69TH CONGRESS
1st Session

SENATE

DOCUMENT
No. 104

ANSWER

OF

GEORGE W. ENGLISH

DISTRICT JUDGE OF THE UNITED STATES FOR
THE EASTERN DISTRICT OF ILLINOIS

TO

THE ARTICLES OF IMPEACHMENT EXHIBITED AGAINST HIM BY THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES

WASHINGTON
GOVERNMENT PRINTING OFFICE
1926

IN THE SENATE OF THE UNITED STATES,

May 3, 1926.

Ordered, That the answer of the respondent, George W. English, district judge of the United States for the eastern district of Illinois, to the articles of impeachment exhibited against him by the House of Representatives be printed for the use of the Senate sitting in the trial of said impeachment.

Attest:

EDWIN P. THAYER,
Secretary.

ANSWER OF JUDGE ENGLISH

In the Senate of the United States Sitting as a Court of Impeachment

UNITED STATES *vs.* GEORGE W. ENGLISH

ANSWER OF THE SAID GEORGE W. ENGLISH TO THE ARTICLES OF IMPEACHMENT EXHIBITED AGAINST HIM BY THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES

And now comes George W. English and makes answer to the Articles of Impeachment exhibited against him by the House of Representatives of the United States, and says:

ANSWER TO ARTICLE I

For answer to the first article the respondent says:

(1) That the first article does not set forth anything which, if true, constitutes an impeachable offense, or a high crime and misdemeanor as defined in the Constitution of the United States, and that therefore, the Senate, sitting as a court of impeachment, should not further entertain the charge contained in said first article.

(2) Not waiving, but insisting upon the foregoing objection to the first article, but being unwilling to appear to admit even by implication the truth of the charge attempted to be made in said article, the respondent denies that he has been guilty of the tyranny or oppression or misbehavior therein alleged, and denies that he has been guilty of a tyrannous or oppressive course of conduct and misbehavior, whereby he has brought the administration of justice in said district in the court of which he is judge into disrepute, which falls under the constitutional provisions as ground for impeachment and removal from office.

(3) The respondent avers in reference to the alleged disbarment of Thomas M. Webb, that prior to June 30, 1922, a man by the name of John Gardner, commonly known as "Dressed-up Johnny," was placed upon trial in the District Court over which respondent presided at East St. Louis, Illinois, charged with robbing a Post Office, and one of the witnesses by whom the Government expected to connect the said John Gardner with said robbery refused to testify as the District Attorney had expected, and for that reason there was no evidence against the defendant to submit to the jury, and it became the duty of the respondent, and he did, direct the jury to find the defendant not guilty. The respondent had, at that time, information that a criminal charge was pending against the said John Gardner in another part of the State of Illinois, and that the

authorities there desired the said John Gardner held until they had an opportunity to come and arrest him. And the respondent being willing to give said authorities an opportunity so to do, under the rule of law that a prisoner may be held without a warrant for a reasonable time to permit him to be taken into custody for a crime charged as announced in Re: Thaw, 209 Fed. 56, Day *vs.* Keim, Sheriff, 2 Fed. (2nd Ser.) 966, and Burton *vs.* N. Y. R. Co. 245 U. S. 315, 62 L. Ed. 314, ordered said John Gardner held until the further order of the court. The state authorities failing to arrive within a reasonable length of time thereafter, the respondent ordered the bailiff of the court to bring said John Gardner into court, so that he might be discharged. And thereupon, the bailiff notified respondent that said John Gardner had been released on a writ of Habeas Corpus issued out of the City Court of East St. Louis, Illinois. Respondent then made an investigation and from such investigation believed that Thomas M. Webb, with knowledge that said John Gardner was held under the orders of the Federal Court, had filed a petition in the state court and procured his discharge and transportation across the Mississippi River into the State of Missouri, and in such action had concealed from the Judge of said City Court the fact that the said John Gardner was held under the orders of respondent's court.

The respondent learning these facts, directed the clerk of his court to notify the said Thomas M. Webb to appear in court for the purpose of having said Thomas M. Webb explain his action in said matter. When the said Thomas M. Webb complied with the notice of said Clerk and appeared in court, the following, in substance, occurred:

"Judge English: Mr. T. M. Webb, I had notice sent to you which doubtless you received in an informal way for the purpose of not making it appear that there was in any wise an attempt made to humiliate you regardless of what might have been said of such notice to come here at 9.30 this morning.

"I wish to advise you the purpose of that notice was to advise you I require at your hands a full statement of facts of every act and every word that you performed and said in connection with the release of United States Prisoner John Gardner, alias 'Dressed-up Johnny,' on May 8, 1922, from the East St. Louis jail, and who was at that time a prisoner of the United States.

"I have no inclination at this time to listen to any statement you have to make, hence I require at your hands a full and detailed written statement of everything that transpired within your knowledge or by your advice or consent and what knowledge you may have had relative to each particular from the time of your connection until his final transportation across the river out of the jurisdiction of this court.

"In doing this I want to verify certain information that I have already received, which of itself is of a most reliable character and in doing this I would suggest that you, as I would do if I were in your place, in my mind I would go back in my past life, in my memory where my self-respect was at a great advantage over the present

condition and from that time make a complete investigation of myself, of my conduct and of my thoughts and regard for the tribunal which has granted you the privilege of practicing your profession which you so ably have done and so enable you to tell the story as it is in your mind. This may be of your own choice, however, as to time. Until you shall have filed that story with the clerk of this court, and the same has been by me verified you will be suspended from practicing your profession in this court. That is all I have to say, to you, Mr. Webb.

"Mr. WEBB. That is perfectly all right. I will file a full and complete statement within a few days.

"Judge ENGLISH. Take all the time you desire."

The said Thomas M. Webb, within about ten days, filed a written statement of his actions in the matter, and denied that he had any knowledge that said Gardner was being held under the orders of the Federal Court when he procured his discharge, and at the next term of said Federal Court, held at East St. Louis, the respondent ordered that the said Thomas M. Webb be restored to practice in said court. That during said period the said Thomas M. Webb was not disbarred but only suspended from practice.

In these transactions, the respondent did not act with any personal hatred or ill-will toward the said Thomas M. Webb, but did what was done by him only because he believed from the information he had that the said Thomas M. Webb was in contempt of court by securing the release of a prisoner that respondent had ordered held, by concealing the fact from the state court, which, if true, would have been a contempt under the law as announced by the Supreme Court of Illinois in the case of People vs. Eugene McCaffrey, 316 Ill. 166.

(4) The respondent avers, in reference to the disbarment of Charles A. Karch, that prior to the said disbarment the said Charles A. Karch, both in and out of court, conducted himself in a contemptuous, insolent and defiant manner toward the respondent, and was guilty of making scurrilous remarks about the respondent and using insulting language about the respondent to the officers of said court, and to other persons in attendance upon said court, and was guilty of offensive and unbecoming conduct toward the respondent as the presiding Judge of said court.

The respondent further avers that the conduct of the said Charles A. Karch toward this respondent was of such nature that it was injurious to said court and tended to lower its dignity and seriously interfere with the administration of justice in said court.

The respondent further avers that the conduct of the said Charles A. Karch, on the day that the disbarment in question took place, was of an offensive and threatening character, and was injurious to said court, and was of such character as to require and justify action by the respondent as the presiding judge of said court; that the respondent entered the said order of disbarment on account of the

offensive and threatening conduct of the said Charles A. Karch taking place in open court: that said order was entered while the said Charles A. Karch was present and after the respondent had explained to the said Charles A. Karch why said order was being entered; that said order was entered by the respondent for the sole purpose of preserving the dignity and decorum of said court, and that if any mistake was made in said matter, it was an error in procedure and was not done corruptly and does not constitute an impeachable offense

The respondent further avers that the only reason he had for refusing to hear causes in which the said Charles A. Karch was an attorney or solicitor was because he had fears that he might unconsciously be prejudiced against the clients represented by the said Charles A. Karch.

