69TH CONGRESS
2d Session

SENATE

DOCUMENT
No. 177

PROCEEDINGS

OF THE

UNITED STATES SENATE

IN THE

TRIAL OF IMPEACHMENT

OF

GEORGE W. ENGLISH

District Judge of the United States for the
Eastern District of Illinois

DECEMBER 17 (calendar day, DECEMBER 20), 1926.—Ordered to be printed

WASHINGTON
GOVERNMENT PRINTING OFFICE
1926

IMPEACHMENT OF GEORGE W. ENGLISH

MONDAY, APRIL 5, 1926

(Calendar day, April 6, 1926)

IN THE SENATE OF THE UNITED STATES.

The Vice President laid before the Senate the action of the House of Representatives relative to the impeachment of Judge George W. English, which was read, as follows:

IN THE HOUSE OF REPRESENTATIVES,
April 6, 1926.

Resolved, That a message be sent to the Senate to inform them that this House has impeached George W. English, United States district judge for the Eastern District of Illinois, for misdemeanors in office, and that the House has adopted articles of impeachment against said George W. English, judge as aforesaid, which the managers on the part of the House have been directed to carry to the Senate, and that Earl C. Michener, W. D. Boies, Ira G. Hersey, C. Ellis Moore, George R. Stobbs, Hatton W. Sumners, Andrew J. Montague, John N. Tillman, and Fred H. Dominick, Members of this House, have been appointed such managers.

Mr. CUMMINS. Mr. President, while I do not think it is strictly necessary, I am but following the precedent established by the Senate when I offer the following order and ask for its immediate consideration.

The order was read and agreed to, as follows:

Ordered, That the Secretary of the Senate inform the House of Representatives that the Senate is ready to receive the managers appointed by the House for the purpose of exhibiting articles of impeachment preferred against George W. English, judge of the District Court of the United States for the Eastern District of Illinois, agreeably to the notice communicated to the Senate.

MONDAY, APRIL 19, 1926

(Calendar day, April 22, 1926)

IN THE SENATE OF THE UNITED STATES.

At 2 o'clock p. m. the managers of the impeachment, on the part of the House of Representatives, of Judge George W. English, appeared below the bar of the Senate, and the Assistant Doorkeeper of the Senate (C. A. Loeffler) announced their presence as follows:

I have the honor to announce the managers on the part of the House of Representatives to conduct proceedings in the impeachment of George W. English, a United States district judge for the eastern district of Illinois.

The VICE PRESIDENT. The managers on the part of the House will be received and the Sergeant at Arms will assign them to the seats provided for them.

The managers were escorted by the Sergeant at Arms of the Senate (David S. Barry) to the seats assigned to them in the area in front of the Secretary's desk.

The VICE PRESIDENT. The Sergeant at Arms will make proclamation.

The Sergeant at Arms made proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against Hon. George W. English, judge of the United States Court for the Eastern District of Illinois.

Mr. Manager MICHENER. Mr. President.

The VICE PRESIDENT. Mr. Manager.

Mr. Manager MICHENER. Mr. President, the managers on the part of the House of Representatives are here present and ready to present the articles of impeachment which have been preferred by the House of Representatives against George W. English, a district judge of the United States for the eastern district of Illinois. The House adopted the following resolution, which I will read to the Senate:

House Resolution 201

IN THE HOUSE OF REPRESENTATIVES, UNITED STATES,
April 6, 1926.

Resolved, That Earl C. Michener, W. D. Boies, Ira G. Hersey, C. Ellis Moore, George R. Stobbs, Hatton W. Sumners, Andrew J. Montague, John N. Tillman, and Fred H. Dominick, Members of this House, be, and they are hereby, appointed managers to conduct the impeachment against George W. English, United States district judge for the eastern district of Illinois; that said managers are hereby instructed to appear before the Senate of the United States and at the bar thereof in the name of the House of Representatives and of all the people of the United States to impeach the said George W. English of misdemeanors in office and to exhibit to the Senate of the United States the articles of impeachment against said judge which have been agreed upon by the House; and that the said managers do demand that the Senate take order for the appearance of said George W. English to answer said impeachment, and demand his impeachment, conviction, and removal from office.

NICHOLAS LONGWORTH,
Speaker of the House of Representatives.

Attest:

WM. TYLER PAGE, *Clerk.*

The articles of impeachment, which have been adopted by the House of Representatives and which the managers on the part of the House have been directed to present to the Senate, are in the words and figures following:

ARTICLES OF IMPEACHMENT AGAINST GEORGE W. ENGLISH

[House Resolution 195, Sixty-ninth Congress, first session]

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES,
SIXTY-NINTH CONGRESS OF THE
UNITED STATES OF AMERICA,
April 1, 1926.

RESOLUTION

Resolved, That George W. English, United States district judge for the eastern district of Illinois, be impeached of misdemeanors in office, and that the evidence heretofore taken by the special com-

mittee of the House of Representatives under House Joint Resolution 347, sustains five articles of impeachment, which are hereinafter set out; and that 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 GEORGE W. ENGLISH, WHO WAS APPOINTED, DULY QUALIFIED, AND COMMISSIONED TO SERVE DURING GOOD BEHAVIOR IN OFFICE, AS UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF ILLINOIS, ON MAY 3, 1918

ARTICLE I

That the said George W. English, having been nominated by the President of the United States, confirmed by the Senate of the United States, duly qualified and commissioned, and while acting as the district judge for the eastern district of Illinois, did on divers and various occasions so abuse the powers of his high office that he is hereby charged with tyranny and oppression, whereby he has brought the administration of justice in said district in the court of which he is judge into disrepute and by his tyrannous and oppressive course of conduct is guilty of misbehavior falling under the constitutional provision as ground for impeachment and removal from office.

In that the said George W. English, on the 20th day of May, 1922, at a session of court held before him as judge aforesaid, did willfully, tyrannically, oppressively, and unlawfully suspend and disbar one Thomas M. Webb, of East St. Louis, a member of the bar of the United States District Court for the Eastern District of Illinois, without charges having been preferred against him, without any prior notice to him, and without permitting him, the said Thomas M. Webb, to be heard in his own defense, and without due process of law; and also,

In that the said George W. English, judge as aforesaid, on the 15th day of August, 1922, in a court then and there holden by him, the said George W. English, judge as aforesaid, did willfully, tyrannically, oppressively, and unlawfully suspend and disbar one Charles A. Karch, of East St. Louis, a member of the bar of the United States District Court for the Eastern District of Illinois, without charges having been preferred against him, without any prior notice to him, and without permitting him, the said Charles A. Karch, to be heard in his own defense, and without due process of law; and also in that the said George W. English, judge as aforesaid, restored the said Karch to membership of the bar in said district, but willfully, tyrannically, oppressively, and unlawfully deprived the said Charles A. Karch of the right to practice in said court or try any case before him, the said George W. English, while sitting or holding court in said eastern district of Illinois; and also,

In that the said George W. English, judge as aforesaid, on the 1st day of August, 1922, 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 State sheriffs and State attorneys then and there in the said eastern district of Illinois, being duly elected and qualified officials of the sovereign State of Illinois, and the mayor of the city of Wamac, also a duly elected and qualified municipal officer of said State of Illinois, residing in said district, to appear before him in an imaginary case of "the United States against one Gourley and one Daggett," when in truth and 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 when they came into court in answer to said summons then and there in a loud, angry voice, using improper, profane, and indecent language, denounced said officials without any lawful or just cause or reason, and without naming any act of misconduct or offense committed by the said officials and without permitting said officials or any of them to be heard, and without having any lawful authority or control over said officials, and then and there did unlawfully, improperly, oppressively, and tyrannically threaten to remove said State officials from their said offices, and when addressing them used obscene and profane language, and thereupon then and there dismissed said officials from his said court and denied them any explanation or hearing; and also,

In that the said George W. English, judge aforesaid, on the 8th day of May, 1922, in the trial of the case of the United States *v.* Hall, then and there pending before said George W. English, as judge, the said George W. English, judge as aforesaid, from the bench and in open court, did willfully, unlawfully, tyrannically, and oppressively, and intending thereby to coerce the minds of the jurymen in the said court in the performance of their duty as jurors, stated in open court and in the presence of said jurors, parties and counsel in said case, that if he told them (thereby then and there meaning said jurymen) that a man was guilty and they did not find him guilty that he would send them to jail; and also,

In that the said George W. English, judge aforesaid, on the 15th day of August, 1922, willfully, unlawfully, tyrannically, and oppressively did summon Michael L. Munie, of East St. Louis, a member of the editorial staff of the East St. Louis Journal, a newspaper published in said East St. Louis, and Samuel A. O'Neal, a reporter of the St. Louis Post-Dispatch, a newspaper published at St. Louis, in the State of Missouri, and when said Munie and the said O'Neal appeared before him did willfully, unlawfully, tyrannically, and oppressively, and with angry and abusive language attempt to coerce and did threaten them as members of the press from truthfully publishing the facts in relation to the disbarment of Charles A. Karch by said George W. English, judge as aforesaid, and then and there used the power of his office tyrannically, in violation of the freedom of the press guaranteed by the Constitution, to suppress the publication of the facts about the official conduct of said George W. English, judge aforesaid, and did then and there forbid the said Munie and the said O'Neal to publish any facts whatsoever in relation to said disbarment under threats of imprisonment; and also

In that the said George W. English, judge aforesaid, on the 15th day of August, 1922, at East St. Louis, in the State of Illinois, did unlawfully summon before him one Joseph Maguire, being then and there the editor and publisher of the Carbondale Free Press, a news-

paper published in Carbondale, in said eastern district of Illinois, and then and there, on the appearance before him of said Joseph Maguire in open court, did violently threaten said Joseph Maguire with imprisonment for having printed in his said paper a lawful editorial from the columns of the St. Louis Post-Dispatch, a newspaper published at St. Louis, in the State of Missouri, and in a very angry and improper manner did threaten said Maguire with imprisonment for having also printed some lawful handbills—said handbills having no allusion to said judge or to his conduct of the said court—and then and there did threaten this member of the press with imprisonment.

Wherefore the said George W. English was and is guilty of a course of conduct tyrannous and oppressive and is guilty of misbehavior in office as such judge, and was and is guilty of a misdemeanor in office.

ARTICLE II

That George W. English, judge as aforesaid, was guilty of a course of improper and unlawful conduct as said judge, 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 profit and that of the relatives and friends of said George W. English, judge as aforesaid, and of Charles B. Thomas, referee, the bankruptcy affairs of the eastern district of Illinois.

In that said George W. English, judge as aforesaid, corruptly did appoint and continue to appoint said Charles B. Thomas, of East St. Louis, in said State of Illinois, a member of the bar of the district court of the United States in and for said district, as sole referee in bankruptcy in said district with all of the advantages and preferment of said appointment, notwithstanding he then and there well knew that said eastern district was a great commercial district of 45 counties nearly 300 miles long with a large volume of business in bankruptcy, and that the said volume of business would necessarily take all the time and attention of any appointee as referee in bankruptcy to perform properly the work and duties of said office, and well knew at the time of said appointments that said Charles B. Thomas was practicing in all the courts, both civil and criminal, in said eastern district of Illinois, he, the said Charles B. Thomas, through said appointment as sole referee in bankruptcy and the favors in connection therewith extended to him by said George W. English, judge aforesaid, built up a large and lucrative practice; and that notwithstanding the size of the eastern district of Illinois, the volume of bankruptcy business therein, and the large practice of said Thomas, referee aforesaid, did then and there give said referee in bankruptcy enlarged duties and authority by unlawfully changing and amending the rules of bankruptcy for said eastern district for the sole benefit of said George W. English, judge aforesaid, and the said Charles B. Thomas, sole referee aforesaid, as follows:

It is hereby further ordered that the following rule be, and the same is hereby, made and adopted as a rule of this court in bankruptcy, to be effective in all cases from and after this date, namely:

All matters of application for the appointment of a receiver, or the marshal, to take charge of the property of the bankrupt or alleged bankrupt, made after the filing of the petition, and prior to its being dismissed or to the trustee being

qualified, shall be and are hereby referred to the referee in bankruptcy for his consideration and action; and the clerk will enter such order of reference as of course in each case; and the referees of this court heretofore or hereafter appointed are hereby authorized and empowered to appoint receivers, or the marshal, upon application of parties in interest, in case the referee shall find same is absolutely necessary for the preservation of the estate, to take charge of the property of the bankrupt; and to exercise all jurisdiction over and in respect to the actions and proceedings of the receiver or marshal which the court by law may exercise. After adjudication, where the referee deems it necessary for the protection of the estate, he may make such appointment on his own motion.

And it is hereby further ordered that all special rules and general orders heretofore entered or adopted be, and they are hereby, set aside and annulled in so far as they in any way conflict with the provisions of the above rule and general order.

For the purpose of transacting the business of the court of bankruptcy, it is ordered that the referee [meaning then and there said Charles B. Thomas] be, and he is hereby, authorized and directed to procure and maintain suitable offices for the transaction of said business, and to suitably furnish and equip same for said purpose; that the referee be, and he is hereby, further authorized and directed to employ such clerks, stenographers, and court reporters or any other assistance which he finds and deems necessary for the proper management of said court and offices and the administration of bankrupt estates; to install telephones; to procure and keep on hand needed stationery, and generally to provide all such other and further office equipment proper to transact business of the referee; and

It is further ordered that in the event that the charges for referee's expenses authorized by any and all of the rules of this court to be charged against the estates administered before the referee do not amount to a total to pay the expenses which the referee has incurred or for which he may have paid or obligated himself to pay, the referee be, and he is hereby, authorized and directed to make a charge against the bankrupt estates administered before him, in as equitable pro rata share as the nature and circumstances will permit, sufficient in amount to meet the deficit existing by reason of the referee's receipts from expenses or charges authorized by this and other rules being less than the total expenses incurred by the referee.

Said amendments of the rules of court were then and there made with the intent to favor and prefer said Charles B. Thomas and did thereby give said Charles B. Thomas the power and opportunity to appoint his friends and members of his family and the family of said George W. English, judge aforesaid, to receiverships and to use said office of referee as aforesaid for the improper personal and financial benefit of said George W. English, judge aforesaid, and said Charles B. Thomas, referee aforesaid, and the friends and families of both.

The said Thomas, in pursuance of said unlawful combination and by authority of said rule and order aforesaid, and with the full knowledge and approval of said George W. English, judge aforesaid, did rent and furnish a large and expensive suite of rooms and offices in said East St. Louis near the said judge's chamber, in the Federal building in said East St. Louis, occupied by said George W. English, judge aforesaid, at the expense and cost of the United States and of estates in bankruptcy by virtue of said rule and order;

And the said Charles B. Thomas then and there, with the full knowledge and consent of said George W. English, judge aforesaid, did wrongfully and unlawfully create and organize a large and expensive office force supported by and paid for out of the funds and assets of estates in bankruptcy as aforesaid, and then and there did hire and provide a large number of clerks, stenographers, and secretaries, at the cost and expense of the United States and the funds and assets of the estates in bankruptcy, as aforesaid;

And the said Charles B. Thomas did then and there hire and place in said offices, with the knowledge and approval of the said George

W. English, judge aforesaid, one George W. English, jr., the son of the aforesaid Judge English, at a large compensation, salary, and fees, paid out of the funds and assets of the estates in bankruptcy, in and under the charge and control of said Thomas, referee aforesaid;

And the said Charles B. Thomas, referee aforesaid, did further confer upon said George W. English, jr., appointments as trustee and receiver and appointments as attorney for trustees and receivers in estates in bankruptcy;

And said Referee Charles B. Thomas then and there, with the knowledge, consent, and assistance of the said George W. English, judge aforesaid, did hire and place in the said office and make a part of said organization one M. H. Thomas, son of said Charles B. Thomas; and one D. S. Leadbetter, son-in-law of said Charles B. Thomas; and one C. P. Widman, son-in-law of said Charles B. Thomas;

And the said Charles B. Thomas, referee aforesaid, did then and there wrongfully and unlawfully pay to all of the persons last aforesaid large salaries, fees, and commissions, and did likewise confer upon said persons, appointments as trustees, receivers, and masters in estates in bankruptcy, with the full knowledge, consent, and approval of said George W. English, judge aforesaid;

And said George W. English, judge aforesaid, in order further to carry out and make effective said improper and unlawful organization did appoint one Herman P. Frizzell, United States commissioner in and for said eastern district of Illinois, and said commissioner did occupy free of charge the said offices of Charles B. Thomas, referee aforesaid, and did receive from said Charles B. Thomas, as said referee, large and valuable fees, commissions, salaries, appointments as trustee, receiver, and master in estates in bankruptcy with the knowledge and consent of the said George W. English, judge aforesaid;

And the said George W. English, judge aforsesaid, did further allow and permit the said Charles B. Thomas, referee aforesaid, to appear as attorney and counsel before said Commissioner Frizzell in divers and sundry criminal cases; and then and there, further to carry out and make effective the said unlawful and improper combination, the said George W. English, judge aforesaid, with full knowledge of the premises, did improperly and unlawfully consent and approve the appointment by the said referee, Charles B. Thomas, of one Oscar Hooker, of said East St. Louis, as chief clerk in said offices of said referee, and thereby the said Hooker did receive from said Charles B. Thomas, referee aforesaid, large and valuable fees, salaries, appointments as trustee, receiver, and master, and as attorney for trustees and receivers in bankruptcy estates;

And further the said George W. English, judge aforesaid, did improperly allow and permit said Hooker, as the agent of a bonding company, to furnish surety bonds for said George W. English, jr., the son of George W. English, judge aforesaid and also surety bonds for said Herman P. Frizzell, said United States commissioner, and surety bonds for said M. H. Thomas, son of said Charles B. Thomas, as aforesaid, and surety bonds for D. S. Leadbetter and said C. P. Wideman, sons-in-law of said Charles B. Thomas, in all matters of trusteeships and receiverships to which they were appointed by said Charles B. Thomas, referee aforesaid—the said Oscar Hooker, George

W. English, jr., D. S. Leadbetter, C. P. Wideman, and Herman P. Frizzell being then and there without property or credit;

And, then and there, further to carry out and make effective said unlawful and improper combination, the said George W. English, judge as aforesaid, with full knowledge of the premises, did improperly and unlawfully allow said Charles B. Thomas, referee as aforesaid, to organize and incorporate from his office force and employees a corporation known as the Government Sales Corporation, organized and incorporated November 27, 1922, for the object and purpose of furnishing appraisers in bankruptcy estates and auctioneers in the sale and disposal of assets of estates in bankruptcy, the said Government Sales Corporation being then and there made up and composed, organized, and formed of incorporators and directors from the families and friends of said George W. English, judge aforesaid, and said Charles B. Thomas, referee aforesaid, and from said office force of said Thomas, referee aforesaid;

The said George W. English, judge aforesaid, well knowing the facts and premises, then and there did willfully, improperly, and unlawfully take advantage of his said official position as judge aforesaid, and did aid and assist said Charles B. Thomas, referee aforesaid in the establishment, maintenance, and operation of said unlawful and improper organization as above set forth, for the purpose of obtaining improper and unlawful personal gains and profits for the said George W. English, judge aforesaid, and his family and friends;

Wherefore, the said George W. English was and is guilty of a course of conduct as aforesaid constituting misbehavior as such judge and was and is guilty of a misdemeanor in office.

Article III

That George W. English, judge aforesaid, was guilty of misbehavior in office in that he corruptly extended partiality and favoritism in divers other matters hereinafter set forth to Charles B. Thomas, said sole referee in bankruptcy in the said eastern district of Illinois, and by his conduct and partiality as judge brought the administration of justice into discredit and disrepute, degraded the dignity of the court, and destroyed the confidence of the public in its integrity;

In that in the matter of the case of East St. Louis & Suburban Co. et al. *v.* Alton, Granite & St. Louis Traction Co., pending before George W. English, judge as aforesaid, upon the petition for appointment of receivers for said Alton, Granite & St. Louis Traction Co., the said George W. English, judge as aforesaid, did improperly and unlawfully refuse to appoint the temporary receivers suggested by counsel for the parties in interest in said case unless said Charles B. Thomas, was appointed attorney for the receivers; that by reason of the condition imposed by George W. English, judge aforesaid, the counsel for the parties in interest in said case did agree to the appointment of said Charles B. Thomas as counsel for said temporary receivers at a salary stipulated by said Charles B. Thomas of $200 a month; and thereupon the said George W. English as judge, improperly, corruptly, and unlawfully appointed said Charles B. Thomas as attorney for the temporary receivers and approved of the payment of said salary by an order entered in said case as of August 11, 1920; and that subsequently, to wit, on January 20, 1921, George W. English, judge afore-

said, did issue an order making the temporary receivers permanent and that the said Charles B. Thomas, as attorney and counsel for the receivers, be paid the sum of $350 per month and that the further sum of $500 per month additional be paid to said Charles B. Thomas for his services and responsibilities in assisting the receivers in the control and management of said receivership properties, making a total salary of $850 per month, and that said salary should be retroactive from October 1, 1920; that the services of said Charles B. Thomas, both as attorney for the receivers and for assisting in the management of the receivership properties, were not required or necessary, and thereby an additional burden upon the receivership properties was imposed which said George W. English, judge aforesaid, well knew; that this salary of $850 per month was continued to be paid to said Charles B. Thomas for a long period of time, to wit, from October 1, 1920, to January 1, 1925, making the total amount received under said order by said Charles B. Thomas $43,350; that the said appointment of said Charles B. Thomas was made by George W. English, judge aforesaid, with the intent wrongfully and unlawfully to prefer and show partiality and favoritism to said Charles B. Thomas, to whom George W. English, judge aforesaid, was under obligations, financial and otherwise; and, also,

In that in the case of Handelsman *v.* Chicago Fuel Co. pending before him, George W. English, judge as aforesaid, did improperly and unlawfully appoint said Charles B. Thomas as one of the receivers in said case and then and there did improperly order, direct, and fix the compensation and salary of said Charles B. Thomas as said receiver at the rate of $1,000 per month; and did then and there improperly and unlawfully appoint said Herman P. Frizzell, United States commissioner for said eastern district of Illinois and chief clerk in the office of said Thomas as referee in bankruptcy, to be attorney for the said receiver Charles B. Thomas, and then and there did improperly fix the salary and fees of said Frizzell as said attorney at the rate of $200 per month; that all said acts of said English as judge aforesaid were done with the unlawful and improper intent unlawfully to favor and prefer said Thomas and benefit the said organization.

