote

§ 13.5 In making a point of order against the result of a vote on an article of impeachment, a Senator may state the grounds for his point of order but debate or argument thereon is not in order.

On Apr. 17, 1936, following a two-thirds vote for conviction by the Senate, sitting as a Court of Impeachment in the trial of Judge Halsted Ritter, Senator Warren R. Austin, of Vermont, made a point of order against the vote. The President pro tempore, Key Pittman, of Nevada, subsequently ruled against allowing debate or argument on that point of order:[10]

> MR. AUSTIN: Mr. President, a point of order.
>
> THE PRESIDENT PRO TEMPORE: The Senator will state the point of order.
>
> MR. AUSTIN: I make the point of order that the respondent is not guilty, not having been found guilty by a vote of two-thirds of the Senators present.
>
> Article VII is an omnibus article, the ingredients of which, as stated on page 36, paragraph 4, are——

In Senate practice, no rule requires a Member of the Senate to withdraw from voting because of personal interest, but a Member may be excused from voting under Rule XII clause 2, *Senate Manual* § 12.2 (1973).

10. 80 CONG. REC. 5606, 74th Cong. 2d Sess.

MR. [ROBERT M.] LA FOLLETTE [Jr., of Wisconsin]: Mr. President, I rise to a parliamentary inquiry.

THE PRESIDENT PRO TEMPORE: The Senator will state it.

MR. LA FOLLETTE: Is debate upon the point of order in order?

THE PRESIDENT PRO TEMPORE: It is not in order.

MR. LA FOLLETTE: I ask for the regular order.

MR. AUSTIN: Mr. President, a parliamentary inquiry.

THE PRESIDENT PRO TEMPORE: The Senator will state it.

MR. AUSTIN: In stating a point of order, is it not appropriate to state the grounds of the point of order?

THE PRESIDENT PRO TEMPORE: Providing the statement is not argument.

MR. AUSTIN: That is what the Senator from Vermont is undertaking to do, and no more.

THE PRESIDENT PRO TEMPORE: If the statement is argument, the point of order may be made against the argument.

MR. AUSTIN: The first reason for the point of order is that here is a combination of facts in the indictment, the ingredients of which are the several articles which precede article VII, as seen by paragraph marked 4 on page 36. The second reason is contained in the Constitution of the United States, which provides that no person shall be convicted without the concurrence of two-thirds of the members present. The third reason is that this matter has been passed upon judicially, and it has been held that an attempt to convict upon a combination of circumstances——

MR. [GEORGE] MCGILL [of Kansas]: Mr. President, a parliamentary inquiry.

MR. AUSTIN: Of which the respondent has been found innocent would be monstrous. I refer to the case of *Andrews* v. *King* (77 Maine, 235).

MR. [JOSEPH T.] ROBINSON [of Arkansas]: Mr. President, I rise to a point of order.

THE PRESIDENT PRO TEMPORE: The Senator from Arkansas will state the point of order.

MR. ROBINSON: The Senator from Vermont is not in order.

THE PRESIDENT PRO TEMPORE: The point of order is sustained. The Senator from Vermont is making an argument on the point of order he has made.

§ 13.6 During the Halsted Ritter impeachment trial, the President pro tempore overruled a point of order against a vote of conviction on the seventh article (charging general misbehavior), where the point of order was based on the contention that the article repeated and combined facts, circumstances, and charges contained in the preceding articles.

On Apr. 17, 1936,[11] the President pro tempore, Key Pittman, of Nevada, stated that the Senate had by a two-thirds vote adjudged the respondent Judge Ritter guilty as charged in Article VII of the articles of impeachment. He over-

11. 80 CONG. REC. 5606, 74th Cong. 2d Sess.

ruled a point of order that had been raised against the vote, as follows:

MR. [WARREN R.] AUSTIN [of Vermont]: Mr. President, a point of order.

THE PRESIDENT PRO TEMPORE: The Senator will state the point of order.

MR. AUSTIN: I make the point of order that the respondent is not guilty, not having been found guilty by a vote of two-thirds of the Senators present.