The respondent further avers that the practice of the said Charles A. Karch in said court was confined almost wholly to the defense of persons charged with criminal offenses and that no injury would be done to the said Charles A. Karch, or his clients, by allowing those cases to be tried by Judge Walter C. Lindley, the other Judge of said District.

(5) With reference to the allegation concerning the sheriffs and states attorneys and Mayor of Wamac, wherein it is alleged that the respondent, on the first day of August, 1922, unlawfully and deceitfully issued a summons from the District Court of the United States and had the same served by the Marshal of said District, summoning the said Sheriffs and States Attorneys and Mayor of Wamac to appear before him in an imaginary case of United States against one Gourley and one Daggett, when in truth and in fact, no such case was then and there pending in said court, and in placing the said state officials and Mayor of Wamac in the jury box and then improperly conducting himself with reference to said officials, the respondent denies that on the first day of August, 1922, he unlawfully and deceitfully issued a summons from the said District Court of the United States and had the same served by the Marshal of said District, summoning the said Sheriffs and States Attorneys and Mayor of Wamac to appear before him in an imaginary case of United States vs. one Gourley and one Daggett, when no such case was pending in said court, and denies that he placed said officials in the jury box and then in a loud angry voice, used improper, profane and indecent language toward said officials, and denies that he denounced said officials as alleged, and denied that he did unlawfully, improperly, oppressively or tyrannically threaten to remove said officials from their said respective offices; and denies that he addressed them, using obscene and profane language, as alleged, but on the contrary avers the facts to be that there was on said day pending in the District Court of the United States for the Eastern

District of Illinois, a certain criminal contempt proceedings filed by the United States Attorney for the Eastern District of Illinois, for and on behalf of the United States of America, against the said Gourley and the said Daggett, for the violation of a certain injunction theretofore issued by said court, and that said case was for hearing upon said day, and that the said States Attorneys and Sheriffs and the said Mayor of Wamac appeared in the District Court of the United States for the Eastern District of Illinois on said day, in response to subpœnas duly and regularly issued by the Clerk of said Court upon the praecipe of the United States Attorney for the Eastern District of Illinois, and served upon said Sheriffs, States Attorneys and the said Mayor of Wamac, commanding them to appear in said court on said day to testify in the said case then pending of United States v. said Gourley and said Daggett; that the said case of United States v. said Gourley and said Daggett was called for hearing upon said day in said court and was continued until the September term of said court, to be held in the City of Danville, Illinois, in said District, whereupon a recess of said court was had, and this respondent retired to his chambers adjoining the court room. While in his said chambers this respondent was advised that the said Sheriffs, States Attorneys and Mayor of Wamac were in the court room. This respondent had been advised by a Deputy United States Marshal and others that conditions in and around the Village of Wamac were such that there was danger of destruction of property and loss of life; that he had also been advised that one employe of the Illinois Central Railroad Company, while peacefully proceeding to his work for said company, had been shot and killed; that the killing of said employe was involved in the contempt proceeding against the said Gourley and the said Daggett, then pending in said court, and that the said Gourley and Daggett had been commissioned by certain officials as Deputy Sheriffs and policemen and claimed that they had shot at and killed the said employe in the discharge of their duties as such; that Wamac, Illinois, where is located large and extensive shops of the Illinois Central Railroad Company, is a small village located in the three counties of Clinton, Marion and Washington in the State of Illinois, and is only a few miles distant from the City of Herrin, Illinois, where prior to this time riots had existed, a number of people had been killed and almost a state of civil war had been prevalent; that this respondent was fearful that under the conditions then prevailing at Wamac, Illinois, unless prompt and vigorous measures were taken by officers charged with enforcing the law, a similar situation would and might exist in the Village of Wamac. This respondent, being aware that the States Attorneys, Sheriffs and the Mayor of Wamac were present in the court room (having requested them to remain therein), re-

entered the court room, while the said court was yet in recess and was not in actual session, and asked the said States Attorneys, Sheriffs and Mayor of Wamac, for convenience, to take seats in the jury box, and then and there in substance made the following statement to them:

"You have out there a condition of civil war which seems apparently beyond the control of the present force as it is exercising its duty. You gentlemen may not realize the responsibility that is resting upon you and each of you, and I hope to be able to advise you to the extent that you wake up to the situation and assist in, if not take over wholly, the protection of life and property out there in that community. There was a man killed by one of the men who has been commissioned as a deputy sheriff by one of you gentlemen, and, also, by another man who was acting as marshal or chief of police, or as a member of the police force of the village of Wamac. You men are responsible to the people of the State of Illinois for the trust that is reposed in you. You have not, so far as I know, been guilty of any act of commission, but your guilt, if any at all, must be one of omission, but omission, if indulged in to a sufficient extent, becomes equal to an act of commission. The State's attorneys are the principal and chief law officers of the counties and upon them devolves the responsibility of issuing or having issued all writs of prohibition of violations of the law. The sheriffs are the ministerial officers, and it is their duty to serve such writs and to apprehend all alleged offenders.

"A failure to do any of those things amounts to an act of commission. You men seem to be asleep, but I hope to wake you up to a realization of what your duties and responsibilities are. Some men who are elected to office, for fear of offending their constituency, are oblivious to their duties and refuse, for fear of offending, to do their duty. If any of you men come within that class, your constituents did a damned poor job when they elected you."

And to the Mayor of Wamac he made the following statement:

"The blood of this man who was killed in your city is upon your hands, because you had deputized men whom you knew were not attempting to enforce the law, but were seeking to foil those who would perform their daily labor and earn their bread in the sweat of their faces. I have been in responsible positions more or less during my entire active life, and I know what it means to enforce the law. I have been invested by the Government of the United States with the responsibility of administering the law as I see best, and, as it is required at my hands, I shall perform that full measure of duty if it costs me my life. God Almighty gave me a strong physical body, a fair mind, and a good intent to perform, and I will do this to the full limit of my power. If you men refuse, that is your responsibility. If you get in the way and obstruct, I will see that the orders of this court are obeyed and fulfilled if it takes 1,000 men as special officers of this court.

"I will send them out there and see that life and property are protected, and if you gentlemen get in the way you will be treated exactly as any other offenders might be. You have, as I have said to you gentlemen, a state of civil war out there; you are today threatened

with a mob of 1,000 or more men from Herrin, only 50 or 60 miles away, where they have only in the past three months demonstrated what a mob will do in the massacre of twenty-odd people. If that comes about, gentlemen, no one knows what will be the result. You men and many others may leave your wives widows and your children orphans. That has been the experience of the past few months in this adjoining community. I am going to prevent that if God gives me power to enforce the law. It is up to you, gentlemen. If you have got the nerve, the willingness, the guts, or whatever you are a mind to call it, get on the side lines and assist, if you will not take the lead."

This respondent further avers that afterwards the said case of the United States v. said Gourley and said Daggett was tried in the United States District Court for the Eastern District of Illinois, at a session thereof held in the City of Cairo, Illinois, during the following October, before the Honorable Walter C. Lindley, Associate Judge of said District, and a jury, and the said Gourley and the said Daggett were convicted on account of the matters and things with which they were charged, and were, by the said Walter C. Lindley, Judge of said court, sentenced to imprisonment in jail on account thereof.

This respondent says that he did talk vigorously and earnestly to said States Attorneys, said Sheriffs and the said Mayor of Wamac; that he did believe at the time that they were not fully discharging their duties as officials of the State of Illinois; that his only purpose in talking to the said States Attorneys, Sheriffs and the Mayor of Wamac was to impress upon them the responsibilities resting upon them as such officials, and to prevent destruction of property, to prevent further loss of life, and to prevent a repetition of the Herrin massacre in Wamac and vicinity.