In that on the 15th day of August, 1924, at a session of court then holden by George W. English, judge as aforesaid, in the matter of Gideon N. Heuffman et al. *v.* Hawkins Mortgage Co., in bankruptcy, did improperly and unlawfully allow and permit said Charles B. Thomas, referee as aforesaid, to appear and conduct said case as attorney and counsellor at law in behalf of Morton S. Hawkins, one of the bankrupts in said case, in violation of the statute of the United States that forbids a referee to practice as an attorney or counsellor at law in any bankruptcy proceedings, and afterwards, to wit, on the 27th day of August, 1924, George W. English, judge as aforesaid, did again improperly and unlawfully allow and permit said Charles B. Thomas, referee as aforesaid, to appear before him and practice as an attorney in behalf of said bankrupt, Morton S. Hawkins; that said unlawful acts were willfully permitted in order to favor said Charles B. Thomas in obtaining from said Morton S. Hawkins, a fee for his services of $2,500, which was then and there paid to said Charles B. Thomas by said Morton S. Hawkins, all with the full

knowledge and consent of George W. English, judge as aforesaid; and, also,

In that on the 18th day of May, 1922, after conviction by a jury of one F. J. Skye, in a case before George W. English, judge as aforesaid, involving the crime of selling and possessing intoxicating liquors, the said George W. English, as judge, did impose a sentence upon said F. J. Skye of imprisonment in jail for four months and the payment of a fine of $500; that on the trial the said F. J. Skye was represented by one Charles A. Karch; that after such conviction and sentence said Charles A. Karch took an appeal to the United States Circuit Court of Appeals for the Seventh Circuit in behalf of his client and filed an appeal bond in due course; that subsequently to the appeal said F. J. Skye discharged said Charles A. Karch as attorney and retained Charles B. Thomas, referee aforesaid; that on July 5, 1922, said F. J. Skye, by his attorney, said Charles B. Thomas, abandoned his appeal to the circuit court of appeals and filed a motion for a stay of the sentence of imprisonment, which motion, after hearing, George W. English, judge as aforesaid, did allow and did stay the sentence of imprisonment until December 31, 1922; and on June 7, 1923, George W. English, judge as aforesaid, did order said jail sentence vacated and said stay of execution and commitment to jail of said F. J. Skye made permanent, relieving said F. J. Skye from imprisonment and only obligating him to pay a fine of $500; that said F. J. Skye paid to said Charles B. Thomas $2,500 as a fee in said case, that said vacation of the jail sentence and the permanent stay of execution and commitment was granted by George W. English, judge as aforesaid, without the presence of said Charles B. Thomas in court and without any investigation of the affidavits filed in support thereof, and was done willfully, improperly, unlawfully, and with intent to prefer and show favoritism to said Thomas, to whom said George W. English, judge as aforesaid, was under obligations, financial and otherwise; and, also,

In that in the case of Hamilton *v.* Egyptian Coal Mining Co., George W. English, judge as aforesaid, did arbitrarily and unlawfully and without notice remove from office the duly appointed receiver in said case, and with intent improperly to prefer and favor Charles B. Thomas, aforesaid, did then and there appoint the said Charles B. Thomas in place of the removed receiver; that this removal of the receiver was made on July 11, 1924, with the intent to prefer unlawfully the said Charles B. Thomas, to whom the said George W. English, judge aforesaid, was under great obligations, financial and otherwise; and, also,

In that on or about March, 1924, at a hearing before George W. English, judge aforesaid, in the case of Wallace *v.* Shedd Coal Co., George W. English, judge aforesaid, did appoint Charles B. Thomas as an attorney for the receiver (one F. D. Barnard), when in truth and in fact no attorney for said receiver was needed, and afterwards, to wit, on or about August, 1924, said George W. English, judge as aforesaid, did arbitrarily and improperly remove from office said F. B. Barnard as such receiver and then and there did improperly appoint as receiver in place of said Barnard said Charles B. Thomas; that the removal of said receiver and the appointment of said Charles B. Thomas was made with the intent to corruptly prefer said Charles B.

Thomas, to whom said George W. English was under great obligations, financial and otherwise; and, also,

In that on or about the 27th day of June, 1924, at a hearing held by him, George W. English, judge as aforesaid, in the case of Ritchey et al. *v.* Southern Gem Coal Corporation, George W. English, judge as aforesaid, did then and there improperly appoint Charles B. Thomas, aforesaid, one of the receivers in said case and then and there unlawfully did order and decree that said Charles B. Thomas, as said receiver, should have as his salary the excessive and exorbitant sum of $1,000 per month; that said act of George W. English, judge aforesaid, in the appointment of said Charles B. Thomas as receiver aforesaid and in the fixing of said exorbitant salary was all done by George W. English, judge as aforesaid, with intent to prefer unlawfully said Charles B. Thomas, to whom said George W. English was under great obligations, financial and otherwise; and, also,

In that on or about the 24th day of October, 1921, at East St. Louis, in the State of Illinois, George W. English, judge as aforesaid, wrongfully, improperly, and unlawfully did accept and receive from said Charles B. Thomas, sole receiver in bankruptcy aforesaid, the sum of $1,435 which was applied toward the purchase price of an automobile that had been purchased by George W. English, judge as aforesaid; that said sum of money was improperly and unlawfully accepted and received by the said George W. English from the said Charles B. Thomas as a return or in recognition of the favoritism and partiality extended by George W. English, judge as aforesaid, to Charles B. Thomas, aforesaid; and, also,

In that George W. English, judge as aforesaid, at a term of court held by said judge for the eastern district of Illinois in the case of the Southern Gem Coal Corporation in receivership, did receive and approve the report of Charles B. Thomas, as one of the receivers in said case, for the first six months of said receivership; that in said report to George W. English, judge as aforesaid, said Charles B. Thomas stated that he had during those six months spent all of his time in Chicago looking after the interest of said Southern Gem Coal Corporation in receivership; and then and there George W. English, judge as aforesaid, did receive and approve said report; that with full knowledge that said referee, Charles B. Thomas, was neglecting his duties as referee in bankruptcy in his office at East St. Louis in spending six months of his time 290 miles away from his office at East St. Louis, George W. English, judge as aforesaid, did then and there, despite this knowledge and these facts, approve said negligence on the part of said Charles B. Thomas and said neglect of duty without criticism or rebuke by then and there reappointing him for another term.

Wherefore the said George W. English was and is guilty of misbehavior as such judge and was and is guilty of a misdemeanor in office.

Article IV

That George W. English, while serving as judge as aforesaid, in the District Court of the United States for the Eastern District of Illinois, did in conjunction with Charles B. Thomas, sole referee in bankruptcy aforesaid, corruptly and improperly handle and control the deposit of bankruptcy and other funds under his control in aids court, by depositing, transferring, and using said funds for the

pecuniary benefit of himself and said Charles B. Thomas, sole referee in bankruptcy, thus prostituting his official power and influence for the purpose of securing benefits to himself and to his family and to the said Charles B. Thomas and his family;

In that George W. English, judge as aforesaid, on or about December, 1918, did designate the First State Bank of Coulterville, in the State of Illinois, to be the sole United States depository of bankruptcy funds within said district; that said bank was situated a great distance from East St. Louis, the office and place of business of Charles B. Thomas, said referee in bankruptcy; and that then and there one J. E. Carlton, a brother-in-law of George W. English, judge aforesaid, was a large stockholder and director and cashier of said bank; and that George W. English, judge as aforesaid, was a depositor, stockholder, and director in said bank; that said improper act of George W. English, judge as aforesaid, in designating said bank, tended to scandalize the court in the administration of its bankruptcy business; and also,

In that on or about July, 1919, George W. English, judge as aforesaid, at a hearing then had before him, in the case of Sanders *v.* Southern Traction Co., in which certain assets had been sold for the sum of $400,000, did willfully and unlawfully order and decree that of said sum of $400,000 the sum of, to wit, $100,000 should be deposited in the Merchants State Bank of Centralia, Ill., a United States depository of bankruptcy funds, said deposit to draw no interest; that said deposit was made in said bank as ordered and that George W. English, judge as aforesaid, was then and there a depositor, stockholder, and director in said bank; that said order and deposit of funds was made for the benefit of himself, George W. English, judge as aforesaid, and for his personal gain and profit and for the benefit of his family and friends, to the great scandal of the said office of judge aforesaid, and all tending to bring the administration of justice in said court into distrust and contempt; and also

In that George W. English, judge as aforesaid, on or about October 1, 1922, and Charles B. Thomas, sole referee in bankruptcy aforesaid, did make and enter into the following improper and unlawful agreement with the officers of the Drovers National Bank of East St. Louis, to wit, that in consideration that said bank would employ one Farris English, son of said George W. English, as cashier in said bank at a salary of $1,500 per year, that George W. English, judge as aforesaid, and Charles B. Thomas, referee aforesaid, would make and designate said bank as a Government depository of bankruptcy funds without interest thereon, and that funds from estates in bankruptcy and receiverships should thereafter largely be sent to and deposited in said bank, and that George W. English, judge as aforesaid, and Charles B. Thomas, sole referee as aforesaid, and said Farris English would become depositors in said bank and then and there would purchase shares of stock therein as follows:

George W. English, judge as aforesaid, 10 shares; said Farris English, 10 shares; and said Charles B. Thomas, 50 shares, at $80 per share; that in pursuance of said agreement said Farris English was hired as cashier at said salary of $1,500 per year and entered upon this employment; that George W. English, judge as aforesaid, in pursuance of said agreement, did designate said bank to be a Government depository of bankruptcy funds, and said George W. English

and said Farris English and said Charles B. Thomas, in pursuance of said agreement, did become depositors in said bank, and the said George W. English, judge as aforesaid, the said Charles B. Thomas, referee as aforesaid, did make 17 transfers of bankruptcy funds from the Union Trust Co. of East St. Louis and cause the same to be deposited in said Drovers National Bank without interest to the aggregate amount of $100,000, and then and there George W. English, judge as aforesaid, did receive and pay for his said 10 shares of stock and also for the stock of his son, said Farris English; that the said improper acts were done and performed by George W. English, judge as aforesaid, with the wrongful and unlawful intent to use the influence of his said office as judge for the personal gain and profit of himself, said George W. English, and for the unlawful and improper and personal gain of the family and friends of the said George W. English; and, also,

In that George W. English, judge as aforesaid, on or about the 1st day of April, 1924, with the knowledge and consent of Charles B. Thomas, referee in bankruptcy aforesaid, did make and enter into the following improper and unlawful agreement with said Union Trust Co., a Government depository of bankruptcy funds, to wit, that if said Union Trust Co. would then and there employ one Farris English, the son of George W. English, judge aforesaid, at a salary of $200 per month, he, said George W. English, judge aforesaid, with said Charles B. Thomas, would become depositors in said Union Trust Co., and that he, the said George W. English, and said Charles B. Thomas would cause to be removed from the Drovers National Bank of East St. Louis the bankruptcy funds deposited there and would deposit the same in said Union Trust Co. and that said Union Trust Co. should pay to said Farris English, in addition to his said salary of $200 per month, interest on said bankruptcy funds from time to time on deposit in said Union Trust Co. at the rate of 3 per cent on monthly balances, and for this consideration George W. English, judge as aforesaid, further did agree with said Union Trust Co. that while said agreement continued said funds should not be withdrawn and deposited in any other Government depository, and thereupon said Farris English was employed by said Union Trust Co. under said agreement and remained in the services of said company for 14 months and drew out of said company during this said period, in addition to his salary of $200 per month, the sum of $2,700 as interest on bankruptcy funds; that the bankruptcy funds were withdrawn from said Drovers National Bank and deposited in the said Union Trust Co. under said agreement; that George W. English, judge as aforesaid, and Charles B. Thomas, referee in bankruptcy aforesaid, did then and there become depositors in said Union Trust Co., the said George W. English did then and there use his influence as judge for the unlawful and improper personal gain and profit to himself, family, and friends; and, also,

In that, George W. English, judge as aforesaid, did improperly designate the Merchants State Bank of Centralia, Ill., to be a Government depository of bankruptcy funds, in which bank he, the said George W. English, and he, the said Charles B. Thomas, were then and there depositors and stockholders, and George W. English was then and there a director; and, also,

In that George W. English, judge as aforesaid, on divers days and times prior to the 7th day of April, 1925, and while George W.

English, judge as aforesaid, and Charles B. Thomas, referee in bankruptcy aforesaid, were each depositors and stockholders and George W. English, a director of said Merchants State Bank of Centralia, Ill., and while said bank was a Government depository of bankruptcy funds, did borrow from said bank without security, at a rate of interest below the customary rate, sums of money from time to time amounting in the aggregate to $17,200, and that during said time prior to the 7th day of April, 1925, Charles B. Thomas, said referee in bankruptcy did borrow from said bank without security and at a rate of interest below the customary rate, sums of money to the total of $20,000; that said sums were loaned and said loans were renewed from time to time, and carried by said bank to the said George W. English and said Charles B. Thomas, by reason of the use of the official influence of George W. English, judge as aforesaid, and Charles B. Thomas, sole referee in bankruptcy aforesaid, and by reason of said bank having been made and continued as a United States depository for bankruptcy and other funds without interest; that said George W. English, judge as aforesaid, and Charles B. Thomas, sole referee in bankruptcy aforesaid, acting in concert with officers and directors of said Merchants State Bank of Centralia, Ill., did borrow with said directors sums of money in the total equal to all of the surplus, assets, and capital of said bank and at a low rate of interest and without security.

Wherefore the said George W. English was and is guilty of a course of conduct constituting misbehavior as such judge and that said George W. English was and is guilty of a misdemeanor in office.

ARTICLE V

That George W. English, on the 3d day of May, 1918, was duly appointed United States district judge for the eastern district of Illinois, and has held such office to the present day.

That during the time in which said George W. English has acted as such United States district judge, he, the said George W. English, at divers times and places, has repeatedly, in his judicial capacity, treated members of the bar, in a manner coarse, indecent, arbitrary, and tyrannical, and 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 right to appear and be protected in their liberty and property by counsel, and in the above and other ways has conducted himself in a manner unbecoming the high position which he holds and thereby did bring the administration of justice in his said court into contempt and disgrace, to the great scandal and reproach of the said court.

That said George W. English, as judge aforesaid, during his said term of office, at divers times and places, while acting as such judge, 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 judge of said district court, against the laws of the United States, and in violation of the solemn oath which he had taken to administer equal and impartial justice.

That the said George W. English, as judge aforesaid, during his said term of office, at divers time and places, when acting as such

judge, did so conduct himself in his said court, in making decisions and orders in actions pending in his said court and before him as said judge, as to excite fear and distrust and to inspire a widespread belief, in and beyond said eastern district of Illinois that causes were not decided in said court according to their merits but were decided with partiality and with prejudice and favoritism to certain individuals, particularly to one Charles B. Thomas, referee in bankruptcy for said eastern district.

That the said George W. English, as judge aforesaid, during his said term of office, at divers times and places, while acting as said judge, did improperly and unlawfully, with intent to favor and prefer Charles B. Thomas, his referee in bankruptcy for said eastern district, and to make for said Thomas large and improper gains and profits, continually and habitually prefer said Thomas in his appointments, rulings, and decrees.

That said George W. English, as judge aforesaid, during his said term of office, at divers times and places while acting as said judge, from the bench and in open court, did interfere with and usurp the authority and power and privileges of the sovereign State of Illinois, and usurp the rights and powers of said State over its State officials, and set at naught the constitutional rights of said sovereign State of Illinois, 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.

That said George W. English, as judge aforesaid, during his said term of office, at divers times and places, did, while acting as said judge, unlawfully and improperly attempt to secure the approval, cooperation, and assistance of his associate upon the bench in said eastern district of Illinois, Judge Walter C. Lindley, by suggesting to said Walter C. Lindley, judge as aforesaid, that he appoint George W. English, jr., son of said George W. English, judge as aforesaid, to receiverships and other appointments in the said district court for said eastern district of Illinois, in consideration that said George W. English, judge as aforesaid, would appoint to like poistions in his said court a cousin of said Judge Walter C. Lindley, and thereby unlawfully and improperly avoid the law in such case made and provided; all to the disgrace and prejudice of the administration of justice in the court of George W. English, judge as aforesaid.

That said George W. English, as judge aforesaid, during his said term of office, at divers times and places, did, while serving as said judge, seek from a large railroad corporation, to wit, the Missouri Pacific Railroad Co., which had large trackage, in said eastern district of Illinois, the appointment of his son, George W. English, jr., as attorney for said railroad.

All to the scandal and disrepute of said court and the administration of justice therein.

Wherefore, the said George W. English was and is guilty of misbehavior as such judge and of a misdemeanor in office.

NICHOLAS LONGWORTH,
Speaker of the House of Representatives.

Attest:

WM. TYLER PAGE, *Clerk.*

(Seal of the House of Representatives, United States.)

Mr. Manager MICHENER (continuing). And, Mr. President, the House of Representatives by protestation, saving to themselves the liberty of exhibiting at any time hereafter any further articles of accusation or impeachment against the said George W. English, a district judge of the United States for the eastern district of Illinois, and also of replying to his answers which he shall make unto the articles preferred against him, and of offering proof to the same and every part thereof, and to all and every other article of accusation or impeachment which shall be exhibited by them as the case shall require, do demand that the said George W. English may be put to answer the misdemeanors in office which have been charged against him in the articles which have been exhibited to the Senate, and that such proceedings, examinations, trials, and judgments may be thereupon had and given as may be agreeable to law and justice.

Mr. President, the managers on the part of the House of Representatives, in pursuance of the action of the House of Representatives by the adoption of the articles of impeachment which have just been read to the Senate, do now demand that the Senate take order for the appearance of said George W. English to answer said impeachment, and do now demand his impeachment, conviction, and removal from office.

The VICE PRESIDENT. Mr. Manager, the Senate will take proper order in the matter of the impeachment of Judge George W. English and will communicate its action to the House.

Mr. CUMMINS. Mr. President, in addition to the announcement made by the Chair, I think it is appropriate to present the following order. I ask that it be read at the desk, and I will ask for its immediate consideration.

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

The Chief Clerk read as follows:

Ordered: The House of Representatives, by its managers, having presented to the Senate articles of impeachment against George W. English, judge of the District Court of the United States for the Eastern District of Illinois, the House, through its managers, is hereby informed that the Senate will, in accordance with its rules, on Friday, the 23d day of April, at 1 o'clock p. m., resolve itself into a body for the trial of said impeachment proceeding, enter the necessary orders, and inform the House of the time at which the Senate will be ready to receive the managers for further action with respect to said impeachment proceeding.

The VICE PRESIDENT. Without objection, the order is agreed to.

Mr. Manager MICHENER. Mr. President, if there is nothing further, the managers will retire at this time.

The VICE PRESIDENT. There is nothing further.

The managers thereupon withdrew.

MONDAY, APRIL 19, 1926

(Calendar day, April 23, 1926)

IN THE SENATE OF THE UNITED STATES.

The VICE PRESIDENT. The hour of 1 o'clock having arrived, the Senate, under its order, will proceed to the consideration of the articles of impeachment of George W. English, United States district judge for the eastern district of Illinois

Mr. BORAH. Mr. President, I ask unanimous consent that the senior Senator from Iowa [Mr. Cummins], chairman of the Judiciary Committee, may administer the oath to the President of the Senate as the Presiding Officer of the court.

The VICE PRESIDENT. Without objection, it is so ordered. The Senator from Iowa will present himself at the Vice President's desk.

Mr. Cummins advanced to the Vice President's desk and administered the oath to the Vice President as follows:

You do solemnly swear that in all things appertaining to the trial of the impeachment of George W. English, United States district judge for the eastern district of Illinois, now pending, you will do impartial justice according to the Constitution and laws. So help you God.

The VICE PRESIDENT. The clerk will call the roll, and as their names are called Senators will present themselves at the desk in groups of 10 and the oath will be administered to them.

Mr. REED of Missouri. Mr. President, a large number of Senators are absent. Some arrangement ought to be made with reference to administering the oath to them.

The VICE PRESIDENT. Under the precedents of the Senate each Senator who has not been sworn will be called to the desk when he enters the Chamber and the oath will be administered to him.

Mr. REED of Missouri. Very well; if that is the rule.

