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Chapter LXXVII.

THE IMPEACHMENT AND TRIAL OF WILLIAM W. BELKNAP.

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2444. The impeachment and trial of William W. Belknap, late Secretary of War.

The impeachment of Secretary Belknap was set in motion through the findings of a committee empowered to investigate generally.

Form of resolution authorizing a general investigation of the Departments of the Government in 1876.

A committee empowered to investigate generally reported a resolution for the impeachment of Secretary Belknap.

The committee reported a resolution for the impeachment of Secretary Belknap, although they had been informed of his resignation of the office.

The work of drawing up the articles impeaching Secretary Belknap was referred to the Judiciary Committee.

On January 14, 1876,[1] Mr. William R. Morrison, of Illinois, from the Committee

[1] First session Forty-fourth Congress, House Journal,, pp. 183, 184; Record, p. 414.

on Ways and Means, reported the following resolution in lieu of several resolutions which had been referred to the said committee:

Resolved, That the several committees of this House having in charge matters pertaining to appropriations, foreign affairs, Indian affairs, military affairs, naval affairs, post-office and post-roads, public lands, public buildings and grounds, claims, and war claims be, and they are hereby, instructed to inquire, so far as the same may properly be before their respective committees, into any errors, abuses, or frauds that may exist in the administration and execution of existing laws affecting said branches of the public service, with a view to ascertain what change and reformation can be made so as to promote integrity, economy, and efficiency therein; that the Committees on Expenditures in the State Department, in the Treasury Department, in the War Department, in the Navy Department, in the Post-Office Department, in the Interior Department, in the Department of Justice, and on Public Buildings be, and they are hereby, instructed to proceed at once, as required by the rules of the House, to examine into the state of the accounts and expenditures of the respective Departments submitted to them, and to examine and report particularly whether the expenditures of the respective Departments are justified by law; whether the claims from time to time satisfied and discharged by the respective Departments are supported by sufficient vouchers, establishing their justness both as to their character and amount; whether such claims have been discharged out of funds appropriated therefor, and whether all moneys have been disbursed in conformity with appropriation laws; whether any, and what, provisions are necessary to be adopted to provide more perfectly for the proper application of the public moneys and to secure the Government from demands unjust in their character or extravagant in their amount; whether any, and what, retrenchment can be made in the expenditures of the several Departments without detriment to the public service; whether any, and what, abuses at any time exist in the failure to enforce the payment of moneys which may be due to the United States from public defaulters or others, and to report from time to time such provisions and arrangements as may be necessary to add to the economy of the several Departments and the accountability of their officers; whether any offices belonging to the branches or Departments, respectively, concerning whose expenditures it is their duty to inquire, have become useless or unnecessary; and to report from time to time on the expediency of modifying or abolishing the same also to examine into the pay and emoluments of all officers under the laws of the United States and to report from time to time such a reduction or increase thereof as a just economy and the public service may require. And for the purpose of enabling the several committees to fully comprehend the workings of the various branches or Departments of Government, respectively, the investigations of said committees may cover such period in the past as each of said committees may deem necessary for its own guidance or information or for the protection of the public interests in the exposing of frauds or abuses of any kind that may exist in said Departments; and said committees are authorized to send for persons and papers, and may report by bill or otherwise.

Resolved further, That the Committee on Public Expenditures be instructed to investigate and inquire into all matters set forth in the foregoing resolutions in the legislative departments of the Government, except in so far as the Senate is exclusively concerned, particularly in reference to the public printing and binding, and shall have the same authority that is conferred upon the other committees aforesaid.

This resolution, under the operation of the previous question, was agreed to without debate or division.

On March 2,[1] Mr. Hiester Clymer, of Pennsylvania, chairman of the Committee on Expenditures in the War Department, presented the following as the unanimous report of that committee:

That they found at the very threshold of their investigation such unquestioned evidence of the malfeasance in office by Gen. William W. Belknap, then Secretary of War, that they find it to be their duty to lay the same before the House.

They further report that this day at 11 o'clock a.m. a letter of the President of the United States was presented to the committee accepting the resignation of the Secretary of War, which is hereto

[1] House Journal, p. 496; Record, pp. 1426–1433.

attached, together with a copy of his letter of resignation, which the President informs the committee was accepted about 10 o'clock and 20 minutes this morning. They therefore unanimously report and demand that the said William W. Belknap, late Secretary of War, be dealt with according to the laws of the land, and to that end submit herewith the testimony in the case taken, together with the several statements and exhibits thereto attached, and also a rescript of the proceedings of the committee had during the investigation of this subject. And they submit the following resolutions, which they recommend shall be adopted:

"Resolved, That William W. Belknap, late Secretary of War, be impeached of high crimes and misdemeanors while in office.

"Resolved, That the testimony in the case of William W. Belknap, late Secretary of War, be referred to the Committee on the Judiciary, with instructions to prepare and report without unnecessary delay suitable articles of impeachment of said William W. Belknap, late Secretary of War.

"Resolved, That a committee of five Members of this House be appointed and instructed to proceed immediately to the bar of the Senate, and there impeach William W. Belknap, late Secretary of War, in the name of the House of Representatives and of all the people of the United States of America, of high crimes and misdemeanors while in office, and to inform that body that formal articles of impeachment will in due time be presented, and to request the Senate to take such order in the premises as they deem appropriate."

2445. Belknap's impeachment continued.

The committee which ascertained questionable facts concerning the conduct of Secretary Belknap gave him opportunity to explain, present witnesses, and cross-examine witnesses.

The House, after a review of English precedents, determined to impeach Secretary Belknap, although he had resigned.

The impeachment of Secretary Belknap was carried to the Senate by a committee of five.

The minority party were represented on the committee to carry the impeachment of Secretary Belknap to the Senate.

Appended to this report,[1] were extracts from the proceedings of the committee showing—

That the Secretary of War had been informed of the testimony, which was read to him in the committee room by the chairman; and that, on his request, he was permitted to employ counsel and cross-examine the witness;

That the committee also gave the Secretary of War permission to appear and make a sworn statement; but that he failed to appear; and

That the evidence against the Secretary of War consisted of the testimony of a single witness, Caleb P. Marsh, partially substantiated as to the charges against the Secretary by a copy of a certain contract between Marsh and one John S. Evans, and substantiated as to certain collateral matters by statements of other persons.

The question being on agreeing to the resolutions accompanying the report, a brief discussion arose. Mr. George F. Hoar, of Massachusetts, objected that impeachment should not be voted so hastily when they were confronted with the important question whether or not an officer could be impeached after resignation. The cases of Warren Hastings and Lord Francis Bacon were hardly applicable, since in England any man might be impeached, while in America only civil officers were subject to that proceeding. Mr. Hoar also cited Story on the Constitution as taking the view that an officer might not be impeached after resignation. Mr. J. C. S.

[1] See Record, p. 1426.

Blackburn, of Kentucky, contended, however, that such was not the import of Judge Story's words, and cited, besides the English cases, the Durell case in the Forty-third Congress as justifying the action proposed by the committee.

Debate having been closed by the previous question, the resolutions were agreed to without division.

And thereupon, under authority of the third resolution, the Speaker [1] appointed as a committee Messrs. Hiester Clymer, of Pennsylvania; William M. Robbins, of North Carolina; J. C. S. Blackburn, of Kentucky; Lyman K. Bass, of New York, and Lorenzo Danford, of Ohio.

These gentlemen were the members of the Committee on Expenditures in the War Department, and a portion of them represented the minority party in the House.

2446. Belknap's impeachment continued.

Ceremonies and forms of presenting the impeachment of Secretary Belknap at the bar of the Senate.

Having carried the impeachment of Secretary Belknap to the Senate, the committee returned and reported verbally to the House.

Forms of resolutions in the Senate providing for taking order on the impeachment of Secretary Belknap.

The message informing the Senate that a committee would impeach Secretary Belknap at the bar of the Senate included the names of the committee.

On March 3,[2] in the Senate, the following message was received from the House of Representatives at 12 o'clock and 55 minutes p.m., by the hands of Mr. Green Adams, its Chief Clerk:

Mr. President, the House of Representatives has passed the following resolution:

"Resolved, That a committee of five Members of this House be appointed and instructed to proceed immediately to the bar of the Senate, and there impeach William W. Belknap, late Secretary of War, in the name of the House of Representatives and of all the people of the United States of America, of high crimes and misdemeanors while in office, and to inform that body that formal articles of impeachment will in due time be presented, and to request the Senate to take such order in the premises as they may deem appropriate."

And it has

"Ordered, That Messrs. Hiester Clymer, of Pennsylvania; W. M. Robbins, of North Carolina; J. C. S. Blackburn, of Kentucky; L. K. Bass, of New York, and Lorenzo Danford, of Ohio, be the committee aforesaid."

At 1 o'clock p.m. the Sergeant-at-Arms announced the committee from the House of Representatives, who appeared at the bar of the Senate.

The committee advanced to the area in front of the Chair, when

Mr. Clymer said:

Mr. President, in obedience to the order of the House of Representatives we appear before you, and, in the name of the House of Representatives and of all the people of the United States of America, we do impeach William W. Belknap, late Secretary of War of the United States, of high crimes and misdemeanors while in office; and we further inform the Senate that the House of Representatives will in due time exhibit articles of impeachment against him, and make good the same. And in their

[1] Michael C. Kerr, of Indiana, Speaker.

[2] Senate Journal, pp. 271, 272; Record, p. 1436.

name we demand that the Senate shall take order for the appearance of the said William W. Belknap to answer said impeachment.

The PRESIDENT pro tempore.[1] Mr. Chairman and gentlemen of the committee of the House of Representatives, the Senate will take order in the premises.

The committee thereupon withdrew.

Thereupon Mr. George F. Edmunds, of Vermont, following the usual precedents, offered this order, which was agreed to:

Ordered, That the message of the House of Representatives relating to the impeachment of William W. Belknap be referred to a select committee to consist of five Senators.

The President pro tempore, by authorization of the Senate, appointed the following committee: Messrs. George F. Edmunds, of Vermont; Roscoe Conkling, of New York; Frederick T. Frelinghuysen, of New Jersey; Allen G. Thurman, of Ohio, and John W. Stevenson, of Kentucky.

Meanwhile the committee on the part of the House had returned to the Hall of Representatives, and Mr. Clymer reported[2] verbally—

that, in obedience to the order of the House, the committee proceeded to the bar of the Senate and, in the name of this body and of all the people of the United States, impeached William W. Belknap, late Secretary of War, of high crimes and misdemeanors in office, and demanded that the Senate shall take order to make him appear before that body and answer for the same, and stated that the House would in due time present articles of impeachment and make them good; to which the response was, Order shall be taken."

On March 6,[3] in the Senate, Mr. Edmunds reported from the select committee the following orders, which were agreed to without division:

Whereas the House of Representatives on the 3d day of March, 1876, by five of its Members, Messrs. Clymer, Robbins, Blackburn, Bass, and Danford, at the bar of the Senate, impeached William W. Belknap, late Secretary of War, of high crimes and misdemeanors, and informed the Senate that the House of Representatives will in due time exhibit particular articles of impeachment against him, and make good the same; and likewise demanded that the Senate take order for the appearance of the said William W. Belknap to answer the said impeachment: Therefore,

Ordered, That the Senate will, according to its standing rules and orders in such cases provided, take proper order thereon (upon the presentation of articles of impeachment), of which due notice shall be given to the House of Representatives.

Ordered, That the Secretary acquaint the House of Representatives herewith.

2447. Belknap's impeachment continued.

In the Belknap case the committee in drawing up articles needed certain special powers as to witnesses.

Discussion of the law giving immunity to witnesses testifying before committees of the House.

On March 8[4] Mr. J. Proctor Knott, of Kentucky, from the Committee on the Judiciary, who had been directed to report articles of impeachment on the evidence referred to them, submitted the following report:

The Committee on the Judiciary would respectfully report that, in pursuance of the instructions of the House, they have prepared articles of impeachment against William W. Belknap, late Secretary

[1] Thomas W. Ferry, of Michigan, President pro tempore.

[2] House Journal, p. 503.

[3] Senate Journal, pp. 278, 279.

[4] House Journal, pp. 537, 538; Record, pp. 1564–1566; House Report No. 222.

of War, for high crimes and misdemeanors in office, but that, since preparing the same, they have been informed and believe that Caleb P. Marsh, upon whose testimony before the Committee on Expenditures in the War Department, and referred to them by the House, said articles were framed, has gone beyond the jurisdiction of the Government of the United States, and that probably his attendance as a witness before the Senate sitting as a court of impeachment can not be procured; and that they are also informed and believe that other evidence may be procured sufficient to convict said William W. Belknap of high crimes and misdemeanors in office as Secretary of War. They therefore recommend the adoption of the following resolution:

"Resolved, That the resolution instructing the Committee on the Judiciary to prepare articles of impeachment against William W. Belknap, late Secretary of War, for high crimes and misdemeanors in office, be recommitted to said committee with power to take further proof, to send for persons and papers, to sit during the sessions of the House, and to report at any time."

Your committee, impressed with the importance of securing the fullest indemnity to such witnesses as may be required to testify in behalf of the Government before either House of Congress, or any committee of either House, or before the Senate sitting as a court of impeachment, would also recommend the immediate passage of the accompanying bill, entitled "A bill to protect witnesses who shall be required to testify in certain cases." They would further recommend that the accompanying bill, entitled "A bill in relation to witnesses," be introduced, printed, and referred to the Committee on the Judiciary, with leave to report thereon at any time.

In the course of the debate it was urged that so grave a proceeding as the presentation of articles of impeachment should not be undertaken on the testimony of a single witness when, by greater deliberation, other testimony might be procured.

The resolution was agreed to without division.

Immediately thereafter [1] Mr. Knott called up the bill referred to in the report:

A bill (H.R. No. 2572) to protect witnesses who shall be required to testify in certain cases.

Be it enacted, etc., That whenever any person shall be required to testify against his protest before either House of Congress or any committee thereof, or the Senate sitting as a court of impeachment, and shall so testify under protest, he shall not thereafter be held to answer criminally in any court of justice, or subject to any penalty or forfeiture, on account of any fact or act concerning which he shall be so required to testify: *Provided,* That nothing herein contained shall be so construed as to relieve any person from liability to impeachment.

Mr. Knott explained that this provision was necessary because the existing law, section 859 of the Revised Statutes, giving indemnity to witnesses, did not go far enough. A witness might decline to answer on the ground that his answer might uncover other evidence which would incriminate him.