(6) This respondent avers in reference to the allegation that on the 8th day of May, 1922, in the trial of the case of United States *v.* Hall, wherein it is alleged he stated that if he told the jurors that a man was guilty and they did not find him guilty, he would send them to jail, that he did not at any time or place make such a statement, and avers the facts to be that in the trial of criminal cases he always refrained from expressing his opinion as to the guilt or innocence of a defendant on trial, but left that question to be determined by the jury, unless the question was submitted to him on motion as a matter of law, and in the trial of other cases he absolutely refrained from making any comment as to the weight of the evidence, but always left that question to be determined by the jury from the evidence in the case.

(7) The respondent avers, in reference to the allegation as to Michael L. Munie and Samuel A. O'Neal, that he did not, on the 15th day of August, 1922, nor at any other time, wilfully, unlawfully, tyrannically or oppressively summon the said Michael L. Munie and the said Samuel A. O'Neal, or either of them, to appear before him

at his office, court or any other place. And the respondenct denies that he did, at any time, when the said Munie and the said O'Neal were before him wilfully, unlawfully, tyrannically or oppressively, with anger and abusive language, attempt to coerce and threaten them as members of the press from truthfully publishing the facts in relation to the disbarment of Charles A. Karch.

The respondent further denies that he ever, at any time or place, used the power of his office tyrannically or in violation of the freedom of the press guaranteed by the Constitution.

The respondent further denies that he did, at any time or place, forbid, under threats of imprisonment, the said Munie and the said O'Neal, or either of them, to publish the facts in relation to the disbarment of the said Charles A. Karch.

(8) The respondent avers, in reference to the allegation as to Joseph Maguire, that he did not, on the 15th day of August, 1922, or at any other time, summon the said Joseph Maguire to appear before him, and did not threaten the said Joseph Maguire with imprisonment for having printed in his paper an editorial from the columns of the Post-Dispatch, and did not threaten the said Joseph Maguire with imprisonment for having printed certain hand bills as in said Article alleged, but with reference to said matter avers the facts to be that a complaint was filed against Chas. McMillan, J. C. Bell, H. Pabst, W. E. Kelley, J. M. Anderson and O. L. Etherton, charging them with having violated the said injunction issued by the respondent by distributing and circulating certain hand bills among the striking employes of the Illinois Central Railroad Company and other people, located at Carbondale, Illinois; that the said hand bill that the said parties were charged with distributing and circulating was in words and figures as follows, to-wit:

"NOTICE TO THE PUBLIC

Names of men assisting the Illinois Central, at Carbondale, Illinois, and by their actions injuring the citizens and taxpayers of this community.

NAMES

H. E. Exby,
334 Walnut St. Traveling Engineer.
Paul M. Sorgen,
309 W. Oak St., Boiler Foreman.
Loyd Walker
201 N. Springer St.
Orin Graff
201 N. Normal Ave. Mach. Gang Forem.
J. A. Golliher
417 W. Jackson St. Car Foreman.
J. G. Jenkins,
401 N. Normal Ave., Pick Foreman.

A recent opinion of the U. S. Labor Board that Supervising Forces on the railroads should not be compelled to do the work of the striking employees leads us to believe their action in assisting the Company is voluntarily.

PUBLICITY COMMITTEE APPROVED BY
FEDERATED SHOP CRAFTS."

That the said Joseph Maguire was subpœnaed as a witness in said cause; that the said cause came up for hearing before the respondent at Danville, Illinois; that upon said hearing, the respondent heard the statement of the said Joseph Maguire with reference to the printing of said hand bills; that during the hearing upon said charge the respondent did make some inquiries of the said Joseph Maguire with reference to the printing of the said editorial and made some statement to the said Joseph Maguire with reference to the truthfulness of said editorial, and warned the said Joseph Maguire that the publication of such matter might do great harm, but at no time during said hearing did this respondent threaten the said Joseph Maguire with punishment of any kind or character whatsoever.

Wherefore, the respondent denies that he was or is guilty of a course of conduct tyrannous or oppressive, and denies that he was or is guilty of misbehavior in his said office as Judge, and denies that he was or is guilty of a misdemeanor in his said office as Judge, as charged in said Article I, and further denies that he is guilty of or has done the acts and things charged against him in said Article, and therefore, asks that he be discharged of all matters and things alleged against him in said Article I.

ANSWER TO ARTICLE II.

For answer to the second article, the respondent says:

(1) That the second article does not set forth anything which, if true, constitutes an impeachable offense, or a high crime and misdemeanor as defined in the Constitution of the United States, and that therefore, the Senate, sitting as a court of impeachment, should not further entertain the charge contained in the second article.

(2) Not waiving, but insisting upon the foregoing objection to Article II, but being unwilling to appear to admit even by implication the truth of the charge attempted to be made in said Article, the respondent denies that he has been guilty of a course of improper and unlawful conduct as said Judge, and denies that his course of conduct as such Judge has been filled with partiality and favoritism, resulting in the creation of a combination to control and manage, in collusion with Charles B. Thomas, Referee in Bankruptcy in and for the Eastern District of Illinois for their own interests and profits and that of the relatives and friends of the respondent and of said Referee in Bankruptcy, as alleged in said Article.

(3) With reference to the appointment of Charles B. Thomas as sole Referee in Bankruptcy in said District, the respondent avers that from the organization of the Eastern District of Illinois up to the time of the appointment of respondent as Judge of said court, there never has been but one Referee in Bankruptcy in said District, notwithstanding that said District, from its organization, has comprised 45 counties and has a large volume of business in bankruptcy, and the respondent avers that shortly after he was appointed Judge of said District that he did appoint Charles B. Thomas, Referee in Bankruptcy of said District, and avers that the said Charles B. Thomas had formerly been a County Judge of one of the counties in said District, and had held said office by vote of the people in said county for two successive terms of four years each, and that the respondent had full confidence in the legal ability and industry of the said Charles B. Thomas and appointed him as such Referee in Bankruptcy because he was of the opinion that the said Charles B. Thomas would make an efficient, competent and faithful Referee in Bankruptcy; that it is true that the respondent as Judge as aforesaid did create a rule of said court in reference to the powers and duties of the Referee in Bankruptcy of said court, as alleged in said Article, but the respondent avers that said rule was not made with any intention to favor and prefer the said Charles B. Thomas as in said Article alleged, but on the contrary said rule was lawfully made under authority of the General Bankruptcy Act of the United States for the proper and prompt administration of estates in bankruptcy, and that said rule is not an unusual one, but is substantially the same as the rules of other courts with reference to Referees in Bankruptcy.

Further answering said Article, the respondent denies that said amendments of the rules of said court were then and there made with the intent to favor and prefer said Thomas, and the respondent denies that said amendments were made for the improper personal and financial benefit of this respondent, or his friends and family, and that if the said amendments to said rules were improperly used by the said Charles B. Thomas for his benefit, or the benefit of his friends or family, it was done without the knowledge or consent or acquiescence of this respondent.

Further answering said article, the respondent denies that the said Charles B. Thomas built up and had a large lucrative practice in said court on account of any favoritism shown said Charles B. Thomas by this respondent.

Further answering said Article, the respondent admits that the said Charles B. Thomas did rent and furnish a suite of rooms and offices in East St. Louis, but avers that the same were necessary for the proper administration of the office of said Referee in Bankruptcy,

and avers that so far as the respondent is advised the said rooms were rented at a reasonable price, and the action of said Referee in Bankruptcy in that regard was not unusual or extraordinary but is the same that is found in most districts of the United States for the proper administration of estates in bankruptcy, and denies that said rooms were rented in pursuance of any unlawful combination between said Referee in Bankruptcy and the respondent as in said Article alleged; that it is true the Referee in Bankruptcy employed a large number of clerks and stenographers, but the respondent avers that such clerks and stenographers were reasonably necessary for the proper administration of the bankruptcy estates in the hands of said Referee in Bankruptcy.