The Chief Clerk called the names of Messrs. Ashurst, Bayard, Bingham, Blease, Borah, Bratton, Broussard, Bruce, Butler, Cameron, Capper, Caraway, Copeland, Couzens, and Cummins, and these Senators, with the exception of Mr. Blease, Mr. Butler, Mr. Capper, and Mr. Caraway, advanced to the Vice President's desk and the oath was administered to them by the Vice President.

Mr. WILLIAMS. Mr. President, I noticed that, when the name of the Senator from South Carolina [Mr. Blease] was called, he shook his head to indicate that he would not take the oath. On yesterday the Senator from South Carolina asked to be excused from participating in the trial of Judge English and gave as his reason for so doing the relationship which exists between himself and one of the board of managers of the House, Representative Dominick. We all sympathize with the views expressed by the Senator from South Carolina; but in the composition of the Senate as a court to try Judge English on the indictment which has been returned here by the House of Representatives, I think no one may be excused from taking the oath.

What shall happen to the Senator from South Carolina when it becomes necessary to vote is an entirely different matter, but the rule specifically provides that all the Members of the Senate who are present shall present themselves and take the oath, and that absent Senators shall take the oath as they appear in the Senate. I therefore think it not competent for us to excuse the Senator from South Carolina from taking the oath as a member of the court. I hope the question will not be raised and that we shall avoid any technicality which might be urged at any time. I ask the Senator from South Carolina to take the oath.

The Chief Clerk called the names of Messrs. Curtis, Dale, Deneen, Dill, du Pont, Edge, Edwards, Ernst, Fernald, Ferris, Fess, Fletcher, Frazier, George, and Gerry, and these Senators, with the exception of Mr. du Pont, Mr. Edwards, Mr. Ernst, Mr. Ferris, and Mr.

Fletcher, appeared and the oath was administered to them by the Vice President.

Mr. HEFLIN. I desire to announce that the Senator from New Jersey [Mr. Edwards] is unavoidably absent from the Chamber.

Mr. TRAMMELL. I wish to announce the unavoidable absence of my colleague [Mr. Fletcher] from the Senate.

The Chief Clerk called the names of Messrs. Gillett, Glass, Goff, Gooding, Greene, Hale, Harreld, Harris, Harrison, Heflin, Howell, and Johnson, and these Senators, with the exception of Mr. Gillett, Mr. Glass, and Mr. Greene, appeared, and the oath was administered to them by the Vice President.

The Chief Clerk called the names of Messrs. Jones of New Mexico, Jones of Washington, Kendrick, Keyes, King, La Follette, Lenroot, McKellar, McKinley, McLean, and McMaster, and these Senators, with the exception of Mr. Lenroot, appeared, and the oath was administered to them by the Vice President.

The Secretary called the names of Messrs. McNary, Mayfield, Means, Metcalf, Moses, Neeley, Norbeck, Norris, Nye, Oddie, Overman, Pepper, Phipps, Pine, Pittman, and Ransdell, and these Senators, with the exception of Mr. Means, Mr. Metcalf, Mr. Moses, Mr. Norbeck, Mr. Norris, and Mr. Pittman, appeared, and the oath was administered to them by the Vice President.

The Chief Clerk called the names of Messrs. Reed of Missouri, Reed of Pennsylvania, Robinson of Arkansas, Robinson of Indiana, Sackett, Schall, Sheppard, Shipstead, Shortridge, Simmons, Smith, Smoot, Stanfield, Steck, and Stephens, and these Senators, with the exception of Mr. Robinson of Arkansas, Mr. Robinson of Indiana, Mr. Shall, Mr. Simmons, and Mr. Smith, appeared and the oath was administered to them by the Vice President.

The Chief Clerk called the names of Messrs. Blease, Swanson, Trammell, Tyson, Underwood, Wadsworth, Walsh, Warren, Watson, Weller, Wheeler, Williams, and Willis, and these Senators, with the exception of Mr. Underwood, Mr. Walsh, and Mr. Weller, appeared, and the oath was administered to them by the Vice President.

Mr. HEFLIN. I desire to state that my colleague [Mr. Underwood] is absent on account of illness.

The VICE PRESIDENT. This completes the administration of the oath to the Senators present. Absent Senators will be sworn as they enter the Chamber.

Mr. CUMMINS. Mr. President, I submit the order which I send to the desk, and I ask for its immediate consideration.

The VICE PRESIDENT. The clerk will read the order submitted by the Senator from Iowa.

The Chief Clerk read as follows:

Ordered, That the Secretary notify the House of Representatives that the Senate is now organized for the trial of articles of impeachment against George W. English, district judge of the United States for the eastern district of Illinois, and is ready to receive the managers on the part of the House.

The VICE PRESIDENT. Without objection, the order is agreed to.

Mr. CUMMINS. Mr. President, for the information of the Senators, I desire to say that all that remains to be done at present is to fix a time at which the summons shall be returnable. It has been the custom heretofore not to fix that time until the managers on the part of the House are present. It will probably require 10 or 15 minutes to

secure the presence of the managers, and there will be nothing to be done, so far as the impeachment is concerned, until they shall be present.

Mr. WATSON. Mr. President, may I ask the Senator from Iowa a question?

Mr. CUMMINS. Certainly.

Mr. WATSON. Has the Senator in mind a time when he thinks the trial should proceed?

Mr. CUMMINS. Yes; I have. I have prepared an order, which I intend to submit to the Senate. It provides for the appearance of the respondent or defendant on the 3d day of May.

Mr. WATSON. Is the trial then to proceed?

Mr. CUMMINS. That will be entirely as determined by the Senate at that time, but the usual order is that the defendant will appear, and he may ask time to file an answer. Undoubtedly a reasonable time will be granted to him to file an answer. The managers on the part of the House of Representatives will then desire to file a replication. Just how long a time they will think necessary in order to prepare it, I do not know, but it will undoubtedly be only a short time.

I am informed, but entirely unofficially, that the defendant may be ready to file his answer at the end of the 10 days which are given him by this order for appearance.

Mr. SWANSON. Mr. President, will the Senator yield to an inquiry?

Mr. CUMMINS. Yes.

Mr. SWANSON. Has the Senator from Iowa made an examination and reached a conclusion as to whether the Senate could be called in extraordinary session to try this impeachment, or whether it is required that both the House of Representatives and the Senate shall be in session if the impeachment is to be heard and disposed of?

Mr. CUMMINS. Yes. Certain members of the Judiciary Committee, of which I happen to be chairman, have made rather an exhaustive study of that subject. I think it is the opinion of all the members of the Judiciary Committee who have examined the matter that the House can adjourn sine die, with the consent, of course, of the Senate, and that the impeachment proceedings can go forward without the presence of the House of Representatives; although I say, very frankly, that the only precedent with regard to that question was decided the other way. That precedent was in the impeachment of Secretary Belknap. It was then ruled by the Senate that the House of Representatives must be present during the impeachment trial.

Mr. SWANSON. Then, as I understand, the conclusion that has been reached by the members of the Judiciary Committee who have made an investigation of the subject is that the Senate could continue its present session and consent, under the Constitution, for the House to adjourn sine die, and that then this case could be tried by the Senate remaining in session?

Mr. CUMMINS. That is one of the possibilities.

Mr. SWANSON. Has the question been investigated and a conclusion reached as to whether both the House of Representatives and the Senate could adjourn sine die and the Senate could be called back into extraordinary session to try the impeachment?

Mr. CUMMINS. We are of the opinion, when the time comes to settle it, if it is desired to postpone the trial of the impeachment

case until some time in the fall, that then the House and Senate ought to agree to adjourn to that time. My own opinion is that the President can not call the Senate in session for the purpose of trying an impeachment case; but that is simply my own opinion. The matter has not been considered by the Judiciary Committee.

Mr. SWANSON. A cursory examination led me to reach the same conclusion; but I could see no objection, as suggested by the Senator, to consent, under the Constitution, for the House to adjourn sine die and the Senate continue in session to try the impeachment. There is no doubt about that, is there?

Mr. CUMMINS. I think the better opinion is that that can be done if the Senate desires to do it.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I yield.

Mr. BORAH. Mr. President, I hope that all Members of the Senate, and particularly the lawyers of the Senate, will give consideration to that matter before we finally determine it. I think it is a very doubtful proposition, and some very eminent lawyers of the past have expressed that view. There may be sound arguments in favor of the proposition that the House may adjourn; but I think it is very doubtful whether the House can have managers here conducting an impeachment after the House shall have disappeared.

Mr. CUMMINS. Mr. President, there is no gainsaying the fact that there has been difference of opinion upon that question; it has been very learnedly argued on both sides in the history of impeachments and in the history of the Constitution; but we are not called upon at the present time to determine that. The question will not arise until the issues in the case have been settled; then it will become necessary for the Senate to determine at what time the trial shall proceed.

Mr. SWANSON. Mr. President, I suggest to the Senator that the time when the Senate should proceed would depend to a great extent upon what authority we have to act separately, with the House in adjournment and the Senate in session. The reason why I made the suggestion at this time was so that the experienced and able lawyers on the Judiciary Committee could make a thorough investigation and let the Senate know what its rights were without imperiling its decision in this matter as finally reached.

Mr. CUMMINS. It is a very interesting question and admits of considerable argument.

Mr. CURTIS. Mr. President, I understand that the chairman of the committee has appointed a Subcommitte of the Committee on the Judiciary to examine and determine that question. Is that not so?

Mr. CUMMINS. Without any order on the part of the Senate, I appointed a committee—a subcommittee it may be called—of the Judiciary Committee to study and consider that subject.

Mr. CURTIS. I so understood.

Mr. CUMMINS. And the majority of the committee, so far as I know, without any dissent, although they were not all present when the final conclusion was reached, held that it was not necessary for the House to be present or in session during the trial of the impeachment.

Mr. NEELY. Mr. President, will the Senator yield?

Mr. CUMMINS. Certainly.

Mr. NEELY. Since the only precedent on the subject is contrary to the conclusion reached by the subcommittee, upon what authority is the conclusion based?

Mr. CUMMINS. I will endeavor to explain it. In the Belknap case the question arose whether it was necessary for the House to be in session during the trial of the impeachment, and it was ruled in that case that the House must remain in session. I think everybody recognizes that there were very peculiar circumstances surrounding the trial of the impeachment of Secretary Belknap. There were political considerations, which I have no doubt had great weight in the determinination of the matter. There are, I think, 12 precedents in the various States with constitutions substantially like our own.

Mr. KING. Mr. President, will the Senator yield?

Mr. CUMMINS. I yield.

Mr. KING. I think the Senator may suggest that one of the considerations urged by some who took this view in the Belknap case was that without the House being in session it would be difficult, perhaps, to maintain a quorum of the Senate, and some therefore urged as one of the reasons why the House ought to be in session that thereby the maintenance of a quorum in the Senate would be facilitated.

Mr. CUMMINS. That is true, but the chief consideration was this: It was alleged that certain of the Senators did not want to try the Belknap case until after November elections. That did not appear, of course, in the ruling; but, at any rate, that was one of the material things that developed in that case. There was a controversy in respect to the time at which the case should be tried. Some wanted to put it over until after the elections and some wanted to try it before the elections.

Mr. NEELY. Mr. President, does the Senator believe that the precedent in the Belknap case was established as a matter of political expediency?

Mr. CUMMINS. At least the subcommittee was of the opinion that political considerations had very considerable influence in reaching that decision.

Mr. REED of Missouri. Mr. President, the Senator might add that the vote of the Senate in the Belknap impeachment on the question we are now discussing was a very close one.

Mr. CUMMINS. A very close vote. I think the vote was 19 and 17, but there were not more than 2 votes either way.

Mr. Williams and Mr. Swanson addressed the Chair.

The VICE PRESIDENT. Does the Senator from Iowa yield; and if so, to whom?

Mr. CUMMINS. Allow me to finish answering the inquiry that was made as to the precedents. There are half a dozen or more precedents in the States in which it has been uniformly held that the senate could go forward in the trial of an impeachment case without the presence of the house.

Mr. SWANSON. Mr. President——

Mr. CUMMINS. I yield.

Mr. SWANSON. I understood the Senator to reach the conclusion that the Senate could consent to the House adjourning sine die and continue in session and try the impeachment.

Mr. CUMMINS. I said that is the conclusion we reached.

Mr. SWANSON. If that conclusion was reached, that was under the idea that the Senate could consent for the House to adjourn more than three days under the clause of the Constitution providing for such an adjournment?

Mr. CUMMINS. The Constitution says that neither House shall adjourn for more than three days without the consent of the other.

Mr. SWANSON. I should like, however, to have the Senator consider this matter: The clause in the Constitution reads as follows:

> Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days.

That implies a session of Congress, not a session of the Senate. It seems to me that when we consent to the adjournment of the House it is no longer a session of Congress. The question would be whether we could give consent for them to adjourn sine die. When the House adjourns sine die, that really means a termination of the session of Congress, it seems to me, because "Congress" means both Houses in session.

Mr. CUMMINS. That point was urged very strongly in our consideration of the matter, and it was believed by the greater number of the Members of the committee that if we did not want to try this case at the present time or after our legislative work had been finished, we should then agree upon an adjournment of both the House and the Senate until, say, the middle of November, and reassemble and try the case before the regular session opens in December.

Mr. SWANSON. There would be no question about its being legal if the Senate should consent for the House to adjourn for three weeks and then come back and adjourn sine die when the Senate had completed the trial of the impeachment, would there?

Mr. CUMMINS. There would not be any question about that.

Mr. SWANSON. There would be no question that the Senate could consent that the House should adjourn for three weeks or four weeks and then come back for an adjournment sine die. There would be no question about that procedure being legal, would there?

Mr. CUMMINS. The Senator from Idaho [Mr. Borah] has just suggested that he has very grave doubts whether the Senate can proceed with the impeachment at all without the constant presence of the House of Representatives.

Mr. SWANSON. As I understood, he said the Senate could not proceed when there was no House here; but the House could adjourn or recess. They would not have to be in session every day when we were here. It seems to me they could take a recess or adjourn for a month as well as they could for one day. If the reverse were true, they would have to sit there continuously while we sat here.

Mr. CUMMINS. The Senator must remember that I do not agree with the Senator from Idaho. I think we have the authority to do just what has been suggested by the Senator from Virginia.

Mr. SWANSON. It seems to me there can be no question about it. We could consent for the House to adjourn for three weeks or a month, and we could proceed to try this case, and then let the House

come back for an adjournment sine die. In that event Congress would still be in session, because neither House would have adjourned sine die.

Mr. CUMMINS. One of our difficulties is this; and this is a view that is held, I think, by all of the Senators: We have a great deal of important legislative work to do. There is a notion around the Capitol that we could adjourn or finish our legislative work by the middle of May or by the first of June. I do not share that view of the matter. I think it will take Congress until the middle of June to conclude reasonably and decently the legislative work that it must perform and ought to perform before we enter upon the trial.

Mr. BLEASE. Mr President——

Mr. CUMMINS. I yield.

Mr. BLEASE. If the House were to stay in session, and just let the Members who are here go into the Chamber and call the House together each day at 12 o'clock, and then adjourn for the want of a quorum day by day, and in that way virtually keep the House in session, does the Senator think that would be sufficient?

Mr. CUMMINS. Of course, often in the past there has been a gentlemen's agreement among the Members of the House by which they adjourned three days at a time, with the understanding that there would be no quorum called for. Just what the House would want to do in that respect I do not know.

Mr. BLEASE. It seems to me that would obviate the objection of the Senator from Idaho, because then the House would really be in session all the time.

Mr. CUMMINS. That is true.

Mr. RANSDELL. Mr. President, will the Senator yield for a question?

Mr. CUMMINS. I yield.

Mr. RANSDELL. Is there any doubt about the right of Judge English to continue to perform the duties of his office until he is tried?

Mr. CUMMINS. None whatever.

Mr. RANSDELL. There is not in my mind. The question was raised, I will state to the Senator, and I thought there was no doubt about it; but I wished to ask the Senator's opinion upon it.

Mr. CUMMINS. He will continue to discharge his duties as judge until after the trial of the impeachment.

Mr. RANSDELL. I agree with that view.

Mr. WILLIAMS. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Missouri?

Mr. CUMMINS. I yield.

Mr. WILLIAMS. Is it not a fact that the only way in which this question can be raised, the only test that could be applied to the propriety and to the conclusiveness of our action, would be in the event of a conviction of Judge English?

Mr. CUMMINS. I can conceive no other way in which to raise the question.

Mr. WILLIAMS. If he should be convicted, then the only question that would arise would be whether or not he would yield peaceably his seat as a judge of the district court for the eastern district of Illinois. What court could pass upon the conclusiveness of the action of this body and the House of Representatives if it had been agreed

between them that this was the proper and conclusive method of dealing with this subject?

Mr. CUMMINS. Personally, I have not examined that question. I doubt very much whether Judge English, if convicted and removed from office, could raise that question at all anywhere.

Mr. WILLIAMS. There is no court to which he could go that is supreme to this court, is there?

Mr. CUMMINS. No; that is true.

Mr. NEELY. Mr. President, has the Senator from Iowa sufficient information to enable him to estimate with any degree of accuracy how long it will take to dispose of this impeachment case?

Mr. CUMMINS. I have made some inquiry about that, and it is estimated that it will take from two to three weeks.

At 1 o'clock and 35 minutes p. m. the managers of the impeachment on the part of the House of Representatives appeared at the bar, and their presence was announced by the Assistant Doorkeeper of the Senate.

The VICE PRESIDENT. The Sergeant at Arms will conduct the managers to the seats provided for them.

The managers were conducted to the seats assigned to them in the area in front of the Secretary's desk.

The VICE PRESIDENT. Gentlemen managers, the Senate is now organized for the trial of the impeachment of George W. English, United States district judge for the eastern district of Illinois.

Mr. CUMMINS. Mr. President, I present the order which I send to the desk and ask that it be read, and further ask for its immediate consideration. In this connection I desire to say that it has been customary in former impeachment trials for the Presiding Officer to ask the managers on the part of the House whether the order I am about to suggest is satisfactory to them.

The VICE PRESIDENT. The order will be read.

The Chief Clerk read as follows:

Ordered, That a summons be issued, as required by the Rules of Procedure and Practice in the Senate when sitting for the trial of the impeachment of George W. English, district judge of the United States for the eastern district of Illinois, returnable on the 3d day of May, 1926, at 12.30 p. m.

The VICE PRESIDENT. Gentlemen managers, is the order satisfactory to the managers on the part of the House?

Mr. Manager MICHENER. Mr. President, I am directed by the managers on the part of the House to say to the Senate that the order proposed by the Senator from Iowa is agreeable to the managers on the part of the House.

The VICE PRESIDENT. The question is on agreeing to the order.

The order was agreed to.

Mr. CUMMINS. Mr. President, I move that the Senate sitting for the trial of the impeachment adjourn until May 3, at 2.30 p. m.

The motion was agreed to; and (at 1 o'clock and 40 minutes p. m.) the Senate sitting for the trial of the impeachment adjourned until Monday, May 3, 1926, at 2.30 o'clock p. m.

The managers on the part of the House withdrew from the Chamber.

The VICE PRESIDENT. The Senate will return to legislative session.

The VICE PRESIDENT subsequently said: The Chair would suggest that the Senators who are present and who have not been sworn in

the matter of the impeachment of Judge George W. English present themselves at the desk and receive the oath.

Mr. Lenroot, Mr. Gillett, Mr. Weller, Mr. Norbeck, and Mr. Ferris advanced to the Vice President's desk, and the Vice President administered to them the following oath:

You do, each of you, solemnly swear that in all things appertaining to the trial of the impeachment of George W. English, district judge of the eastern district of Illinois, now pending, you will do impartial justice according to the Constitution and laws. So help you God.

MAY 3, 1926

IN THE SENATE OF THE UNITED STATES.

The VICE PRESIDENT (at 12 o'clock and 30 minutes p. m.). The hour of 12.30 o'clock has arrived, to which the Senate, sitting as a Court of Impeachment in the case of George W. English, United States district judge for the eastern district of Illinois, adjourned. The Sergeant at Arms will make proclamation.

The Sergeant at Arms made proclamation, as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence on pain of imprisonment while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against George W. English, United States district judge for the eastern district of Illinois

The VICE PRESIDENT. The Secretary will now call the names of those Senators who have not been sworn in, and such of those Senators as are now present in the Chamber will advance to the desk and take the oath.

Mr. Butler, Mr. Edwards, Mr. Fletcher, Mr. Moses, Mr. Schall, Mr. Simmons, Mr. Smith, and Mr. Walsh advanced to the area in front of the Secretary's desk, and the Vice President administered to them the following oath:

You do, each of you, solemnly swear that in all things appertaining to the trial of the impeachment of George W. English, United States district judge for the eastern district of Illinois, now pending, you will do impartial justice, according to the Constitution and laws. So help you God.

At 12 o'clock and 32 minutes p. m. the managers on the part of the House of Representatives—with the exception of Mr. Manager Moore—were announced, and they were conducted by the Assistant Doorkeeper to the seats assigned them in the area in front of the Secretary's desk.

The VICE PRESIDENT. The Sergeant at Arms will notify the counsel for the respondent.

Judge George W. English, the respondent, and Mr. William M. Acton, Mr. Edward C. Kramer, and Mr. W. F. Zumbrunn, counsel for the respondent, entered the Chamber and were conducted to the seats provided for them in the area in front of the Secretary's desk.

The VICE PRESIDENT. The Secretary will read the Journal of the proceedings of the last session of the Senate while sitting for the trial of the impeachment of George W. English.