After debate the bill was passed, yeas 206, nays 8.

In the Senate on April 11 [2] the bill was reported adversely and did not become a law.

2448. Belknap's impeachment continued.

The articles impeaching Secretary Belknap were considered in the House and agreed to without amendment.

The House decided to appoint the managers of the Belknap impeachment by resolution instead of by ballot.

One of the managers of the Belknap impeachment being excused, the House chose another.

The minority party were represented among the managers of the Belknap impeachment.

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[1] House Journal, pp. 537, 538; Record, pp. 1566–1572.

[2] Senate Journal, p. 413; Senate Report, No. 253.

It seems to have been conceded in the Belknap impeachment that the managers should be in accord with the sentiments of the House.

Method of designating the chairman of the managers in the Belknap impeachment.

Forms of resolutions providing for presenting in the Senate the articles impeaching Secretary Belknap.

The message informing the Senate that articles would be presented against Secretary Belknap contained the names of the managers.

On March 30,[1] in the House, Mr. Knott, from the Committee on the Judiciary, submitted a report, consisting of articles of impeachment (not accompanied by testimony) and a resolution. The articles appear in full in the House Journal. The resolution:

Resolved, That seven managers be appointed by ballot to conduct the impeachment exhibited against William W. Belknap, late Secretary of War of the United States.

On April 3[2] the report on the articles of impeachment was called up in the House:

The Committee on the Judiciary, having had under consideration the resolution of the House directing them to prepare and report articles in support of the impeachment of William W. Belknap, late Secretary of War, for high crimes and misdemeanors in office, respectfully report the following articles and accompanying resolutions for the action of the House:

"*Resolved,* That the following articles be adopted and presented to the Senate in maintenance and support of the impeachment for high crimes and misdemeanors in office of William. W. Belknap, late Secretary of War:" [Here followed the articles.]

These articles were considered in the House without any question being raised as to the propriety of considering them in Committee of the Whole. Under operation of the previous question the resolution adopting the articles, with the accompanying articles, was agreed to, a separate vote not being demanded on any article and no proposition to amend being made.

Then the resolution providing for the appointment of seven managers by ballot was considered, and Mr. Hiester Clymer proposed the following amendment in the nature of a substitute:

Strike out all after the word "resolved" and insert:

That Messrs. J. Proctor Knott, of Kentucky; Scott Lord, of New York; William P. Lynde, of Wisconsin; John A. McMahon, of Ohio; George A. Jenks, of Pennsylvania; William A. Wheeler, of New York; and George F. Hoar, of Massachusetts, be, and they are hereby, appointed managers on the part of this House to conduct the impeachment exhibited against William W. Belknap, late Secretary of War of the United States.

The amendment was agreed to, and the resolution as amended was agreed to.

Thereupon Mr. Wheeler, of New York, asked to be excused from service, and the request was granted by the House.

Mr. Elbridge G. Lapham, of New York, was nominated to fill the vacancy, whereupon Mr. Eppa Hunton, of Virginia, expressed the opinion that the managers should be in accord with the sentiments of the House on the question, and asked if Mr. Lapham was thus qualified. Mr. Fernando Wood, of New York, said that in

[1] House Journal, pp. 696–703; Record, pp. 2081, 2082; House Report No. 345.

[2] House Journal, pp. 726–733; Record, pp. 2159–2161.

selecting managers they had not gone into any very severe examination of qualifications, assuming that they would represent the House in the opinions which it had expressed unanimously. Without further objection Mr. Lapham was chosen by the House as a manager.

Then, at the request of Mr. Knott, the name of Mr. Lord was placed at the head of the list of managers.

Of the managers, as thus chosen, the first five were Members of the majority party in the House and the remaining two were Members of the minority party.

On motion of Mr. Clymer the following resolutions were agreed to:

Resolved, That the articles agreed to by this House to be exhibited in the name of themselves and of all the people of the United States against William W. Belknap, late Secretary of War, in maintenance of their impeachment against him of high crimes and misdemeanors in office be carried to the Senate by the managers appointed to conduct said impeachment.

Resolved, That a message be sent to the Senate to inform them that this House have appointed Mr. Scott Lord, of New York; Mr. J. Proctor Knott, of Kentucky; Mr. William P. Lynde, of Wisconsin; Mr. John A. McMahon, of Ohio; Mr. George A. Jenks, of Pennsylvania; Mr. Elbridge G. Lapham, of New York; and Mr. George F. Hoar, of Massachusetts, managers to conduct the impeachment against William W. Belknap, late Secretary of War, and have directed the said managers to carry to the Senate the articles agreed upon by this House to be exhibited in maintenance of their impeachment against said William W. Belknap, and that the Clerk of the House do go with said message.

As first offered, the second resolution did not contain the names of the managers; but Mr. James A. Garfield, of Ohio, suggested that inasmuch as the Senate was always informed of the names of the managers of a conference, it seemed right that they should be similarly informed in this far more important proceeding. So the names were included.

2449. Belknap's impeachment continued.

Ceremonies and forms in presenting in the Senate the articles impeaching Secretary Belknap.

The articles of impeachment in the Belknap case.

Forms of messages preceding the presentation of the articles impeaching Secretary Belknap.

The House did not accompany their managers when articles of impeachment were presented against Secretary Belknap.

The articles impeaching Secretary Belknap were signed by the Speaker and attested by the Clerk.

The chairman of the managers having read the articles impeaching Secretary Belknap, laid them on the table of the Senate.

Having presented in the Senate the articles impeaching Secretary Belknap, the managers reported verbally in the House.

On April 3,[1] in the Senate, Mr. George M. Adams, Clerk of the House of Representatives, appeared at the bar of the Senate and said:

Mr. President, I am directed to inform the Senate that the House of Representatives has passed the following resolutions: [Here followed the resolutions.]

The President pro tempore said:

The Secretary will inform the House of Representatives that the Senate will receive the managers for the purpose of exhibiting articles of impeachment agreeably to notice received.

[1] Senate Journal, p. 378; Record, p. 2155.

The Clerk of the House thereupon withdrew.

On April 4,[1] in the House, the Secretary of the Senate delivered this message:

I am directed to inform the House that the Senate is ready to receive the managers appointed by the House of Representatives to carry to the Senate articles of impeachment against William W. Belknap, Secretary of War.

Soon after the receipt of this message Mr. Manager Lord, rising to a question of privilege,[2] asked if it was the wish of the House to accompany the managers in the presentation of the articles of impeachment. It was recalled that in the cases of Judge Humphreys and President Johnson the House had accompanied the managers; but, on the other hand, it was pointed out that the message of the Senate referred only to the managers. No proposition that the House attend was made and the matter dropped.

Soon after, in the Senate,[3] the managers of the impeachment on the part of the House of Representatives appeared at the bar (at 1 o'clock and 25 minutes p.m.) and their presence was announced by the Sergeant-at-Arms.

The PRESIDENT pro tempore. The managers on the part of the House of Representatives are admitted and the Sergeant-at-Arms will conduct them to seats provided for them within the bar of the Senate.

The managers were thereupon escorted by the Sergeant-at-Arms of the Senate to the seats assigned to them in the area in front of the Chair.

Mr. Manager LORD. Mr. President, the managers on the part of the House of Representatives are ready to exhibit on the part of the House articles of impeachment against William W. Belknap, late Secretary of War.

The PRESIDENT pro tempore. The Sergeant-at-Arms will make proclamation.

The SERGEANT-AT-ARMS. 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 William W. Belknap, late Secretary of War.

Mr. Manager Lord rose and read the articles of impeachment,[4] as follows:

Articles exhibited by the House of Representatives of the United States of America in the names of themselves and of all the people of the United States of America, against William W. Belknap, late Secretary of War, in maintenance and support of their impeachment against him for high crimes and misdemeanors while in said office.

ARTICLE I.

That William W. Belknap, while he was in office as Secretary of War of the United States of America, to wit, on the 8th day of October, 1870, had the power and authority, under the laws of the United States, as Secretary of War, as aforesaid, to appoint a person to maintain a trading establishment at Fort Sill, a military post of the United States; that said Belknap, as Secretary of War, as aforesaid, on the day and year aforesaid, promised to appoint one Caleb P. Marsh to maintain said trading establishment at said military post; that thereafter, to wit, on the day and year aforesaid, the said Caleb P. Marsh and one John S. Evans entered into an agreement in writing substantially as follows, to wit:

Articles of agreement made and entered into this 8th day of October, A. D. 1870, by and between John S. Evans, of Fort Sill, Indian Territory, United States of America, of the first part, and Caleb P. Marsh, of No. 51 West Thirty-fifth street, of the city, county, and State of New York, of the second part, witnesseth, namely:

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[1] House Journal, p. 743; Record, p. 2182.

[2] Record, p. 2194.

[3] Senate Journal, pp. 383–390; Record, pp. 2178–2180.

[4] These articles appear in full in the Senate Journal.

"Whereas the said Caleb P. Marsh has received from Gen. William W. Belknap, Secretary of War of the United States, the appointment of posttrader at Fort Sill, aforesaid; and whereas the name of said John S. Evans is to be filled into the commission of appointment of said posttrader at Fort Sill, aforesaid, by permission and at the instance and request of said Caleb P. Marsh and for the purpose of carrying out the terms of this agreement; and whereas said John S. Evans is to hold said position of posttrader, as aforesaid, solely as the appointee of said Caleb P. Marsh and for the purposes hereinafter stated:

"Now, therefore, said John S. Evans, in consideration of said appointment and the sum of $1 to him in hand paid by said Caleb P. Marsh, the receipt of which is hereby acknowledged, hereby covenants and agrees to pay to said Caleb P. Marsh the sum of $12,000 annually, payable quarterly in advance, in the city of New York, aforesaid; said sum to be so payable during the first year of this agreement absolutely and under all circumstances, anything hereinafter contained to the contrary notwithstanding; and thereafter said sum shall be so payable, unless increased or reduced in amount, in accordance with the subsequent provisions of this agreement.

"In consideration of the premises, it is mutually agreed between the parties aforesaid as follows, namely:

"First. This agreement is made on the basis of seven cavalry companies of the United States Army, which are now stationed at Fort Sill aforesaid.

"Second. If at the end of the first year of this agreement the forces of the United States Army stationed at Fort Sill, aforesaid, shall be increased or diminished not to exceed one hundred men, then this agreement shall remain in full force and unchanged for the next year. If, however, the said forces shall be increased or diminished beyond the number of one hundred men, then the amount to be paid under this agreement by said John S. Evans to said Caleb P. Marsh shall be increased or reduced in accordance therewith and in proper proportion thereto. The above rule laid down for the continuation of this agreement at the close of the first year thereof shall be applied at the close of each succeeding year so long as this agreement shall remain in force and effect.

"Third. This agreement shall remain in force and effect so long as said Caleb P. Marsh shall hold or control, directly or indirectly, the appointment and position of posttrader at Fort Sill, aforesaid.

"Fourth. This agreement shall take effect from the date and day the Secretary of War, aforesaid, Shall sign the commission of posttrader at Fort Sill, aforesaid, said commission to be issued to said John S. Evans at the instance and request of said Caleb P. Marsh and solely for the purpose of carrying out the provisions of this agreement.

"Fifth. Exception is hereby made in regard to the first quarterly payment under this agreement, it being agreed and understood that the same may be paid at any time within the next thirty days after the said Secretary of War shall sign the aforesaid commission of posttrader at Fort Sill.

"Sixth. Said Caleb P. Marsh is at all times, at the request of said John S. Evans, to use any proper influence he may have with said Secretary of War for the protection of said John S. Evans while in the discharge of his legitimate duties in the conduct of the business as posttrader at Fort Sill, aforesaid.

"Seventh. Said John S. Evans is to conduct the said business of posttrader at Fort Sill, aforesaid, solely on his own responsibility and in his own name, it being expressly agreed and understood that said Caleb P. Marsh shall assume no liability in the premises whatever.

"Eighth. And it is expressly understood and agreed that the stipulations and covenants aforesaid are to apply to and bind the heirs, executors, and administrators of the respective parties.

"In witness whereof the parties to these presents have hereunto set their hands and seals the day and year first above written.

"JOHN S. EVANS. [SEAL.]
"C. P. MARSH. [SEAL.]

"Signed, sealed, and delivered in presence of—

"E. T. BARTLETT."

That thereafter, to wit, on the 10th day of October, 1870, said Belknap, as Secretary of War, aforesaid, did, at the instance and request of said Marsh, at the city of Washington, in the District of Columbia, appoint said John S. Evans to maintain said trading establishment at Fort Sill, the military post aforesaid, and in consideration of said appointment of said Evans, so made by him as Secretary of War, as aforesaid, the said Belknap did, on or about the 2d day of November, 1870, unlawfully and corruptly receive from said Caleb P. Marsh the sum of $1,500, and that at divers times thereafter, to wit, on or about the 17th of

January, 1871, and at or about the end of each three months during the term of one whole year, the said William. W. Belknap, while still in office as Secretary of War, as aforesaid, did unlawfully receive from said Caleb P. Marsh like sum of $1,500, in consideration of the appointment of the said John S. Evans by him, the said Belknap, as Secretary of War, as aforesaid, and in consideration of his permitting said Evans to continue to maintain the said trading establishment at said military post during that time; whereby the said William W. Belknap, who was then Secretary of War, as aforesaid, was guilty of high crimes and misdemeanors in office.

ARTICLE II.

That said William W. Belknap, while he was in office as Secretary of War of the United States of America, did, at the city of Washington, in the District of Columbia, on the 4th day of November, 1873, willfully, corruptly, and unlawfully take and receive from one Caleb P. Marsh the sum of $1,500, in consideration that he would continue to permit one John S. Evans to maintain a trading establishment at Fort Sill, a military post of the United States, which said establishment said Belknap, as Secretary of War, as aforesaid, was authorized by law to permit to be maintained at said military post, and which the said Evans had been before that time appointed by said Belknap to maintain; and that said Belknap, as Secretary of War, as aforesaid, for said consideration, did corruptly permit the said Evans to continue to maintain the said trading establishment at said military post. And so the said Belknap was thereby guilty, while he was Secretary of War, of a high misdemeanor in his said office.

ARTICLE III.