Further answering said Article, the respondent denies that the said Referee in Bankruptcy employed the said George W. English, Jr., son of the respondent, at a large compensation and salary, but avers the facts to be with reference to the employment of the said George W. English, Jr., that the said George W. English, Jr. was not employed by said Referee in Bankruptcy at the expense of any of the bankruptcy estates in charge of said Referee in Bankruptcy, but avers that at the time the said George W. English, Jr. was in the office of said Referee in Bankruptcy, he was a student in a law school and was only in the office of said Referee during his vacation periods. This respondent avers that he is informed that while the said George W. English, Jr. was in said Referee in Bankruptcy's office, during said vacation periods, he did some work for said Referee in Bankruptcy in the administration of bankruptcy estates, and was paid some compensation for said work, but that said compensation was paid by said Referee in Bankruptcy personally.

Further answering said Article, the respondent avers that it is true that said Referee in Bankruptcy did appoint the said M. H. Thomas, a son of the Referee in Bankruptcy, and D. S. Ledbetter and C. P. Wiedeman, sons-in-law of said Referee in Bankruptcy, as Trustees and Receivers in some of the estates in bankruptcy, but the respondent avers that such appointments were made only in small bankruptcy estates where the creditors did not exercise their right to appoint a trustee.

The respondent further avers that it is usual and ordinary, in all districts, for the Referee in Bankruptcy to have a comparatively small number of persons who are willing to act as receiver or trustee in small bankruptcy estates where the creditors do not appoint.

Further answering said Article, the respondent denies that the said Charles B. Thomas, Referee in Bankruptcy, did confer upon said persons appointments as trustees, receivers and masters in estates in bankruptcy with the knowledge, consent or approval of this respondent, and denies that the said Referee in Bankruptcy

paid to said persons large salaries, fees and commissions with the consent of the respondent.

Further answering said Article, the respondent denies that in order to carry out and make effective an improper and unlawful organization, as alleged in said Article, that this respondent appointed Herman P. Frizzell, United States Commissioner in and for said Eastern District of Illinois, and denies that the said Herman P. Frizzell did receive from the said Charles B. Thomas, Referee in Bankruptcy, large and valuable fees, commissions, salaries, appointments as trustee, receiver and master of estates in bankruptcy with the knowledge and consent of the respondent, as in said Article alleged, but on the contrary avers that he appointed the said Herman P. Frizzell United States Commissioner, because he believed the said Herman P. Frizzel to be fully qualified to fill the said office of United States Commissioner, and avers that so far as he knows the said Herman P. Frizzell did discharge his duties as such Commissioner in an efficient manner.

Further answering said Article, the respondent denies that he, at any time, permitted the said Charles B. Thomas, Referee in Bankruptcy, to appear as attorney and counsel before said Commissioner Frizzell in divers and sundry criminal cases, as in said Article alleged.

Further answering said Article, the respondent denies that for the purpose of carrying out the unlawful and improper combination mentioned in said Article, the respondent did improperly and unlawfully consent and approve of the appointment by said Referree in Bankruptcy, said Charles B. Thomas, of one Oscar Hooker as Chief Clerk in said office of said Referee in Bankruptcy, as in said Article alleged, and denies that the said Oscar Hooker did receive from the said Charles B. Thomas, Referee in Bankruptcy, large and valuable fees, salaries, appointments as trustee, receiver and master, and as attorney for trustees and receivers in bankruptcy estates with the consent or knowledge of the respondent.

Further answering said Article, the respondent denies that he did improperly allow and permit the said Oscar Hooker, as the agent of a Bonding Company, to furnish surety bonds for the persons mentioned in said Article.

Further answering said Article, the respondent denies that he did improperly and unlawfully allow the said Charles B. Thomas, Referee in Bankruptcy, to organize and incorporate from his said office force and employes, a corporation known as the Government Sales Corporation, for the purposes mentioned in said Article, and denies that said corporation was formed or managed with the knowledge or consent of the respondent.

Further answering said Article, the respondent denies that he did wilfully, improperly or unlawfully take advantage of his official position as Judge, and did aid the said Charles B. Thomas, Referee

in Bankruptcy, in the establishment, maintenance and operation of an unlawful and improper organization for the purpose of obtaining improper and unlawful personal gain and profits for the respondent and his family and friends, as mentioned in said Article.

Further answering said Article, the respondent avers that the said matters and things charged in said Article, as done by said Charles B. Thomas, as Referee in Bankruptcy, and to which it is charged the respondent gave his consent and approval, did not, in any wise or for any purpose, come before the respondent as Judge of said court for judicial action or otherwise, and that the respondent did not take any jurisdiction of said matters as Judge of said court.

Further answering said Article, the respondent avers that he did not combine or conspire with the said Charles B. Thomas, Referee in Bankruptcy, in any way as to any of the matters and things alleged in said Article, but on the contrary the respondent avers that he appointed the said Charles B. Thomas, Referee in Bankruptcy, because of his confidence in his ability to properly discharge the duties of his office, and therefore, in the usual course of things the attention of the respondent was not directed to the details of the office of said Referee in Bankruptcy, and the respondent did not, in fact, have any knowledge of any irregularity therein, if such existed, and there was, at no time, no petition for revision or review filed in the office of respondent as such Judge that brought to his attention any improper act or conduct or ruling of the Referee in Bankruptcy in the administration of the office of said Referee in Bankruptcy in regard to the matters and things alleged in said Article.

Wherefore, respondent denies that he was or is guilty of a course of conduct constituting misbehavior as said Judge, and denies that he was or is guilty of a misdemeanor in said office of Judge, as alleged in said Article, and further denies that he is guilty of or has done the acts and things charged against him in said Article, and therefore, asks that he be discharged of all matters and things alleged against him in said Article II

Answer to Article III.

For answer to the third article, the respondent says:

(1) That the third article does not set forth anything which, if true, constitutes an impeachable offense, or a high crime and misdemeanor as defined in the Constitution of the United States, and that therefore, the Senate, sitting as a court of impeachment, should not further entertain the charge contained in the third article.

(2) Not waiving, but insisting upon the foregoing objection to Article III, but being unwilling to appear to admit even by implication the truth of the charge attempted to be made in said Article, the respondent denies that he corruptly extended partiality and

favoritism in the matters in said Article set forth, to Charles B. Thomas, and denies that the conduct of the respondent brought the administration of justice into discredit and disrepute and degraded the dignity of the court and destroyed the confidence of the public in its integrity, as in said Article alleged.

(3) The respondent avers in reference to the case of East St. Louis & Suburban Company et al v. Alton, Granite & St. Louis Traction Company, that the allegations in said Article do not fully state the facts with reference to said suit; that the facts connected with said suit, so far as they relate to the actions of the respondent are substantially as follows:

That a bill was filed for the appointment of Receivers for said company in the District Court of the United States for the Eastern District of Illinois; that the parties filing said bill requested the respondent to appoint F. E. Allen, a resident of the City of St. Louis and State of Missouri, and W. H. Sawyer, a resident of the City of Columbus in the State of Ohio, as Receivers for said defendant company; that on account of the said Allen and Sawyer being non-residents of said district, the respondent did not deem it wise to appoint persons who resided outside the jurisdiction of the court as receivers in said cause, and the respondent suggested that if both of the persons who were to be appointed receivers resided outside the jurisdiction of the court, that they should have someone in whom the court had confidence, and who resided within the jurisdiction of the court, as an assistant to, or an attorney for the receivers; that with the understanding that the said persons proposed for receivers would secure such an assistant or attorney, the court appointed the said Allen and Sawyer temporary receivers, and said temporary receivers appointed the said Charles B. Thomas as attorney for them under the order of the court permitting them to employ an attorney or attorneys, and that the salary of said Thomas was fixed at $200.00 per month. That afterwards, on an application to make the appointment of said receivers permanent, that the salary of said Thomas was fixed at $300.00 per month as attorney and $500.00 per month for his services in assisting said receivers, said salaries to be retroactive from the first day of October, 1920.

