

session but by its permission; be it further

Resolved, That the House of Representatives under Article I, Section 2 of the Constitution has the sole power of impeachment and has the sole power to investigate and gather evidence to determine whether the House of Representatives shall exercise its constitutional power of impeachment; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice, or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That when said court determines upon the materiality and the relevancy of the papers and documents called for in the subpoenas duces tecum, then the said court, through any of its officers or agents, have full permission to attend with all proper parties to the proceeding and then always at any place under the orders and control of this House and take copies of all memoranda and notes, in the files of the Committee on the Judiciary, of interviews with those persons who subsequently appeared as witnesses in the proceedings before the full Committee pursuant to House Resolution 803, such limited access in this instance not being an interference with the Constitutional impeachment power of the House, and the Clerk of the House is

authorized to supply certified copies of such documents and papers in possession or control of the House of Representatives that the court has found to be material and relevant (except that under no circumstances shall any minutes or transcripts of executive sessions, or any evidence of witnesses in respect thereto, be disclosed or copied) and which the court or other proper officer thereof shall desire, so as, however, the possession of said papers, documents, and records by the House of Representatives shall not be disturbed, or the same shall not be removed from their place of file or custody under any Members, officer, or employee of the House of Representatives; and be it further

Resolved, That a copy of these resolutions be transmitted to the said court as a respectful answer to the subpoenas aforementioned.

§ 7. Committee Consideration; Reports

Under Rule XI, the rules of the House are the rules of its committees and subcommittees where applicable.⁽¹⁾ Consideration by committees of impeachment propositions to be reported to the House is therefore generally governed by the principles of consideration and debate that are normally followed in taking up any proposition. Thus, in the 93d Congress, the

1. Rule XI clause 27(a), *House Rules and Manual* §735 (1973).

Committee on the Judiciary adopted a resolution for the consideration of articles impeaching President Richard Nixon, providing for general debate, and permitting amendment under the five-minute rule.⁽²⁾

Cross References

Committee consideration and reports generally, see Ch. 17, *infra*.

Committee powers and procedures as to impeachment investigations, see §6, *supra*.

Committee procedure generally, see Ch. 17, *infra*.

Committee reports on grounds for impeachment, see §3, *supra*.

Management by reporting committee of impeachment propositions in the House, see §8, *infra*.

Collateral References

Debates on Articles of Impeachment, Hearings of the Committee on the Judiciary pursuant to H. Res. 803, July 24, 25, 26, 27, 29, and 30, 1974, 93d Cong. 2d Sess.

Impeachment of Richard M. Nixon, President of the United States, H. REPT. NO. 93-1305, Committee on the Judiciary, 93d Cong. 2d Sess., Aug. 20, 1974.

Associate Justice William O. Douglas, final report by the Special Subcommittee on H. Res. 920, Committee on the Judiciary, 91st Cong. 2d Sess., Sept. 17 1970.

². See §7.2. *infra*.

Consideration of Resolution and Articles of Impeachment

§ 7.1 Under the modern practice, the Committee on the Judiciary may report to the House, when recommending impeachment, both a resolution and articles of impeachment, to be considered together by the House.

On July 8, 1912, Mr. Henry D. Clayton, of Alabama, of the Committee on the Judiciary reported to the House a resolution (H. Res. 524) impeaching Judge Robert Archbald. The resolution not only impeached but set out articles of impeachment which the resolution stated were sustained by the evidence.⁽³⁾ A similar procedure was followed in the impeachment of certain other judges—George English,⁽⁴⁾ Harold Louderback,⁽⁵⁾ and Halsted Ritter. The resolution of impeachment in the Ritter case incorporated the articles (the articles themselves which followed the text below have been omitted):⁽⁶⁾

³. 48 CONG. REC. 8697, 8698, 62d Cong. 2d Sess. (report and resolution printed in full in the Record).

⁴. 67 CONG. REC. 6280, 69th Cong. 1st Sess., Mar. 25, 1926.