That said William W. Belknap was Secretary of War of the United States of America before and during the month of October, 1870, and continued in office as such Secretary of War until the 2d day of March, 1876; that as Secretary of War as aforesaid said Belknap had authority, under the laws of the United States, to appoint a person to maintain a trading establishment at Fort Sill, a military post of the United States, not in the vicinity of any city or town; that on the 10th day of October, 1870, said Belknap, as Secretary of War as aforesaid, did, at the city of Washington, in the District of Columbia, appoint one John S. Evans to maintain said trading establishment at said military post; and that said John S. Evans, by virtue of said appointment, has since, till the 2d day of March, 1876, maintained a trading establishment at said military post, and that said Evans, on the 8th day of October, 1870, before he was so appointed to maintain said trading establishment as aforesaid, and in order to procure said appointment and to be continued therein, agreed with one Caleb P. Marsh that, in consideration that said Belknap would appoint him, the said Evans, to maintain said trading establishment at said military post, at the instance and request of said Marsh, he, the said Evans, would pay to him a large sum of money, quarterly, in advance, from the date of his said appointment by said Belknap, to wit, $12,000 during the year immediately following the 10th day of October, 1870, and other large sum of money, quarterly, during each year that he, the said Evans, should be permitted by said Belknap to maintain said trading establishment at said post; that said Evans did pay to said Marsh said sum of money quarterly during each year after his said appointment, until the month of December, 1875, when the last of said payments was made; that said Marsh, upon the receipt of each of said payments, paid one-half thereof to him, the said Belknap. Yet the said Belknap, well knowing these facts, and having the power to remove said Evans from said position at any time, and to appoint some other person to maintain said trading establishment, but criminally disregarding his duty as Secretary of War, and basely prostituting his high office to his lust for private gain, did unlawfully and corruptly continue said Evans in said position and permit him to maintain said establishment at said military post during all of said time, to the great injury and damage of the officers and soldiers of the Army of the United States stationed at said post, as well as of emigrants, freighters, and other citizens of the United States, against public policy, and to the great disgrace and detriment of the public service.

Whereby the said William W. Belknap was, as Secretary of War as aforesaid, guilty of high crimes and misdemeanors in office.

ARTICLE IV.

That said William W. Belknap, while he was in office and acting as Secretary of War of the United States of America, did, on the 10th day of October, 1870, in the exercise of the power and authority vested in him as Secretary of War as aforesaid by law, appoint one John S. Evans to maintain a trading establishment at Fort Sill, a military post of the United States, and he, the said Belknap, did receive, from

one Caleb P. Marsh, large sums of money for and in consideration of his having so appointed said John S. Evans to maintain said trading establishment at said military post, and for continuing him therein, whereby he has been guilty of high crimes and misdemeanors in his said office.

Specification 1.—On or about the 2d day of November, 1870, said William W. Belknap, while Secretary of War as aforesaid, did receive from Caleb P. Marsh $1,500, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and for continuing him therein.

Specification 2.—On or about the 17th day of January, 1871, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $1,500, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and for continuing him therein.

Specification 3.—On or about the 18th day of April, 1871, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $1,500, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

Specification 4.—On or about the 25th day of July, 1871, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $1,500, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

Specification 5—.On or about the 10th day of November, 1871, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $1,500, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

Specification 6.—On or about the 15th day of January, 1872, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $1,500, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

Specification 7.—On or about the 13th day of June, 1872, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $1,500, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

Specification 8.—On or about the 22d day of November, 1872, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $1,500, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

Specification 9.—On or about the 28th day of April, 1873, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $1,000, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

Specification 10.—On or about the 16th day of June, 1873, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $1,700, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

Specification 11.—On or about the 4th day of November, 1873, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $1,500, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

Specification 12.—On or about the 22d day of January, 1874, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $1,500, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

Specification 13.—On or about the 10th day of April, 1874, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $1,500, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

Specification 14.—On or about the 9th day of October, 1874, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $1,500, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

Specification 15.—On or about the 24th day of May, 1875, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $1,500, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

Specification 16.—On or about the 17th day of November, 1875, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb F. Marsh $1,500, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

Specification 17.—On or about the 15th day of January, 1876, the said William W. Belknap, while Secretary of War as aforesaid, did receive from said Caleb P. Marsh $750, in consideration of his having appointed said John S. Evans to maintain a trading establishment at Fort Sill aforesaid, and continuing him therein.

ARTICLE V.

That one John S. Evans was, on the 10th day of October, in the year 1870, appointed by the said Belknap to maintain a trading establishment at Fort Sill, a military post on the frontier, not in the vicinity of any city or town, and said Belknap did, from that day continuously to the 2d day of March, 1876, permit said Evans to maintain the same; and said Belknap was induced to make said appointment by the influence and request of one Caleb P. Marsh; and said Evans paid to said Marsh, in consideration of such influence and request and in consideration that he should thereby induce said Belknap to make said appointment, divers large sums of money at various times, amounting to about $12,000 a year from the date of said appointment to the 25th day of March, 1872, and to about $6,000 a year thereafter until the 2d day of March, 1876, all which said Belknap well knew; yet said Belknap did, in consideration that he would permit said Evans to continue to maintain said trading establishment and in order that said payments might continue and be made by said Evans to said Marsh as aforesaid, corruptly receive from said Marsh, either to his, the said Belknap's, own use or to be paid over to the wife of said Belknap, divers large sums of money at various times, namely: The sum of $1,500 on or about the 2d day of November, 1870; the sum of $1,500 on or about the 17th day of January, 1871; the sum of $1,500 on or about the 18th day of April, 1871; the sum of $1,500 on or about the 25th day of July, 1871; the sum of $1,500 on or about the 10th day of November, 1871; the sum of $1,500 on or about the 15th day of January, 1872; the sum of $1,500 on or about the 13th day of June, 1872; the sum of $1,500 on or about the 22d day of November, 1872; the sum of $1,000 on or about the 28th day of April, 1873; the sum of $1,700 on or about the 16th day of June, 1873; the sum of $1,500 on or about the 4th day of November, 1873; the sum of $1,500 on or about the 22d day of January, 1874; the sum of $1,500 on or about the 10th day of April, 1874; the sum of $1,500 on or about the 9th day of October, 1874; the sum of $1,500 on or about the 24th day of May, 1875; the sum of $1,500 on or about the 17th day of November, 1875; the sum of $750 on or about the 15th day of January, 1876; all of which acts and doings were while the said Belknap was Secretary of War of the United States, as aforesaid, and were a high misdemeanor in said office.

And 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 William W. Belknap, late Secretary of War of the United States, and also of replying to his answers which he shall make unto the articles herein preferred against him, and of offering proof to the same and every part thereof, and to all and every other article, accusation, or impeachment which shall be exhibited by them, as the case shall require, do demand that the said William W. Belknap may be put to answer the high crimes and misdemeanors in office herein charged against him, and that such proceedings, examinations, trials, and judgments may be thereupon had and given as may be agreeable to law and justice.

MICHAEL C. KERR,
Speaker of the House of Representatives.

Attest:

GEO. M. ADAMS,
Clerk of the House of Representatives.

The reading of the articles of impeachment having been concluded, the President pro tempore informed the managers that the Senate would take proper order on the subject of the impeachment, of which due notice would be given to the House of Representatives.

The managers, by their chairman, Mr. Lord, then delivered the articles of impeachment at the table of the Secretary and withdrew.

Soon thereafter, in the House, the Speaker pro tempore [1] directed that business be suspended to receive a report from the managers on the part of the House of the impeachment of W. W. Belknap, late Secretary of War.

The managers appeared at the bar, when Mr. Lord said:

Mr. Speaker, the managers of impeachment beg leave to report to the House that the articles of impeachment prepared by the House of Representatives against William W. Belknap, late Secretary of War, have been exhibited and read to the Senate, and the Presiding Officer of that body stated to the managers that the Senate would take order in the premises, due notice of which would be given to the House of Representatives.[2]

2450. Belknap's impeachment continued.

At the organization of the Senate for the Belknap trial the oath was administered by the Chief Justice.

The Senate organized for the Belknap trial after the articles of impeachment had been presented.

The Senate, having organized for the Belknap trial, informed the House by message.

On April 5,[3] in the Senate, Mr. Edmunds offered this resolution, which was thereupon agreed to:

Ordered, That a committee of two Senators be appointed by the Chair to wait upon the Chief Justice of the United States and invite him to attend in the Senate Chamber at 1 o'clock p. m. this day, or, in case of his inability to attend, any one of the associate justices.

The Chair thereupon appointed Messrs. Edmunds and Allen G. Thurman, of Ohio, as the committee.

Soon thereafter the following proceedings occurred:

The Chief Justice of the United States, Hon. Morrison R. Waite, entered the Senate Chamber, escorted by Messrs. Edmunds and Thurman, the committee appointed for the purpose.

The PRESIDENT pro tempore. The hour of 1 o'clock having arrived, the Senate, according to its rule, will now proceed to the consideration of the articles of impeachment exhibited by the House of Representatives against William W. Belknap, late Secretary of War. The Chief Justice will take the seat provided for him at the right of the Chair.

The Chief Justice took a seat by the side of the President pro tempore of the Senate.

The PRESIDENT pro tempore. The Senate will give attention while the constitutional oath is being administered.

The Chief Justice administered the oath to the President pro tempore, as follows:

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[1] William A. Wheeler, of New York, Speaker pro tempore.

[2] House Journal, p. 745; Record, p. 2186.

[3] Senate Journal, pp. 394, 908, 909; Record, pp. 2212, 2215, 2216.

You do solemnly swear that in all things appertaining to the trial of the impeachment of William W. Belknap, late Secretary of War, now pending, you will do impartial justice according to the Constitution and laws. So help you God.

The PRESIDENT pro tempore. The Secretary will now call the roll of Senators alphabetically in groups of six, and Senators as they are so called will advance to the desk and take the oath.

After the oaths had been administered Mr. Frederick T. Frelinghuysen, of New Jersey, offered the following, which was agreed to:

Ordered, That the Secretary notify the House of Representatives that the Senate is now organized for the trial of articles of impeachment against William W. Belknap, late Secretary of War, and is ready to receive the managers on the part of the House at its bar.

And in obedience thereto the Secretary delivered the following message at the bar of the House: [1]

Mr. Speaker, I am directed to inform the House of Representatives that the Senate is now organized for the trial of articles of impeachment against William W. Belknap, late Secretary of War, and it is ready to receive the managers of impeachment on the part of the House at its bar.

2451. Belknap's impeachment continued.

The House being notified that the Senate was organized for the trial of Secretary Belknap, the managers attended and demanded that process issue.

On the demand of the managers the Senate ordered process to issue against Secretary Belknap, fixing the day of return.

Having demanded of the Senate that process issue against Secretary Belknap, the managers reported verbally to the House.

At 1 o'clock and 40 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 Sergeant-at-Arms.[2]

The PRESIDENT pro tempore. The Sergeant-at-Arms will conduct the managers to the seats provided for them within the bar of the Senate.

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

The PRESIDENT pro tempore. Gentlemen managers, the Senate is now organized for the trial of the impeachment of William W. Belknap, late Secretary of War.

Thereupon Mr. Manager Lord, chairman of the managers, rose and said:

We are instructed by the House of Representatives, as its managers, to demand that the Senate issue process against William W. Belknap, late Secretary of War; that he answer at the bar of the Senate the articles of impeachment heretofore exhibited by the House of Representatives, through its managers, before the Senate.

Thereupon Mr. Edmunds offered the following, which was agreed to by the Senate:

Ordered, That a summons be issued, as required by the rules of procedure and practice in the Senate when sitting for the trial of impeachment, to William W. Belknap, returnable on Monday, the 17th day of the present month, at 1 o'clock in the afternoon.

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[1] House Journal, p. 750; Record, p. 2228.

[2] Senate Journal, p. 909; Record of trial, p. 4.

Thereupon, after a discussion caused by the fact that the rules for impeachment trials provided for the return of the summons at 12.30, while the order just adopted fixed 1 o'clock as the hour, Mr. Edmunds moved that the Senate sitting for the trial of impeachment adjourn to Monday, the 17th instant at 12.30 o'clock. And this motion was agreed to, yeas 38, nays 10.

And thereupon the Senate resumed its legislative session.[1]

In the House meanwhile the managers had returned[2] and reported—

that, in answer to the summons from the Senate, they proceeded to its bar, and that the Senate had fixed Monday, the 17th of this month, as the day on which the process against William W. Belknap, late Secretary of War, shall be returnable.

2452. Belknap's impeachment continued.

Ceremonies and forms of the return of the writ of summons against Secretary Belknap.

Secretary Belknap appeared in person and with counsel to answer the articles of impeachment.

The Chief Justice administered the oath to the Sergeant-at-Arms on the return of the writ of summons in the Belknap case.

On April 17[3] the following record appears:

The Chief Justice of the United States entered the Senate Chamber, escorted by Messrs. Edmunds and Thurman, the committee appointed for the purpose.

The PRESIDENT pro tempore. The hour of 12 o'clock and 30 minutes having arrived, in pursuance of rule the legislative and executive business of the Senate will be suspended and the Senate will proceed the consideration of the articles of impeachment exhibited by the House of Representatives against William W. Belknap, late Secretary of War.

The Chief Justice took a seat by the side of the President pro tempore of the Senate.

The PRESIDENT pro tempore. The Sergeant-at-Arms will make the opening proclamation.

The SERGEANT-AT-ARMS. 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 William W. Belknap, late Secretary of War.

The PRESIDENT pro tempore. The Secretary will now call the names of those Senators who have not been sworn, and such Senators, as they are called, will advance to the desk and take oath.

Certain Senators having been sworn,

On motion of Mr. Edmunds, it was

Ordered, That the Secretary inform the House of Representatives that the Senate is in its Chamber and ready to proceed with the trial of the impeachment of William W. Belknap, and that seats are provided for the accommodation of the Members.

The PRESIDENT pro tempore. The Secretary will invite the House accordingly.

The message was presently delivered[4] in the House of Representatives, where a discussion arose as to whether the House should attend or not, and as to the manner of attendance. Mr. Lord stated that the usual custom had been for the House to go over on the trial, but for some reason the Senate had seen fit to change the custom and invite the House on this day, and it seemed to him that the House should attend

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[1] Senate Journal, p. 395.

[2] House Journal, p. 750; Record, p. 2229.

[3] Senate Journal, p. 910; Record of trial, pp. 5, 6.