Further answering said Article, the respondent avers that the said parties had agreed upon said compensation, and in the petition filed in said court asking that the said Allen and Sawyer be made permanent receivers in said cause, set forth the salaries to be paid to the said Charles B. Thomas as said attorney for and assistant to said receivers, and said petition asked that said allowance be so made, and upon a showing made by said parties that said allowances would be reasonable compensation to be paid to the said Charles B. Thomas, said order was entered by the respondent.

Further answering said Article, the respondent denies that there was anything illegal or improper in making said appointments and fixing said compensation, and denies that the appointment of the said Charles B. Thomas in said matter was improperly, corruptly or unlawfully made by the respondent, and denies that the fixing of the compensation of the said Charles B. Thomas in said matter was improperly, corruptly or unlawfully done by the respondent.

Further answering said Article, the respondent denies that the appointment of the said Charles B. Thomas in said matter was made by this respondent with the intent to wrongfully and unlawfully prefer and show partiality and favoritism to the said Charles B. Thomas, and denies that at the time said appointments were made that the respondent was under obligations, either financial or otherwise, to the said Charles B. Thomas.

(4) The respondent avers in reference to the case of Handelsman v. Chicago Fuel Company, that the allegations as contained in said Article, with reference to said suit, do not fully state the facts with reference to said suit; that the facts connected with said suit, so far as they relate to the actions of the respondent, are substantially as follows:

That the appointment of the said Charles B. Thomas as one of the receivers in said suit was made by Judge Walter C. Lindley, one of the Judges of the Eastern District of Illinois, and not by the respondent, as alleged in said Article; that after the appointment of the said Charles B. Thomas as one of the receivers in said suit was made by Judge Lindley, that the respondent did enter an order fixing the salary of the said Charles B. Thomas and his co-receiver, William E. Weber, of Chicago, Illinois, at $1,000.00 each per month; that the said fees for said receivers were fixed upon motion duly made in court by the parties interested in the proceedings, and that the order fixing said compensation, presented to the respondent for approval, showed that said parties had agreed upon said compensation.

Further answering said Article, the respondent avers that he did enter an order in said cause appointing Herman P. Frizzell, attorney for said receivers in said cause, and fixed his compensation at $200.00 per month, and avers that he made said appointment and fixed said compensation at the request of the parties connected with said suit, and avers that all of the matters connected with the appointment of the said Herman P. Frizzell and the fixing of the compensation of said receivers and said Herman P. Frizzell as attorney, were presented to the respondent in the usual course of the administration of said estate, and considering the magnitude of the estate and the work to be done that said orders were usual and proper.

Further answering said article, the respondent denies that he did improperly and unlawfully make said appointment of said attorney

and fix the compensation of said receivers and said attorney as alleged in said Article, and denies that the compensation of said receivers and said attorney and the appointment of said attorney were improperly and unlawfully done, and denies that said action was taken by the respondent for the purpose of preferring the said Charles B. Thomas as alleged in said Article.

(5) The respondent avers in reference to the suit of Heuffman et al v. Hawkins Mortgage Company that he was duly assigned by the Senior Judge of the Circuit Court of Appeals of the Seventh Circuit, to hold the Federal Court at Indianapolis, Indiana, on account of the absence of the regular Judge of that court; that the respondent was called from his vacation at a summer resort in the State of Michigan to Indianapolis to act upon a petition for an injunctive order to prevent the waste and disposition of assets of said alleged bankrupt before there had been an adjudication of bankruptcy against it on an involuntary petition that was then pending in said court; that when he reached Indianapolis he found Charles B. Thomas there as one of the attorneys appearing with several other attorneys, representing the petitioner for said injunctive order; that there was no objection made to the said Charles B. Thomas appearing as an attorney in said matter, and the existence of the Federal statute that prohibits Referees in Bankruptcy from appearing as attorney did not occur to the respondent, and no question was raised by anyone connected with said matter then being heard by the respondent as to the right of the said Charles B. Thomas to appear as an attorney in said case; that the respondent did not know that the said Charles B. Thomas had been employed in said matter until he appeared in court that day before him, neither did the respondent know anything about the fee that was to be paid the said Charles B. Thomas in said matter.

Further answering said Article, the respondent avers that he discharged his duties on that occasion in absolute good faith and according to the law as he then and now understands it, without any favoritism or partiality toward the said Charles B. Thomas.

(6) The respondent avers, in reference to the suspension of the jail sentence of F. J. Skye, that an application was presented to him by the said Charles B. Thomas as attorney for said Skye, to set aside and vacate the jail sentence imposed by him against the said F. J. Skye in said cause on account of the physical condition and health of the said Skye; that said application was supported by affidavits from two practicing physicians residing in the City of East St. Louis, who stated in their affidavits that the condition of the health of the said Skye was such that imprisonment would probably prove fatal to his life; that upon said application being so made and supported by said affidavits, the respondent entered an order staying the jail sentence imposed upon the said Skye; that afterwards, the Assistant United States District Attorney, who appeared for the Government in said

matter, called up said matter in open court and stated to the court that the Government was anxious to dispose of said application, and called the court's attention to two additional affidavits that had been filed in said cause supporting the application of said Skye to have said prison sentence vacated and set aside; that it was stated in said additional affidavits that the condition of the health of said Skye was such that imprisonment might prove fatal to him. That upon said statement being made by said Assistant United States District Attorney, the respondent asked the said Assistant United States District Attorney what he knew about the said affidavits, and he stated to the respondent that the affidavits were made by reputable physicians, and said Assistant United States District Attorney stated to the respondent that he had nothing to refute or contradict the statements contained in said affidavits; that upon said statement being so made by said Assistant United States District Attorney, the respondent entered an order vacating such jail sentence imposed against said Skye. The respondent avers that in entering said order vacating said jail sentence he acted in good faith upon the facts stated in said affidavits and upon the statements made by said Assistant United States District Attorney and upon the law as he understood it to exist in such cases.

The respondent avers that he entered said order after the said Skye had paid the fine of $500.00 imposed against him in said cause.

The respondent avers that he never, at any time before said order was entered vacating said jail sentence, knew anything about the fee that was to be paid by the said Skye to the said Charles B. Thomas.

Respondent further avers that he acted in said cause as he felt it was his duty to do as a matter of humanity and without any intent upon his part to favor the said Charles B. Thomas.

(7) The respondent avers in reference to the case of Hamilton v. Egyptian Coal & Mining Company, that he did not arbitrarily and unlawfully and without notice remove from office the duly appointed receiver in said cause, with the intent to favor the said C. B. Thomas as alleged in said Article, but avers that he appointed the said Charles B. Thomas receiver at the request of the parties in interest in said cause.

Further answering said Article, the respondent denies that said appointment was made with intent to favor the said Charles B. Thomas, and denies that the said appointment was made because he was under great obligations, financial and otherwise, to the said Charles B. Thomas as alleged in said Article, but avers that the appointment of the said Charles B. Thomas as receiver in said cause was made in absolute good faith.

(8) The respondent avers, in reference to the case of Wallace v. Shedd Coal & Mining Company, that he did not arbitrarily remove

F. D. Borah (mentioned in said Article as F. D. Bernard) as receiver, but avers the fact to be that the said F. D. Borah resigned as receiver in said cause in open court, and that at the request of the parties in interest the respondent appointed the said Charles B. Thomas successor receiver in said cause.

Further answering said Article, the respondent denies that he improperly appointed the said Charles B. Thomas receiver in said cause in place of the said F. D. Borah, as alleged in said Article, and denies that the appointment of the said Charles B. Thomas was made with intent to corruptly prefer the said Charles B. Thomas, as alleged in said Article, and denies that the appointment of the said Charles B. Thomas as receiver in said cause was made on account of any obligations of the respondent to the said Charles B. Thomas, as alleged in said Article, but avers that the appointment of the said Charles B. Thomas was made in absolute good faith.