The Journal of the proceedings of the Senate sitting as a court on the calendar day of Friday, April 23, 1926, was read and approved.

The VICE PRESIDENT. The Secretary will read the return of the Sergeant at Arms to the summons directed to be served.

The Chief Clerk read as follows:

SENATE OF THE UNITED STATES,
OFFICE OF THE SERGEANT AT ARMS.

The foregoing writ of summons, addressed to George W. English, and the foregoing precept, addressed to me, were duly served upon the said George W. English by delivering to and leaving with him true and attested copies of the same at his chambers in the Federal Building, East St. Louis, Ill., on Monday, the 26th day of April, 1926, at 9 o'clock and 55 minutes in the forenoon of that day.

JOHN J. MCGRAIN,
Deputy Sergeant at Arms, United States Senate.

The VICE PRESIDENT. The Secretary will now administer to the Deputy Sergeant at Arms an oath in support of the truth of his return.

The Chief Clerk administered the following oath:

You, John J. McGrain, Deputy Sergeant at Arms of the Senate of the United States, do solemnly swear that the return made by you upon the process issued on the 23d day of April, 1926, by the Senate of the United States against George W. English is truly made, and that you have performed such service as therein described. So help you God.

Mr. JOHN J. MCGRAIN. I do so swear.

The VICE PRESIDENT. The Sergeant at Arms will make proclamation.

The Sergeant at Arms made proclamation as follows:

George W. English! George W. English! George W. English, district judge of the United States for the eastern district of Illinois! Appear and answer to the articles of impeachment exhibited by the House of Representatives against you.

The VICE PRESIDENT. Counsel for the respondent are informed that the Senate is now sitting for the trial of George W. English, district judge of the United States for the eastern district of Illinois, upon the articles of impeachment exhibited by the House of Representatives, and will hear his answer thereto.

Mr. ACTON. Mr. President.

The VICE PRESIDENT. Mr. Counsel.

Mr. ACTON. The respondent is here in person and by counsel, and enters a formal appearance, which I will hand to the Secretary, and ask that it be read.

The VICE PRESIDENT. The Secretary will read the appearance.

The Chief Clerk read as follows:

In the Senate of the United States sitting as a court of impeachment

United States *v.* George W. English

The respondent, George W. English, having been served with a summons requiring him to appear before the Senate of the United States at their Chamber in the city of Washington on Monday, May 3, at 12.30 o'clock in the afternoon, to answer certain articles of impeachment presented against him by the House of Representatives of the United States, now appears in his proper person, and also by his counsel, who are instructed by this respondent to inform the Senate that the respondent is ready to file his answer to said articles of impeachment at this time.

Dated May 3, 1926.

GEORGE W. ENGLISH.

WILLIAM M. ACTON,
EDWARD C. KRAMER,
W. F. ZUMBRUNN,
Counsel for Respondent.

Mr. ZUMBRUNN. Mr. President——

The VICE PRESIDENT. Mr. Counsel.

Mr. ZUMBRUNN. The respondent presents his answer, and if agreeable to the Senate, would like to have it read from the Secretary's desk.

The VICE PRESIDENT. The Secretary will read the answer.

The Chief Clerk read as follows:

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 very 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 uncon-

sciously 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), reentered 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 ap-

pointed 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 juris-

diction 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 indi-

viduals, 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.

WILLIAM M. ACTON.
FRANK T. O'HAIR.
RUDOLPH J. KRAMER.
BRUCE A. CAMPBELL
EDWARD C. KRAMER.
W. F. ZUMBRUM.
DAN MCGLYNN.
Counsel for Respondent.

Mr. CUMMINS. Mr. President, I present an order for which I ask immediate consideration.

The order was read, considered by unanimous consent, and agreed to as follows:

Ordered, That the Secretary of the Senate communicate to the House of Representatives an attested copy of the answer of George W. English, district judge of the United States for the eastern district of Illinois, to the articles of impeachment.

Mr. CUMMINS. I present now a further order and ask for its immediate consideration.

The order was read, considered by unanimous consent, and agreed to as follows:

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.

Mr. CUMMINS. I present the following order which I ask the clerk to read, and I then ask for its immediate consideration.

The order was read, considered by unanimous consent, and agreed to as follows:

Ordered, That the managers on the part of the House be allowed until the 5th day of May, 1926, at 12.30 o'clock in the afternoon, to present a replication, or other pleading, of the House of Representatives to the answer of the respondent. That any subsequent pleadings, either on the part of the managers or of the respondent, shall be filed with the Secretary of the Senate, of which notice shall be given to the House of Representatives and the respondent, respectively, so that all pleadings shall be closed on or before the 10th day of May, 1926.

Mr. CUMMINS. Mr. President, if neither the managers nor counse, for the respondent have any further suggestion to make at this timel I move that the Senate, sitting for the trial of the impeachment of George W. English, do now adjourn until Wednesday next at 12.30 p. m.

Mr. REED of Missouri. Before anything else is done I desire to inquire whether the managers on the part of the House have been consulted with reference to the time in which a replication is to be filed and if the time is agreeable to them.

Mr. CUMMINS. I offered the order after consultation with the managers.

The VICE PRESIDENT. The question is on the motion of the Senator from Iowa.

The motion was agreed to; and (at 2 o'clock and 5 minutes p. m.) the Senate sitting as a court of impeachment adjourned until Wednesday, May 5, 1926, at 12.30 o'clock p. m.

The managers on the part of the House, the counsel for the respondent, and the respondent retired from the Chamber.

The VICE PRESIDENT. The Senate resumes legislative session.

MONDAY, MAY 3, 1926

(Calendar day, May 5, 1926)

IN THE SENATE OF THE UNITED STATES.

The VICE PRESIDENT (at 12 o'clock and 30 minutes p. m.). The hour of 12.30 o'clock, to which the Senate sitting as a Court of Impeachment adjourned, has arrived. The Senate is now in session for the trial of the articles of impeachment presented by the House of Representatives against George W. English. The Sergeant at Arms will make proclamation.

The Sergeant at Arms made the usual proclamation.

The VICE PRESIDENT. The Senate will rise. The managers on the part of the House of Representatives are in attendance. The Sergeant at Arms will notify them that the Senate is ready to receive them and conduct them to the seats provided for them.

At 12 o'clock and 31 minutes p. m. the managers on the part of the House of Representatives (with the exception of Mr. Montague) appeared, and they were conducted to the seats assigned them.

Mr. Edward C Kramer and Mr. Zumbrunn, of counsel for respondent, entered the Chamber and took the seats assigned them.

The VICE PRESIDENT. The Journal of the Senate sitting in the impeachment trial will be read.

The Chief Clerk read the Journal of the proceedings of the Senate of Monday, May 3, 1926, sitting for the trial of the impeachment of George W. English.

The VICE PRESIDENT laid before the Senate the following resolution (H. Res. 251) from the House of Representatives, which was read:

IN THE HOUSE OF REPRESENTATIVES, UNITED STATES,
May 4, 1926.

Resolved, That a message be sent to the Senate by the Clerk of the House informing the Senate that the House of Representatives has adopted a replication to the answer of George W. English, judge of the District Court of the United States for the Eastern District of Illinois, to the articles of impeachment exhibited against him, and that the same will be presented to the Senate by the managers on the part of the House; and also that the managers have authority to file with the Secretary of the Senate, on the part of the House of Representatives, any subsequent pleadings which they shall deem necessary.

Attest:

WILLIAM TYLER PAGE, *Clerk.*

The VICE PRESIDENT. Have the managers on the part of the House anything to present?

Mr. Manager DOMINICK. Mr. President——

The VICE PRESIDENT. Mr. Manager.

Mr. Manager DOMINICK. On behalf of the House of Representatives and on behalf of the managers on the part of the House of Representatives, I now present the replication of the House of Representatives to the answer of the respondent, George W. English, a district judge of the United States for the eastern district of Illinois, to the articles of impeachment exhibited by the House of Representatives, and I ask that it may be read by the Secretary.

The VICE PRESIDENT. The Secretary will read the replication.

The Chief Clerk read as follows:

IN THE HOUSE OF REPRESENTATIVES, UNITED STATES,
May 4, 1926.

Replication of the House of Representatives of the United States of America to the answer of George W. English, judge of the District Court 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 of America:

The House of Representatives of the United States of America, having considered the several answers of George W. English, judge of the District Court of the United States for the Eastern District of Illinois, to the several articles of impeachment against him by them exhibited in the name of themselves and of all the people of the United States, and reserving to themselves all advantages of exception to the insufficiency, irrelevancy, and impertinency of his answer to each and all of the several articles of impeachment so exhibited against the said George W. English, judge as aforesaid, do say:

(1) That the said articles do severally set forth impeachable offenses, misbehaviors, and misdemeanors as defined in the Constitution of the United States, and that the same are proper to be answered unto by the said George W. English, judge as aforesaid, and sufficient to be entertained and adjudicated by the Senate sitting as a court of impeachment.

(2) That the said House of Representatives of the United States of America do deny each and every averment in said several answers, or either of them, which denies or traverses the acts, intents, misbehaviors, or misdemeanors charged against the said George W. English in said articles of impeachment, or either of them, and for replication to said answers do say that said George W. English, judge of the District Court of the United States for the Eastern District of Illinois, is guilty of the misbehaviors and misdemeanors charged in said articles, and that the House of Representatives are ready to prove the same.

The VICE PRESIDENT. The replication will be printed.

Have the managers anything further to offer?

Mr. CUMMINS. Mr. President, I offer an order, which I ask to have read by the Secretary, and I ask for its immediate consideration.

The VICE PRESIDENT. The Secretary will read the order.

The Chief Clerk read as follows:

Ordered, That the proceedings of the Senate sitting in the trial of impeachment of George W. English, district judge of the United States for the eastern district of Illinois, be printed daily for the use of the Senate as a separate document.

The VICE PRESIDENT. Without objection, the order will be agreed to.

Mr. CUMMINS. Mr. President, I offer a further order, which I ask to have read by the Secretary, and I ask for its immediate consideration.

The VICE PRESIDENT. The order will be read.

The Chief Clerk read as follows:

Ordered, That in all matters relating to the procedure of the Senate, sitting in the trial of the impeachment of George W. English, district judge of the United States for the eastern district of Illinois, whether as to form or otherwise, the managers on the part of the House or the counsel representing the respondent may submit a request or application orally to the Presiding Officer, or, if required by him or requested by any Senator, shall submit the same in writing.

In all matters relating immediately to the trial, such as the admission, rejection, or striking out of evidence, or other questions usually arising in the trial of causes in courts of justice, if the managers or counsel for the respondent desire to make any application, request, or objection, the same small be addressed directly to the Presiding Officer, and not otherwise.

It shall not be in order for any Senator to engage in colloquy or to address questions either to the managers on the part of the House or the counsel for the respondent, nor shall it be in order for Senators to address each other, but they shall address their remarks directly to the Presiding Officer.

Mr. CUMMINS. Mr. President, I may say that this order is in the precise terms of an order adopted at two preceding impeachment trials.

Mr. REED of Missouri. Mr. President, has the Senator a further order which will permit a Senator to present a request in writing for the asking of a particular question?

Mr. CUMMINS. The order I have just submitted provides for that.

The VICE PRESIDENT. That is covered by the rules of the Senate under impeachment proceedings.

Mr. REED of Missouri. I did not so understand the order. I will not ask to have it reread if the Senator states that that is in the order, but I did not catch it when the order was read.

Mr. CUMMINS. That is true. I think, however, in order to remove any doubt about it, I will ask to have that part of the order read again.

The VICE PRESIDENT. The Secretary will read as requested.

The Chief Clerk read as follows:

In all matters relating immediately to the trial, such as the admission, rejection, or striking out of evidence, or other questions usually arising in the trial of causes in courts of justice, if the managers or counsel for the respondent desire to make any application, request, or objection, the same shall be addressed directly to the Presiding Officer, and not otherwise.

It shall not be in order for any Senator to engage in colloquy or to address questions either to the managers on the part of the House or the counsel for the respondent, nor shall it be in order for Senators to address each other, but they shall address their remarks directly to the Presiding Officer.

Mr. KING. Mr. President, I should like to ask the Senator from Iowa whether in his opinion the rule for procedure which has just

been submitted in the form of an order, plus the comprehensive Standing Rules of the Senate, meet every contingency which may arise to govern the procedure of the Senate while sitting as a Court of Impeachment?

Mr. CUMMINS. Mr. President, the general rules of the Senate do not apply to a proceeding of this character, probably. I do not make the statement to bind anyone else, but in my opinion the rules for impeachment that are laid down to govern the Senate in the trial of an impeachment do cover precisely what I have endeavored to cover in the order I have sent to the desk. It has been thought wise on former occasions to adopt such an order as I have presented, and I am simply following the precedents of many years in so doing.

Mr. KING. Mr. President, as I understand the Senator, his position is that the order he has just submitted, and which is before us for adoption, is sufficiently comprehensive to cover the ordinary questions which may arise while the Senate is sitting as a Court of Impeachment?

Mr. CUMMINS. That is my opinion. It has not been considered in times past that the general rules are sufficient; and in order to avoid any omission there may be in the rule, this order is offered.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. CUMMINS. I yield.

Mr. NORRIS. As I understand it, the latter part of the order read by the Secretary is a modification of one of the standing rules of the Senate applying to impeachment proceedings and changes it. I want to ask the Senator if he desires to modify or change a rule that is part of the rules of the Senate applying to impeachment proceedings?

Mr. CUMMINS. I do not think that the order which has been proposed changes the rules which the Senate has adopted for impeachment proceedings.

Mr. NORRIS. I may be entirely wrong, but as it was read it occurred to me that it did change the rule regarding Senators asking questions.

Mr. CUMMINS. It makes more specific the rule which is a part of the standing rules.

Mr. ASHURST. Mr. President, Rule XVIII of our impeachment rules requires that all questions propounded by a Senator shall be in writing. Rule XVIII is found on page 92 of the manual.

Mr. NORRIS. I would like to ask the Senator if it is the intention by this order he has offered to modify Rule XVIII, which reads as follows:

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

Mr. CUMMINS. It is not intended by this order to change or modify that rule in any way.

Mr. NORRIS. As the order was read, it occurred to me that it would modify it.

Mr. CUMMINS. I offer the order simply because it has been thought necessary in times past; but I have no thought of changing Rule XVIII, nor do I think the order presented would change Rule XVIII.

Mr. NORRIS. I would like to have that part of the order read again. It has not been printed, and we have had no opportunity to see it.

The VICE PRESIDENT. The clerk will read.

The Chief Clerk read, as follows:

It shall not be in order for any Senator to engage in colloquy or to address questions either to the managers on the part of the House or the counsel for the respondent, nor shall it be in order for Senators to address each other, but they shall address their remarks directly to the Presiding Officer.

Mr. CUMMINS. It does not seem to me that there is any conflict between the standing rule and this order.

Mr. NORRIS. I agree with the Senator that there is no conflict between them; but I would like to ask the Senator how it could be possible in this trial, under the standing rules, for any condition such as the Senator evidently attempts to meet by this order to arise. I do not believe that even if we proceed under the standing rules Senators would engage in what is proposed to be prohibited by this order.

Mr. CUMMINS. As I remarked a few moments ago, it is my opinion that this order is not absolutely necessary. It has been presented simply because the Senate has entered an order of the kind in former impeachment trials. I think it is wise, unless there is good reason to the contrary, to follow the precedents which have governed the Senate in former trials.

Mr. REED of Missouri. Mr. President, I think the purpose of the Senator offering the order was not to take away any right reserved in the Standing Rules of the Senate.

Mr. CUMMINS. Certainly not.

Mr. REED of Missouri. But I am fearful that if this order should be adopted it might be taken as a modification of those rules, and in order to set the question at rest I suggest that the last paragraph of the order be amended by inserting after the word "Senator" the words "except as provided in the Rules for Impeachment Trials," so that the last paragraph would read:

It shall not be in order for any Senator, except as provided in the Rules for Impeachment Trials, to engage in colloquy or to address questions either to the managers on the part of the House or the counsel for the respondent, nor shall it be in order for Senators to address each other, but they shall address their remarks directly to the Presiding Officer.

I think that will save any question, if the Senator will accept the amendment.

Mr. CUMMINS. I am very willing to accept that as an amendment to the order.

The VICE PRESIDENT. The question is upon agreeing to the order as modified. Without objection, it is unanimously agreed to.

Mr. CUMMINS. Mr. President, I have a matter to bring before the Senate upon which there probably will be a difference of opinion.

The time has arrived when it is appropriate, if not imperative, for the Senate to fix a time for the trial of this cause. I think that when I have presented the order which I will send to the desk in a moment counsel for the respondent and the managers on the part of the House should be called upon to express their views regarding the time at which this impeachment shall be tried.

I send to the desk an order, which I ask the clerk to read; and I suggest that after the proposed order shall have been read, the managers on the part of the House and counsel for the respondent be given an opportunity to be heard with respect to it.

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

The Chief Clerk read as follows:

Ordered, That the cause shall be opened and the trial proceeded with at 12.30 p. m. on the 15th day of November, 1926; and it is further

Ordered, That lists of witnesses be furnished the Sergeant at Arms by the managers and the respondent, who shall be subpœnaed by him to appear at 12.30 p. m. on the 15th day of November, 1926, or such other dates as the managers or respondent may indicate. That in case hereafter the managers or the respondent may desire the attendance of additional witnesses, in such case the managers or the respondent may have the witness or witnesses desired subpœnaed in accordance with the practice and usage of the Senate upon application in such form as may be approved by the Presiding Officer.

The VICE PRESIDENT. Have counsel for the respondent anything to say?

Mr. HEFLIN. Mr. President, it seems to me that there ought to be some limitation on the time when witnesses shall report. As I understand the proposed order, it merely suggests that they shall report on the day specified, the 15th day of November, or such other day as shall be satisfactory to them.

The VICE PRESIDENT. The Chair will suggest that we hear from counsel for the respondent and take up the matter suggested by the Senator from Alabama after the time has been agreed upon.

Have counsel for the respondent anything to say?

Mr. E. C. KRAMER. Mr. President, respondent and his counsel have given due consideration to the question when this trial shall take place, and on account of the absence from this country of one of the counsel for respondent, and on account of additional and new counsel having been drawn into the case, the time suggested by the Senator will suit our convenience.

I desire to make one further statement. If the trial of this cause shall be continued to the time suggested, Judge English, the respondent, will engage in no business during the interim.

The VICE PRESIDENT. Have the managers on the part of the House anything to say?

Mr. Manager MICHENER. Mr. President, I am directed by my associates, the managers on the part of the House, to say that the managers are ready for trial at such time as the Senate may designate. We realize that it is the function of the Senate to designate the time. We appreciate that this is an important proceeding, important to the country, important to the eastern judicial district of Illinois, and important to the respondent.

Considering these facts, we have been interested to know whether or not, if this case were continued until November, the judge would preside during the interim. We have the assurance of counsel representing Judge English that the judge would not preside during that interim. The eastern district of Illinois has two judges. We are approaching the summer season. The work is such, we are advised, that the district would not suffer by reason of the fact that the judge was not presiding.

We have canvassed the matter carefully and conscientiously. We have held conferences with counsel for Judge English. They have presented the reasons which have been suggested, reasons which to us seem possibly sufficient. We are, of course, ready for trial at any reasonable time, but we do not object to the date fixed in the order.

I might say further that we realize and appreciate that we are nearing the end of the session. We appreciate and realize that it is im-

perative, as suggested by the senior Senator from Iowa, that some date be set within a reasonable time if we are to proceed at an earlier date. We have been advised that it would be practically impossible to set a date on which we might proceed to trial until things developed to a greater extent, so far as the legislative program in the Senate is concerned.

Therefore we make no objection, and in a way would consent, to the date fixed in the order, provided it meets the approval of the Senate.

Mr. JOHNSON. Mr. President, simply in the expression of an individual view, I think a postponement of this trial until November would be most unfortunate. As I listened to the charges read, I thought that if the respondent were guilty he ought forthwith to be removed from the bench; that if he were innocent, his innocence ought at the very earliest possible moment to be determined. To let this thing hang for a period of seven months, when it can be tried within the period of a month and a half, is doing justice neither to the people on the one hand nor the respondent on the other hand, nor to this high court of impeachment. If this trial is to proceed, it ought to proceed at the earliest possible moment.

There is one thing in this Government of ours, Mr. President, which should be kept above all suspicion, and that is the judiciary. Here we deal with one of the high judicial positions in the land. It is assaulted by the House of Representatives. It is defended by able counsel. The judge appears here denying his guilt. The question of his guilt or his innocence ought not to be left in the balance for a period of more than half a year. We owe it to the people of the United States, to the House of Representatives, above all we owe it to the judiciary of this land and to ourselves, to determine the question of his guilt or innocence at the very earliest possible day.

Mr. BLEASE. Mr. President, when this case was first called I submitted a request to be excused from taking part in it for reasons which were set forth in that request. The junior Senator from Missouri [Mr. Williams] stated as his opinion that if all Senators did not take the required oath there might be some question as to the constitutionality of the court. I accepted this view and took the oath after looking into it.