⁵. 76 CONG. REC. 4913, 4914, 72d Cong. 2d Sess., Feb. 24, 1933.

⁶. 80 CONG. REC. 3066, 74th Cong. 2d Sess., Mar. 2, 1936.

[H. RES. 422, 74TH CONG., 2D SESS.
(Rept. No. 2025)]

RESOLUTION

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

Articles of impeachment of the House of Representatives of the United States of America in the name of themselves and of all of the people of the United States of America against Halsted L. Ritter, who was appointed, duly qualified, and commissioned to serve, during good behavior in office, as United States district judge for the southern district of Florida, on February 15, 1929.

Resolutions for Committee Consideration

§ 7.2 The Committee on the Judiciary adopted in the 93d Congress a resolution governing its consideration of a motion to report to the House a resolution and articles impeaching President

Richard Nixon; the resolution provided for general debate on the resolution, reading the articles for amendment under the five-minute rule, and considering the original motion as adopted should any article be agreed to.

On July 23, 1974, the Committee on the Judiciary adopted a resolution providing that on July 24 the committee should commence general debate on reporting to the House a resolution and articles of impeachment against President Nixon; the resolution provided for general debate and reading of the articles for amendment under the five-minute rule:⁽⁷⁾

Resolved, That at a business meeting on July 24, 1974, the Committee shall commence general debate on a motion to report to the House a Resolution, together with articles of impeachment, impeaching Richard M. Nixon, President of the United States. Such general debate shall consume no more than ten hours, during which time no Member shall be recognized for a period to exceed 15 minutes. At the conclusion of general debate, the proposed articles shall be read for amendment and Members shall be recognized for a period of five minutes to speak on each

7. H. REPT. NO. 93-1305, at p. 10, Committee on the Judiciary, 93d Cong. 2d Sess., reported Aug. 20, 1974.

proposed article and on any and all amendments thereto, unless by motion debate is terminated thereon. Each proposed article, and any additional article, shall be separately considered for amendment and immediately thereafter voted upon as amended for recommendation to the House. At the conclusion of consideration of the articles for amendment and recommendation to the House, if any article has been agreed to, the original motion shall be considered as adopted and the Chairman shall report to the House said Resolution of impeachment, together with such articles as have been agreed to, or if no article is agreed to, the Committee shall consider such resolutions or other recommendations as it deems proper.

Broadcasting Committee Meetings During Consideration of Impeachment

§ 7.3 The House in the 93d Congress amended Rule XI of the rules of the House to provide for broadcasting of meetings, as well as hearings, of committees, thereby permitting radio and television coverage of the consideration by the Committee on the Judiciary of a resolution and articles of impeachment against President Richard Nixon.

On July 22, 1974, Mr. B.F. Sisk, of California, called up by direction of the Committee on Rules a

resolution (H. Res. 1107) amending the rules of the House.⁽⁸⁾

Debate on the resolution indicated that it was intended to clarify the rules of the House to permit all committees to allow broadcasting of their meetings as well as hearings by majority vote, but that its immediate purpose was to allow the broadcasting of the proceedings of the Committee on the Judiciary in considering a resolution and articles of impeachment against President Nixon (to commence on July 24, 1974). The House discussed the advisability of, and procedures for, televising the proceedings of the Committee on the Judiciary, and adopted the resolution.⁽⁹⁾

Privilege of Reports on Impeachment Questions

§ 7.4 The reports of a committee to which has been referred resolutions for the impeachment of a federal civil officer are privileged for immediate consideration.

8. 120 CONG. REC. 24436, 93d Cong. 2d Sess.

9. Speaker Carl Albert (Okla.) overruled a point of order against consideration of the resolution and held that the question whether a committee meeting was properly called was a matter for the committee and not the House to consider. 120 CONG. REC. 24437, 93d Con. 2d Sess.