(9) The respondent avers, in reference to the case of Ritchie v. Southern Gem Coal Corporation, that he appointed the said Charles B. Thomas receiver in said cause only upon the request of the parties in interest in said cause.

Further answering said Article, the respondent admits that he fixed the salary of the said Charles B. Thomas and his co-receiver at $1,000.00 each per month, but avers that the property involved was great and the fees fixed were the usual and customary fees in such cases.

Further answering said Article, the respondent denies that he had knowledge that the said Charles B. Thomas, in the discharge of his duties as receiver in said cause, was neglecting his duties as Referee in Bankruptcy, as alleged in said Article.

(10) Respondent denies that he did wrongfully, improperly and unlawfully receive $1435.00 from Charles B. Thomas as alleged in said Article, but avers the fact to be that the son of the respondent exchanged an old automobile of the respondent for a new one without any knowledge of the respondent and at a time when the respondent was sick, and that the said Charles B. Thomas advanced the difference on the purchase price of the new car in the sum of $1435.00, and that afterwards, when the respondent learned the amount advanced by the said Thomas in the exchange of said cars, the respondent repaid said Thomas said amount.

Further answering said Article, the respondent denies that he received and accepted from the said Charles B. Thomas the said sum of $1435.00, or any other sum of money as a return, or in recognition of favoritism or partiality extended to the said Charles B. Thomas, and denies that in the discharge of his duties as Judge, he did ever, at any time, for consideration or otherwise, ever extend any favoritism or partiality to the said Charles B. Thomas.

(11) The respondent denies that he, as Judge of said court, approved a report of the Receivers in the Southern Gem Coal Corporation matter, with knowledge that the said Charles B. Thomas was neglecting his duties as Referee in Bankruptcy, as in said Article alleged.

Further answering said Article, the respondent denies that he re-appointed the said Charles B. Thomas Referee in Bankruptcy, knowing at the time that the said Charles B. Thomas had neglected his duties as Referee in Bankruptcy.

Further answering said Article, the respondent avers that at the time he approved the report of the receivers in the Southern Gem Coal Corporation matter, referred to in said Article, no question arose as to whether or not the said Charles B. Thomas, one of the said receivers, was neglecting his duties as Referee in Bankruptcy, and avers that such question could not have properly come up in said matter for consideration.

Further answering said Article, the respondent avers that he never, at any time, had any knowledge that the said Charles B. Thomas neglected his duties as Referee in Bankruptcy, and further avers that the question of whether or not the said Charles B. Thomas was discharging his duties as Referee in Bankruptcy was never presented to the respondent, as Judge of said court, either formally or otherwise.

(12) The respondent further avers in reference to all the matters and things alleged in said Article III, that he did not as to any of said matters act dishonestly or corruptly, or with any intent to prefer or favor the said Charles B. Thomas, but that in all matters wherein said Thomas was appointed as attorney for receivers, or as receiver, the appointment was made at the request of the parties in interest, and in the usual and ordinary administration of said matters in the court over which respondent was presiding, and without any improper or wrongful intent on the part of the respondent.

Wherefore, the respondent denies that he was or is guilty of misbehavior, as Judge as charged in said Article III, and denies that he was or is guilty of misdemeanor in said office of Judge as alleged in said Article III, and further denies that he is guilty of or has done the acts and things charged against him in said Article, and therefore, asks that he be discharged of all matters and things alleged against him in said Article III.

Answer to Article IV.

For answer to the fourth article, the respondent says:

(1) That the fourth article does not set forth anything which, if true, constitutes an impeachable offense, or a high crime and misdemeanor as defined in the Constitution of the United States, and that therefore, the Senate, sitting as a court of impeachment, should not further entertain the charge contained in the fourth article.

(2) Not waiving, but insisting upon the foregoing objection to Article IV, but being unwilling to appear to admit even by implication the truth of the charge attempted to be made in said Article, the respondent denies that he did, in conjunction with Charles B. Thomas, Referee in Bankruptcy, corruptly and improperly handle and control the deposits in bankruptcy estates or other funds under his control in said court, by depositing, transferring and using said funds for pecuniary benefit of himself and said Thomas and thus prostitute his official power and influence for the purpose of securing benefits for himself and family and said Thomas and his family, as in said Article alleged.

Further answering said Article, the respondent denies that he ever, at any time, received any profit or benefit through the deposits of bankruptcy funds, or other funds under his control as Judge of said court.

(3) The respondent admits that he did, on or about December, 1918, designate the First State Bank of Coulterville, Illinois, to be a United States depository of bankruptcy funds within said District, and he admits that J. E. Carlton, one of the stockholders and directors of said bank, was a brother-in-law of the respondent, and that afterwards, the respondent purchased and owned 2 out of 250 shares of the capital stock of said bank, but the respondent denies that the said appointment was made improperly or unlawfully, and denies that it was corruptly made, and denies that said bank was to be the sole United States depository of bankruptcy funds within said District, as alleged in said Article, but on the contrary states that said bank was a safe and sound banking institution, absolutely solvent, and that a proper and sufficient bond was taken to secure the safety of all bankruptcy funds placed therein, and that in fact, all of the bankruptcy funds placed in said depository were safely protected and accounted for by said depository.

Further answering said complaint, the respondent denies that any one transacting business with the Referee in Bankruptcy was ever inconvenienced in any wise on account of the location of said bank.

(4) The respondent, in reference to the case of Sanders *v.* Southern Traction Company, denies that he did wilfully and unlawfully order and decree that the sum of $100,000.00 derived from the sale of property of said Southern Traction Company should be deposited in the Merchants State Bank of Centralia, Illinois, a United States depository of bankruptcy funds, said deposit to draw no interest, and denies that said deposit was made in said bank for the benefit of himself or for his personal gain and profit, and denies that said deposit was made for the personal gain and profit, or for the benefit of his family and friends, as in said Article alleged; and denies that the said deposit made in said bank was to the great scandal of his said office as Judge, as alleged in said Article; and denies that said

deposit made in said bank tended to bring the administration of justice in said court in distrust and contempt as in said Article alleged.

Further answering said Article, the respondent admits that at the time said order for said deposit was made, he did own a small amount of the capital stock of said bank, but avers that the said ownership of said capital stock was so small that his part of the possible earnings of said bank by reason of said deposit being made in it was of practically no consequence, and that his small ownership in the capital stock of said bank did not influence him one way or another in making the order for said deposit, but said order was made for other reasons altogether.

Further answering said Article, the respondent avers that there was nothing improper, irregular or unlawful in ordering said deposit to be made in said bank.

(5) The respondent avers, in reference to the transactions with the Drovers National Bank in East St. Louis, that it is not true that he made any agreement whatsoever with the officers of said bank for the employment of his son, Farris English, in said bank, and neither did he subscribe for ten shares of capital stock in said bank, but that on the contrary the said Charles B. Thomas personally made whatever arrangements were made with said bank and did so without the knowledge or consent of the respondent.

Further answering said Article, the respondent avers that the said Charles B. Thomas did procure ten shares of stock to be issued by said bank in the name of the respondent, but that the same was done without the knowledge or consent of the respondent, and when the respondent learned that said ten shares of capital stock had been issued in his name, he refused to accept said stock, and at the request of the said Charles B. Thomas, he endorsed the certificate for said stock, so that the same could be transferred to the said Charles B. Thomas, or to some other person.

Further answering said Article, the respondent admits that he entered an order designating said Bank to be a Government depository of bankruptcy funds, but denies that he entered said order in pursuance of any agreement that his son, Farris English, was to be employed as Cashier at said bank, as in said Article alleged, and denies that he became a depositor in said bank in pursuance of the agreement alleged, and stated in said Article, and denies that he caused 17 transfers of bankruptcy funds to be made from the Union Trust Company to said Drovers National Bank, as alleged in said Article.