I agree thoroughly with the Senator from California [Mr. Johnson] that if there is anything in this country to-day for which the courts are being cursed more than any other thing, and properly so in a great many causes, it is because of continuances and delays by the courts to bring people to trial, and the practice of allowing influences, sometimes improper influences, to cause delay in the prosecution of people and in the settlement of questions in the civil part of the court for no reason except the convenience of somebody. I think it would be a grave mistake for the Senate to set the example of delaying for as many months as this order provides the trial of this matter. If the gentleman charged here is not guilty, he should be tried and acquitted. If he is guilty, he should not be allowed one day longer to be a member of the judiciary of this great Republic.

We do not know what may happen between now and November. This distinguished gentleman might pass from this earth, and then all would be wiped out, so far as he would be concerned, with reference to any opportunity to come here and prove his innocence. There

would be no opportunity for his children or his grandchildren to remove from them the stain of the charge that their father or grandfather had been guilty of this charge and impeached by the House. It would be an injustice on the part of the Senate, in my opinion, merely because somebody is a candidate for reelection and wants to go home to get into his campaign, or because somebody else is afraid to cast a ballot in this case because of the political effect it might have at home, to hold these charges over this man for any such length of time.

I thoroughly agree with the Senator from California [Mr. Johnson]. I think we should proceed to try the matter and get through with it and let the world and the country know that we are willing to perform our duties and to perform them now.

Mr. CUMMINS. Mr. President, I have no personal preference with regard to the time for the trial of the case, but here is the situation: I am utterly unwilling to interrupt the legislative work of the House and the Senate, and particularly of the Senate, in order to try this proceeding. We are bound to go forward and finish our legislative work. It is infinitely more important to the people of the country that the legislative program which is in our minds shall be finished at the earliest possible time. I assume there is not a Senator here who would be willing to stop the legislative work in which we are engaged and take up the trial of this impeachment.

I assume I am speaking the sentiment of every Senator when I say what I have said, and if that be true, then we can not fix any proximate time for the trial of the case, because there is no Senator and there is no Member of the House who can even accurately estimate when we shall have finished our legislative work. I do not think it is humanly possible to consider and act upon the bills that it is our duty to consider and upon which we must have a vote before the middle of June or the 1st of July.

Therefore, practically speaking, it is a question of whether we shall take up this impeachment, say, the 1st of July and try it during the three weeks or four weeks or six weeks that it may require, or whether we shall postpone it until the middle of November or somewhere near the middle of November. That time was fixed simply because all the Members of Congress will be returning in the natural course of events to attend the regular session, which begins on the first Monday in December. In so far as I am concerned, I would rather try the case in November than to try it in July and August. I think all Senators understand how very difficult it would be to maintain a respectable quorum during July and August. It would be practically impossible. I think we would be much surer of a large attendance of Senators and much surer of attention to the testimony which may be developed in November than in midsummer.

Mr. KING. Mr. President, will the Senator permit an inquiry?

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. Certainly.

Mr. KING. Does the Senator think that the order could be challenged upon the ground of uncertainty if, instead of the date fixed, namely, November 15, the order should read that the cause shall be opened and the trial be proceeded with at 12.30 postmeridian, beginning on the first Monday next following the adjournment of the present session of Congress?

Mr. CUMMINS. I think that would not be invalid because of the uncertainty.

Mr. WATSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Indiana?

Mr. CUMMINS. I yield.

Mr. WATSON. I understood from the remarks made by the Senator from Iowa that he thinks it would take six weeks to try the case.

Mr. CUMMINS. No; I did not say so. It is variously estimated at from two weeks to three or four weeks, but I do not know. It depends, of course, upon the number of witnesses.

Mr. WATSON. I think we ought to remember that the next session is the short session, and that if we take the time up until the holidays in trying this case, we would have a tremendous rush of business to get through the session in the two months remaining.

Mr. CUMMINS. That is true.

Mr. NORRIS. Mr. President, I think we all realize with the Senator from Iowa [Mr. Cummins] that we have a large amount of business to transact, but we have no business to transact more important, in my humble judgment, than the trial of this case. I do not see why we should not arrange to commence the trial, not in July or August or November, but in May. Why not commence within the next few days? Why not take up the trial and proceed with it just as soon as the parties can get their witnesses here? Why should we delay it for anything? We will never reach a time when we are going to find ourselves idle and not having important business that we must lay aside in order to take up this case. We have to face it some time.

I should not think the trial of the case would take more than a week or 10 days, and if it does take longer we are going to run into the short session with it if we fix November 15 as the date for beginning. We are crowded then a thousand times more in a legislative way than we are now, because the time of adjournment is definitely fixed for the 4th day of March. We are always crowded then. It will inconvenience us, and we can not escape it, whether we take it up in July or whether we take it up to-morrow or next Monday and proceed to the trial. The inconvenience will be just as much at one time as another. It would take as much time at one period as another. Its importance is just as great, if not greater, than any piece of legislation that is pending.

If we put this matter over until November we will find ourselves with a very small attendance, in my judgment. Members who have been participating in the campaign will not want to commence the next day the trial of this case. I think we will come nearer having a larger attendance of the Senate if we arrange for the trial to commence within the next few days. I would not want to arrange the trial at a time that would discommode the managers of the House or the respondent; but the witnesses, I presume, who testified in the case before the House Judiciary Committee are where they can be obtained by a subpœna within a week if we want to fix the time then to proceed with the trial.

It seems to me it would be better, unless there is some reason not yet disclosed, even for both the managers of the House and the respondent to proceed while the testimony is still fresh that they have already taken and not delay it seven months at least. It

strikes me that we could try the case in May, and we ought to be able to commence the case by next Monday, perhaps, or at least next week.

Mr. KING. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Utah?

Mr. NORRIS. I yield.

Mr. KING. The Senator as a lawyer appreciates the fact that after the issues are joined upon a case so important as this, some little time, of necessity, will be required both by the managers on the part of the House and by the respondent to get ready for trial.

Mr. NORRIS. I would like to get the ideas of the gentlemen on both sides upon the subject.

Mr. KING. I was about to inquire of the Senator whether it would do to fix the 15th of June? I am in favor of disposing of the case as speedily as possible. We ought to conclude our legislative work prior to that time. If we know that this case is pending and that it is set for the 15th of June it will probably spur us to greater activity in the conclusion of the legislative work before us.

Mr. NORRIS. The suggestion of the Senator from Utah may be a good one, but I want to call his attention to this fact: Just as soon as Congress fixes a definite day for adjournment then we will get into the condition we always get into when we have a short session that must adjourn on the 4th day of March. I had rather proceed with the trial just as soon as the managers on the part of the House and the respondent can get their witnesses here, end the trial, and then proceed with our legislation, without having fixed any definite day for adjournment, because to fix a date for adjournment is always dangerous. We are confronted by filibusters and other such difficulties when a definite time for adjournment is fixed. We can avoid all of that if we will try the case and then proceed with our legislation in the regular way.

Mr. KING. I do not mean to imply by anything which I have said that we should fix the time for the adjournment of Congress for the 15th of June.

Mr. NORRIS. I did not understand the Senator.

Mr. KING. I think, though, that if we knew this case were set for hearing on the 15th of June it would, to use the language which I then used, spur us to greater activity with the hope of concluding our legislative work by that time. Of course, if we fail, then we shall have to continue as a court of impeachment and as a legislative body until we dispose of the legislative work before us. That would create, of course, some embarrassment. We would have to adjust the division of time so as to permit us to dispose of the legislative matters then pending and at the same time continue the work of the court.

Mr. NORRIS. I myself dislike to suggest a definite date, because I have had no consultation, nor has the Senate had, with the managers or with the respondent. I do not want to fix a date that would be disagreeable to either side; but I believe we ought to vote down the particular order that has been submitted to us; then, perhaps, adjourn the court until to-morrow and give an opportunity for consultation between the managers and the attorneys for the respondent with the view of fixing an earlier time.

Mr. GOODING. Mr. President, I can not agree with the senior Senator from Nebraska [Mr. Norris] at all that the trial of Judge English at this time is more important than is the legislation which is pending before Congress. In my judgment, farm legislation is vital to this country. At a number of luncheons which have been held, which something like 50 Senators have attended, practically all of them have agreed that they would not vote for an adjournment of Congress until farm legislation should have been fully considered and voted upon.

Mr. NORRIS. Mr. President, will the Senator from Idaho yield to me?

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Nebraska?

Mr. GOODING. I yield to the Senator.

Mr. NORRIS. I agree with the Senator from Idaho about the importance of the legislation to which he has referred, but there is not any idea that Congress will adjourn without having disposed of such legislation.

Mr. GOODING. The Senator from Nebraska knows that if we shall proceed with the impeachment trial now, it will occupy such a length of time that we shall be very near the time when Senators and Members of the House of Representatives will want to get away, and there will be no opportunity at all to consider any further legislation.

I understand, of course, that Senators who do not want farm legislation will find plenty of time to discuss other matters. So if we are going to consider farm legislation at all, it seems to me we ought to go forward with our legislative program. I can not see that any harm will be done to this country if the trial of Judge English shall be postponed until the 15th of November, with the understanding that he shall not sit as a judge and transact business in his court in the interval. I understand that Judge English is not ready now to go to trial. It is only fair to him, it seems to me, that the trial should be postponed to the 15th of November. He does not wish to rush into a trial on a matter which means life and death to him until he is ready. Undoubtedly he will be ready in a reasonable time, and it seems to me that the 15th of November, under all the considerations now existing, is a reasonable time for his trial. So I am going to vote against a motion that there shall be an earlier trial.

Mr. BRUCE. Mr. President, no reason satisfactory to my mind has been given why November 15 next should not be set as the date for the beginning of this impeachment case. That date is satisfactory to the chairman of the Judiciary Committee, the senior Senator from Iowa [Mr. Cummins]; it is satisfactory to the managers, who, of course, represent the public in this controversy; it is also satisfactory to the counsel for the respondent. Why, then, should we hesitate to adopt that date for the commencement of the impeachment proceedings? If the counsel for the respondent were here asking that the case be set for an earlier date, then, of course, I imagine that we should all feel that the very highest degree of deference should be paid to their feelings upon the subject, but they are not doing so. They have stated that it is entirely satisfactory to them, and therefore we must assume that it is entirely satisfactory to the client whom they represent, that this case should be set for the 15th day of November next.

Indeed, we have been told by one of the counsel for the respondent that another of the counsel for the respondent is abroad at the present time. Upon my mind at least that statement left the impression that it might even work some inconvenience on counsel for the respondent and their client if the case should proceed forthwith.

One other thing, I think, that has been hinted by the Senator from Iowa should be duly taken into account. I believe that the general atmosphere will be more favorable to a fair trial to the respondent in every respect if this case shall be postponed. We all know whenever we have a controversy of this sort some degree of feeling, not to say passion, is more or less artificially engendered. I imagine that is true of the House of Representatives at this time. If there is any such feeling, any such passion, we shall have a "cooling time" between now and the 15th day of November next. The general temper of Congress will be fairer, more judicial, more impartial in character, in all probability, on the 15th day of November next if the case shall then be taken up.

Furthermore, I submit that it is to the interest of the respondent—and that should be a consideration, of course, when any citizen is put upon his trial—it is to the interest of the respondent from the point of view of the administration of justice that this case should not be disposed of precipitately or hastily at a time when Members of Congress are eager for Congress to adjourn and their minds are not in the same attentive and receptive condition that they would be in under more normal circumstances.

An old English poet, Alexander Pope, speaks of "men hanging that jurymen may dine." The feeling that underlies that line of the poet should be duly taken into account in this impeachment case. The trial should be taken up in a deliberate manner when the mind of the Senate is not disturbed by any desire that Congress shall adjourn at the earliest possible time, when the general mental condition of Congress will be fairer, more impartial in every respect than it now is.

Furthermore, the interest of the public would not suffer. Very wisely, I think, doubtless partly under the advice of his counsel, the respondent has declared his willingness not to discharge the duties of his judicial station while his good name is under impeachment; and it has been said to us, of course, in a manner that we can not possibly disregard, that court conditions are such in the State of Illinois that, notwithstanding the fact that Judge English may not participate in judicial proceedings in the Federal court in that State, the interest of the public will not suffer for the lack of judicial attention to legal controversies.

So, as I have said, it seems to me there was never a clearer case presented to the Senate, when it is looked at from these points of view to which I have limited myself.

Then, on the other hand, it is certainly true that there is legislation at the present time pending in the Senate of the very highest degree of importance that should not be postponed, even to an impeachment case, when there is no reason to believe that the interests of justice would suffer unless the impeachment case was taken up immediately. There is agricultural legislation which we have all agreed is legislation of prime importance, indeed, to the early consideration of which almost every Member of this body has pledged himself.

There is railway labor legislation which is regarded with the very deepest concern by the railway executives of the country, by the railway workers of the country, by the shippers of the country, and by the general public. Then I believe that a very large number of bills have been suggested by the Director of the Prohibition Unit, possibly a dozen in all, that are expected to be considered at this session of Congress, which, it is claimed, do not admit of any dilatory treatment.

It seems to me, therefore, that we ought to be free until the adjournment of Congress to give our exclusive attention to these matters of the very highest degree of importance. So I sincerely trust that this order will be adopted by the Senate without amendment of any sort

Mr. WILLIS. Mr. President, I am not a member of the Committee on the Judiciary, and therefore it is with diffidence that I say a word on this question. I do wish to say, however, that I am utterly unable to appreciate the viewpoint of Senators who insist that we should enter upon the trial of this case at once. It is perfectly apparent that we have a legislative program which, if it is to be considered as it ought to be considered, will take at least six weeks. If we work steadily and in the best of faith upon the legislative program, we shall still be here on the 15th day of June.

It is suggested by some Senators that we might take up this case now and proceed with it while the legislative program is under consideration. Mr. President, if that policy shall be adopted, we will make no progress either with the legislative program or with the trial of the impeachment case.

Mr. BORAH. Mr. President——

Mr. WILLIS. I yield to the Senator from Idaho.

Mr. BORAH. We have from now until the 6th of December to dispose of the legislative program and also to try this case. If we can dispose of the legislative program by the middle of June, there is no reason why we should not proceed with the trial of this cause.

Mr. WILLIS. Of course, I think that is a very good reason. I have seen some of the midsummer sessions both in this body and the body at the other end of the Capitol. It is very easy to speak boldly about having sessions throughout the summer. Some Members of the Senate and some Members of the other body, when I chanced to be a Member of that body, remained in their places during the session, but there were other Senators who, when the hot blasts came, took to the seashore. We can not keep a quorum here under those circumstances, and I warn Senators that if the plan shall be followed out of going through with the legislative program and then taking up the impeachment case, or the alternative of trying to handle them both together, we will be here until August or September, and we will not make very much progress with either. It will be practically impossible to maintain a quorum during the heated season.

We might as well look frankly at the facts. The Senator from Idaho says there is the time between now and the 6th of December. Of course, that is true; but the Senator knows, from his distinguished and most useful experience here, that at the end of a long session of Congress, where there has been a contest over legislation, Senators, and other legislators sometimes, do not find themselves in very good humor; there is not that judicial temperament that ought to maintain, it seems to me, in the trial of a great case.

Mr. KING. Mr. President, will the Senator yield?

Mr. WILLIS. I yield to the Senator from Utah.

Mr. KING. I suggest to the Senator that if we meet on the 15th of November, in view of the election returns, some Senators may not be in as good humor as they are now, or will be before that time.

Mr. WILLIS. Mr. President, I am perfectly delighted that my friend, with his usual directness and frankness, makes that suggestion. No one has said anything about it yet, but the fact is that a third of the Members of the Senate will be candidates for reelection, and naturally they are somewhat interested in the outcome of the election.

I submit to Senators in candor that after the November elections are out of the way, and Senators are either reelected or defeated, their minds will be freer for the consideration of a question of this type than they will be if it shall be insisted upon that the trial shall proceed now for the convenience of some Senators who live in Washington and have their homes here, and could just as well have the Senate sit throughout the summer as not. I suggest that if their advice shall be followed, and we have this session now, we will not have as fair and free and full a trial of this respondent as he is entitled to.

Mr. MCKELLAR. Mr. President——

Mr. WILLIS. I will yield to the Senator in just a moment. I want to finish this thought.

It seems to me that the Senator from Maryland has pointed out with his usual clarity the significant point in this situation. Counsel for the respondent are entirely agreeable to this proposition. If the respondent were to be injured by this procedure, and were asking for some other arrangement, we would have a different situation; but he is not so asking. He and his counsel are entirely agreeable to the arrangement.

I now yield to my friend from Tennessee.

Mr. MCKELLAR. Mr. President, I am inclined to agree with the statement made by the Senator from Ohio, and think that probably it would be better to let the trial go over until after the 1st of November; but in view of the fact that the next session is a short session, and we all know that we are so hurried in the short session to get through the necessary appropriation bills, I am wondering whether we could get through the trial of this case before the opening of the regular session in December. Therefore I desire to ask the chairman of the committee if he does not think it would be safer to meet, say, on the 10th of November, or at the earliest possible day after the November election, so that we might be fairly well assured that we could finish the trial of the case before the opening of the short session of Congress? I think it would be very unfortunte if the trial of the case ran into the new session of Congress, in as much as it will be the short session; and I hope the Senator from Iowa will agree to an amendment fixing a day somewhat earlier than has been suggested.

Mr. CUMMINS. I do not remember upon what day the election falls. It is suggested to me that it occurs on the 2d of November. The 10th of November would be perfectly satisfactory to me.

Mr. MCKELLAR. That would permit all Senators to arrive here before the trial commenced. It seems to me it would be very much safer for the business of the country if we met as soon as possible after the election.

Mr. CUMMINS. I fixed the 15th of November after some consultation with both sides, simply because it would enable all Senators and Members of the House to reach Washington after leaving their homes after the election. I have no preference whether it be the 10th of November or the 15th, or even an earlier day than that.

Mr. MCKELLAR. I am wondering if that would be satisfactory to the managers on the part of the House and the counsel on the part of the respondent.

Mr. CUMMINS. It ought to be remembered, also, that the Congress does not convene until the 6th day of December.

Mr. WILLIS. Mr. President, while that matter is being discussed, I may add that the election about which the Senator inquires occurs on the 2d of November; so if the Senator desires to modify his order, he can do so.

Mr. MCKELLAR. Would the Senator accept that modification making it the 10th?

Mr. BRUCE. Mr. President, that would allow only three days for the Pacific coast Senators to get here.

Mr. MCKELLAR. Oh, no; it would allow eight days.

The VICE PRESIDENT. Senators will speak one at a time.

Mr. SWANSON. Mr. President——

Mr. WILLIS. I have the floor, Mr. President.

The VICE PRESIDENT. The Senator from Ohio is entitled to the floor. Does the Senator from Ohio yield to the Senator from Virginia?

Mr. WILLIS. I yield to the Senator from Virginia for a question.

Mr. SWANSON. I should like to ask the Senator from Iowa what process of adjournment or recess is contemplated in case we commence the trial of the case on the 15th of November? Does the Senator contemplate that Congress shall adjourn until the 15th or that an extraordinary session shall be called, or what process is in contemplation in case a day in November is fixed?

Mr. CUMMINS. Mr. President, I never cross a bridge until I reach it; but I can understand the pertinence of the question propounded by the Senator from Virginia. It depends entirely upon the view which the Senate may take of the Constitution of the United States and its interpretation as to whether the House could adjourn and the trial proceed without the presence of the House. That question will come up hereafter; and it may be done either way. Congress might adjourn until the day fixed for the trial, and in that event we would not have to meet the question whether the trial could proceed in the absence of the House. If, on the contrary, the House were to propose to adjourn, we would have to meet the question.

Mr. SWANSON. It seems to me that if we should take an adjournment until the 15th of November, with the concurrence of both the House and the Senate, it would be very advantageous in this respect: The House would be here working and getting the bills for legislation reported and passed for the Senate to take up when it gets through with this trial. Consequently no time would be lost. Suppose the case were not decided by the 5th of December. Has the Senator considered to what extent we would have to reopen the case?

Mr. CUMMINS. Personally I think that would be the better course but that would depend entirely upon the wishes of the House of Representatives.

Mr. SWANSON. If the case is not disposed of by the 5th of December it would come up automatically on the 5th of December where the trial was left off, would it not? Has the Senator looked into that phase of the matter?

Mr. CUMMINS. The trial would come up at the time the Senate might fix.

Mr. SWANSON. Say it would come up on the 15th of November, and it is not concluded on the 6th of December, when we meet in regular session: Even if we have an extraordinary session, or simply take an adjournment, we are bound to adjourn and reconvene, under the Constitution, on the 6th of December, the first Monday in December. If the case is not concluded by that time, what will be its status at the new meeting of Congress?

Mr. CUMMINS. Its status will be that the trial will proceed regularly at the regular session until finished.

Mr. SWANSON. Without interruption? If the Senator will permit me, it does seem to me that if both the House and the Senate should take an adjournment until the 15th of November, after we conclude our work, no constitutional question could be raised. The House would come here on the 15th of November. It could proceed with its supply bills while the Senate was trying this case, and when we finished the trial of this case the supply bills would be over here, and we could well dispose of the legislation then without any loss of time.

It seems to me we ought to settle this matter on the basis of obtaining the best results in legislation and the best results in the trial of this case. Each is entitled to a full, fair, and just consideration, because the public interests are involved. I am satisfied that the best legislation can be obtained by continuing this case until the 15th of November or some time about that time, because if we arrange to try it in May or June the Senators who do not favor certain legislation will commence filibustering until the time this case comes up in order to prevent the passage of legislation that they are not desirous of having enacted. That has been the experience which the Senator from Nebraska [Mr. Norris] has often pointed out. When a time is fixed to adjourn or to vote on anything, filibustering starts on other measures.