[4] House Journal, p. 811; Record, pp. 2512, 2513.

in a body, headed by the Speaker. Mr. George F. Hoar, of Massachusetts, suggested that an examination of the precedents showed that it would be better to go over as a Committee of the Whole; and on his motion—

the House resolved itself into a Committee of the Whole House, and proceeded in that capacity of the Senate Chamber.

Meanwhile, at 1 o'clock p.m., William W. Belknap entered the Senate Chamber, accompanied by his counsel, Hon. Jeremiah S. Black, Hon. Montgomery Blair, and Hon. M. H. Carpenter, who were conducted to the seats assigned them in the space in front of the Secretary's desk on the right of the Chair.

At 1 o'clock and 2 minutes p.m., the Sergeant-at-Arms announced the managers on the part of the House of Representatives.

The PRESIDENT pro tempore. The managers will be admitted and conducted to seats provided for them within the bar of the Senate.

The managers were conducted to seats provided in the space in front of the Secretary's desk on the left of the Chair, namely: Hon. Scott Lord, of New York; Hon. J. Proctor Knott, of Kentucky; Hon. William P. Lynde, of Wisconsin; Hon. J. A. McMahon, of Ohio; Hon. G. A. Jenks, of Pennsylvania; Hon. E. G. Lapham, of New York, and Hon. George F. Hoar, of Massachusetts.

Mr. Manager LORD. Mr. President, in accordance with the invitation extended, the House of Representatives has resolved itself into a Committee of the Whole and will attend upon this sitting of this court on being waited upon by the Sergeant-at-Arms.

The PRESIDENT pro tempore. The Sergeant-at-Arms will wait upon the House of Representatives and invite them to the Chamber of the Senate.

At 1 o'clock and 5 minutes p.m., the Sergeant-at-Arms announced the presence of the Members of the House of Representatives, who entered the Senate Chamber preceded by the chairman of the Committee of the Whole House (Mr. Samuel J. Randall, of Pennsylvania), into which that body had resolved itself to witness the trial, who was accompanied by the Speaker and Clerk of the House.

The PRESIDENT pro tempore. The Secretary will now read the minutes of the sitting on Wednesday, the 5th instant.

The Secretary read the Journal of proceedings of the Senate sitting for trial of the impeachment of Wednesday, April 5, 1876.

The PRESIDENT pro tempore. The Secretary will now read the return of the Sergeant-at-Arms to the summons directed to be served.

The Secretary read the following return appended to the writ of summons:

The foregoing writ of summons addressed to William W. Belknap and the foregoing precept addressed to me were duly served upon the said William W. Belknap by delivering to and leaving with him true and attested copies of the same at No. 2022 G street, Washington City, the residence of the said William W. Belknap, on Thursday the 6th day of April, 1876, at 6 o'clock and 40 minutes in the afternoon of that day.

JOHN R. FRENCH,
Sergeant-at-Arms of the Senate of the United States.

The PESIDENT pro tempore. The Chair understands that Rule 9 will be suspended for reasons already stated, and the Chief Justice will now administer the oath to the officer attesting the truth of this return.[1]

[1] The Rule No. 9 provided for the administration of the oath by the Presiding Officer, but as a doubt had arisen as to the legal competency of an oath administered by one not especially empowered by statute so to do, the Chief Justice had been invited to attend.

The Chief Justice administered the following oath to the Sergeant-at-Arms:

I, John R. French, do solemnly swear that the return made by me upon the process issued on the 6th day of April, by the Senate of the United States, against W. W. Belknap, is truly made, and that I have performed such service as therein described: So help me God.

The PRESIDENT pro tempore. The committee will please escort the Chief Justice to the Supreme Court Room.

The Chief Justice retired, escorted by the committee, Mr. Edmunds and Mr. Thurman.

The PRESIDENT pro tempore. The Sergeant-at-Arms will now call William. W. Belknap, the respondent, to appear and answer the charges of impeachment brought against him.

The SERGEANT-AT-ARMS. William W. Belknap, William W. Belknap, appear and answer the articles of impeachment exhibited against you by the House of Representatives.

William W. Belknap, accompanied by Mr. Matt. H. Carpenter, Mr. Jeremiah S. Black, and Mr. Montgomery Blair, as counsel, having appeared at the bar of the Senate, were directed by the Presiding Officer to take the seats assigned them.

The Presiding Officer then informed the respondent that the Senate is now sitting for the trial of William W. Belknap, late Secretary of War, upon articles of impeachment exhibited by the House of Representatives, and will now hear him in answer thereto.

2453. Belknap's impeachment continued.

The answer of Secretary Belknap to the articles of impeachment.

The answer of Secretary Belknap demurred to the articles, alleging that he was not a civil officer of the United States when they were exhibited.

Form of announcing the appearance of counsel in the Belknap trial.

The answer of Secretary Belknap being presented, the Senate, on request, ordered a copy of the answer to be furnished to the managers.

The Senate allowed to the House time for preparation of a replication in the Belknap trial, and informed the House thereof by message.

The House determined, after respondent's answer, that it would be represented at the Belknap trial by its managers only.

Whereupon, Mr. Carpenter, of counsel, on behalf of the said William W. Belknap, made answer:

That William W. Belknap a private citizen of the United States and of the State of Iowa, in obedience to the summons of the Senate sitting as a court of impeachment to try the articles presented against him by the House of Representatives of the United States, appears at the bar of the Senate sitting as a court of impeachment and interposes the following plea; which I will ask the Secretary to read and request that it may be filed.

The Secretary read as follows:

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

THE UNITED STATES OF AMERICA *v.* WILLIAM W. BELKNAP.

Upon articles of impeachment of the House of Representatives of the United States of America, of high crimes and misdemeanors.

And the said William W. Belknap, named in the said articles of impeachment, comes here before the honorable the Senate of the United States sitting as a court of impeachment, in his own proper person, and says that this honorable court ought not to have or take further cognizance of the said

articles of impeachment exhibited and presented against him by the House of Representatives of the United States, because, he says, that before and at the time when the said House of Representatives ordered and directed that he, the said Belknap, should be impeached at the bar of the Senate, and at the time when the said articles of impeachment were exhibited and presented against him, the said Belknap, by the said House of Representatives, he, the said Belknap, was not, nor hath he since been, nor is he now an officer of the United States; but at the said times was, ever since hath been, and now is a private citizen of the United States and of the State of Iowa; and this he, the said Belknap, is ready to verify; wherefore he prays judgment whether this court can or will take further cognizance of the said articles of impeachment.

WM. W. BELKNAP.

UNITED STATES OF AMERICA, *District of Columbia, ss:*

William W. Belknap, being first duly sworn on oath, says that the foregoing plea by him subscribed is true in substance and fact.

WM. W. BELKNAP.

Subscribed and sworn to before me this 17th day of April, 1876.

DAVID DAVIS,
Associate Justice of the Supreme Court of the United States.

Mr. CARPENTER. Mr. President, Judge Jeremiah S. Black, Hon. Montgomery Blair, and myself also appear as counsel for Mr. Belknap.

The PRESIDENT pro tempore. The Secretary will note the appearance of the respondent and the presence of the counsel named.

Mr. Manager Lord thereupon submitted this motion:

The Managers on the part of the House of Representatives request a copy of the plea filed by W. W. Belknap, late Secretary of War, and the House of Representatives desire time until Wednesday, the 19th instant, at 1 o'clock, to consider what replication to make to the plea of the said W. W. Belknap, late Secretary of War.

It was ordered accordingly, and the Secretary was directed to notify the House of Representatives thereof.

Thereupon the Senate sitting for the trial adjourned to Wednesday, the 19th instant, at 12.30 o'clock.

The House, in Committee of the Whole House, returned to their Hall—

and the Speaker having resumed the Chair, Mr. Randall reported that the committee, in pursuance of the order of the House, had attended the Senate sitting as a court of impeachment, in company with the Managers on the part of the House.[1]

Soon thereafter the Secretary of the Senate delivered a message as to the time set for the trial, which message was, on motion of Mr. Hoar, referred to the managers.

Later, on this day, Mr. Randall presented this resolution, which was agreed to without debate or division:[2]

Resolved, That in the future proceedings of the impeachment trial of W. W. Belknap, late Secretary of War, the House appear, in the prosecution of said impeachment before the Senate sitting as a court of impeachment by its managers only.

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[1] House Journal, pp. 811, 812.

[2] House Journal, p. 814; Record, p. 2533.

2454. Belknap's impeachment continued.

The replication of the House to the answer of respondent in the Belknap trial.

Forms and ceremonies of presenting in the Senate the replication in the Belknap trial.

The House, in their replication in the Belknap trial, alleged a new matter not set forth in the articles.

In the House, on April 19,[1] Mr. Lord, by direction of the managers, reported the replication, and without debate or division it was—

Ordered, That the House adopt the replication to the answer of William W. Belknap, as now submitted by the managers.

Then it was

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 plea of William W. Belknap, late Secretary of War, 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.

This message was presently delivered in the Senate sitting for the impeachment, the sitting having been opened in due form and the respondent and his counsel being present. The managers presently attended and were assigned seats, whereupon, according to the record—[2]

The PRESIDENT pro tempore. Gentlemen managers, in accordance with the order of the Senate fixing the hour of 1 o'clock as the time at which it will hear you, the Senate is now ready to hear you.

Mr. Manager LORD. Mr. President, the House of Representatives having adopted a replication to the plea of William W. Belknap to the jurisdiction of this court, as advised by the resolution just read, the managers are instructed to present the replication to the Senate sitting as a court of impeachment, and to request that the same may be read by the Secretary and filed among the Senate's papers.

The PRESIDENT pro tempore. The replication will be read by the Secretary.

The Secretary read as follows:

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

THE UNITED STATES OF AMERICA *v.* WILLIAM W. BELKNAP.

The replication of the House of Representatives of the United States in their own behalf, and also in the name of the people of the United States, to the plea of William W. Belknap to the articles of impeachment exhibited by them to the Senate against the said William W. Belknap.

The House of Representatives of the United States, prosecuting, on behalf of themselves and the people of the United States, the articles of impeachment exhibited by them to the Senate of the United States against said William W. Belknap, reply to the plea of said William W. Belknap, and say that the matters alleged in the said plea are not sufficient to exempt the said William W. Belknap from answering the said articles of impeachment, because they say that at the time all the acts charged in said articles of impeachment were done and committed, and thence continuously done, to the 2d day of March, A. D. 1876, the said William W. Belknap was Secretary of War of the United States, as in said articles of impeachment averred, and, therefore, that by the Constitution of the United States the House of Representatives had power to prefer the articles of impeachment, and the Senate have full and the sole power to try the same. Wherefore they demand that the plea aforesaid of the said William W. Belknap be not allowed, but that the said William W. Belknap be required to answer the said articles of impeachment.

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[1] House Journal, pp. 822, 823; Record, p. 2592.

[2] Senate Journal, pp. 913, 914; Record of trial, pp. 7, 8.

II.

The House of Representatives of the United States, so prosecuting in behalf of themselves and the people of the United States the said articles of impeachment exhibited by them to the Senate of the United States against the said William W. Belknap, for a second and further replication to the plea of the said William W. Belknap, say that the matters alleged in the said plea are not sufficient to exempt the said William W. Belknap from answering the said articles of impeachment, because they say that at the time of the commission by the said William W. Belknap of the acts and matters set forth in the said articles of impeachment he, said William W. Belknap, was an officer of the United States, as alleged in the said articles of impeachment; and they say that the said William W. Belknap, after the commission of each one of the acts alleged in the said articles, was and continued to be such officer, as alleged in said articles, until and including the 2d day of March, A. D. 1876, and until the House of Representatives, by its proper committee, had completed its investigation of his official conduct as such officer in regard to the matters and things set forth as official misconduct in the said articles, and the said committee was considering the report it should make to the House of Representatives upon the same, the said Belknap being at the time aware of such investigation and of the evidence taken and of such proposed report.

And the House of Representatives further say that, while its said committee was considering and preparing its said report to the House of Representatives recommending the impeachment of the said William W. Belknap for the matters and things set forth in the said articles, the said William W. Belknap, with full knowledge thereof, resigned his position as such officer on the said 2d day of March, A. D. 1876, with intent to evade the proceedings of impeachment against him. And the House of Representatives resolved to impeach the said William W. Belknap for said matters as in said articles set forth on said 2d day of March, A. D. 1876. And the House of Representatives say that by the Constitution of the United States the House of Representatives had power to prefer said articles of impeachment against the said William W. Belknap, and that the Senate sitting as a court of impeachment has full power to try the same.

Wherefore the House of Representatives demand that the plea aforesaid be not allowed, but that the said William W. Belknap be compelled to answer the said articles of impeachment.

MICHAEL C. KERR,
Speaker of the House of Representatives.

Attest:
GEORGE M. ADAMS,
Clerk of the House of Representatives.

The PRESIDENT pro tempore. If there be no objection, the replication will be filed. The Chair hears none.

2455. Belknap's impeachment continued.

Forms of rejoinder, surrejoinder, and similiter filed in the Belknap trial.

Form of application of respondent for time to prepare a rejoinder in the Belknap trial.

The later pleadings in the Belknap trial were filed with the Secretary of the Senate during a recess of the Senate sitting for the trial.

The surrejoinder of the House of Representatives in the Belknap trial was signed by the Speaker and attested by the Clerk.

Thereupon Mr. Carpenter, of counsel for the respondent, submitted in writing this motion:

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

THE UNITED STATES OF AMERICA *v.* WILLIAM W. BELKNAP.

Upon articles of impeachment presented by the House of Representatives against the said William W. Belknap.

Mr. President, the respondent asks for copies of the replications this day filed by the managers and asks for time until Monday next to frame pleadings to meet the same.

WILLIAM W. BELKNAP.

Mr. Edmunds thereupon proposed an order relating to the filing of a rejoinder which would have required the respondent to file at a time when the Senate would not be sitting for the trial. To this Mr. Carpenter objected, saying that in their pleadings they did not desire to deal with anything less than the court. They could not file with the House of Representatives, because they had no standing there. So, on suggestion of Mr. Roscoe Conkling, of New York, Mr. Edmunds submitted a modified order, which was agreed to, as follows:

Ordered, That the respondent file his rejoinder with the Secretary on or before the 24th day of April instant, who shall deliver a copy thereof to the Clerk of the House of Representatives, and that the House of Representatives file their surrejoinder, if any, on or before the 25th day of April instant, a copy of which shall be delivered by the Secretary to the counsel for the respondent.