Further answering said Article, the respondent denies that he received pay for the said ten shares of stock, and also for the stock of his son, Farris English, as in said Article alleged, and denies that he did any act or thing as Judge of said court, with reference to the said

Drovers National Bank, with a wrongful and unlawful intent to use the influence of his said office as Judge for his personal gain and profit, as in said Article alleged, and denies that he did anything as Judge of said court in connection with said bank for an unlawful or improper and personal gain of his family and friends as in said Article alleged.

(6) The respondent avers, in reference to the employment of his son, Farris English, by the Union Trust Company, that he did not make any agreement with said Trust Company that if it would employ his said son at a salary in the sum of $200.00 per month, or at any other salary, that he would cause to be removed from the Drovers National Bank bankruptcy funds deposited there, and have the same deposited with the said Union Trust Company, and neither did the respondent make any agreement with said Trust Company that it should pay interest on said bankruptcy funds at the rate of 3% on the monthly balance to his said son.

Further answering said Article, the respondent admits that his said son was employed by said bank, and that after his said son had been employed in said bank for several months, that the said bank did pay to his said son 3% on said bankruptcy deposits, but the respondent avers that he had no knowledge of the payment of said interest until sometime after his son had left the employment of said bank, and that the payment of said interest to his said son was without the knowledge or consent of the respondent.

Further answering said Article, the respondent denies that any bankruptcy funds were withdrawn from the Drovers National Bank and deposited with the said Union Trust Company, under an agreement in which the respondent took part, as in said Article alleged.

Further answering said Article, the respondent denies that he used his influence in said matter as Judge for his unlawful or improper personal gain, and denies that he used his influence in said matter as Judge for the unlawful and improper profit and gain of himself, his family and friends, as in said Article alleged.

(7) The respondent, in reference to the said Merchants State Bank of Centralia becoming a Government depository of bankruptcy funds, admits that he did enter an order designating the said Merchants State Bank of Centralia, Illinois, as a depository of bankruptcy funds, but denies that said order was improperly made, and denies that said order was made because he was a stockholder in said bank, but avers that the same was made because said bank was a safe institution and gave a good and sufficient bond for the protection of the bankruptcy funds, as required by law, and for other good and sufficient reasons.

(8) The respondent admits that he and the said Charles B. Thomas did borrow money from the said Merchants State Bank of Centralia, and admits that said loans were renewed from time to time by them.

Further answering said Article, the respondent avers that said loans were made to him and the said Charles B. Thomas separately; that they had no joint loans at said bank.

Further answering said Article, the respondent denies that there was any improper or unlawful action in the procurement of said loans, and avers that interest at the lawful statutory rate in Illinois was paid to said bank for all money borrowed from said bank by the respondent.

Further answering said Article, the respondent admits that he did borrow a sum of money from said bank aggregating about the amount mentioned in said Article, but avers that the greater portion of said money was borrowed from said bank for the purchase of a home for respondent in the City of East St. Louis, Illinois; that at the time respondent purchased said home he gave to said bank a note for the purchase price of said home, and offered, at the time, to execute a mortgage upon said home to secure the payment of said note; that the said bank offered to and did make said loan on the personal note of the respondent with his wife as surety and by respondent taking out additional life insurance.

Further answering said Article the respondent admits that the said Charles B. Thomas did borrow from said bank, without security, a sum of money aggregating about the amount mentioned in said Article, but the respondent denies that said loans were made by reason of the use of the official influence of the respondent and the said Charles B. Thomas, as alleged in said Article.

Further answering said Article, the respondent denies that he had anything whatsoever to do with the loans made by said bank to the said Charles B. Thomas.

Further answering said Article, the respondent avers that after he was elected a director of said bank and discovered the aggregate amount of loans made to the said Charles B. Thomas by said bank without security, that he objected to said loans and demanded that they be collected and that the bank did at once take steps to collect said loans from the said Charles B. Thomas, and did collect the same with all interest due thereon.

Further answering said Article, the respondent denies that he and the said Charles B. Thomas acting in concert with the officers and directors of said bank borrowed sums of money equal to all of the surplus, assets and capital of said bank at a low rate of interest and without security as alleged in said Article.

Further answering said Article, this respondent alleges that he has paid all of the money borrowed by him from said bank, with interest thereon, except the sum of $1400.00 which he still owes to said bank.

Further answering said Article, the respondent avers that he lived in the City of Centralia, Illinois, before his appointment as Judge of

said District Court; that he was well acquainted with the officers and directors of said bank, and that the officers and directors of said bank had sufficient confidence in him to make the said loans mentioned in said Article as the same were made to him.

Further answering said Article, the respondent denies that he was guilty of any kind of corruption whatsoever in borrowing said money from said bank.

Wherefore, the respondent denies that he was or is guilty of a course of conduct constituting misbehavior as Judge of said court, as in said Article alleged, and denies that he was and is guilty of a misdemeanor in office as in said Article alleged, and further denies that he is guilty of or has done the acts and things charged against him in said Article, and therefore, asks that he be discharged of all matters and things alleged against him in said Article IV.

Answer to Article V.

For answer to the fifth article, the respondent says:

(1) That the fifth article does not set forth anything which, if true, constitutes an impeachable offense, or a high crime and misdemeanor as defined in the Constitution of the United States, and that therefore, the Senate, sitting as a court of impeachment, should not further entertain the charge contained in said fifth article.

(2) Not waiving, but insisting upon the foregoing objection to the fifth article, but being unwilling to appear to admit even by implication the truth of the charge attempted to be made in said article, the respondent admits that on the 3rd day of May, 1918, he was duly appointed Judge of the United States District Court for the Eastern District of Illinois, and has held such office to the present day, but denies that during said time he has repeatedly treated members of the bar in a manner coarse, indecent, arbitrary and tyrannically and denies that he has so conducted himself in court and from the bench as to oppress and hinder members of the bar in the faithful discharge of their sworn duties to their clients, and to deprive such clients of their rights to appear and be protected in their liberty and property by counsel, as in said Article alleged, and denies that he has conducted himself in a manner to bring the administration of justice in said court into contempt and disgrace and to the great scandal and reproach of said court, as in said Article alleged.

(3) The respondent denies that during his said term of office and while acting as such Judge he did disregard the authority of the laws and wickedly meaning and intending so to do, did refuse to allow parties lawfully in said court the benefit of trial by jury, contrary to his said trust and duty as a Judge of said District Court, and against the laws of the United States as in said Article alleged.

(4) The respondent denies that during his said term of office and when acting as such judge, he conducted himself in said court in making decisions and orders in actions pending before him so as to excite fear and distrust and to inspire a wide spread belief that causes were not decided in said court according to their merits but were decided with partiality and prejudice and favoritism to certain individuals, and to one Charles B. Thomas, as in said Article alleged, but on the contrary the respondent denies that he ever showed partiality or favoritism to the said Charles B. Thomas, or to anyone else, and avers that during his said entire period of office that said Thomas represented defendants in ten criminal cases, in which there were jury trials, and in eight of them the clients of said Thomas were convicted.

The respondent further avers that during said time the said Thomas appeared and represented defendants in twenty-five criminal cases, in which there were pleas of guilty entered, and that the sentences imposed by the respondent upon the clients of the said Thomas upon said pleas were similar to those entered in other cases under like facts and conditions, and that there were no favors shown to the clients of the said Thomas in said causes.

(5) The respondent denies that during his said term of office he acted improperly or unlawfully or with any intent to favor or prefer Charles B. Thomas in the matter of appointments, rulings and decrees as in said Article alleged.

(6) The respondent denies that he ever did, while acting as Judge of said court, and from the bench and in open court, interfere with and usurp the authority, power and privileges of the sovereign State of Illinois, as in said Article alleged, and denies that he ever did, while acting as said Judge, usurp the rights and powers of said State over its state officials, as in said Article alleged, and denies that he ever did, while acting as said Judge, set at naught the constitutional rights of said sovereign State of Illinois, as in said Article alleged, and denies that he ever did, while acting as such Judge, do any of the matters and things charged in said Article, to the great prejudice and scandal of the cause of justice and of his said court, and the rights of the people to have and receive due process of law, as in said Article alleged.