I do not believe we can have a satisfactory program of legislation unless this matter is put off until the legislation is disposed of. I do not believe we can come in here for two hours a day and hear the evidence in this case, and then be rushed in committee and rushed in the Senate in discussing and arguing questions of legislation. If we meet here in November nothing else will take our attention and time, and I believe we can then give this matter fair and just consideration and better investigation than we can at this time. I think the country is entitled to that. I think the respondent is entitled to have his case tried at a time when the best results can be obtained for both. Consequently, if we take an adjournment until the 15th of November, and the House comes back here and gets the supply bills ready for us, so that we will not have to wait when this case is disposed of, I believe that is decidedly the best course that the Senate can pursue.

Mr. WARREN. Mr. President, will the Senator yield to me?

Mr. WILLIS. I yield to the Senator from Wyoming.

Mr. WARREN. Without bringing up myself the question as to whether we shall go on now or whether we shall adjourn until November, I think the suggestion made by my friend from Tennessee

(Mr. McKellar) is a valuable one, because in order to obtain proper consideration of the many appropriation bills, in view of the size they have now attained, we need more time than the regular session; and if this trial should extend over into and beyond the commencement of the short session in December, we would be very seriously hampered. So I hope the Senator from Iowa may consent, and that the Senate will uphold making the 10th of November the date that we shall adjourn to instead of the 15th, and thus we will avoid the danger of a tie-up like that which occurred in one of our late short sessions.

Mr. WILLIS. Mr. President, I do not desire to prolong this discussion, but only to say a word in conclusion. Does the Senator from Iowa desire to make any comment about the suggested modification of his order?

Mr. CUMMINS. Mr. President, when I drew this order it was purely tentative. It was my purpose to take the sense of the Senate with regard to trying the case now or trying it next fall. I am perfectly willing to make the date the 10th of November instead of the 15th. It is just as satisfactory to me, and I will accept any amendment that any Senator chooses to suggest upon that point.

Mr. WILLIS. Mr. President, just a word in conclusion. If the modification suggested by the Senator from Iowa is agreed to, let us see what the result will be. We will meet on the 10th of November. We will have 20 days left in November and 5 days in December before Congress will meet. There are 25 days. We can try this case in that time. I submit, further, along the line of the suggestion that has been made about the short session, that we can not do very much in the Senate before the appropriation bills will start to come in from the House, anyhow. There is not a great deal of work done early in the short session, and I submit that there will be no loss of time.

I hope the Senate will adopt the modified order suggested by the Senator from Iowa.

Mr. CUMMINS. It is understood that I modify the proposed order by inserting the 10th of November in each of the places in which the 15th of November now occurs.

The VICE PRESIDENT. Have the managers on the part of the House or counsel for the respondent anything to say?

Mr. Manager MICHENER. Mr. President, the managers are ready at such time as the Senate may fix, assuming, of course, that they will give us reasonable time to get our witnesses. The 10th of November, I think, would be agreeable to the managers.

Mr. E. C. KRAMER. Mr. President, the 10th of November will be entirely satisfactory to the respondent and his counsel.

Mr. JOHNSON. Mr. President, in the suggestions I made in opening the argument I had no desire at all to interfere either with the pleasures or with the duties of Members of the Senate or with the desires of those who represent either the prosecution or the defense.

I take it that when we approach a trial of this importance every Member of the Senate will approach it with the solemnity this kind of a proceeding demands, and I take it that whether we begin the trial in November or December, in June or July, there will be from the Senate of the United States that attention to the detail and that desire to render a verdict judiciously and justly that under the circumstances the importance of the occasion will require.

So, Mr. President, in the matter of the decision by the Senate, whether it be for a trial a month from now, or three months or eight months or nine months from now, I think there is little to be said. In the matter of the haste of a trial, consistent, of course, with due regard for the rights of the defense, and those of the prosecution, too, much might be said. But it now so late an hour that I do not care to argue this question further than to say that in a matter of such importance, where it is obvious that the Senate is going to legislate upon the subjects which are demanded by the Members of the Senate, that being apparent now, there is no reason why, when that legislation shall have been accomplished, we should not enter upon a duty quite as important as legislation—the matter of the impeachment of the particular judge involved in these charges.

For the reasons I have stated I move to substitute in the pending order for the 10th day of November, 1926, the 21st day of June, 1926.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from California.

Mr. CUMMINS. I think the rules which are applicable to the trial of impeachment cases require the yeas and nays upon every order that is not entered by unanimous consent.

Mr. HARRISON. Before we vote on the question I would like to know whether the date suggested by the Senator from California is agreeable to the managers on the part of the House and to counsel for the respondent?

The VICE PRESIDENT. Have the managers on the part of the House anything further to say?

Mr. Manager MICHENER. Mr. President, I have already made the statement that the managers on the part of the House will be ready to proceed at such time as the Senate may fix, provided they give us sufficient time to get our witnesses, having in mind the fact that those witnesses must come from Illinois. Our conferences with the witnesses, so far as the Judiciary Committee of the House is concerned, took place a year ago. There will necessarily be some work of preparation. All we ask is a reasonable opportunity to do that work, and if the Senate feel that they should come back here, under the conditions, and try this case on June 15 or June 21, the managers on the part of the House will do their best to be ready and prepared.

The VICE PRESIDENT. Have counsel for the respondent anything further to say?

Mr. E. C. KRAMER. Mr. President, for the reason we have heretofore given, the 21st day of June would hardly be satisfactory to the respondent and his counsel.

I want to say in this connection that the respondent has done nothing since these proceedings started to delay them in any respect or in any way, and we only ask now that we be given opportunity so that all of our counsel can be present and join with us in the trial of this cause.

Mr. BORAH. Mr. President, if I felt——

Mr. HEFLIN. Mr. President, the rules provide that all orders shall be made without debate. I think Senators understand this proposition fairly well.

Mr. BORAH. If I may have the permission of the Senator from Alabama, I would like to say a word.

The VICE PRESIDENT. The Senator from Idaho.

Mr. BORAH. I do not desire to vote for a date on which it would be inconvenient for the managers on the part of the House or the defense to enter upon the trial. I felt, without having heard from them, that we ought to proceed to the trial of this cause immediately after we had disposed of the legislative program which we have before us. I am perfectly satisfied that if we were disposed to do so we could try the case immediately after disposing of the legislative program, and end this session by the middle of July at the latest. I am quite satisfied that the public interest would be better served, and we would be better contented ourselves with our work if we should dispose of the matter in that way rather than put it over until the fall term.

Judge English occupies a place upon the Federal bench in a very busy district, and I feel that he should either be there discharging his duties, unembarrassed by these charges, or the public ought to be relieved of his presence there, if the charges are true. It is not a matter we can very well postpone, from the standpoint of the public interest, and it is perfectly apparent that we will have all the time necessary to dispose of it after the middle of June or, at the latest, the 21st of June. I feel sure that we ourselves would be better satisfied if we should dispose of this task which is imposed upon us before this session ends, rather than leave it for four or five months and come back in the fall. I feel certain the public interest would be better served.

It is a very serious thing to have a man sitting upon the Federal bench against whom charges are made such as are made in this instance, and it is equally serious to have a man resting under such charges if he is innocent of them. There is no possible excuse for delaying this a day beyond the date when we could try it. The public interest from every standpoint requires us to act.

I do not desire to inconvenience Senators who want to get away, but I venture to say that they will be just as well pleased if they stay here until the middle of July as they will be if they come back the middle of November.

Even those who have elections upon their hands—and I do not speak of that in a light way, because it is a matter they have a perfect right to attend to and should attend to—will not be engaged in that kind of work before August or September. They will be looked upon by their constituents with more favor if they shall have performed their entire task before they go home to ask for a reelection.

Mr. WHEELER. Mr. President——

Mr. HEFLIN. Mr. President, I make the point of order that this subject is not debatable.

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

Mr. WHEELER. Mr. President, something has been said about the Senate of the United States being in a better frame of mind to try this case in November than it would be now. Frankly, I think every Member of the Senate is in such a frame of mind that he would give

the defendant and the Government a fair and impartial trial at the present time, and I feel that he is in a much better position to do so now than he might be next November.

It is a well-known fact, as has been said already, that something like a third of the Senate will be campaigning for reelection next fall. It is not beyond the possibilities that this very case might become a political issue in the campaigns in some of the States. If it is injected into a political campaign, it will necessarily influence some Members of the Senate, either consciously or unconsciously.

We ought to try this case promptly, and I think the public will demand that the case be tried promptly, because it is not something merely affecting the interests of Senators and the pleasure of Members of the Senate. It is something that affects the public vitally, because of the fact, as we all know, that there have been criticisms of the courts of this country and the people want to keep their courts clean.

Here is a serious charge against the judiciary of the United States of America, and I submit to the Members of the Senate that just as soon as the legislation on our program has been gotten out of the way this case ought to be tried. It should not be tried by Members of the Senate who have perhaps been defeated in their States, but it ought to be tried at this time, when our minds are absolutely free and unbiased. I sincerely hope that Senators will take the case up and disregard their own personal wishes in the matter; that they will take it up from the standpoint of the public interest, because it is not only the managers on the part of the House and it is not only counsel for the defendant in this case who are interested. The public are interested, and I warn the Members of the Senate that if they postpone the trial of this case until next November they will be seriously criticized on all sides, and that it will reflect upon the Members of the Senate and the courts of the United States to have this thing hanging over them during a campaign.

The VICE PRESIDENT. The Chair will further state that in the future he will regard Rule XXIII, in which it is stated that "orders and decisions shall be made and had by yeas and nays," as relating to the actual trial. The yeas and nays will be ordered on the pending question without demand, but in former trials of impeachment the yeas and nays have been ordered on questions upon the request of Senators present. Much time will be saved if the inconsequential questions which come up shall be decided in the ordinary methods by a viva voce vote. On a question of the importance of the pending one, the Chair holds that a yea-and-nay vote is required without a demand from one-fifth of the Members present.

Mr. HARRELD. Mr. President, it seems to me that the main consideration in fixing the time for holding this trial is to fix a time when the minds of individual Senators will not be distracted by other things. If we adjourn to meet here in November, when that word goes out over the country every Senator will be bombarded with the usual amount of detail and especially the accumulated details that will pile up over the period between now and that time. Every Senator's mind will be distracted by those things, and I do not believe it would be possible to give this man the fair trial he is entitled to have.

For the reason I have stated, I shall support the motion to try the case in June.

Mr. BRATTON. Mr. President, a parliamentary inquiry. I understand that general pairs do not apply on votes taken in an impeachment case. If I am wrong about that, I should like to be informed.

The VICE PRESIDENT. That would be a question for the Senate to decide.

Mr. BRATTON. I have a general pair with the junior Senator from Indiana [Mr. Robinson], who is absent. Of course, I respect that pair in any legislative matter, but I understand it would not apply to an impeachment trial.

Mr. SWANSON. Mr. President, I do not think general pairs have ever been held to apply to impeachment trials, except where a Senator was ill and had made up his mind as to whether the respondent should or should not be found guilty and obtained a pair.

Mr. JOHNSON. Mr. President, a parliamentary inquiry. Is the question upon the amendment fixing June 21 as the day for the opening of the trial?

The VICE PRESIDENT. The question is upon agreeing to the amendment of the Senator from California fixing June 21, instead of November 10, as the day for the opening of the trial. The Chair will rule that general pairs do not hold in a court of impeachment. The clerk will call the roll.

The Chief Clerk called the roll.

Mr. WALSH. I wish to announce that the Senator from Arkansas [Mr. Robinson] is necessarily out of the city; that the Senator from Wyoming [Mr. Kendrick] is necessarily absent on public business, and that the Senator from Nevada [Mr. Pittman] and the Senator from Alabama [Mr. Underwood] are absent on account of illness.

The result was announced—yeas 24, nays 55, as follows:

YEAS—24

Blease	George	Jones, Wash.	Ransdell
Borah	Harreld	King	Reed, Mo.
Bratton	Harris	La Follette	Smith
Cameron	Howell	McMaster	Smoot
Copeland	Johnson	McNary	Trammell
Couzens	Jones, N Mex.	Norris	Wheeler

NAYS—55

Ashurst	Ernst	Lenroot	Sheppard
Bayard	Fernald	McKellar	Shipstead
Bingham	Ferris	Mayfield	Shortridge
Broussard	Fess	Metcalf	Simmons
Bruce	Fletcher	Moses	Steck
Butler	Frazier	Neely	Stephens
Caraway	Gillett	Norbeck	Swanson
Cummins	Glass	Nye	Tyson
Curtis	Goff	Oddie	Walsh
Dale	Gooding	Overman	Warren
Deneen	Hale	Phipps	Weller
Dill	Harrison	Reed, Pa.	Williams
Edge	Heflin	Sackett	Willis
Edwards	Keyes	Schall	

NOT VOTING—17

Capper	McKinley	Pittman	Wadsworth
du Pont	McLean	Robinson, Ark.	Watson
Gerry	Means	Robinson, Ind.	
Greene	Pepper	Stanfield	
Kendrick	Pine	Underwood	

So Mr. Johnson's amendment was rejected.

The VICE PRESIDENT. The question now is on the adoption of the order as modified, which the clerk will read.

The Chief Clerk read as follows:

Ordered, That the cause shall be opened and the trial proceeded with at 12.30 p. m. on the 10th of November, 1926. It is further ordered that a list of witnesses be furnished to the Sergeant at Arms by the managers and the respondent, who shall be subpœnaed by him to appear at 12.30 p. m. on the 10th of November, 1926, or such other date as the managers or respondent may indicate. That in case hereafter the managers or the respondent may desire the attendance of additional witnesses, in such case the managers or the respondent may have the witnesses or witnesses desired subpœnaed in accordance with the practice and usage of the Senate upon application in such form as may be approved by the Presiding Officer.

Mr. NEELY. Mr. President, I move to amend the proposed order by striking out the word "tenth" and inserting in lieu thereof the word "fifteenth." This will be one case in which Senators will not be permitted to make long-winded speeches, or charm themselves with the music of their own voices. We shall be simply amazed at the rapidity of our progress when we are compelled to devote ourselves to a task and refrain from superfluous discussion.

Mr. BORAH. Mr. President, the Senator forgets that we have man agers and distinguished attorneys to make our speeches.

May I ask the Senator in charge of the resolution a question? It seems to me we ought to determine at this time, before we vote on the particular day certain, something about the question whether the House is going to adjourn or whether we are going to depend upon the Executive to bring us back here?

Mr. CUMMINS. Mr. President, the House has nothing to say about this order. It can neither agree to it nor disagree from it. When we come to the question of adjournment, the matter in the mind of the Senator from Idaho will undoubtedly arise. But if this order is agreed to, I shall make a motion that the Senate, sitting for the trial of this impeachment, shall adjourn until 12.30 o'clock on the 10th day of November, and if that is done the Senate will meet on that day for the trial of this case. We have not determined what shall be done with regard to adjournment as a Senate.

Mr. SWANSON. Mr. President, under the Constitution one House can not adjourn for more than three days without the consent of the other.

Mr. CUMMINS. There is no doubt that the Senate as a Court of Impeachment can adjourn without the consent of the House. I do not think anyone will doubt that. At least we are proceeding upon the theory that the Senate sitting for the trial of an impeachment has a right to adjourn without the assent of the House.

Mr. SWANSON. Until the 10th of November, and then the question arises as to whether the House shall be in session, and that will be a matter for them to determine.

Mr. CUMMINS. That will be a matter for future disposition. The managers, I assume, will be in attendance on the Senate on the 10th day of November to proceed with the trial of the case. When we come to determine whether the House may be permitted to adjourn sine die so that it would not meet until the regular session in December, the matter in the mind of the Senator from Idaho will arise and will have to be determined.

Mr. LENROOT. Mr. President, will the Senator from Iowa yield to me?

Mr. CUMMINS. Certainly.

Mr. LENROOT. I would like to put this question to the Senator: If we do adjourn now as a court until the 10th day of November, suppose Congress by concurrent resolution does adjourn later on sine die, or does not agree to that adjournment?

Mr. CUMMINS. My view always has been, and if it is not correct, of course, we have been going along all the time on the wrong theory, that the Senate sitting for the trial of an impeachment does not require the assent of the House for the adjournment of that trial.

Mr. LENROOT. That may be, but under precedents as I have examined them, especially the Belknap case, the Senate did once hold that the Senate sitting as a Court of Impeachment could not proceed to trial unless the House was in session.

Mr. CUMMINS. Absolutely; and that is a question which will come up whenever there is a proposal that the House shall adjourn until some future time—that is, to some time beyond the 10th of November. It can not adjourn in that way without our assent.

Mr. WALSH. Mr. President, this matter ought not to give rise to any controversy at this time. If the order prevails and an adjournment is taken until the 10th day of November, it will be necessary for the Senate at some time or other to adjourn until the 10th day of November. The Senate can not adjourn until the 10th day of November except with the consent of the House. The House is interested in this transaction. It is inconceivable that the House will not agree. But if the House does not agree, as provided by the Constitution, the President can adjourn us to any time he sees fit. The House will want to adjourn sine die, and they will send over a concurrent resolution providing that the House shall adjourn sine die. They understand we can not adjourn sine die, so the House will ask the Senate to concur in the resolution that they be permitted to adjourn sine die, and the Senate probably will agree. We have exactly the same question that always arises by the two Houses endeavoring to agree on a time of adjournment, except that in this case the Senate will adjourn to one time and the House will adjourn to another time.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from West Virginia [Mr. Neely] fixing November 15 instead of November 10, as provided in the resolution as the date for the meeting of the Court of Impeachment. [Putting the question.] The noes seem to have it. Is there a demand for the yeas and nays?

Mr. NEELY. Let us have the yeas and nays.

The VICE PRESIDENT. Under the rule the Chair will direct the calling of the yeas and nays during the impeachment proceeding upon the request of a single Member.

Mr. CUMMINS. Mr. President, will the Chair have the question stated so we may understand the amendment proposed by the Senator from West Virginia?

The VICE PRESIDENT. The clerk will state the question.

The CHIEF CLERK. The Senator from West Virginia proposes to strike out the word "tenth" in the modification of the order and insert "fifteenth," so as to read:

The cause shall be opened and the trial proceeded with at 12.30 p. m. on the 5th day of November, etc.

Mr. SHORTRIDGE. May we not save time by a division rather than a roll call?

The VICE PRESIDENT. Under the rule a division is not allowed to be taken in an impeachment proceeding. It must be a yea-and-nay vote or unanimous consent must be given. The Clerk will call the roll.

The Chief Clerk called the roll.

Mr. WALSH. I wish to announce that the Senator from Arkansas [Mr. Robinson] is necessarily out of the city; that the Senator from Wyoming [Mr. Kendrick] is necessarily absent on public business, and that the Senator from Nevada [Mr. Pittman] and the Senator from Alabama [Mr. Underwood] are absent on account of illness.

The result was announced—yeas 20, nays 59, as follows:

YEAS—20

Bingham	Harreld	Lenroot	Sackett
Dill	Harrison	Neely	Shipstead
Edge	Howell	Oddie	Shortridge
Gooding	Jones, Wash.	Phipps	Weller
Hale	King	Ransdell	Wheeler

NAYS—59

Ashurst	Deneen	La Follette	Simmons
Bayard	Edwards	McKellar	Smith
Blease	Ernst	McMaster	Smoot
Borah	Fernald	McNary	Stanfield
Bratton	Ferris	Mayfield	Steck
Broussard	Fess	Metcalf	Stephens
Bruce	Fletcher	Moses	Swanson
Butler	Frazier	Norbeck	Trammell
Cameron	George	Norris	Tyson
Caraway	Gillett	Nye	Walsh
Copeland	Goff	Overman	Warren
Couzens	Harris	Reed, Mo.	Watson
Cummins	Heflin	Reed, Pa.	Williams
Curtis	Johnson	Schall	Willis
Dale	Jones, N. Mex.	Sheppard	

NOT VOTING—17

Capper	Kendrick	Pepper	Underwood
du Pont	Keyes	Pine	Wadsworth
Gerry	McKinley	Pittman	
Glass	McLean	Robinson, Ark.	
Greene	Means	Robinson, Ind.	

So Mr. Neely's amendment was rejected.

The VICE PRESIDENT. The question now is on the order submitted by the senior Senator from Iowa [Mr. Cummins], as modified, fixing the date at November 10 for the impeachment trial. Are the yeas and nays demanded? They will be ordered at the request of any Senator.

Mr. BLEASE. Mr. President, I ask to be recorded as voting against the order as modified, but I do not ask for the yeas and nays.

Mr. CUMMINS. Mr. President, I ask for the yeas and nays, so that the matter may be kept in order.

The yeas and nays were ordered, and the Chief Clerk called the roll

Mr. WALSH. I wish to announce that the Senator from Arkansas [Mr. Robinson] is necessarily out of the city, that the Senator from Wyoming [Mr. Kendrick] is necessarily absent on public business,

and that the Senator from Nevada [Mr. Pittman] and the Senator from Alabama [Mr. Underwood] are absent on account of illness.