Article VII is an omnibus article, the ingredients of which, as stated on page 36, paragraph 4, are——

A point of order was made against debate or argument on the point of order.[12]

MR. AUSTIN: The first reason for the point of order is that here is a combination of facts in the indictment, the ingredients of which are the several articles which precede article VII, as seen by paragraph marked 4 on page 36. The second reason is contained in the Constitution of the United States, which provides that no person shall be convicted without the concurrence of two-thirds of the members present. The third reason is that this matter has been passed upon judicially, and it has been held that an attempt to convict upon a combination of circumstances——

MR. [GEORGE] MCGILL [of Kansas]: Mr. President, a parliamentary inquiry.

MR. AUSTIN: Of which the respondent has been found innocent would be monstrous. I refer to the case of *Andrews* v. *King* (77 Maine, 235).

MR. [JOSEPH T.] ROBINSON [of Arkansas]: Mr. President, I rise to a point of order.

THE PRESIDENT PRO TEMPORE: The Senator from Arkansas will state the point of order.

MR. ROBINSON: The Senator from Vermont is not in order.

THE PRESIDENT PRO TEMPORE: The point of order is sustained. The Senator from Vermont is making an argument on the point of order he has made.

MR. AUSTIN: Mr. President, I have concluded my motion.

THE PRESIDENT PRO TEMPORE: A point of order is made as to article VII, in which the respondent is charged with general misbehavior. It is a separate charge from any other charge, and the point of order is overruled.

Judgment as Debatable

§ 13.7 An order of judgment in an impeachment trial is not debatable.

On Apr. 17, 1936, the President pro tempore, Key Pittman, of Nevada, answered a parliamentary inquiry relating to debate on an order of judgment in the impeachment trial of Halsted Ritter:

THE PRESIDENT PRO TEMPORE: The Senator from Arizona submits an order, which will be read.

The legislative clerk read as follows:

Ordered further, That the respondent, Halsted L. Ritter, United States district judge for the southern district of Florida, be forever disqualified from holding and enjoying any

12. See § 13.5 supra.

office of honor, trust, or profit under the United States.

MR. [DANIEL O.] HASTINGS [of Delaware]: Mr. President, I understand that matter is subject to debate.

MR. [HENRY F.] ASHURST [of Arizona]: No, Mr. President. The yeas and nays are in order, if Senators wish, but it is not subject to debate.

MR. HASTINGS: Will the Chair state just why it is not subject to debate?

THE PRESIDENT PRO TEMPORE: The Chair is of opinion that the rules governing impeachment proceedings require that all orders or decisions be determined without debate, but the yeas and nays may be ordered.(13)

Divisibility of Order of Judgment

§ 13.8 An order of judgment on conviction in an impeachment trial is divisible where it contains provisions for removal from office and for disqualification of the respondent.

On Apr. 17, 1936, Senator Henry F. Ashurst, of Arizona, offered an order of judgment following the conviction of Halsted Ritter on an article of impeachment. It was agreed, before the order was withdrawn, that it was divisible:(14)

The Senate hereby orders and decrees and it is hereby adjudged that the respondent, Halsted L. Ritter, United States district judge for the southern district of Florida, be, and he is hereby, removed from office, and that he be, and is hereby, forever disqualified to hold and enjoy any office of honor, trust, or profit under the United States, and that the Secretary be directed to communicate to the President of the United States and to the House of Representatives the foregoing order and judgment of the Senate, and transmit a copy of same to each.

MR. [ROBERT M.] LA FOLLETTE [Jr., of Wisconsin]: Mr. President, I ask for a division of the question.

MR. ASHURST: Mr. President, to divide the question is perfectly proper. Any Senator who desires that the order be divided is within his rights in thus asking that it be divided. The judgment of removal from office would ipso facto follow the vote of guilty.

MR. [WILLIAM E.] BORAH [of Idaho]: Mr. President, do I understand there is to be a division of the question?

MR. LA FOLLETTE: I have asked for a division of the question.