Resolutions impeaching federal civil officers, or resolutions incidental to an impeachment question, are highly privileged under the U.S. Constitution (§5, *supra*); reports thereon are likewise considered as privileged.⁽¹⁰⁾

Privilege of Reports as to Discontinuance of Impeachment Proceedings

§ 7.5 Reports proposing discontinuance of impeachment

10. Rule XI clause 27 (d) (4), *House Rules and Manual* §735 (1973) requires that, with certain exceptions, a measure not be considered in the House until the third calendar day on which the report thereon has been available to Members. However, on July 13, 1971, Speaker Carl Albert (Okla.) held that a committee report relating to the refusal of a witness to respond to a subpoena was not subject to the three-day rule. See 117 CONG. REC. 24720-23, 92d Cong. 1st Sess. (H. REPT. NO. 92-349). The Speaker held in that case that "the report is of such high privilege under the inherent constitutional powers of the House and under Rule IX that the provisions of clause 27(d) (4) of Rule XI are not applicable."

See also the dicta of Speaker Frederick H. Gillett (Mass.), at 6 Cannon's Precedents §48, that impeachment charges were privileged for immediate consideration due to their particularly privileged status under the U.S. Constitution.

These arguments seem persuasive with respect to impeachment cases when reported.

proceedings are privileged for immediate consideration when reported from the Committee on the Judiciary.

On Feb. 13, 1932, Mr. Hatton W. Sumners, of Texas, offered House Report No. 444 and House Resolution 143, discontinuing impeachment proceedings against Secretary of the Treasury Andrew Mellon. He offered the report as privileged and it was immediately considered and adopted by the House.⁽¹¹⁾

On Mar. 24, 1939, Mr. Sam Hobbs, of Alabama, called up a privileged report of the Committee on the Judiciary on House Resolution 67, which report recommended against the impeachment of Secretary of Labor Frances Perkins. The report was called up as privileged and the House immediately agreed to Mr. Hobbs' motion to lay the report on the table.⁽¹²⁾

Calendaring and Printing of Impeachment Reports

§ 7.6 Reports of the Committee on the Judiciary recommending impeachment of civil officers and judges of

11. 75 CONG. REC. 3850, 72d Cong. 1st Sess.
12. 84 CONG. REC. 3273, 76th Cong. 1st Sess.

the United States are referred to the House Calendar and ordered printed.

A committee report on the impeachment of a federal civil officer is referred to the House Calendar, ordered printed, and may be printed in full in the Record either by resolution or pursuant to a unanimous consent request.⁽¹³⁾

Report Submitted Without Resolution of impeachment

§ 7.7 President Richard Nixon having resigned following the decision of the Committee on the Judiciary to report to the House recommending his impeachment, the committee's report, without an accompanying resolution, was submitted to and accepted by the House.

The Committee on the Judiciary considered proposed articles of im-

13. 48 CONG. REC. 8697, 8698, 62d Cong. 2d Sess., July 8, 1912 (Judge Robert Archbald); see also H. REPT. No. 653, 67 CONG. REC. 6280, 69th Cong. 1st Sess., Mar. 25, 1926 (Judge George English), printed in full in the Record by unanimous consent; H. REPT. No. 2025, 80 CONG. REC. 2528, 74th Cong. 2d Sess., Feb. 20, 1936 (Judge Halsted Ritter); H. REPT. No. 1305, 120 CONG. REC. 29219, 93d Cong. 2d Sess., Aug. 20, 1974 (President Richard Nixon), printed in full in the Record pursuant to H. Res. 1333, 120 CONG. REC. 29361, 29362.

peachment against President Nixon and adopted articles, as amended, on July 27, 29, and 30, 1974. Before the committee report with articles of impeachment were reported to the House, the President resigned his office. The committee's report was therefore submitted to the House without an accompanying resolution of impeachment. The report summarized in detail the evidence against the President and the committee's investigation and consideration of impeachment charges, and included supplemental, additional, separate, dissenting, minority, and concurring views as to the separate articles, the evidence before the committee and its sufficiency for impeachment, and the standards and grounds for impeachment of federal and civil officers.