Ordered, That the trial proceed on the 27th day of April instant, at 12 o'clock and 30 minutes afternoon.

Thereupon the Senate, sitting for the trial, adjourned to April 27.

On April 27 [1] the Senate at the appointed hour discontinued its legislative business and the session for the impeachment proceedings was opened with the usual proclamation by the Sergeant-at-Arms.

The managers, and the respondent with his counsel, having attended, the President pro tempore directed the journal of the last session's proceedings to be read.

Then, the journal having been read, the President pro tempore directed the reading of the rejoinder filed by the respondent with the Secretary on the 24th instant under the orders of the Senate of the 19th instant:

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

THE UNITED STATES OF AMERICA *v.* WILLIAM W. BELKNAP.

Upon articles of impeachment of the House of Representatives of the United States of America, of high crimes and misdemeanors.

And the said William W. Belknap saith that the replication of the House of Representatives first above pleaded to the said plea of him, the said Belknap, and the matters therein contained in manner and form as the same are above pleaded and set forth, are not sufficient in law for the said House of Representatives to have or maintain impeachment thereof against him, the said Belknap, and that he, the said Belknap, is not bound by law to answer the same.

And this the said defendant is ready to verify. Wherefore, by reason of the insufficiency of the said replication in this behalf, he, the said Belknap, prays judgment if the said House of Representatives ought to have or maintain this impeachment against him, etc.

WM. W. BELKNAP.

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

THE UNITED STATES OF AMERICA *v.* WILLIAM W. BELKNAP.

Upon articles of impeachment of the House of Representatives of the United States of America, of high crimes and misdemeanors.

And the said William W. Belknap, as to the second replication of the House of Representatives of the United States, secondly above pleaded, saith that the said House of Representatives ought not, by reason of anything in that replication alleged, to have or maintain the said impeachment against him, the said Belknap, because he says that it is not true, as in that replication alleged, that he, the said Belknap, was Secretary of War of the United States from any time until and including the 2d day of March, A. D. 1876, and of this he, the said Belknap, demands trial according to law.

[1] Senate Journal, pp. 915–920; Record of trial, pp. 8–10.

II.

And the said Belknap further saith, as to the said second replication of the House of Representatives of the United States, secondly above pleaded, that the said House of Representatives ought not, by reason of anything in that replication alleged, to have or maintain the said impeachment against him, the said Belknap, because he saith that it is not true, as in that replication alleged, that he, the said Belknap, was Secretary of War until the said House of Representatives, by any committee of the said House raised or instructed for that purpose, or having any authority from the House of Representatives in that behalf, had investigated the official conduct of him, the said Belknap, as Secretary of War, in regard to the matters and things set forth as official misconduct in the said articles of impeachment; and of this he, the said Belknap, demands trial according to law.

III.

And the said Belknap, as to the said second replication of the said House of Representatives of the United States, secondly above pleaded, further saith that the said House of Representatives ought not, by reason of anything in that replication alleged, to have or maintain the said impeachment against him, the said Belknap, because he says that at the city of Washington, in the District of Columbia, on the 2d day of March, A. D. 1876, at 10 o'clock and 20 minutes in the forenoon of that day, he, the said Belknap, resigned the office of Secretary of War, by written resignation under his hand, addressed and delivered to the President of the United States, and the President of the United States then and there accepted the said resignation, by acceptance in writing under his hand, then and there indorsed upon the said written resignation; so that the said Belknap then and there ceased to be Secretary of War of the United States, and since that time he, the said Belknap, has not been an officer of the United States, but has been a private citizen of the United States and of the State of Iowa, as stated by said Belknap in his said plea; and that at the time he, the said Belknap, resigned as aforesaid, and the said resignation was accepted as aforesaid, the said House of Representatives had not taken any proceeding for the investigation or examination of any of the charges set forth in the said articles of impeachment as official misconduct of him, the said Belknap, as Secretary of War; nor had the said House of Representatives raised any committee of the said House, nor directed nor instructed any committee of the said House, to make inquiry or investigation in that behalf.

And this the said Belknap is ready to verify. Wherefore he prays judgment if the said House of Representatives ought to have or maintain the said impeachment against him, the said Belknap.

IV.

And the said Belknap, as to the said second replication of the House of Representatives of the United States, secondly above pleaded, further saith that the said House of Representatives of the United States, by reason of anything in that replication alleged, ought not to have or maintain the said impeachment against him, the said Belknap, because he says that when the said House of Representatives took the first proceeding in relation to the impeachment of him, the said Belknap, and when the matter was first mentioned in the said House—that is, in the afternoon of the 2d day of March, A. D. 1876—the said House of Representatives was fully advised and well knew that he, the said Belknap, had before then resigned the said office of Secretary of War, by resignation in writing, under his hand addressed and delivered to the President of the United States, and that the President of the United States had also before that time, as President as aforesaid, accepted the said written resignation, by acceptance in writing, signed by him and indorsed on the said written resignation, and that he, the said Belknap, was not then an officer of the United States, as the facts were.

And this he, the said Belknap, is ready to verify. Wherefore he prays judgment if the said House of Representatives ought to have or maintain the said impeachment against him, the said Belknap.

V.

And the said Belknap, as to the said second replication of the House of Representatives of the United States, secondly above pleaded, further saith that the said House of Representatives of the United States, by reason of anything in that replication alleged, ought not to have or maintain the said impeachment against him, the said Belknap, because he says that, although true it is that a certain committee of the said House, called the Committee on the Expenditures of the War Department, had

been pretending to make some inquiry into or investigation of the matters and things set forth in said articles of impeachment as official misconduct of him, the said Belknap, but without any authority from or direction by the House of Representatives in that behalf, yet he, the said Belknap, says that said committee had not completed its said pretended investigation, but was engaged in the examination of witnesses, when said committee was informed that the said Belknap had resigned as Secretary of War, by resignation in writing, under his hand, addressed and delivered to the President of the United States, and that the President of the United States had accepted the said resignation by acceptance in writing, under his hand, indorsed upon the said written resignation; that said committee received the said information during and before the completion of the said pretended investigation into the alleged facts in that behalf, to wit, at 11 o'clock in the forenoon of the 2d day of March, A. D. 1876, and that thereupon the said committee declared that they, the said committee, had no further duty to perform in the premises.

And this the said Belknap is ready to verify. Wherefore he prays judgment if the said House of Representatives ought to have or maintain the said impeachment against him, the said Belknap.

VI.

And said Belknap, as to said second replication of the House of Representatives of the United States, secondly above pleaded, further saith that the said House of Representatives ought not, by anything in that replication alleged, to have or maintain said impeachment against him, said Belknap, because he says that, although true it is that he did resign his position as Secretary of War on the 2d day of March, A. D. 1876, at 10 o'clock and 20 minutes in the forenoon of that day, at the city of Washington, in the District of Columbia, by a resignation in writing, under his hand, addressed to and then and there delivered to the President of the United States, and the President of the United States did then and there accept said resignation, by acceptance in writing, under his hand, then and there by him indorsed upon said written resignation, nevertheless it is not true, as alleged in that replication, that he, said Belknap, resigned his said position with intent to "evade" any proceedings of said House of Representatives to impeach him, said Belknap; but, on the contrary thereof, he avers the fact to be that a standing committee of said House, known as the Committee on the Expenditures of the War Department, without any authority from or direction of said House of Representatives to examine, inquire, or investigate in regard to the matters and things set forth in said articles as official misconduct of him, said Belknap, had examined one Marsh, and he had made a statement to said committee, which said statement, if true, would not support articles of impeachment against him, said Belknap, but which said statement was of such a character in respect to other persons, some of whom had been and one of whom was so nearly connected with him, said Belknap, by domestic ties as greatly to afflict him, said Belknap, and make him willing to secure the suppression of so much of said statement as affected such other persons at any cost to himself, therefore he, said Belknap, proposed to said committee that if said committee would suppress that part of said statement which related to said other persons he, said Belknap, though contrary to the truth, would admit the receipt by him, said Belknap, of all the moneys stated by said Marsh to have been received by him from one Evans, mentioned in said statement, and paid over by said Marsh to any other person or persons, but said committee declined to accede to said proposition, and Hon. Hiester Clymer, chairman of said committee, then declared to said Belknap that he, said Clymer, should move in the said House of Representatives, upon the statement of said Marsh, for the impeachment of him, said Belknap, unless the said Belknap should resign his position as Secretary of War before noon of the next day, to wit, March the 2d, A. D. 1876; and said Belknap regarding this statement of said Clymer, chairman as aforesaid, as an intimation that he, said Belknap, could, by thus resigning, avoid the affliction inseparable from a protracted trial in a forum which would attract the greatest degree of public attention and the humiliation of availing himself of the defense disclosed in said statement itself which would cast blame upon said other persons, he yielded to the suggestion made by said Clymer, chairman as aforesaid, believing that the same was made in good faith by the said Clymer, chairman as aforesaid, and that he, said Belknap, would, by resigning his position as Secretary of War, secure the speedy dismissal of said statement from the public mind, which said statement, though it involved no criminality on his part, was deeply painful to his feelings, and did resign his said position as Secretary of War, as hereinbefore stated, at 10 o'clock and 20 minutes in the forenoon of the 2d day of March, A. D. 1876; and at 11 o'clock in the forenoon of the day and year last aforesaid he, said Belknap, caused said committee to be notified of his said resignation and of

the acceptance thereof by the President of the United States as aforesaid; all of which was in pursuance and in consequence of the said suggestion so made by said Clymer; and thereupon said committee declared that they, the said committee, had no further duty to perform in the premises. And he, said Belknap, submits that, while said House of Representatives claims that said Clymer was acting on its behalf in said pretended examination of said Marsh, said House ought, in honor and in law, to be estopped to deny that said Clymer was also acting on behalf of said House in suggesting the resignation of him, said Belknap, as aforesaid, and ought not to be heard to complain of a resignation thus induced.

And this he, the said Belknap, is ready to verify. Wherefore he prays judgment if the said House of Representatives ought to have or maintain the impeachment against him, the said Belknap.

WM. W. BELKNAP.

The President pro tempore then said:

This rejoinder will be considered duly filed, if there be no objection. The Secretary will now read the surrejoinder of the House of Representatives to the rejoinder of William W. Belknap.

The Secretary read as follows:

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

THE UNITED STATES OF AMERICA *v.* WILLIAM W. BELKNAP.

By the House of Representatives of the United States, April 25, 1876.

The House of Representatives of the United States, in the name of themselves and of all the people of the United States, say that the said first replication to the plea of the said William W. Belknap to the articles of impeachment exhibited against him as aforesaid, and the matters therein contained, in manner and form as the same are above set forth and stated, are sufficient in law for the said House of Representatives to have and maintain the said articles of impeachment against the said William W. Belknap, and that the Senate sitting as a court of impeachment has jurisdiction to hear, try, and determine the same; and the House of Representatives are ready to verify and prove the same, as the Senate sitting as a court of impeachment shall direct and award: Wherefore, inasmuch as the said William W. Belknap hath not answered the said articles of impeachment or in any manner denied the same, the said House of Representatives, for themselves and for all the people of the United States, pray judgment thereon according to law.

II.

And the said House of Representatives as to the first and second subdivisions of the rejoinder to the second replication of the House of Representatives to the plea of the defendant to the said articles of impeachment, wherein the said defendant demands trial according to law, the said House of Representatives, in behalf of themselves and all the people of the United States, do the like; and as to the third, fourth, fifth, and sixth subdivisions of the rejoinder of the said defendant to the said second replication, they say that the said House of Representatives, by reason of anything by the said defendant in the last-named subdivisions of said rejoinder above alleged, ought not to be barred from having and maintaining the said articles of impeachment against the said defendant, because they say that, reserving to themselves all advantage of exception to the insufficiency of the said subdivisions of said rejoinder to said second replication, they deny each and every averment in said several rejoinders to said second replication contained, or either of them, which denies or traverses the acts and intents charged against said defendant in said second replication, and they reaffirm the truth of the matters stated therein; and this the said House of Representatives pray may be inquired of by the Senate sitting as a court of impeachment.

Wherefore the said House of Representatives, in the name of themselves and of all the people of the United States, pray judgment thereon according to law.

MICHAEL C. KERR,
Speaker of the House of Representatives.
GEO. M. ADAMS,
Clerk of the House of Representatives.

The President pro tempore said:

The surrejoinder will be considered as duly filed also. The Senate sitting for the trial is now ready to hear the parties.

Mr. Carpenter, of counsel for the respondent, next closed the issue of fact on the plea to jurisdiction by submitting the following similiter:

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

THE UNITED STATES OF AMERICA *v.* WILLIAM W. BELKNAP.

Upon articles of impeachment of the House of Representatives of the United States of America of high crimes and misdemeanors.

And the said Belknap, as to the surrejoinders of said House of Representatives to the third, fourth, fifth, and sixth rejoinders of the said Belknap to the second replication of said House of Representatives above pleaded, whereof said House of Representatives have demanded trial, the said Belknap doth the like.

WILLIAM W. BELKNAP.

Mr. Manager Lord submitted[1] a motion relating to the giving of evidence on questions pertaining to the plea to the jurisdiction and to the carrying on of the trial as to the main issue.

2456. Belknap's impeachment continued.

The Senate declined to grant the motion of the counsel for Belknap that the trial be continued to a later date.

The Senate declined to consult the managers before passing on the application of respondent for a continuance of the Belknap trial.

The Senate in secret session passed on the motion for a continuance in the Belknap trial.

After this motion had been submitted by Mr. Lord, Mr. Matt. H. Carpenter, of counsel for the respondent, offered[2] this motion:

That the further hearing and trial of this impeachment of William W. Belknap be continued to the first Monday of December next.

In argument in support of this the counsel for the respondent urged that in the existing political excitement a fair trial was not likely to result. The precedents of the Blount and Peck impeachments were cited to justify the postponement.

The Senate having retired for consultation (of which consultation the debates were not public and not reported), Mr. Edmunds moved that the motion for postponement be denied.

Mr. John Sherman, of Ohio, moved to amend by substituting the following:

That the President pro tempore ask the managers if they desire to be heard on the pending motion of Mr. Carpenter, of counsel for respondent.

This motion was disagreed to, yeas 28, nays 31.

Mr. Edmunds's motion, that the request for a postponement be not granted, was agreed to, yeas 59, nays 0.

Thereupon the Senate returned to their Chamber and the President pro tempore said:

The Presiding Officer is directed to state to the counsel for the respondent that their motion is denied.