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13. 80 CONG. REC. 5607, 74th Cong. 2d Sess.

14. 80 CONG. REC. 5606, 5607, 74th Cong. 2d Sess.

In the trial of Judge Robert Archbald, a division was demanded on the order of judgment, which both removed and disqualified the respondent. 6 Cannon's Precedents § 512. A division of the question was likewise demanded in the West Humphreys impeachment. See 3 Hinds' Precedents § 2397. In the John Pickering impeachment, the Court of Impeachment voted on removal but did not consider disqualification. See 3 Hinds' Precedents § 2341.

MR. [GEORGE W.] NORRIS [of Nebraska]: Mr. President, it seems to me the chairman of the Committee on the Judiciary should submit two orders. One follows from what we have done. The other does not follow, but we ought to vote on it.

MR. ASHURST: I accept the suggestion. I believe the Senator from Nebraska is correct. Therefore, I withdraw the order sent to the desk.

Vote on Removal Following Conviction

§ 13.9 On conviction of the respondent on an article of impeachment, no vote is required on judgment of removal, since removal follows automatically after conviction under section 4, article II, of the U.S. Constitution.

On Apr. 17, 1936, following the conviction by the Senate, sitting as a Court of Impeachment, of Halsted Ritter on Article VII of the articles of impeachment, President pro tempore Key Pittman, of Nevada, ruled that no vote was required on judgment of removal: (15)

THE PRESIDENT PRO TEMPORE: The Senator from Arizona, having withdrawn the first order, submits another one, which the clerk will read.

The legislative clerk read as follows:

Ordered, That the respondent, Halsted L. Ritter, United States district judge for the southern district of Florida, be removed from office.

THE PRESIDENT PRO TEMPORE: Are the yeas and nays desired on the question of agreeing to the order?

MR. [HENRY F.] ASHURST [of Arizona]: The yeas and nays are not necessary.

MR. [HIRAM W.] JOHNSON [of California]: Mr. President, how, affirmatively, do we adopt the order, unless it is put before the Senate, and unless the roll be called upon it or the Senate otherwise votes?

THE PRESIDENT PRO TEMPORE: The Chair is of the opinion that the order would follow the final vote as a matter of course, and no vote is required.

MR. ASHURST: Mr. President, the vote of guilty, in and of itself, is sufficient without the order, under the Constitution, but to be precisely formal I have presented the order, in accordance with established precedent, and I ask for a vote on its adoption.

MR. [DANIEL O.] HASTINGS [of Delaware]: Mr. President, will the Senator yield?

MR. ASHURST: I yield.

MR. HASTINGS: Just what is the language in the Constitution as to what necessarily follows conviction on an article of impeachment?

MR. [GEORGE] MCGILL, [of Kansas]: It is found in section 4, article II, of the Constitution.

MR. HASTINGS: What is the language of the Constitution which makes removal from office necessary, and to follow as a matter of course?

MR. MCGILL: Mr. President——

MR. ASHURST: If the Senator from Kansas has the reference, I shall ask him to read it.

15. 80 CONG. REC. 5607, 74th Cong. 2d Sess.

MR. MCGILL: Section 4 of article II of the constitution reads:

> The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors.

MR. HASTINGS: I thank the Senator. Then may I suggest was not the Chair correct in the first instance? Does not the removal from office follow without any vote of the Senate?

THE PRESIDENT PRO TEMPORE: That was the opinion of the Chair.

MR. HASTINGS: I think the President pro tempore was correct.

THE PRESIDENT PRO TEMPORE: The Chair will then direct that the order be entered.

MR. [GEORGE W.] NORRIS [of Nebraska]: Mr. President, upon the action of the Senate why does not the Chair make the proper declaration without anything further?

THE PRESIDENT PRO TEMPORE: The Chair was about to do so. The Chair directs judgment to be entered in accordance with the vote of the Senate, as follows:

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.