The committee's recommendation read as follows:

The Committee on the Judiciary, to whom was referred the consideration of recommendations concerning the exercise of the constitutional power to impeach Richard M. Nixon, President of the United States, having considered the same, reports thereon pursuant to H. Res. 803 as follows and recommends that the House exercise its constitutional power to impeach Richard M. Nixon, President of the United States, and that articles of impeachment be exhibited to the Senate as follows:
 . . .⁽¹⁴⁾

14. H. REPT. No. 93-1305, at p. 1, Committee on the Judiciary, printed in

The report was referred by the Speaker to the House Calendar, and accepted and ordered printed in full in the Record pursuant to the following resolution, agreed to under suspension of the rules, which acknowledged the intervening resignation of the President:

H. RES. 1333

Resolved, That the House of Representatives

(1) takes notice that

(a) the House of Representatives, by House Resolution 803, approved February 6, 1974, authorized and directed the Committee on the Judiciary to investigate fully and completely whether sufficient grounds existed for the House of Representatives to exercise its constitutional power to impeach Richard M. Nixon, President of the United States of America; and

(b) the Committee on the Judiciary, after conducting a full and complete investigation pursuant to House Resolution 803, voted on July 27, 29, and 30, 1974 to recommend Articles of impeachment against Richard M. Nixon, President of the United States of America; and

(c) Richard M. Nixon on August 9, 1974 resigned the Office of President of the United States of America;

(2) accepts the report submitted by the Committee on the Judiciary pursuant to House Resolution 803 (H. Rept.

the Record at 120 CONG. REC. 29219, 93d Cong. 2d Sess., Aug. 20, 1974. For complete text of H. REPT. No. 93-1305, see *id.* at pp 29219-361.

93-1305) and authorizes and directs that the said report, together with supplemental, additional, separate, dissenting, minority, individual and concurring views, be printed in full in the Congressional Record and as a House Document; and

(3) commends the chairman and other members of the Committee on the Judiciary for their conscientious and capable efforts in carrying out the Committee's responsibilities under House Resolution 803.⁽¹⁵⁾

Reports Discontinuing Impeachment Proceedings

§ 7.8 The Committee on the Judiciary unanimously agreed to report adversely a resolution authorizing an impeachment investigation into the conduct of the Secretary of Labor.

On Mar. 24, 1939,⁽¹⁶⁾ a privileged report of the Committee on the Judiciary was presented to the House; the report was adverse to a resolution (H. Res. 67) authorizing an investigation of impeachment charges against Secretary of Labor Frances Perkins and two other officials of the Labor Department:

IMPEACHMENT PROCEEDINGS—FRANCES PERKINS

MR. [SAM] HOBBS [of Alabama]: Mr. Speaker, by direction of the Committee

15. 120 CONG. REC. 29361, 93d Cong. 2d Sess., Aug. 20, 1974.

16. 84 CONG. REC. 3273, 76th Cong. 1st Sess.

on the Judiciary I present a privileged report upon House Resolution 67, which I send to the desk.

THE SPEAKER:⁽¹⁷⁾ The Clerk will report the resolution.

The Clerk read House Resolution 67.

MR. HOBBS: Mr. Speaker, this is a unanimous report from the Committee on the Judiciary adverse to this resolution. I move to lay the resolution on the table.

THE SPEAKER: The question is on the motion of the gentleman from Alabama to lay the resolution on the table.

The motion was agreed to.

§ 7.9 Where an impeachment resolution was pending before the Committee on the Judiciary, and the official charged resigned, the committee reported out a resolution recommending that the further consideration of the charges be discontinued.

On Feb. 13, 1932,⁽¹⁸⁾ the Committee on the Judiciary reported adversely on impeachment charges and its resolution was adopted by the House:

IMPEACHMENT CHARGES—REPORT
FROM COMMITTEE ON THE JUDICIARY

MR. [HATTON W.] SUMNERS of Texas: Mr. Speaker, I offer a report from the Committee on the Judiciary, and I would like to give notice that immediately upon the reading of the report I shall move the previous question.

