

Chapter CXCVI.¹

PROCEDURE OF THE SENATE IN IMPEACHMENT.

1. **Sittings and adjournments. Section 472.**
 2. **Functions and powers of Presiding Officer. Section 473.**
 3. **Arguments on preliminary or interlocutory questions. Section 474.**
 4. **Voting and debate. Section 475.**
 5. **Rules, practice, etc. Sections 476–478.**
-

472. The hour of adjournment of the Senate, sitting for an impeachment trial, being fixed, a motion to adjourn at another time is not in order.

On December 5, 1912² the Senate, sitting for the impeachment trial of Judge Robert W. Archbald, agreed to this order:

Ordered, That the daily sessions of the Senate, sitting in the trial of impeachment of Robert W. Archbald, shall, until otherwise ordered, commence at 1 o'clock and 30 minutes in the afternoon and continue until 6 o'clock in the afternoon of each day.

On the following day³ Mr. Jacob H. Gallinger, of New Hampshire, moved that the Senate, sitting in the trial of articles of impeachment, adjourn at another hour than that previously ordered.

The President pro tempore held that the hour for ending the daily session, having been fixed by order of the Senate, could be altered only by unanimous consent or by order formally passed by a majority of the Senate, and the motion of the Senator from New Hampshire was not in order.

473. The Senate elected a presiding officer for the Archbald trial, who thereupon exercised the powers of the President of the Senate in signing orders, writs, etc.

On December 16⁴ the term for which Mr. Augustus O. Bacon, of Georgia, was chosen President pro tempore of the Senate, having expired, Mr. Jacob H. Gallinger, of New Hampshire, was elected President pro tempore of the Senate, and thereupon requested that he be relieved from the duty of presiding over the Senate sitting as a court in the impeachment of Robert W. Archbald.

Whereupon Mr. Lodge submitted the following resolution, which was unanimously agreed to:

Resolved, That the Hon. Augustus O. Bacon, a Senator from the State of Georgia, be, and he is hereby, appointed to preside during the trial of the impeachment of Robert W. Archbald, circuit judge of the United States.

¹Supplementary to Chapter LXVI.

²Third session Sixty-second Congress, Record, p. 170.

³Record, p. 230.

⁴Third session Sixty-second Congress, Record, p. 696.

474. Argument on incidental questions arising during the trial of an impeachment is properly confined to an opening, a reply, and a conclusion.

On December 4, 1912,¹ in the Senate, sitting for the impeachment trial of Judge Robert W. Archbald, at the conclusion of a colloquy between managers and counsel for the respondent, the President pro tempore said:

The Chair desires, in the interest of expedition and orderly procedure, to suggest to both the managers on the part of the House and counsel for the respondent that hereafter when incidental questions are to be discussed they be confined to an opening and a reply and a conclusion. The Chair will not rule that arbitrarily or positively, but trusts that counsel will act upon its suggestion.

475. In impeachment trials all orders and decisions of the Senate, with specified exceptions, are by the yeas and nays, but the yeas and nays may be waived by unanimous consent.

On December 4, 1912,¹ in the Senate, sitting for the trial of the impeachment of Judge Robert W. Archbald, the question of the admission of a certain exhibit offered by the managers being submitted to the Senate, Mr. Moses E. Clapp, of Minnesota, asked if the requirement under the rule for a yea-and-nay vote could be waived.

The President pro tempore replied:

If it is unanimous, the Chair is of the opinion that a yea-and-nay vote is not required, because it is the same as if every Senator voted.

Upon the suggestion of Mr. Clapp, the President pro tempore put the question:

Is there objection by any Senator to the admissibility of the paper in evidence?

Whereupon Mr. Clarence D. Clark, of Wyoming, objected, and the roll was called.

476. Managers on the part of the House having verbally notified the Senate of the impeachment of Judge Archbald, formal reading of articles of impeachment was delayed for proclamation by the Sergeant at Arms.

On July 13, 1912,² (legislative day of July 6), in the Senate, sitting for the impeachment trial of Judge Robert W. Archbald, after Mr. Manager Clayton had read the resolution adopted by the House, informing the Senate that the House had impeached Judge Archbald, he proposed to read the articles of impeachment, when Mr. Henry Cabot Lodge, of Massachusetts, interposed and said:

Mr. President, before the presentation by the managers on the part of the House of the articles of impeachment, section 2 of the Rules of Procedure and Practice in the Senate when sitting on impeachment trials requires that the Sergeant at Arms shall make proclamation as therein prescribed.

Thereupon, by direction of the President pro tempore, the Sergeant at Arms made proclamation, at the conclusion of which Mr. Manager Clayton read the articles of impeachment drawn by the House.

477. After trial of impeachment had proceeded for several days, the formality of announcement by the Doorkeeper of appearance in the

¹Third session Sixty-second Congress, Record, p. 107.

²Second session, Sixty-second Congress, Senate Journal, p. 625; Record, p. 8989.

Chamber of the managers and the respondent was by consent dispensed with.

On July 29, 1912,¹ in the Senate, at the opening of the trial of the impeachment of Robert W. Archbald, the Doorkeeper of the Senate announced formally the appearance of the respondent and the managers on the part of the House of Representatives.

This ceremony continued to be observed each day until December 3, 1912² when Mr. Henry D. Clayton, of the managers on the part of the House of Representatives, suggested:

Mr. President, if it is agreeable to the Senate sitting as a Court of Impeachment, hereafter the managers on the part of the House of Representatives will appear without the formality of an announcement.

To which Mr. Worthington, of counsel, on behalf of the respondent, added:

I presume that might apply, Mr. President, to the counsel for the respondent and to the respondent himself.

The President pro tempore said:

The Chair will give proper direction in that regard.
Proper order will be given in the premises.

The appearance of the managers and the respondent was not thereafter announced.

478. The expenses of the Archbald trial were defrayed from the Treasury.

On July 16, 1912,³ the Senate, in legislative session, agreed to the following resolution:

Resolved, etc., That there be appropriated from any money in the Treasury not otherwise appropriated the sum of \$10,000, or so much thereof as may be necessary, to defray the expenses of the Senate in the impeachment trial of Robert W. Archbald.

This resolution was agreed to by the House on July 27, without amendment and was approved by the President on July 31.

¹Second session Sixty-second Congress, Record, p. 9795.

²Third session Sixty-second Congress, Record, p. 20.

³Second session Sixty-second Congress, Senate Journal, p. 460; Record, p. 9118.