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[1] Senate Journal, p. 920; Record of trial, p. 9.

[2] Senate Journal, pp. 920–923; Record of trial, pp. 10–15.

2457. Belknap's impeachment continued.

The Senate overruled the motion of the managers that the evidence on the question of the jurisdiction of the Senate in the Belknap case be given before the arguments relating thereto.

The Senate determined in the Belknap case to hear first the question of law as to jurisdiction.

The Senate denied the motion of the managers in the Belknap case to fix the time of answer and trial on the merits before decision on the demurrer.

The Senate ordered a discussion in argument on the right of the House to allege in the replication matters not touched in the articles.

References to American and English precedents in determining order of deciding the question of jurisdiction in the Belknap case.

The Senate in secret session determined on the time of having the arguments as to jurisdiction in the Belknap trial.

Thereupon the motion proposed previously by Mr. Manager Lord was taken up.[1]

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

THE UNITED STATES OF AMERICA *v.* WILLIAM W. BELKNAP.

On motion of the managers,

Ordered, That the evidence on the questions pertaining to the plea to the jurisdiction of this court be given before the arguments relating thereto are heard, and if such plea is overruled that the defendant be required to answer the articles of impeachment within two days, and the House of Representatives to reply if they deem it necessary within two days; and that the trial proceed on the next day after the joining of issue.

In support of this Mr. Manager Lord argued:

With the permission of the court, Mr. President, I will give the following reasons why we think this order should be entered:

All of the issues of law and fact relate to the question of jurisdiction. It is but a single question, upon which the Senate can make but one decision, and the facts pertaining thereto should be proved before the arguments, so that the questions of law and of fact may be considered and decided at the same time. This is the course in all legal tribunals in which questions of law and fact are decided by the same judge or judges.

Now let me refer to some authorities on this point:

"In cases where the jury are to decide on both the law and the fact a general verdict may be rendered on the whole matter." (Starkie's Law of Libel, p. 203.)

In the case of Baylis *v.* Laurance (11 Adolphus and Ellis, 920), referred to by Starkie on the same page, it was held that the law was the same in regard to both civil and criminal cases.

The same author, page 580, states:

"A jury sworn to try the issue may give the general verdict of guilty or not guilty upon the whole matter put in issue, * * * and shall not be required or directed by the court or judge * * * to find the defendant or defendants guilty merely on the proof of the publication."

When by the Constitution the sole power to try impeachments was conferred upon the Senate without any direction as to the mode of procedure, it must have been intended that the rules governing the House of Lords when sitting as a court of impeachment, so far as applicable, should control the Senate sitting as a court of impeachment.

Mr. Erskine, before the Court of King's Bench, in the case of the Dean of Asaph, in regard to the abolition of the king's court and the distribution of its powers, says:

[1] Senate Journal, pp. 920–926; Record of trial, pp. 9, 10, 15–19.

"The barons preserved that supreme superintending jurisdiction which never belonged to the justices, but to themselves only as the jurors in the king's court."

And in a note to his argument found in Goodrich's British Eloquence, page 659, it is said:

"During a trial before the House of Peers every peer present on the trial has always been judge both of the law and the fact; hence no special verdict can be given on the trial of a peer."

Bouvier, in his Law Dictionary, volume 2, page 540, says:

"A special verdict is one by which the facts of the case are put on the record and the law is submitted to the judges."

See also Bacon's Abridgment, Verdict, D. A.

A special finding or verdict is therefore only necessary when the questions of fact are found in one tribunal and the law is applied by another.

But there is a direct authority on this question from a court of impeachment only second in dignity to this high tribunal. The court of impeachment of the State of New York is composed of the president of the senate, who is the lieutenant-governor, of the senators, and of the judges of the court of appeals. In the case of the People of the State of New York against George G. Barnard, then one of the justices of the supreme court (see vol. 1, pp. 106–108), the respondent interposed a plea to the jurisdiction on the ground that the articles of impeachment were not adopted by the assembly by a vote of the majority of all the members elected thereto, as required by the constitution. A replication to the plea was filed that the assembly did impeach the respondent by a vote of a majority of all the members elected thereto. Witnesses were then examined in regard to this question on both sides; counsel were heard for the respondent in support of the plea, and for the prosecution in opposition; after which the president stated that the question before the court was whether the plea of the respondent should be sustained. Upon the decision not to sustain the plea replications were filed, and the trial on the merits proceeded.

This precedent sustains the motion in this case more fully for the reason that the respondent in that case more than a month before he interposed the plea to the jurisdiction had pleaded to the merits by filing a general answer denying each and every allegation in the articles of impeachment; but discovering a month afterwards, as he thought, that the articles of impeachment had not been properly presented, on the ground that a majority of the members elected to the assembly had not concurred therein, he put in a plea to the jurisdiction, and the proceedings were had which I have already stated.

Therefore we submit to this honorable court that the managers, by asking the entry of this order, have suggested the proper method of trial.

In opposition, on April 28, Mr. Carpenter, of counsel for the respondent, argued:

The first part of this order, "That the evidence on the questions pertaining to the plea to the jurisdiction of this court be given before the arguments relating thereto are heard," we have no objection to. It is a matter of total indifference to us what is the order which the Senate may make in that particular. Whether the testimony shall be taken and the argument on the facts and the law in regard to the jurisdiction of the court be heard together, or whether they shall be proceeded with at different times is a matter of indifference to us.

To the residue of the order, however, we do seriously object, upon several grounds. In the first place, we object to the managers controlling this case on both sides. We are perfectly willing that they should ask such orders as they please for their own government and their own pleadings; but we object to their fixing or asking any order in regard to our pleadings. This part of the order is:

"And if such plea is overruled, that the defendant be required to answer the articles of impeachment within two days."

I suppose that means answer the articles on the merits.

"And the House of Representatives to reply, if they deem it necessary, within two days; and that the trial proceed on the next day after the joining of issue."

I submit to this honorable court that a proper reply to the managers of the House in regard to this part of the proposed order would be the famous reply which Coke made to the King: "When the question arises and is debated, I will do what is fit and proper for a judge to do; and further, I decline to pledge myself to Your Majesty." When this plea to the jurisdiction shall be disposed of, the defendant may demur to the articles of impeachment, or may not, as he shall be advised; and what will be the circumstances of this court, or of the counsel, or even of the managers, who, although numerous, are

not incorporated and are still mortal, this court can not to-day determine. They may not want to make their reply to whatever we may say so speedily as they now think.

In the next place, if the court please, while, as I say, we shall not attempt to make any delays in this ewe beyond what are absolutely necessary, the argument of the question of the jurisdiction of this court can not be made properly on the day indicated in this order.

Mr. Carpenter then gave reasons, such as the preoccupation of counsel in other duties, the difficulty in getting books of authority, etc., to show why the arguments should be delayed.

Mr. Roscoe Conkling, of New York, proposed the following:

Ordered, That the Senate proceed first to hear and determine the question whether W. W. Belknap, the respondent, is amenable to trial by impeachment for acts done as Secretary of War, notwithstanding his resignation of said office. The motion that testimony be heard touching the exact time of such resignation, and touching the motive and purpose of such resignation, is reserved without prejudice till the question above stated has been considered.

In opposition to the resolution proposed by Mr. Conkling, Mr. Manager Lord argued:

Mr. President and Senators: It seems to me that under the authorities adduced yesterday such a course of procedure would be protracting the trial and entirely unnecessary. Several authorities were produced yesterday to show that a special finding or verdict is only necessary when the questions of fact are found in one tribunal and the law is applied by another. This question of jurisdiction is a single question, and it ought not to be divided and subdivided. The evidence should be in before the judgment of the court is taken on the question of jurisdiction; and this I understand the other side concede. Very great embarrassment might arise; very great delays might ensue from dividing this question. I cited yesterday an authority in the State of New York, to which I will again call the attention of the Senators—the Barnard case.

The court of impeachment in that State, composed of the president of the senate, the lieutenant-governor, the senators, and the judges of the court of appeals, had precisely this question before them. A plea to the jurisdiction was interposed, as follows:

"And the said respondent, in his own proper person and by his counsel, John H. Reynolds and William A. Beach, comes and says that this court ought not to have or take further cognizance of the articles of impeachment, or any or either of them, presented in this court against him, because, he says, that the said articles of impeachment were not, nor were any nor was either of them, adopted by the assembly of this State by a vote of a majority of all the members elected thereto, as required by section 1 of article 6 of the constitution of this State."

A replication was put in to that plea, asserting

"That it is not true that the articles of impeachment now presented against the said respondent do not appear to be and are not articles of impeachment adopted by the assembly of the State, but that the said articles do appear to be and are articles of impeachment adopted by the said assembly."

Then Edward M. Johnson and Charles R. Dayton were called and sworn on the part of the respondent. Hon. C. P. Vedder and Hon. Thomas G. Alvord were called and sworn on the part of the prosecution, these being respectively members or officers of the house. Counsel then argued the case, Messrs. Beach and Reynolds, of counsel for respondent, and Mr. Van Cott, of coun el for the prosecution.

The president stated that the question before the court was whether the plea of the respondent should be sustained.

Mr. Lewis moved that the chamber be cleared for private consultation.

The president put the question whether the court would agree to said motion, and it was determined in the affirniative.

The president put the question whether the court would sustain said plea of the respondent, and it was determined in the negative, as follows:

Chief Judge Church, of the court of appeals; Judge Allen, also of the court of appeals, and Senator Murphy in that case voted in the affirmative; the other Senators in the negative. I refer to this case of The People *v.* Barnard to show that in a court of impeachment composed of the senators of the State

of New York and the judges of the court of appeals of that State the precise order was taken for which we move; the evidence was in before the question of jurisdiction was passed upon. Why should we be driven to one single question when there are three or four, and all of them, I apprehend, exceedingly important questions in this case? Perhaps in one view it may be the question of the case whether the defendant resigned for the purpose of evading this impeachment. Why should we try one question at one time and try another question at another time?

Mr. Carpenter argued for the respondent:

Mr. President and Senators, the pleadings proper in this case consist of the articles of impeachment, the plea to the jurisdiction, and the first replication of the House of Representatives, to which there is a demurrer by us and a joinder by the managers. Strictly speaking, that is the only issue that could be made in this case. The honorable managers, however, saw fit, without asking leave, to file two replications, instead of one, to our plea. We of course did not care how fully they went into this question; we were ready to follow them in disregard of technical pleading.

I never heard of a case in a court where a single plea had led to an issue of law and fact or where a declaration or any proceeding whatever was followed by two issues, one of law and one of fact, that the court did not always first dispose of the question of law. That being disposed of, the question of fact may or may not be necessary to be inquired into. While on the part of Mr. Belknap we make no objection to this proceeding, its regularity is a question for the court to determine. It seems to me that the more regular proceeding is that indicated by the order offered by the Senator from New York, that the law of this question should be first settled. If we had been captious about pleading, and had moved the court to strike out this second replication, which is drawn not according to common-law form, but according to the free-and-easy style of the New York code, this court would have stricken it out as having been improperly filed, permission not having been granted to reply double. We did not object because we did not care for form, and we followed them after their kind in our reply to their pleas. But certainly the course most in harmony with the method pursued in courts of law would be to settle the law upon thispointfirst. If the Senate has no jurisdiction over a man who is not in office at the time the impeachment commences, that ends the question. That is a mere question of law; and we shall contend, of course, that any officer of the Government has a perfect right to resign at any moment and that the motives of a man's resignation can not affect the legal consequences which follow the act of resignation. The Supreme Court of the United States has held where a citizen who wishes to have a litigation with a citizen of his own State moves into another State for the express purpose of giving the Federal courts jurisdiction, that is no objection to the jurisdiction; that a man may change his residence from one State to another for the purpose of obtaining a footing in a Federal court, as well as he may change it for the purpose of improving his health or his financial condition.

I do not regard the issues made as of any substantial consequence to this case. We care nothing about them. We are willing to try them or not try them, as the court directs. But the question is whether this man was in office at the time he was impeached by the House of Representatives? That is fully presented by the articles, by our plea to the jurisdiction, and by the first, which is the only regular, replication on the part of the House and our demurrer thereto. If the Senate shall be of opinion that none but a person in office can be impeached, of course that ends this proceeding. At all events, the method suggested by the order last offered is the method which should be pursued in a court of law. It will be borne in mind that we interposed the first demurrer, and are therefore entitled to open and close in the argument.

The Senate having retired for consultation (of which the proceedings, but not the debates, are reported in the Journal and record of trial), consideration was first given to a motion by Mr. Edmunds to strike out the second sentence of the pending order and insert:

And that the managers and counsel in such argument discuss the question whether the issues of fact are material.

Mr. Allen G. Thurman, of Ohio, moved the following amendment, which was agreed to:

Add to the words proposed by Mr. Edmunds to be inserted the following:

And whether the matters in support of the jurisdiction alleged by the House of Representatives in the pleadings subsequent to the articles of impeachment can be thus alleged if the same are not averred in said articles.

Then Mr. Edmunds's motion, as amended, was agreed to.

Mr. Thurman moved further to amend the resolution by striking out all after the word "resolved" and in lieu thereof inserting:

That the Senate will first hear the evidence on the issues of fact relating to the question of jurisdiction, and after hearing the same will fix a time for hearing the argument upon the questions of law and fact relating to such jurisdiction.

The amendment was rejected.

Thereupon Mr. Conkling's resolution, as amended, was agreed to, as follows:

Ordered, That the Senate proceed first to hear and determine the question whether W. W. Belknap, the respondent, is amenable to trial by impeachment for acts done as Secretary of War, notwithstanding his resignation of said office; and that the managers and counsel in such argument discuss the question whether the issues of fact are material, and whether the matters in support of the jurisdiction alleged by the House of Representatives in the pleadings subsequent to the articles of impeachment can be thus alleged if the same are not averred in said articles.

2458. Belknap's trial continued.

The Senate by rule determined the order and time of arguments, and the numbers of counsel and managers to speak, on the plea to jurisdiction in the Belknap trial.

Thereupon Mr. Edmunds moved the following:

Ordered, That the hearing proceed on the 4th day of May, 1876; and that three of the managers and three of the counsel for the respondent be heard thereon, as follows: One counsel for the respondent shall open and shall be followed by one manager, and he shall be followed by one counsel for the respondent, who shall be followed by two managers, and one counsel for the respondent shall close the argument; and that such time be allowed for argument as the managers and counsel may desire.