Further answering said Article, the respondent with reference to said alleged acts of usurpation, states the facts to be that during the summer of 1922, there was a general Shopmen's strike of employes of the various railroads in this country; that there were a number of shops located within the Eastern District of Illinois, where great disturbances took place on account of said strike, particularly at Mattoon, Illinois, at Centralia and Wamac, Illinois, at Mounds, Illinois, and other points within said District; that the conditions at Centralia and Wamac, Illinois, were of an aggravated and serious

nature; that the shops of the Illinois Central Railroad Company are located in the Village of Wamac, which is situated in the three counties of Washington, Marion and Clinton, adjacent to the corporate limits of the said City of Centralia; that a great number of striking employes of said Illinois Central Railroad Company resided in the Village of Wamac and the City of Centralia; that upon a bill properly filed in the court of said Eastern District of Illinois, the respondent had issued an injunction for the purpose of preventing the destruction of property, the protection of the lives and limbs of employes working for railroad companies, and to permit the operation of the railroads located within said Eastern District in the discharge of their obligations to the public as common carriers, and in the transportation of the mails of the United States; that the said City of Centralia and Village of Wamac are located but a short distance from the City of Herrin, Illinois, where there had recently been one of the greatest outbursts of lawlessness and anarchy, resulting in the destruction of property and loss of life, that had ever occurred in the history of this Nation.

That during said outburst great tyranny reigned and many lives were lost and there was such a complete breakdown of law that the matter had gotten beyond the control of the local authorities.

That during said strike at the shops of the said Illinois Central Railroad Company in said Village of Wamac, the President of the Board of Trustees of said Village (referred to in said Articles as the Mayor of Wamac) was in entire and complete sympathy with the said striking employes and had appointed striking employes of said Village ostensibly for the purpose of maintaining order in said Village during said strike, and some of said striking employes had been appointed Deputy Sheriffs ostensibly for the purpose of preserving order in said Village of Wamac, and said City of Centralia, during said strike; that in truth said deputized officers made no effort to protect property and the lives and limbs of employes of said railroad, but were only engaged in giving aid and assistance to said striking employes; that while said strike was so in progress and while a number of the employes of said Illinois Central Railroad Company were entering the shops and grounds of said Railroad Company in an automobile for the purpose of pursuing their duties as employes of said Railroad Company, the said deputized officers shot at and into said automobile in which said employes were riding and killed one of said employes; that a complaint was filed in said District Court charging said deputized officers, strikers and others with the violation of said injunction; that prior to and at the time said complaint was filed in said court, the respondent had received information from officers of said court that the strike at said Village of Wamac and said City of Centralia had reached such proportions that great disorder was likely to occur, and in which in all ordinary

probabilities, would be great loss of life, and that said officials had received information that there was rumor and talk that a large mob was coming from the said City of Herrin to assist said strikers.

The respondent avers that it was under this situation that he felt it was his duty to instruct the United States District Attorney to have the Sheriffs and States Attorneys of the three counties hereinabove mentioned, and the so-called Mayor of the Village of Wamac, subpoenaed in said cause, so that said officials might be interrogated as to the situation that existed in said Village of Wamac and City of Centralia, with reference to said strike, and so that the respondent might ascertain whether said officials were discharging their duties in preserving law and order at said City of Centralia and Village of Wamac during said strike, and to urge upon said officials to assist the respondent in maintaining law and order at said place; that it was for these purposes and these purposes only that the respondent requested that said officials be subpoenaed in said cause; that in his action in said matter he did not usurp the authority of the State of Illinois, or any right of power over said state officials, but merely presented to said officials the critical situation that prevailed in said Village of Wamac and City of Centralia, and impressed upon said officials their duties as state officers to assist the respondent as Judge of said court in protecting property and preserving life in the section of the state where said disorder prevailed.

(7) The respondent denies that during his term of office he did attempt to secure the approval, cooperation and assistance of Judge Walter C. Lindley, an Associate Judge of said District, by suggesting to Judge Lindley that he appoint a son of the respondent to receiverships and other appointments in said district, in consideration that the respondent would appoint to like positions a cousin of said Lindley as in said Article alleged.

(8) The respondent denies that during his term of office, at divers times and places, he did, while serving as said Judge, seek from the Missouri Pacific Railway Company, employment for his son, George W. English, Jr., to the scandal and disrepute of said court and the administration of justice therein, as in said Article alleged, but avers the facts with reference to seeking said employment, to be as follows: That in conversation with Mr. J. L. Howell, the General Attorney of the Terminal Railroad Association of St. Louis, with whom the respondent had had a long acquaintance, and who was an intimate friend of respondent, and with whom respondent was in the habit of talking over his private and family affairs, stated to the said Howell that his son had recently graduated from law school and passed the examination for the bar in the State of Illinois, and was very anxious to secure a position with some railroad company where he could pursue his profession, and without any effort or intention of

securing a position with the railroad by which the said J. L. Howell was employed, stated to the said Howell that he would like for him to aid his son in securing such a position; that in this conversation the said J. L. Howell stated to the respondent that he was well acquainted with the General Counsel of the Missouri Pacific Railway Company; that it was a company of large and extended mileage, and it might be that respondent's son could secure a position with this company, and offered to go with the respondent to the office of the General Counsel of said Missouri Pacific Railway Company and ascertain whether or not such a position could be secured, and that as a result of said conversation the respondent, in company with the said J. L. Howell, did call upon the General Counsel of said Missouri Pacific Railway Company; that in calling upon said General Counsel of said railroad, the respondent did not expect his said son to be employed by said railroad in the State of Illinois, but expected him to be employed, if at all, in the General offices of said company located in the City of St. Louis and State of Missouri.

The respondent further avers that in seeking said employment for his said son he acted in good faith, with only an honest desire to enable his son to procure employment in his chosen profession, without any corrupt or ulterior motives whatsoever.

Wherefore, the respondent denies that he was or is guilty of misbehavior as Judge of said court, and was or is guilty of a misdemeanor in office, as in said Article V alleged, and further denies that he is guilty of or has done the acts and things against him in said Article charged, and therefore, asks that he be discharged of all matters and things alleged against him in said Article V.

AND NOW the respondent, further answering each and all of said Articles, denies all and singular each and every allegation in said Articles, wherein it is alleged that the respondent, while in the discharge of his duties as Judge of said court, did knowingly and wilfully act corruptly, wrongfully or unlawfully, or act with partiality, or did any act or thing for his own benefit, or for the benefit of his friends and members of his family, or anyone else, and denies that he did any act or thing that did or had a tendency to bring said court, over which the respondent presided, into scandal and disrepute, or to in any wise injure the administration of justice in said court, and denies that he did any act or thing constituting misbehavior on his part as a Judge of said court, and denies that he did any act or thing amounting to a misdemeanor in office while Judge of said court, but on the contrary avers that he, at all times, discharged his duties as Judge of said court honestly, conscientiously and without partiality and according to law, to the best of his ability.

Respondent further avers that the people residing within said Eastern District of Illinois, who desire that all the laws of which said court has jurisdiction be enforced and upheld, were and are well

satisfied with the manner in which the respondent discharged his duties as Judge of said court, and further avers that all good law abiding people residing within said District, who desire to have all the laws of which said court has jurisdiction enforced and upheld, irrespective of their likes or dislikes of such laws, have held and do now hold the court over which the respondent has presided in high esteem, and all such persons do now believe that the respondent has discharged his duties faithfully and well.

The respondent, further answering said Articles, avers that whatever mistakes he may have made as Judge of said court have been honestly made and amount to mere errors on his part and not to intentional wrongs.

Respondent, therefore, asks that he be discharged of all matters and things alleged against him in said Articles.

GEORGE W. ENGLISH,
Respondent.

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