Parliamentarian's Note: The procedure and ruling in the Ritter impeachment trial, for automatic removal on conviction of at least one article of impeachment, differs from the practice in three prior cases where the Senate sitting as a Court of Impeachment has voted to convict. In the John Pickering trial, the vote was taken, in the affirmative, on the question of removal, following the vote on the articles; the question of disqualification was apparently not considered.[16] In the West Humphreys impeachment, following conviction on five articles of impeachment, the Court of Impeachment proceeded to vote, under a division of the question, on removal and disqualification, both decided in the affirmative.[17] And in the Robert Archbald impeachment, the Court of Impeachment voted first on removal and then on disqualification, under a division of the question. Both orders were voted in the affirmative.[18]

Vote Required for Disqualification

§ 13.10 The question of disqualification from holding an office of honor, trust, or profit under the United States, following conviction and

16. 3 Hinds' Precedents § 2341.

17. 3 Hinds' Precedents § 2397.

18. 6 Cannon's Precedents § 512.

judgment of removal in an impeachment trial, requires only a majority vote of the Senate sitting as a Court of Impeachment.

On Apr. 17, 1936, the Senate sitting as a Court of Impeachment in the trial of Halsted Ritter proceeded to consider an order disqualifying the respondent from ever holding an office of honor, trust, or profit under the United States; the court had convicted the respondent and he had been ordered removed from office.

A parliamentary inquiry was propounded as to the vote required on the question of disqualification:

> THE PRESIDENT PRO TEMPORE:[19] The Senator from Arizona submits an order, which will be read.
>
> The legislative clerk read as follows:
>
> > *Ordered further*, That the respondent, Halsted L. Ritter, United States district judge for the southern district of Florida, be forever disqualified from holding and enjoying any office of honor, trust, or profit under the United States. . . .
>
> MR. [F. RYAN] DUFFY [of Wisconsin]: A parliamentary inquiry.
>
> THE PRESIDENT PRO TEMPORE: The Senator will state it.
>
> MR. DUFFY: Upon this question is a majority vote sufficient to adopt the order, or must there be a two-thirds vote?
>
> MR. [HENRY F.] ASHURST [of Arizona]: Mr. President, in reply to the inquiry, I may say that in the Archbald case that very question arose. A Senator asked that a question be divided, and on the second part of the order, which was identical with the order now proposed, the yeas and nays were ordered, and the result was yeas 39, nays 35, so the order further disqualifying respondent from holding any office of honor, trust, or profit under the United States was entered. It requires only a majority vote.
>
> THE PRESIDENT PRO TEMPORE: The question is on agreeing to the order submitted by the Senator from Arizona.[20]

Parliamentarian's Note: In the impeachment trial of Robert Archbald, a division of the question was demanded on an order removing and disqualifying the respondent. Removal was agreed to by voice vote and disqualification was agreed to by the yeas and nays—yeas 39, nays 35.[21]

Filing of Separate Opinions

§ 13.11 The Senate, sitting as a Court of Impeachment, may provide by order at the conclusion of the trial for Senators to file written opinions following the final vote.

On Apr. 16, 1936, the Senate sitting as a Court of Impeachment in the trial of Judge Halsted Rit-

19. Key Pittman (Nev.).

20. 80 CONG. REC. 5607, 74th Cong. 2d Sess.

21. 6 Cannon's Precedents § 512.

ter adopted the following order at the conclusion of the trial:

Ordered, That upon the final vote in the pending impeachment of Halsted L. Ritter each Senator may, within 4 days after the final vote, file his opinion in writing, to be published in the printed proceedings in the case.[22]

House Informed of Judgment

§ 13.12 The Senate informs the President and the House of the order and judgment of the Senate in an impeachment trial.

On Apr. 20, 1936,[1] a message from the Senate was received in the House informing the House of the order and judgment in the impeachment trial of Judge Halsted Ritter:

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had ordered that the Secretary be directed to communicate to the President of the United States and to 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.

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22. 80 CONG. REC. 5558, 74th Cong. 2d Sess.

1. 80 CONG. REC. 5703, 5704, 74th Cong. 2d Sess.