Motions to amend by changing the date from the 4th to the 15th, 16th, and 8th were severally disagreed to, the last-named date, the 8th, being negatived by a vote of yeas 23, nays 32.

Mr. Conkling then moved to amend the resolution by striking out all after the word "resolved" and in lieu thereof inserting—

That the hearing proceed on the 4th day of May, 1876, at 12 o'clock and 30 minutes p. m.; that the opening and close of the argument be given to the respondent; that three counsel and three managers may be heard in such order as may be agreed upon between themselves, and that such time be allowed for argument as the managers and counsel may desire.

After debate,

The amendment was agreed to.

The resolution of Mr. Edmunds, as amended, was then agreed to.

Thereupon the Senate returned to the Senate Chamber and the President pro tempore directed the two orders to be reported.

On May 4,[1] the next session of the Senate sitting for the trial, Mr. Carpenter,

[1] Senate Journal, pp. 928, 929; Record of trial, pp. 27, 28.

of counsel for the respondent, suggested an adjournment until May 15. Thereupon Mr. John Sherman, of Ohio, offered this order:

Ordered, That this court adjourn until Monday, May 15, at 12 o'clock and 30 minutes p. m., and that the argument of the question of jurisdiction be confined to eight hours on each side.

Mr. Aaron A. Sargent, of California, moved to amend by striking out that portion of the order limiting the time of the arguments, and the amendment was agreed to, without division. The order as amended was then disagreed to, yeas 21, nays 40.

Thereupon Mr. Sherman offered the following:

Ordered, That this court adjourn until Monday, May 15, at 12 o'clock and 30 minutes p. m.; and that the argument of the question of jurisdiction be confined to nine hours on each side, to be divided between them as the managers and counsel may agree.

This order was disagreed to, yeas 22, nays 38.

The arguments thereupon began [1] and continued during May 5 and 6 and for a portion of May 8. Mr. Black, of counsel for the respondent, opened, and was followed by Mr. Manager Lord, who was followed by Mr. Carpenter, of counsel for the respondent. Messrs. Managers Knott, Jenks, and Hoar followed Mr. Carpenter, and then Mr. Black closed for the respondent. On May 6 [2] Mr. Manager Knott, after speaking some time, stated that he was unable to proceed further, on account of indisposition, and asked the indulgence of the Senate to conclude his argument on Monday, May 8. This leave was granted; and Mr. Manager Jenks continued the argument on May 6.

2459. Belknap's trial continued.

The Senate decided that it had jurisdiction to try the Belknap impeachment case, although the respondent had resigned the office.

In the Belknap case the Senate decided that respondent's plea in demurrer was insufficient, and that the articles were sufficient.

While deliberating on the question of jurisdiction in the Belknap case the Senate notified the managers and counsel that their attendance was not required.

In the Belknap trial the Senate declined to permit the debates in secret session to be recorded.

Each Senator was permitted to file a written opinion on the question of jurisdiction in the Belknap trial.

After the conclusion of the arguments, on May 8,[3] it was

Ordered, That until further notice the attendance before the Senate, sitting for the trial of the impeachment, of the managers and the respondent will not be required.

Thereupon the Senate adjourned to Monday, May 15.

From May 15 to May 29 [4] the Senate in secret session deliberated on the pending question. The record of the proceedings only appear in the Journal; but none of the speeches are printed. On May 16 [5] Mr. William B. Allison, of Iowa, proposed

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[1] Senate Journal, pp. 929–931; Record of trial, pp. 28–72.

[2] Senate Journal, p. 930.

[3] Senate Journal, p. 932; Record of trial, p. 72.

[4] Senate Journal, pp. 932–947; Record of trial, pp. 72–77.

[5] Senate Journal, p. 934; Record of trial, p. 73.

a motion "that the consultations and opinions expressed in secret session be taken down by the reporters and printed in confidence for the use of Senators;" but on the next day, when the motion was called up, the Senate refused to consider it.

On May 29,[1] on motion of Mr. William Pinkney Whyte, of Maryland, it was

Ordered, That each Senator be permitted to file his opinion in writing upon the question of jurisdiction in this case on or before the 1st day of July, 1876, to be printed with the proceedings in the order in which the same shall be delivered, and the opinions pronounced in the Senate shall be printed in the order in which they were so pronounced.

Also the following resolutions, proposed by Mr. Allen G. Thurman, of Ohio, were, after minor amendments, agreed to,[2] the first by a vote of yeas 37, nays 29; the second by a vote of yeas 45, nays 4, and the third by 35 yeas to 22 nays:

Resolved, That in the opinion of the Senate William W. Belknap, the respondent, is amenable to trial by impeachment for acts done as Secretary of War, notwithstanding his resignation of said office before he was impeached.

Resolved, That the House of Representatives and the respondent be notified that on Thursday, the lst day of June, 1876, at 1 o'clock p. m., the Senate will deliver its judgment, in open Senate, on the question of jurisdiction raised by the pleadings, at which time the managers on the part of the House and the respondent are notified to attend.

Resolved, That at the time specified in the foregoing resolution the President of the Senate shall pronounce the judgment of the Senate as follows: "It is ordered by the Senate, sitting for the trial of the articles of impeachment preferred by the House of Representatives against William W. Belknap, late Secretary of War, that the demurrer of said William W. Belknap to the replication of the House of Representatives to the plea to the jurisdiction filed by said Belknap be, and the same hereby is, overruled; and, it being the opinion of the Senate that said plea is insufficient in law and that said articles of impeachment are sufficient in law, it is therefore further ordered and adjudged that said plea be, and the same hereby is, overruled and held for naught;" which judgment thus pronounced shall be entered upon the Journal of the Senate sitting as aforesaid.

Before the second resolution was agreed to Mr. Isaac P. Christiancy, of Michigan, proposed the following resolution, but withdrew it after debate:

Whereas the Constitution of the United States provides that no person shall be convicted on impeachment without the concurrence of two-thirds of the members present; and whereas more than one-third of all the members of the Senate have already pronounced their conviction that they have no right or power to adjudge or try a citizen holding no public office or trust when impeached by the House of Representatives; and whereas the respondent, W. W. Belknap, was not when impeached an officer, but a private citizen of the United States, and of the State of Iowa; and whereas said Belknap has, since proceedings of impeachment were commenced against him, been indicted and now awaits trial before a judicial court for the same offenses charged in the articles of impeachment, which indictment is pursuant to a statute requiring in case of conviction (in addition to fine and imprisonment) in infliction of the utmost judgment which can follow impeachment in any case, namely, disqualification ever again to hold office:

Resolved, That in view of the foregoing facts it is inexpedient to proceed further in the case.

On June 1,[3] in open session of the Senate, sitting for the trial, the President pro tempore announced the decision on the question of jurisdiction:

On the question of jurisdiction raised by the pleadings in this trial, it is ordered by the Senate sitting for the trial of the articles of impeachment preferred by the House of Representatives against

[1] Senate Journal, pp. 943–947; Record of trial, pp. 76, 77.

[2] For the arguments on the questions involved in these resolutions, see section 2007 of this volume.

[3] Senate Journal, p. 947; Record of trial, pp. 158–161.

William W. Belknap, late Secretary of War, that the demurrer of said William W. Belknap to the replication of the House of Representatives to the plea to the jurisdiction filed by said Belknap be, and the same hereby is, overruled; and, it being the opinion of the Senate that said plea is insufficient in law and that said articles of impeachment are sufficient in law, it is therefore further ordered and adjudged that said plea be, and the same hereby is, overruled and held for naught.

2460. Belknap's impeachment continued.

The question of jurisdiction being settled, the Senate gave Secretary Belknap ten days to answer on the merits.

The Senate provided that in default of answer from respondent on the merits, the Belknap trial should proceed as on a plea of not guilty.

The Senate fixed the time of proccedings with the evidence in the Belknap trial before respondent's answer on the merits.

In the Belknap trial managers and counsel were directed to furnish one another with their lists of witnesses.

Thereupon Mr. William Pinkney Whyte, of Maryland, proposed the following:

Ordered, That W. W. Belknap is hereby ordered to plead further or answer the articles of impeachment within ten days from this date.

Mr. Francis Kernan, a Senator from New York, proposed this amendment:

Resolved, That in default of an answer within ten days by the respondent to the articles of impeachment, the trial shall proceed as on a plea of not guilty.

Mr. John Sherman, of Ohio, proposed this:

Ordered, That this court adjourn until Tuesday next, and in the meantime the defendant have leave to plead, answer, or demur herein.

The Senate, sitting for the trial, having adjourned to June 6,[1] on that day[2] the order proposed by Mr. Whyte came up for consideration, and on motion of Mr. Sherman it was amended by striking out the words "is hereby ordered to plead further," and inserting the words "have leave to plead further."

Thereupon, at the suggestion of Mr. Manager Scott Lord, Mr. Allen G. Thurman, a Senator from Ohio, proposed to amend by adding thereto:

And that, in default of an answer to the merits within ten days by respondent to the articles of impeachment, the trial shall proceed as upon a plea of not guilty.

This amendment was agreed to, yeas 35, nays 7.

Thereupon, after further amendment at the suggestion of Mr. Whyte, the order was agreed to by a vote of yeas 33, nays 4, in this form:

Ordered, That W. W. Belknap have leave to answer the articles of impeachment within ten days from this date; and that, in default of an answer to the merits within ten days by respondent to the articles of impeachment, the trial shall proceed as upon a plea of not guilty.

Thereupon Mr. Manager Lord proposed the following:

Resolved, That on the 6th day of July, 1876, the Senate sitting as a court of impeachment will proceed to hear the evidence on the merits in the trial of this case.

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[1] Senate Journal, pp. 948–951; Record of trial, pp. 162–169.

[2] On this day also counsel for respondent raised a question affecting the recently made decision as to the jurisdiction.

Thereupon several propositions were made as to the time of proceeding with the evidence, the counsel for the respondent asking for a much longer time. Mr. Francis M. Cockrell, of Missouri, proposed June 19 instant [this day being the 6th], but the proposition was disagreed to, yeas 19, nays 27. A proposition made by Mr. George F. Edmunds, of Vermont, fixing the date as July 6 was agreed to, yeas 36, nays 9. Then the order was agreed to as follows:

Ordered, That on the 6th of July, 1876, at 1 o'clock p. m., the Senate sitting as a court of impeachment will proceed to hear the evidence on the merits of the trial in this case.

Then it was further

Ordered, That the managers furnish to the defendant, or his counsel, within four days, a list of witnesses, as far as at present known to them, that they intend to call in this case; and that, within four days thereafter, the respondent furnish to the managers a list of witnesses, as far as known, that he intends to summon.

Thereupon the Senate, sitting for the trial, adjourned to June 16, that day being selected in order to provide for the answer, which was to be filed within ten days, if at all.

2461. Belknap's impeachment continued.

In the Belknap trial respondent declined to plead on the merits, but filed a protest against the continuance of the trial.

In the Belknap trial the right of the Senate to take jurisdiction by a majority vote was the subject of protest.

A protest filed on behalf of respondent in the Belknap trial was signed by respondent and his counsel.

The Senate, after debate and close division, permitted the filing of a protest by respondent in the Belknap trial.

The Senate considered in secret session the protest of respondent in the Belknap impeachment.

On June 16,[1] Mr. Jeremiah S. Black, of counsel for the respondent, announced that they declined to put in any plea, but asked that this paper be filed:

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

THE UNITED STATES OF AMERICA *v.* WILLIAM W. BELKNAP.

And now, to wit, this 16th day of June, 1876, the said William W. Belknap comes into court, and being called upon to plead further to the said articles of impeachment, doth most humbly and with profoundest respect represent and show to this honorable court that on the 17th day of April last past he did plead to the said articles of impeachment, and in his said plea did allege that at the time when the House of Representatives of the United States ordered the said impeachment, and at the time when the said articles of impeachment were exhibited at the bar of the Senate against him, the said Belknap, he, the said Belknap, was and ever thereafter had been not a public officer of the United States, but a private citizen of the United States and of the State of Iowa; and that the plea aforesaid and all the matters and things therein contained were by him, said Belknap, fully verified by proofs, namely, by admissions of the said House of Representatives before said court; and the said Belknap further represents and shows to the court here that the truth and sufficiency of the plea pleaded by him as aforesaid were thereupon debated by the managers of the said House of Representatives and the counsel of this respondent, and thereupon submitted to this court for its determination and judgment thereon; and that such proceedings were thereupon had in this court on that behalf in this cause; that afterwards, to wit, on the

[1] First session Forty-fourth Congress, Senate Journal, pp. 952, 954, 955; Record of trial, pp. 169–173.

29th day of May last past, the members of this court, to wit, the Senators of the United States sitting as a court of impeachment as aforesaid, did severally deliver their several judgments, opinions, and votes on the truth and sufficiency in law of the said plea, when and whereby it was made duly to appear that only thirty-seven Senators concurred in pronouncing said plea insufficient or untrue; whereas twenty-nine Senators sitting in said court, by their opinions and votes, affirmed and declared their opinion to be that said plea was sufficient in law and true in point of fact; so that the said Belknap in fact saith that, on the day and year last aforesaid, twenty-nine Senators sitting in said court declared therein that the said Belknap having ceased to be a public officer of the United States by reason of his resignation of the office of Secretary of War of the United States before proceedings in impeachment were commenced against him by the House of Representatives of the United States, the Senate can not take jurisdiction of this cause; and that seven Senators did not vote upon said question, and only thirty-seven Senators, by their votes, declared their opinion to be that the Senate could take jurisdiction of said cause. And afterwards thirty-seven Senators sitting in said court, and no more, concurred in a resolution declaring that "in the opinion of the Senate William W. Belknap is amenable to trial on impeachment for acts done as Secretary of War, notwithstanding his resignation of said office," and that twenty-nine of said Senators sitting in said court, by their votes, affirmed and declared their opinion to be to the contrary thereof. And afterwards, on the day and year last aforesaid, it was proposed in said court that the President pro tempore of the said Senate should declare the judgment of the said Senate, sitting as aforesaid, to be that said plea of said respondent should be held for naught, and a vote was taken upon said proposition; and, as said vote showed, two-thirds of the said Senators present did not concur therein; but, on the contrary thereof, only thirty-six Senators did concur therein, and twenty-seven Senators then and there present, and voting on said proposition, did by their votes dissent from and vote against said proposition. All of which appears more fully and at large upon the record of this court in this cause, to which record he, said Belknap, prays leave to refer.