The result was announced—yeas 65, nays 10, as follows:

YEAS—65

Ashurst	Ernst	McKellar	Shortridge
Bayard	Fernald	McMaster	Simmons
Bingham	Ferris	McNary	Smoot
Bratton	Fess	Mayfield	Stanfield
Broussard	Fletcher	Metcalf	Steck
Bruce	Frazier	Moses	Stephens
Butler	Gillett	Norbeck	Swanson
Cameron	Goff	Nye	Tyson
Caraway	Hale	Oddie	Walsh
Copeland	Harreld	Overman	Warren
Cummins	Harris	Phipps	Watson
Curtis	Heflin	Ransdell	Weller
Dale	Howell	Reed, Pa.	Williams
Deneen	Jones, N. Mex.	Sackett	Willis
Dill	Jones, Wash.	Schall	
Edge	La Follette	Sheppard	
Edwards	Lenroot	Shipstead	

NAYS—10

Blease	Gooding	Neely	Trammell
Borah	Johnson	Norris	
George	King	Smith	

NOT VOTING—21

Capper	Harrison	Pepper	Underwood
Couzens	Kendrick	Pine	Wadsworth
du Pont	Keyes	Pittman	Wheeler
Gerry	McKinley	Reed, Mo.	
Glass	McLean	Robinson, Ark.	
Greene	Means	Robinson, Ind.	

So the order was agreed to.

Mr. CUMMINS. Mr. President, I move that the Senate sitting for the trial of the articles of impeachment exhibited by the House of Representatives against George W. English, judge of the District Court of the United States for the Eastern District of Illinois, do now adjourn until November 10, 1926, at 12.30 o'clock postmeridian.

The motion was agreed to.

The VICE PRESIDENT. The Senate sitting as a Court of Impeachment stands adjourned until November 10, 1926, at 12.30 o'clock p. m.

The managers on the part of the House and counsel for the respondent retired from the Chamber.

WEDNESDAY, NOVEMBER 10, 1926

IN THE SENATE OF THE UNITED STATES.

The Senate met at 12.30 p. m., pursuant to House Concurrent Resolution 39, agreed to July 3, 1926.

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Gracious Father, in the wonders of Thy love and mercy, Thou dost grant unto Thy servants the guidance of Thy Spirit in every matter pertaining to highest interest. We come together this morn-

ing asking Thee for wisdom from Thyself. Give unto each one such guidance and direction that whatever may be accomplished shall be accomplished in Thy fear and for the honor of our Nation.

Grant, we beseech of Thee, to sorrowing ones the blessing of Thy comfort, and enable each amid the shadows of bereavement to rest in Thee and abide Thy good will.

We ask every mercy in the name and for the sake of Jesus Christ our Lord. Amen.

T. Coleman Du Pont, a Senator from the State of Delaware, appeared in his seat to-day.

IMPEACHMENT OF JUDGE GEORGE W. ENGLISH

The VICE PRESIDENT (Charles G. Dawes, of Illinois). The hour of 12.30 o'clock p. m., to which the Senate sitting as a Court of Impeachment on May 5, 1926, adjourned, having arrived, the Senate is now in session for the trial of the articles of impeachment exhibited by the House of Representatives against George W. English, United States district judge for the eastern district of Illinois. The Sergeant at Arms will make proclamation.

The Sergeant at Arms (David S. Barry) made proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against George W. English, judge of the United States Court for the Eastern District of Illinois.

The Assistant Doorkeeper of the Senate (Carl A. Loeffler) announced the presence of the managers on the part of the House of Representatives, as follows:

I have the honor to announce the managers on the part of the House of Representatives to conduct proceedings in the impeachment of George W. English, United States district judge for the eastern district of Illinois.

The VICE PRESIDENT. The Sergeant at Arms will conduct the managers to the seats provided for them.

Representative Earl C. Michener, of Michigan; Representative Ira G. Hersey, of Maine; Representative Hatton W. Sumners, of Texas, and Representative John N. Tillman, of Arkansas, of the board of managers, preceded by the Sergeant at Arms of the House of Representatives, Joseph G. Rodgers, appeared, and they were conducted to the seats assigned them in the area in front of the Secretary's desk.

Mr. Edward C. Kramer, of counsel for the respondent, entered the Chamber and took the seat assigned him.

The VICE PRESIDENT. The Journal of the proceedings of the Senate of May 5, 1926, sitting for the trial of the impeachment, will be read.

The Chief Clerk (John C. Crockett) proceeded to read the Journal of the proceedings of the Senate of Wednesday, May 5, 1926, sitting for the trial of the impeachment of George W. English.

Mr. CURTIS. I ask unanimous consent that the further reading of the Journal be dispensed with and that it may stand approved.

The VICE PRESIDENT. Without objection, it will be so ordered. What is the pleasure of the managers of the House?

Mr. Manager MICHENER. Mr. President, I am directed by the managers on the part of the House of Representatives to advise the Senate, sitting as a Court of Impeachment, that in consideration of the resignation of George W. English, district judge of the United States for the eastern district of Illinois, and its acceptance by the President of the United States, certified copies of which I hereby submit, the managers on the part of the House have determined to recommend the dismissal of the pending impeachment proceedings. The managers desire to report their action to the House, and to this end they respectfully request the Senate, sitting as a Court of Impeachment, to adjourn to such time as may be necessary to permit the House to take appropriate action upon their report.

The resignation and its acceptance are as follows:

UNITED STATES OF AMERICA,
DEPARTMENT OF JUSTICE,
Washington, D. C., November 8, 1926.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are true copies of the original resignation and acceptance, the original of the resignation and a copy of the acceptance being on file in this department.

In re resignation of George W. English as United States district judge, eastern district of Illinois.

In witness whereof, I have hereunto set my hand and caused the seal of the Department of Justice to be affixed on the day and year first above written.

[SEAL.]

JNO. G. SARGENT,
Attorney General.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ILLINOIS,
CHAMBER OF JUDGE GEORGE W. ENGLISH, EAST ST. LOUIS,
East St. Louis, Ill., November 4, 1926.

To His Excellency the PRESIDENT OF THE UNITED STATES:

I hereby tender my resignation as judge of the District Court of the United States for the Eastern District of Illinois, to take effect at once.

In tendering this resignation I think it is due you and the public that I state my reasons for this action.

While I am conscious of the fact that I have discharged my duties as district judge to the best of my ability, and while I am satisfied that I have the confidence of the law-abiding people of the district, yet I have come to the conclusion on account of the impeachment proceedings instituted against me, regardless of the final result thereof, that my usefulness as a judge has been seriously impaired.

I therefore feel that it is my patriotic duty to resign and let some one who is in nowise hampered be appointed to discharge the duties of the office.

Your obedient servant,

GEORGE W. ENGLISH.

THE WHITE HOUSE,
Washington, November 4, 1926.

HON. GEORGE W. ENGLISH,
United States District Court, East St. Louis, Ill.

SIR: Your resignation as judge of the District Court of the United States for the Eastern District of Illinois, dated November 4, 1926, has been received and is hereby accepted to take effect at once.

Very truly yours,

CALVIN COOLIDGE.

Mr. CURTIS. Mr. President, in view of the statement made by the manager, I submit the order which I send to the desk, and ask for its adoption.

The VICE PRESIDENT. The order will be read.

The order was read and agreed to, as follows:

Ordered, That the Sergeant at Arms be directed to notify all witnesses heretofore subpœnaed that they will not be required to appear at the bar of the Senate until so notified by him.

Mr. CURTIS. Mr. President, I submit the order which I send to the desk.

The VICE PRESIDENT. The order will be read.

The order was read and agreed to, as follows:

Ordered, That in view of the statement just made by the chairman of the managers on the part of the House of Representatives, the Senate, sitting for the trial of the impeachment of Judge George W. English, adjourn until Monday, the 13th day of December, 1926, at 1 o'clock p. m.

The managers on the part of the House and the counsel for the respondent retired from the Chamber.

MONDAY, DECEMBER 13, 1926

IN THE SENATE OF THE UNITED STATES.

The VICE PRESIDENT (at 1 o'clock p. m.). The hour having arrived to which the Senate, on November 10 last, sitting for the trial of the impeachment of George W. English, United States district judge for the eastern district of Illinois, on articles of impeachment preferred against him by the House of Representatives, adjourned, the legislative business of the Senate will now be suspended and the Senate, sitting for the said trial, will resume its session. The Sergeant at Arms will make proclamation.

The Sergeant at Arms (David S. Barry) made proclamation as follows:

Hear ye! Hear ye! Hear ye! All person are commanded to keep silence, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against George W. English, judge of the United States Court for the eastern district of Illinois.

The Assistant Doorkeeper of the Senate (Carl A. Loeffler) announced the appearance of the managers on the part of the House of Representatives, as follows:

I have the honor to announce the managers on the part of the House of Representatives to conduct proceedings in the impeachment of George W. English, United States district judge for the eastern district of Illinois.

The VICE PRESIDENT. The Sergeant at Arms will conduct the managers to the seats provided them.

Representative EARL C. MICHENER, of Michigan, chairman; Representative HATTON W. SUMNERS, of Texas; Representative ANDREW J. MONTAGUE, of Virginia; Representative WILLIAM D. BOIES, of Iowa; Representative IRA G. HERSEY, of Maine; Representative JOHN N. TILLMAN, of Arkansas; Representative C. ELLIS MOORE, of Ohio; Representative FRED H. DOMINICK, of South Carolina; and

Representative GEORGE R. STOBBS, of Massachusetts, the board of managers, preceded by the Sergeant at Arms of the House of Representatives (Joseph E. Rodgers), entered the Chamber and were conducted to the seats provided for them in the area in front of the Secretary's desk.

The VICE PRESIDENT. The clerk will call the roll of Senators who have not heretofore taken the oath of office as provided by the rules of the Senate.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk (John C. Crockett) called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	King	Shipstead
Bayard	Frazier	Lenroot	Shortridge
Bingham	George	McKellar	Simmons
Blease	Gillett	McMaster	Smith
Borah	Glass	McNary	Smoot
Bratton	Goff	Mayfield	Stanfield
Broussard	Gooding	Means	Steck
Bruce	Gould	Metcalf	Stephens
Cameron	Greene	Moses	Stewart
Capper	Hale	Neely	Swanson
Copeland	Harreld	Norris	Trammell
Couzens	Harris	Oddie	Tyson
Curtis	Harrison	Overman	Underwood
Dale	Hawes	Pepper	Wadsworth
Deneen	Heflin	Phipps	Walsh, Mass.
Dill	Howell	Ransdell	Walsh, Mont.
du Pont	Johnson	Reed, Mo.	Warren
Edge	Jones, N. Mex.	Reed, Pa.	Watson
Edwards	Jones, Wash.	Sackett	Weller
Ferris	Kendrick	Schall	Wheeler
Fess	Keyes	Sheppard	Willis

The VICE PRESIDENT. Eighty-four Senators having answered to their names, a quorum is present.

The clerk will call the names of Senators who have not heretofore taken the oath as provided by the rules of the Senate, and they will present themselves at the desk to take the oath.

The Chief Clerk called the names of the following Senators: Mr. Capper, Mr. du Pont, Mr. Gould, Mr. Hawes, Mr. Pittman, Mr. Robinson of Indiana, Mr. Stewart, and Mr. Walsh of Massachusetts.

Mr. Capper, Mr. du Pont, Mr. Gould, Mr. Hawes, Mr. Stewart, and Mr. Walsh of Massachusetts advanced to the Secretary's desk, and the oath was administered to them by the Vice President.

Mr. Manager MICHENER. Mr. President, in behalf of the managers on the part of the House of Representatives I present a certified copy of a resolution passed by the House on the 11th day of December, 1926, and ask that it may be read by the clerk.

The VICE PRESIDENT. The clerk will read as requested.

The Chief Clerk read the resolution, as follows:

House Resolution 327

IN THE HOUSE OF REPRESENTATIVES, UNITED STATES,
December 11, 1926.

Resolved, That the managers on the part of the House of Representatives in the impeachment proceedings now pending in the Senate against George W. English, late judge of the District Court of the United States for the Eastern District of Illinois, be instructed to appear before the Senate, sitting as a Court of Impeachment in said cause, and advise the Senate that

in consideration of the fact that said George W. English is no longer a civil officer of the United States, having ceased to be a district judge of the United States for the eastern district of Illinois, the House of Representatives does not desire further to urge the articles of impeachment heretofore filed in the Senate against said George W. English.

Mr. Manager MICHENER. Mr. President, pursuant to the terms of the said resolution, the managers on the part of the House, by direction of the House of Representatives, respectfully request the Senate to discontinue the proceedings now pending against George W. English, late district judge of the United States for the eastern district of Illinois.

Mr. CURTIS. Mr. President, in view of the resolutions passed by the House of Representatives and the statement upon the part of of the managers, I present the following order:

The VICE PRESIDENT. The clerk will read the order.

The Chief Clerk read the order, as follows:

Ordered, That the impeachment proceedings against George W. English, late judge of the District Court of the United States for the eastern District of Illinois, be, and the same are, duly dismissed.

Mr. BLEASE. Mr. President, I do not agree with those Senators——

The VICE PRESIDENT. Under Rule XXIII, the rule governing impeachment proceedings, the order is not debatable.

Mr. BLEASE. Then I rise to a question of personal privilege. If we are going to pass this order without giving Senators a chance to speak on it, I want to know it.

The VICE PRESIDENT. Is there objection to the Senator from South Carolina proceeding?

Mr. CURTIS. I hope there will be no objection. Let the Senator make his speech if he wants to do so.

Mr. BLEASE. I do not want to make a speech. I want to file my reasons for not voting for the order submitted by the Senator from Kansas [Mr. Curtis].

The VICE PRESIDENT. There being no objection, the Senator from South Carolina will proceed.

Mr. BLEASE. Mr. President, I do not agree with those Members of the Senate who advocate the dismissal of these charges upon the resignation of Judge English, nor have I the slightest inclination to burden others with duties other than those already imposed upon them; but, in my opinion, it is a serious mistake, after things have gone so far, to permit Judge English to resign—not Judge English especially, but any judge of the United States so charged. If, after the jury has been sworn, a nolle prosequi is entered, does that not automatically acquit the defendant?

Would an humble citizen who had committed a crime, if a crime had been committed, and was charged with it, be given such leniency? For instance, if a man holding some office was caught with whisky, would he be permitted to resign? Would a clerk in the Treasury Department, or an assistant treasurer, who accepted a bribe or had stolen money, be allowed to resign without further punishment? Would the cashier of a bank in which the Government had a controlling interest, who had become a thief, be allowed to resign and escape further punishment?

Are we now to say to all Federal judges, "Do as you like; drink liquor, accept bribes, steal, curse from the bench, live as immorally

as you wish, and if caught, just resign?" Which is the crime, doing these things or being caught doing them?

Why not deal with all Americans alike? Why should the prominent men, or so-called "big men," be allowed to do as they please, to violate the law with impunity and escape punishment, while the ordinary American is punished for each little infraction?

We saw a most disgusting instance recently. A policeman who, by mere chance, was assigned to be a guard at the Rumanian Embassy while Queen Marie was being entertained, was offered a drink, a glass of wine, on the outside. It was found out; he was haled before the police trial board and fined $75 and reprimanded for taking a glass of wine, or being intoxicated, while other Americans a little higher up, some possibly intoxicated, were drinking wine at the same time and were hailed in the newspapers the next morning as the distinguished entertainers of our foreign visitor.

I wish to go on record to-day as disapproving any such enforcement of law, and for that reason I shall vote to proceed with the trial of this man. If he is not guilty, let us say so, and leave him not under the stigma of disgrace for which his children and his grandchildren must suffer. If he is guilty, punish him as if he was any other citizen of this great American Nation. Unless we set this precedent, and our courts keep it up, gunmen, mail robbers, lynchers, and such criminals will continue to take into their own hands the laws which we, when we have the opportunity, refuse to enforce.

The grand jury (House of Representatives) has been handed the indictment, examined the witnesses, and returned a true bill. The defendant (English) has appeared at the bar, been arraigned, and plead not guilty. The Attorney General (House managers) should do his duty and proceed with the trial, and then let the court (the Senate) and petit jurors perform their proper functions without fear or favor, that the people may have confidence in their tribunals. Then, and not until then, will property rights and human lives be properly protected and peace reign supreme.

I say this with all respect and kindness for everybody connected with the case, but I feel that it is time that a halt be called against this discrimination in the enforcement of our laws, and the best place to start is in the Senate of the United States and the Supreme Court of the United States.

I ask to have inserted in the Record a clipping from the Washington Post of October 29, 1926, and one from the Washington Herald of November 22, 1926, to further show the partiality shown in the enforcement of our laws in this country.

Lieutenant Raedy is quoted as saying:

> It was pretty wild there that night. If he had been an old-timer on the force, he could have held his liquor, and gone about his business and no one would have known anything about it.

This was at a foreign embassy. No one was arrested. The other was in an American club. One was considered a reception for a queen, who possibly was used as a drawing card; the other a reception for Americans, and all were arrested. And yet we boast of equal rights to all and special privileges to none! It is no wonder that many of our people disrespect and disregard our laws and law enforcement.

The VICE PRESIDENT. Without objection, the newspaper articles will be printed in the Record as requested.

The articles are as follows:

[From the Washington Post, October 29, 1926]

LIQUOR

DRUNK GUARDING QUEEN, POLICEMAN IS FINED $75—RUMANIAN LEGATION TOO HOSPITABLE, STARKWEATHER EXPLAINS TO BOARD—WILD NIGHT, RAEDY SAYS

Policeman Lafone Starkweather, of the third precinct, was arraigned before the police trial board yesterday on a charge of having been intoxicated while specially detailed to guard the Rumanian Legation during the recent visit of Queen Marie. Because of his previous good record, he was not dismissed from the force but was fined $75.

Starkweather was charged with "sitting on a box inside of a yard at 1607 Twenty-third Street NW. in an apparently dazed condition," and with being intoxicated. The charges were made by Sergt. H. T. Burlingame, who testified that he found Starkweather.

The policeman told the board that the "hospitality was too generous" for his inexperienced drinking ability, and asked that they be as lenient as possible. Lieut. Michael Raedy, of the third precinct, was the star defense witness. He testified that he had assigned Starkweather to the detail because he knew he was not a drinking man and because he believed that the policeman could "withstand the temptations down at the legation."

"Oh, it was pretty wild there that night," Raedy said when the trial board members looked askance at his testimony. "If he had been an old-timer on the force, he could have held his liquor and gone about his business and no one would have known anything about it," Lieutenant Raedy said.

[Clipping from Washington Herald, November 22, 1926]

NIGHT CLUB RAID

SCORE NABBED IN PIRATES' CLUB RAID—MEN AND GIRLS IN PANIC WHEN ALARM SOUNDS—LOUISE JOHNSON, 19, AND THREE OTHER DINERS, WITH MANAGER AND AID TO FACE COURT

Police opened their drive against Washington night clubs early yesterday with a spectacular raid at the Pirates' Den, 1219 New York Avenue NW., in which nearly a score of fashionably dressed women and men were arrested.

In evening attire the women, several hysterical, and the men were marched into a patrol wagon and taken to the first precinct station. Many were released after being questioned, while the others were charged with various violations.

MANAGER IS HELD

John Benton, manager, 47, who gave his address as the Night Club, and his secretary, Louis Baker, 24, of the Brunswick Apartments, were charged with maintaining a disorderly house. Both were released after depositing collateral.

The raid was the first of a series to be conducted in the downtown section against night clubs. Lieut. James Beckett and Sergt. O. J. Letterman, night commanders of the first precinct, declared certain "clubs" have been a constant annoyance.

Squads of plain-clothes men working with a detachment from the Women's Bureau have been instructed to seek evidence against the "clubs" preparatory to staging the raids.

HESSE VERY STRICT

Maj. Edwin B. Hesse, superintendent of police, last night said he was against all night clubs and that he intends to compel the owners to observe the laws to the fullest extent. He admitted he has instructed the men under his command to watch for all violations and make arrests wherever necessary.

Lieut. Mina C. Van Winkle, head of the Women's Bureau, who is cooperating personally in the drive, declared last night that night clubs are not needed in Washington. She said:

"The city is too small to maintain the clubs, as most of those who patronize them can't afford the clubs either financially or physically. Many young girls, seeking adventure, attend these resorts nightly, losing their willpower under the influence of strong drink and are made the tools of the older men."

ONE GIRL ARRESTED

Besides the manager and secretary of the Pirates' Den, others who were charged gave the following names and addresses: Luther R. King, 35, 134 Q Street NW., intoxication; Ignatius George Hanley, 24, 812 Twenty-fourth Street NW., intoxication; Miss Mary Louise Johnson, 19, 2216 Pennsylvania Avenue NW., disorderly conduct; and Julian H. Swain, 23, 2123 I Street NW., intoxication and disorderly conduct. The others, after being questioned, were released.

Police say they have appeared at the "club" nightly, in competition with taxicab drivers, since the Den opened. The cabs lined the curb in front of the place, while police waited in the shadows of doorways and alleys, each waiting for "customers."

Many of the guests leaving for other places in the early morning hours were unable to traverse the distance between the Den exit and the awaiting cabs in their staggering conditions. These fell into the arms of police.

PIRATES DEPARTED

"Fourteen men on a dead man's chest.
Yo. Ho! And a bottle of rum.

This song and the flag of the skull and bones went down to a smashing defeat as the blue uniforms of the police and the gaudy garb of the "pirates" blended during the raid of early yesterday.

It was 3 o'clock in the morning when the police "cutter"—the first-precinct patrol—sailed forth, manned by Capt. Thaddeus Bean, to take the "pirates" by surprise in the night. It slowly made its way within sight of the Den, then hid under the cover of darkness.