17. William B. Bankhead (Ala.).

18. 75 CONG. REC. 3850, 72d Cong. 1st Sess.

THE SPEAKER:⁽¹⁹⁾ The gentleman from Texas offers a report, which the Clerk will read.

The Clerk read the report, as follows:

HOUSE OF REPRESENTATIVES—RELATIVE TO THE ACTION OF THE COMMITTEE ON THE JUDICIARY WITH REFERENCE TO HOUSE RESOLUTION 92

Mr. Sumners of Texas, from the Committee on the Judiciary, submitted the following report (to accompany H. Res. 143):

I am directed by the Committee on the Judiciary to submit to the House, as its report to the House, the following resolution adopted by the Committee on the Judiciary indicating its action with reference to House Resolution No. 92 heretofore referred by the House to the Committee on the Judiciary:

Whereas Hon. Wright Patman, Member of the House of Representatives, filed certain impeachment charges against Hon. Andrew W. Mellon, Secretary of the Treasury, which were referred to this committee; and

Whereas pending the investigation of said charges by said committee, and before said investigation had been completed, the said Hon. Andrew W. Mellon was nominated by the President of the United States for the post of ambassador to the Court of St. James and the said nomination was duly confirmed by the United States Senate pursuant to law, and the said Andrew W. Mellon has resigned the position of Secretary of the Treasury: Be it

Resolved by this committee, That the further consideration of the said charges made against the said Andrew W. Mellon, as Secretary of the Treasury, be, and the same are hereby discontinued.

19. John N. Garner (Tex.).

MINORITY VIEWS

We can not join in the majority views and findings. While we concur in the conclusions of the majority that section 243 of the Revised Statutes, upon which the proceedings herein were based, provides for action in the nature of an ouster proceeding, it is our view that the Hon. Andrew W. Mellon, the former Secretary of the Treasury, having removed himself from that office, no useful purpose would be served by continuing the investigation of the charges filed by the Hon. Wright Patman. We desire to stress that the action of the undersigned is based on that reason alone, particularly when the prohibition contained in said section 243 is not applicable to the office now held by Mr. Mellon.

FIORIELLO H. LAGUARDIA.
GORDON BROWNING.
M. C. TARVER.
FRANCIS B. CONDON.

MR. SUMNERS of Texas: Mr. Speaker I think the resolution is fairly explanatory of the views held by the different members of the committee. No useful purpose could be served by the consumption of the usual 40 minutes, so I move the previous question.

The previous question was ordered.

THE SPEAKER: The question is on agreeing to the resolution.

The resolution was agreed to.

§ 7.10 On one occasion, the Committee on the Judiciary reported adversely on impeachment charges, finding the evidence did not warrant impeachment, but the House rejected the report and voted for impeachment.

On Feb. 24, 1933, the House considered House Resolution 387

(H. Rept. No. 2065) from the Committee on the Judiciary, which included the finding that charges against Judge Harold Louderback did not warrant impeachment. Under a previous unanimous-consent agreement, an amendment in the nature of a substitute, recommended by the minority of the committee and impeaching the accused, was offered. The previous question was ordered on the amendment and it was adopted by the House.⁽²⁰⁾

§ 8. Consideration and Debate in the House

Reports on impeachment are privileged for immediate consideration in the House.⁽¹⁾ Unless the House otherwise provides by special order, propositions of impeachment are considered under

20. 76 CONG. REC. 4913-25, 72d Cong. 2d Sess. For analyses of the Louderback proceedings in the House, see §§ 17.1-17.4, *infra*, and 6 Cannon's Precedents § 514.

1. See § 8.2, *infra*, for the privilege of impeachment reports and § 7.6, *supra*, for their referral to the House Calendar. Impeachment reports have usually been printed in full in the *Congressional Record* and have laid over for a period of days before consideration by the House, so that Members could acquaint themselves with the contents of the reports.