Lieutenant Beckett, Sergeant Letterman, with Detectives Al Mansfield, J. E. Kane, and R. Aggleson and Policemen C. C. Stepp, R. S. Bryant, and C. K. Culver embarked for close contact with the "pirates," closing upon the Den from all sides.

As the porthole, or sighting door of the Den opened, the police made a rush, battling their way through.

Mr. DILL. Mr. President, I ask unanimous consent to be permitted to make a short statement.

The VICE PRESIDENT. Without objection, the Senator from Washington will proceed.

Mr. DILL. Mr. President, I wish to state my reasons for being opposed to this proposed order of dismissal.

A Federal judge holds an office of the highest public trust. He is further removed from the direct control of the people than is any other official of this Government. The framers of the Constitution, recognizing this, provided a special kind of punishment; namely, that he should be tried by the Senate of the United States, after having been impeached by the House of Representatives, and if convicted a certain penalty should attach. That penalty is of the most drastic kind that could be applied to a public official of this Republic. If Judge English is guilty, that punishment should be applied to him, not because he is Judge English, but for the purpose of warning other men holding the position of Federal judge, that although they are removed from the direct control of the people, in order that the judiciary may be independent, notwithstand-

ing the wheels of justice will grind exceedingly sure when once they are started against a judge who has been faithless to his trust. Therefore I think this case should be proceeded with.

If this man is guilty, the punishment should be meted out. He should not be allowed merely by resigning to return to the practice of the law, to be eligible to any other office that he might seek or be offered, but he should be given this punishment and those privileges be prohibited to him. If he is not guilty, then he should be vindicated and be permitted to continue in office, that other judges may know that when they are attacked, if falsely, they can depend upon vindication and will not need to resign. I think it would be a serious mistake for the Senate to dismiss these proceedings. It is no discourtesy to the House and would be carrying forward the cause of justice.

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Without objection, the Senator from Nebraska will proceed.

Mr. NORRIS. Mr. President, while on principle I agree most fully with the two Senators who have just addressed the Senate, I shall, nevertheless, support the order that has been offered, and I believe that the Senate ought to adopt it. The Senate sits as a court and a jury, while the House of Representatives represents the prosecution. I feel that we ought to follow the House in this matter, and that if it decides, as it has decided, that it does not further desire to prosecute, the matter ought to be dropped and necessarily dismissed.

I can not, however, close my eyes to the fact that the reason for the action taken by the House of Representatives is already disclosed in the record of the court, and that is because Judge English is no longer a judge; he has resigned; and the House of Representatives is proposing to dismiss the case because of that resignation.

I do not believe the House ought to take that course. I realize that in criminal proceedings the prosecuting officer often asks the court to dismiss a case, and that usually when such a request is made it is granted as a matter of course. He does that, however, because he has since the indictment ascertained that, for one reason or another, sufficient in his judgment, no conviction can be had. However, to dismiss the pending case because the judge has resigned is similar to the position in which the prosecuting officer would be if he proposed to dismiss a charge of larceny because the defendant had returned the stolen property.

It seems to me that what the Senator from South Carolina [Mr. Blease] and the Senator from Washington [Mr. Dill] has stated, so far as the principle involved is concerned, is correct, although I do not myself see how the Senate can do anything except to adopt the order, because should we not do so, we should be left in the postition of there being no prosecuting officials present to take charge of the prosecution, and it would necessarily fall under circumstances such as that.

Mr. REED of Pennsylvania. Mr. President——

The VICE PRESIDENT. Without objection, the Senator from Pennsylvania will proceed.

Mr. REED of Pennsylvania. Mr. President, if this were a question on which our free discretion were open, I believe I should vote to continue with the trial. If the charges against Judge English should be sustained by the evidence, he would richly deserve the judgment of attainder which the Constitution would enable us to put upon him; but the House of Representatives does not submit the matter to our judgment; they do not suggest that we dismiss the case; they request it. In view of the fact that the coordinate House of Congress requests us to dismiss the proceedings which were instituted by them, it seems to me we are in all comity bound to accede without question to their request.

Mr. REED of Missouri. Mr. President, so that it may appear in the Record, I desire to say just a word, with the unanimous consent of my colleagues.

The VICE PRESIDENT. Without objection, the Senator from Missouri will proceed.

Mr. REED of Missouri. Mr. President, I agree with everything that has been said this morning so far as the responsibility of the Senate is concerned and so far as our duty properly to try and solemnly to adjudge the guilt or innocence of any judge presented to the bar of the Senate for trial.

The regrettable part of the situation is that this judge, after a long preliminary investigation by the House of Representatives, was deemed to have been guilty of such misconduct that the House proceeded to the exhibition of articles of impeachment; these solemn charges were laid before the Senate, and it is not now the position of the House of Representatives that the charges were based upon a mistake as to the facts, that they have since discovered the accused to be innocent; on the contrary, the statement appears of record that the request for the dismissal of the proceedings here is brought about by the resignation of Judge English.

I want to be among the last of those who would in any way endeavor to embarrass the House of Representatives. I have the utmost respect for that great body; and I think I know the motive that impelled the House to take the action it has taken, and that is that this trial would involve the expenditure of a vast amount of time by both the House of Representatives and the Senate, but especially the latter; that because of the hardship of a long trial the House has felt, in view of the resignation of Judge English, it is warranted in seeking to avoid the labor of the trial and warranted also in seeking to relieve the Senate of a very arduous task. The House of Representatives has settled that question, and their managers come here now asking a dismissal. I have such deference for the opinion of the House that since as the prosecutor it sees fit to take this action, I have no word of criticism whatever; but I do say that it is a lamentable thing, first, that it ever should be necessary to bring any grave charges against a member of the Federal judiciary—and these charges have been very grave, indeed. If anyone of several of the charges was true, then Judge English was guilty of conduct not only disgraceful to the bench but a blot upon our entire jurisprudence; a shame upon our civilization. If it has come to this, that men who wear the ermine which should always be kept spotless, are guilty of acts of tyranny and guilty of positive corrup-

tion in office, then, indeed, we have reached a sad state in this Republic, where, notwithstanding charges of malfeasance and misfeasance have often been made and frequently been proven with reference to ordinary officers of the State, it has been seldom, indeed, that the leprosy of corruption has touched the occupant of the bench.

This man is solemnly charged with grave acts of malfeasance and misfeasance in office. We are not told now that those charges were filed in a mistaken way and because of a misapprehension of fact, but we are asked to dismiss the charges because the defendant has resigned. By resigning he escapes the greater part of the punishment the law commands, for if impeachment is sustained, then two things follow: One, a deprivation of office; the other, a bar to any further holding of an office of either honor or trust. So that here to-day we are required to allow one who has violated his duties under the Constitution of the United States to escape by his own voluntary act the greater part of his punishment.

It may be a little aside; but, from statements that have come to me, I believe it to be the fact that when the effort was first made to bring to the attention of the House of Representatives the misconduct of this judge, far-reaching influences were employed to prevent the action which the House afterwards took, and that some of these influences have continued actively. It is to the credit of the House of Representatives that such influences in no manner reached it, and that it took the action that it did initially and that it has pursued consistently throughout, regardless of any such influences; but the course we are asked to take is unpleasant to me in view of the tremendous effort to save this man from indictment by the House, and in view of the fact that he pursued an attitude of absolute defiance after he had been so charged. He appeared here with his array of attorneys, pleaded not guilty, and asked for time to prepare for his defense. He thus secured the adjournment of the Senate over the summer months. In view of all that, I regard it as an unfortunate thing that this trial could not be proceeded with; and yet I recognize the fact that to tie up the House of Representatives, at least in part, and to tie up the Senate completely, for weeks, would be almost in the nature of a public disaster, and that perhaps warrants this action.

I make the suggestion now that there ought to be devised at once some system of procedure in the Senate which would enable the ascertainment of the facts for the Senate without the necessity of the Senate sitting here as a body, listening for weeks to the oral testimony of witnesses delivered in its presence; because, if I have been correctly informed, other impeachment proceedings will be necessary in this country—a statement that I regret to make, but one that I believe is justified. So I am making that suggestion to the Senate now. I am going to vote for this proposition out of respect for the judgment of the House of Representatives, which appears here by this dignified body of men who I know are as much interested in the welfare of the country as the Senate.

Mr. BRUCE. Mr. President——

The VICE PRESIDENT. The Senator from Maryland will proceed, without objection.

Mr. BRUCE. I, too, can not allow this matter to proceed to a vote without explaining my position with respect to it.

The Federal Constitution says that in cases of this kind the House of Representatives shall have the sole power of impeachment. It also says that the Senate of the United States shall have the sole power to try all impeachments. In view of that language, it seems to me that in this case no choice is left to us. Exercising its best discretion—which I do not for a moment question—the House of Representatives has asked us to discontinue the pending impeachment. I propose to unite in the vote of discontinuance; but, at the same time, I am sure that I will be allowed the privilege of saying that I deeply regret the conclusion that the House of Representatives has reached.

It is one of the beautiful sayings of Shakespeare that lilies that fester smell far worse than weeds. So corruption or moral depravity in a judge is a thing of an even deeper dye than corruption or moral depravity in an ordinary individual. We have a right to expect of him lofty standards of conduct such as we have no right to expect of any other human being, except, perhaps, the priest. Just as the policeman is the braver for his uniform, just as the soldier is the braver for his sword, and just as the priest is the purer for his cassock, so we have the right to expect that the judge shall be stainlessly honorable and upright because of his ermine.

The old English poet affirms:

> Unless above himself he can
> Erect himself, how poor a thing is man!

One of the finest features of this moral life of ours is the fact that as moral responsibility increases so, as a rule, human ability to meet it increases.

In the whole history of this country, as I remember at this moment, only five Federal judges have ever been impeached for misconduct, and only two of them, I believe, were convicted of misconduct, and one of them, at that, a man who could hardly be said to be mentally responsible. Yet here comes along this judge, who, I have always felt, was guilty—though I was prepared to maintain an open mind in his case—because of the detailed and minute specifications of misconduct on his part drawn up by the House of Representatives with such extraordinary particularity, and just at the moment when retribution is about to be meted out to him, escapes by resigning his office.

I regret that we were not permitted to proceed to final judgment, to disregard this resignation—which was in itself, of course, under the circumstances, a confession of guilt—and to enter up an order of removal, and by its terms forever to disqualify an unjust and faithless judge from holding any office of profit, or trust, or honor under the Constitution of the United States. He has brought disgrace on one high office. Our action should have assumed such a form that he could never have an opportunity to bring disgrace on another.

I have felt—just as the members of the Senate who preceded me feel—that I would be false to myself, false to my public duty, and false to the honor and dignity of this body of which I am a member, were I not to say at least as much as I have said.

Mr. COPELAND. Mr. President——

The VICE PRESIDENT. Without objection, the Senator from New York will proceed.

Mr. COPELAND. For the reasons so well stated by the Senator from Nebraska [Mr. Norris], I shall vote to sustain the order. I shall do so believing that this action of the Congress is a mistake. I regret that the charges have been withdrawn. In justice to society and in justice to Judge English, too, the trial should proceed. But, in view of the circumstances, I see that there is nothing else to do, so far as I am concerned, except to vote to sustain the order.

Mr. WHEELER. Mr. President——

The VICE PRESIDENT. Without objection, the Senator from Montana will proceed.

Mr. WHEELER. I regret exceedingly to have to take issue with the House of Representatives with reference to the dismissal of this case; and, likewise, I regret that I am compelled to take issue with some of those who have preceded me in saying that we should vote for this order.

Some have said that we should vote for the dismissal of the case because of the cost that it would involve to the Government of the United States and some because of the inconvenience that it would cause the members of the Senate and of the House of Representatives. Permit me, however, to remind the members of this body that the Constitution of the United States was not written for the convenience of either the House of Representatives or the Senate of the United States, nor was it written with the idea that in a case of this kind the Government should be so penurious that it would not spend the money either to condemn or to vindicate a man charged with these serious crimes.

Some one has suggested that because of the fact that the House of Representatives is the prosecutor, the Senate, acting as a judge, is compelled to vote for an order of this kind. With that I entirely disagree. I doubt whether there is any member of the Senate who has been a prosecuting lawyer who would say if he went into court prosecuting a public officer charged with embezzlement or dereliction in his public duties, and asked a court of law to dismiss the case because of the fact that the officer had resigned, that the trial judge would be either justified or permitted, under his oath of office, to dismiss the case under those circumstances. The trial judge has a duty to perform, and that is to see that justice is performed in his court, regardless of what the prosecuting attorney may request him to do.

So, as I view the matter, we are here sitting as a trial judge, and it is our duty, regardless of what the House may do in this matter, to say that, as far as we are concerned, we propose that the trial shall go on until either the judge has been vindicated or has been convicted, in accordance with the facts.

I say to the Members of the Senate that they will hold themselves up to the ridicule of the country if they do not take that course. It seems to me that it is assuming an extremely weak position for Members of the Senate of the United States to say, "We are not

going to try this judge because he has resigned," or, "We are not going to go on because of the fact that Members of the House of Representatives—the prosecuting attorney, if you please—have requested that the case be dismissed."

If the House came before this body and said, "We request that the case be dismissed because there is not sufficient evidence," I would, of course, be perfectly willing and feel that I was justified, and that it was my duty then, to vote for a dismissal, but when they come before us and neither say he is guilty nor that he is innocent, and then ask us to dismiss the case because he has resigned, I say to the Members of this distinguished body that we are not doing justice, as I see it, in the case.

Mr. KING. Mr. President——

The VICE PRESIDENT. The Senator from Utah may proceed without objection.

Mr. KING. Mr. President, notwithstanding the position taken by some Senators, and the reasons assigned by them for their opposition to the proposal of the Senator from Kansas to dismiss the impeachment proceedings against Judge English, I shall without hesitation support the recommendation of the committee representing the House, and also the motion for dismissal submitted by the Senator from Kansas. The House of Representatives adopted articles of impeachment, which were subsequently presented to the Senate. The information presented to the House undoubtedly warranted the action taken in respect to Judge English. He was, when the articles of impeachment were drawn and when they were presented to the Senate, a Federal judge. He is a judge no longer. One of the objects of the impeachment proceedings—indeed, the principal object—was to secure his removal from office.

He no longer occupies a judicial position; therefore the paramount purpose has been accomplished. His resignation in the face of impeachment proceedings will be construed by many as a confession of the truth of the charges. Be that as it may, his punishment has been great. He has been driven from office, and there is no possibility of his ever again being placed in any position of trust or responsibility in State or Nation.

The House of Representatives upon mature deliberation has resolved that impeachment proceedings be dismissed. The Members of the House of Representatives have as much concern in the preservation of the honor of our Government and the integrity of the courts as have Senators. Under the Constitution of the United States, articles of impeachment are adopted by the House and it is the instrument for the prosecution of officials charged with malfeasance, high crimes, and misdemeanors. The House is as jealous of its good name as is the Senate, and it will not deal lightly with matters affecting the honor and dignity of our country. I might say that the House has a double responsibility in connection with impeachment proceedings. It not only impeaches, but after articles of impeachment have been presented to the Senate, it prepares the case and presents it to the Senate. And it also possesses the authority to determine whether it will further continue the impeachment proceedings before the Senate.

So, I repeat, it has a great responsibility in moving a dismissal of the impeachment proceedings against Judge English. It has undoubtedly measured up to the responsibility resting upon it, and has taken action after the most careful and conscientious consideration of all questions involved.

If the Senate, in the face of the action of the House of Representatives should refuse to adopt its recommendation and dismiss the proceedings, the Senate would be confronted with a rather novel situation. Could it proceed under the articles of impeachment and try Judge English with the House refusing to take further cognizance of the case? Could the Senate appoint some agency, either within or without the Senate, to secure witnesses and present testimony before the Senate?

As I now recall, there was one case involving the impeachment of a Federal judge, where, after his resignation, pending trial by the Senate, nothing whatever was done by either the House or Senate. The House, as I recall, treated the resignation as ipso facto terminating the case, and the Senate seemed to proceed upon the same theory.

The Senator from Montana has drawn a parallel between the duties of prosecuting officers and the House of Representatives. He likens the Senate to a judge before whom a case is pending and the House of Representatives to the prosecuting attorney who perhaps has drawn the indictment and is charged with the duty of prosecuting the case. As I understood him, his contention was that the judge was not bound by the recommendation of the prosecuting attorney that an order of dismissal of the indictment be entered. There have been a few cases where judges have declined, at least for the moment, to dismiss indictments upon motion of prosecuting officers. Such cases are rare, and I think in some jurisdictions the judge would not be warranted in denying the application of the prosecuting attorney to dismiss criminal charges.

While there may be some analogy between cases suggested by the Senator from Montana and the case now before us, I feel sure that the refusal of a judge to dismiss an indictment upon motion of the district attorney would not be precedent to guide the Senate.

Mr. President, the managers on the part of the House, acting under instructions from that body, are here before this Court of Impeachment. They advise us that the House has passed a resolution calling for the dismissal of all proceedings against Judge English. It seems to me our course is clear. A proper regard for that great legislative branch of our Government and for its wishes in this matter calls for prompt action upon the part of the Senate, such action to be in consonance with the wishes of the House of Representatives.

Mr. FLETCHER. Mr. President——

The VICE PRESIDENT. Without objection, the Senator from Florida may proceed.

Mr. FLETCHER. I expect to vote for this order. I want it distinctly understood, however, that it shall not be regarded as a precedent which will bind the Senate hereafter in all cases of a similar character. I shall vote for it with the understanding that each case is to stand upon its own merits, as it may be presented here, without

conceding that this shall establish a precedent, and that hereafter whenever an impeachment of a Federal judge is presented to the Senate, if he resigns during those proceedings, that will end the matter.

With that understanding, that each case stands upon its own merits, in view of the action taken by the House in this particular case, which I understand is based upon their consideration of all the facts and circumstances in connection with the matter, I propose to vote for the order.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Without objection, the Senator from Idaho may proceed.

Mr. BORAH. Judge English has resigned, and that makes it impossible for us to remove him should we find him guilty. The only judgment which we could enter would be one preventing his holding any office of honor or trust under the Federal Government.

I should not want to sit here for a number of weeks and at the public expense to arrive at a judgment upon that rather fantastical proposition. It is hardly possible that Judge English will ever hold another office under this Government, resigning under the circumstances under which he did resign, and considering his age. I think the House arrived at a very proper conclusion. I am thoroughly in favor the recommendation which they have made. It will give us much more time to devote to cleaning our own house.

The VICE PRESIDENT. The question is upon agreeing to the order presented by the Senator from Kansas, that "the impeachment proceedings against George W. English, late a judge of the District Court of the United States for the Eastern District of Illinois, be, and the same are duly, dismissed."

Mr. JONES of Washington. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. BRATTON (when his name was called). I have a general pair with the junior Senator from Indiana [Mr. Robinson], but I understand that pairs do not obtain when the Senate is sitting as a court of impeachment. I therefore feel at liberty to vote. I vote "yea."

Mr. CURTIS (when his name was called). I have a pair with the senior Senator from Arkansas [Mr. Robinson], but I understand that pairs are not followed in a case of this kind, and therefore I vote. I vote "yea."

Mr. MOSES (when his name was called). Has the junior Senator from Louisiana [Mr. Broussard] voted?

The VICE PRESIDENT. That Senator has not voted.

Mr. MOSES. I have a general pair with the junior Senator from Louisiana, and in his absence I withhold my vote. If at liberty to vote, I would vote "yea."

The roll call was concluded.

Mr. WALSH of Montana. I desire to announce that the senior Senator from Virginia [Mr. Swanson] is necessarily detained from the Senate on official business.

The result was announced—yeas 70, nays 9, as follows:

YEAS—70

Bayard	Gillett	Lenroot	Simmons
Bingham	Glass	McMaster	Smith
Borah	Goff	McNary	Smoot
Bratton	Gooding	Mayfield	Stanfield
Bruce	Gould	Metcalf	Steck
Cameron	Greene	Neely	Stephens
Capper	Hale	Norris	Stewart
Copeland	Harreld	Oddie	Tyson
Curtis	Harris	Overman	Underwood
Dale	Harrison	Pepper	Wadsworth
Deneen	Hawes	Phipps	Walsh, Mass.
Edge	Heflin	Ransdell	Walsh, Mont.
Edwards	Howell	Reed, Mo.	Warren
Ferris	Johnson	Reed, Pa.	Watson
Fess	Jones, N. Mex.	Sackett	Weller
Fletcher	Kendrick	Schall	Willis
Frazier	Keyes	Sheppard	
George	King	Shortridge	

NAYS—9

Ashurst	Dill	McKellar	Trammell
Blease	Jones, Wash.	Shipstead	Wheeler
Couzens			

NOT VOTING—16

Broussard	Gerry	Moses	Pittman
Caraway	La Follette	Norbeck	Robinson, Ark.
du Pont	McLean	Nye	Robinson, Ind.
Ernst	Means	Pine	Swanson

So Mr. Curtis's order was agreed to.

Mr. CURTIS. Mr. President, I offer the following order.

The order was read and agreed to, as follows:

Ordered, That the Secretary of the Senate be directed to communicate the foregoing order to the House of Representatives.

Mr. CURTIS. Mr. President, I move that the Senate, sitting as a court for the consideration of the articles of impeachment presented against George W. English, do now adjourn sine die.

The motion was agreed to.

S D—69-2—VOL 3——7