Therefore the said Belknap, referring to the Constitution of the United States, article 1, section 3, clause 6, which provides that "no person shall be convicted without the concurrence of two-thirds of the Members present" (meaning on trial on impeachment), avers that his said plea has not been overruled or held for naught by the Senate sitting as aforesaid, no such judgment having been concurred in by two-thirds of the Senators sitting in said court and voting thereon; but, on the contrary thereof, as the vote aforesaid fully shows, the said plea of the said respondent was sustained, and its truth in fact and sufficiency in law duly affirmed by the said Senate sitting as aforesaid, more than one-third of the Senators of said Senate, sitting as aforesaid, having by their votes so declared, to wit, twenty-seven Senators as aforesaid, and said twenty-seven Senators having by their votes declared and affirmed their opinion to be that said plea of said respondent was true in fact, and was sufficient in law to prevent the Senate sitting as aforesaid from taking further cognizance of said articles of impeachment.

Wherefore the respondent avers that he has already been substantially acquitted by the Senate sitting as aforesaid; and that he, the said respondent, is not bound further to answer said articles of impeachment; the said order requiring this respondent to answer over not having been made with the concurrence of two-thirds of the said Senators sitting as aforesaid and voting upon the question of the passage of said order; and said order having been passed with the concurrence only of less than two-thirds of the said Senators sitting as aforesaid and voting on the question of making and passing said order, the said order ought not to have been entered of record as an order of said court of impeachment in this cause; and said order appearing upon the whole record of said cause to be null and void, as an order of said court.

And the said respondent prays the court now here, as he has before formally moved said court, to vacate said order; and the said respondent hereby prays said court that he may be hence dismissed.

WILLIAM W. BELKNAP.

MATT. H. CARPENTER,
J. S. BLACK,
MONTGOMERY BLAIR,
Of Counsel for said Respondent.

Mr. George F. Edmunds, a Senator from Vermont, objected to the filing of the paper at present, and Mr. Manager Lord entered a formal objection:

Mr. President and Senators, the objection of the managers to filing this paper is that it is in direct contravention of the order of the Senate, as we view it. The order of the Senate was that on this day the respondent should plead to the merits or that the case should go to trial as upon a plea of not guilty. The Senate have not forgotten that the learned counsel who makes this motion stated distinctly in this tribunal at the last hearing that the question now raised could not be settled until the final determination of the case, for it is utterly impossible to tell at this time what the organization of the Senate will be then. The managers then said, and say now, that on this point we are prepared to argue the question at a proper time, but it seems entirely premature to attempt to argue it now, when it is impossible, as I have already said, to tell what the organization of the Senate will be when the verdict is to be taken. How many it will take to make two-thirds of the Members present at that time it is impossible now to tell; and I repeat the counsel stated emphatically that the question could not be determined until then. He now comes here, declines to plead, and asks that this rather extraordinary paper be filed. And we say there is no precedent for filing it, there is no reason for filing it, and it is a violation of the order of the Senate.

Mr. Montgomery Blair, of counsel for the respondent, said:

We wish a formal paper on the records of this body showing to the Senate and to the country the position and attitude we take upon that subject, and we think that now is the proper time. Of course, we do not say that we stand here to prevent the Senate from proceeding to the trial of the facts. We can not do that, because they have already said—and we take it that what they have said they mean—that, if we do not on this occasion file a plea to the merits of this case, they would proceed and put in a plea of the general issue for us themselves; and we expect that now, as my colleague has said to you. All we ask is that this paper, which states formally the attitude that we hold and shall claim to hold to the end of this trial, shall be noted on the records of this body. I think that any impartial tribunal would grant us that liberty of claiming the right to argue as matter of law that this court has already decided this question in its action upon the special plea heretofore put in. I do not call for any argument from the managers now or at any time hereafter (if they choose to permit it) upon this question.

On June 19,[1] in secret session, Mr. John Sherman, a Senator from Ohio, submitted an order, of which the first portion was as follows:

Ordered, That the paper presented by the defendant on the 16th instant be filed in this cause.

Mr. Allen G. Thurman, of Ohio, moved to amend by inserting after the word "be" the word "not." The amendment was disagreed to, yeas 24, nays 24.

Thereupon the order as proposed by Mr. Sherman was agreed to, yeas 26, nays 24. So the paper was ordered filed.

2462. Belknap's impeachment continued.

After settling the question of jurisdiction, the Senate overruled respondent's motion for a continuance of the Belknap trial.

The Senate determined that an impeachment might proceed only while Congress was in session.

On June 17[2] Mr. Black, of counsel for the respondent, proposed this order:

Ordered, That this case be now continued until some convenient day in the month of November.

On June 19 the Senate, in secret session, considered the order, and on motion of Mr. Allen G. Thurman, of Ohio, it was, without division,

Ordered, That the application of the respondent for postponement of the time for proceeding with trial be overruled.

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[1] Senate Journal, pp. 954, 955; Record of trial, pp. 172, 173.

[1] Senate Journal, pp. 952–954; Record of trial, pp. 171, 172.

On June 16 [1] Mr. Manager Lord had proposed the following:

Ordered, That the respondent, W, W. Belknap, shall not be allowed to make any further plea or answer to the articles of impeachment preferred against him on the part of the House of Representatives, but that the future proceedings proceed as upon a general plea of not guilty.

But subsequently he modified it to this form:

Ordered, That W. W. Belknap having made default to plead or answer to the merits within the time fixed by the order of the Senate, the trial proceed as upon a plea of not guilty, in pursuance of the former order.

On June 19 Mr. John Sherman, of Ohio, in secret session, presented an order, the first portion of which provided for the filing of the paper presented by counsel for respondent, and the second portion of which,

Ordered, That * * * the defendant having' failed to answer to the merits within ten days allowed by the order of the Senate of the 6th instant, the trial shall proceed on the 6th of July next as upon a plea of not guilty.

Mr. William B. Allison, of Iowa, proposed an amendment substituting "19th day of November" for "6th day of July." This was disagreed to, yeas 9, nays 37.

On motion of Mr. Conkling, by a vote of yeas 21, nays 19, the words "*Provided*, That the impeachment can only proceed while Congress is in session" were added.

Then, as amended, the portion of the order as given was agreed to, as follows, by a vote of yeas 21, nays 16:

And the defendant having failed to answer to the merits within ten days allowed by the order of the Senate of the 6th instant, the trial shall proceed on the 6th of July next as upon a plea of not guilty: *Provided*, The impeachment can only proceed while Congress is in session.

2463. Belknap's impeachment continued.

The Senate provided that subpoenas for respondent's witnesses in the Belknap trial should be issued on recommendation of a committee.

An approved number of witnesses for respondent in the Belknap trial were summoned at public expense.

Thereupon Mr. George F. Edmunds proposed the following, which was agreed to [2] by unanimous consent:

Ordered, That the Secretary issue subpoenas that may be applied for by the respondent for such witnesses to be summoned at the expense of the United States as shall be allowed by a committee, to consist of Senators Frelinghuysen, Thurman, and Christiancy, and that subpoenas for all other witnesses for the respondent shall contain the statement that the witnesses therein named are to attend upon the tender on behalf of the respondent of their lawful fees.

This order was apparently in response to a letter from the Chief Clerk of the Senate, presented on June 16,[3] transmitting a list of witnesses to be summoned on behalf of the respondent, which list had been filed in his office.

2464. Belknap's impeachment continued.

The opening address and presentation of testimony in the Belknap impeachment.

Counsel for respondent made no opening address before presenting testimony in the Belknap trial.

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[1] Senate Journal, pp. 952, 954, 959; Record of trial, pp. 170, 173.

[2] Senate Journal, p. 959; Record of trial, p. 174.

[3] Senate Journal, p. 952; Record of trial, p. 170.

Forms and ceremonies of opening the proceedings of the Senate on a day of the Belknap trial.

The Senate daily informed the House of its readiness to proceed with the Belknap trial.

On July 6,[1] the day set for the trial to proceed, the proceedings opened with the usual formalities. In the Senate the President pro tempore said:

The hour of 12 o'clock having arrived, pursuant to the order of the Senate made on June 19 the legislative and executive business of the Senate will be suspended and the Senate will proceed to the consideration of the articles of impeachment exhibited by the House of Representatives against William W. Belknap, late Secretary of War.

The usual proclamation was made by the Sergeant-at-Arms.

Messrs. Lord, Lynde, McMahon, Jenks, Lapham, and Hoar, of the managers on the part of the House of Representatives, appeared and were conducted to the seats assigned them.

The respondent appeared with his counsel, Messrs. Blair, Black, and Carpenter.

The President pro tempore said:

The Secretary will notify the House of Representatives that the Senate is ready to proceed with the trial and that seats are provided for their accommodation.[2]

The Secretary read the Journal of proceedings of the Senate sitting for the trial of the impeachment of William W. Belknap of Monday, June 19, 1876.

The President pro tempore said:

The Senate in trial is now ready to proceed.

Mr. Manager William P. Lynde then made the opening address on behalf of the House of Representatives, after which witnesses were called and sworn, and after examination by the managers were cross-examined by counsel for the respondent.

On July 12[3] the testimony presented by the managers was closed, and the President pro tempore said:

The defense will proceed, the case being closed on the part of the managers.

Thereupon at once, without any opening address, the counsel for the respondent began the introduction of testimony.

On July 19[4] the testimony for the respondent was concluded. The managers announced that they had nothing in rebuttal.

2465. Belknap's impeachment continued.

In the Belknap trial the Senate permitted three managers and three counsel to argue on the final question, in such order as might be agreed on.

The Senate declined to restrict the time of final arguments in the Belknap trial.

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[1] Senate Journal, p. 960; Record of trial, pp. 174, 175.

[2] This message was sent daily in accordance with rule. The House, however, had voted not to attend.

[3] Senate Journal, p. 975; Record of trial, p. 256.

[4] Senate Journal, p. 983; Record of trial, p. 285.

In the Belknap trial the closing speech of the final arguments was by one of the managers.

The illness of counsel or managers was certified to as reason for disarranging the order of final argument in the Belknap trial.

In the Belknap trial the witnesses were discharged before the final arguments.

Thereupon [1] Mr. Matt. H. Carpenter, of counsel for the respondent, asked for an order permitting three of the counsel for the respondent to be heard in final argument instead of two, as provided in Rule XXI.

Mr. George F. Edmunds, a Senator from Vermont, offered this order:

Ordered, That three persons on each side be allowed six hours for summing up, to be arranged between them.

Mr. Roscoe Conkling, a Senator from New York, proposed to amend by striking out all after the word "*Ordered*," and inserting:

That three managers and three counsel for the respondent may be heard in the concluding argument, in the order in which they state to the Senate they have agreed.

Mr. Edmunds moved to amend the amendment of Mr. Conkling by adding—

and that the argument be limited to six hours on each side.

This amendment was disagreed to, ayes 15, noes 29.

Then, without division, Air. Conkling's substitute was agreed to, and the original order as amended by the substitute was also agreed to without division.

Then the President pro tempore said:

Will the Senate allow the Chair to state that the Chair understands the witnesses on both sides can be discharged? He makes that announcement so that they can leave.

On July 20 [2] the President pro tempore announced that the arguments would begin, and that the managers would have the opening. Then it was announced that as Mr. Matt. H. Carpenter, of counsel for the respondent, was detained by illness, it had been arranged between the managers and counsel for respondent that Mr. Montgomery Blair, of counsel for the respondent, should open, thereby relieving Mr. Carpenter of the misfortune of not hearing the speech of the manager, to whom he was to reply. At the conclusion of Mr. Blair's address a motion to adjourn was disagreed to. Thereupon Mr. Jeremiah S. Black, of counsel for respondent, said it would be a hardship to have an argument from the managers in the absence of Mr. Carpenter. It was suggested that an argument made this day would be in print in the morning in time for counsel to examine it before replying. Thereupon Mr. Manager William P. Lynde proceeded in argument.

On the next day, July 21,[3] Mr. Manager Lynde having concluded his argument on the preceding day, Mr. Black, of counsel for the respondent, submitted a motion that the Senate sitting for the trial adjourn until the 24th, justifying the motion by the following affidavit:

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[1] Senate Journal, p. 983; Record of trial, pp. 285, 286.

[2] Senate Journal, p. 983; Record of trial, p. 287.

[3] Senate Journal, p. 994; Record of trial, p. 298.

United States Senate sitting as a court of impeachment.

THE UNITED STATES *v.* WILLIAM W. BELKNAP.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

Personally appeared before me D. W. Bliss, who, being sworn according to law, says that he has been the family physician of Matt. H. Carpenter for seven years when in Washington; that he is now under my care and seriously ill with acute gastritis (inflammation of the stomach); that he has been confined to his bed for the past thirty-six hours, and is not able to leave his room today, and I state my belief that he will be able to resume his duties on Monday, the 24th instant.

D. W. BLISS, M. D.

Subscribed and sworn before me this 21st day of July, A. D. 1876. [Seal]

A. E. BOONE, *Notary Public.*

Mr. Black's motion was agreed to, yeas 34, nays 5.

On the assembling of the Senate for the trial, on July 24,[1] Mr. Manager Scott Lord presented an affidavit showing:

United States Senate sitting as a court of impeachment.

THE UNITED STATES *v.* WILLIAM W. BELKNAP.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

Personally appeared before me, D. W. Bliss, M. D., a practicing physician, who, being sworm according to law, said that Hon. A. G. Lapham has been under his professional care during the past three days and unable to leave his bed by reason of acute cellulitis and perineal abscess, and he will not, in my opinion, be able to resume his official duties before Wednesday, the 26th instant.

D. W. BRASS, M. D.

Sworn and subscribed to before me this 24th day of July, 1876.

A. E. BOONE, *Notary Public.*

Mr. Manager Lord stated that the managers were prepared to go on in Mr. Lapham's absence, but preferred not to, and asked an adjournment to the 26th. The Senate declined to adjourn, whereupon Mr. Manager Lord asked that Mr. Lapham's argument might be printed. And the argument was ordered printed.

Mr. Manager George A. Jenks next proceeded in argument,[2] and was followed[3] by Mr. Jeremiah S. Black, of counsel for respondent.

On July 25 and 26[4] Mr. Matthew H. Carpenter, of counsel for respondent, submitted argument.

Following Mr. Carpenter, Mr. Manager Scott Lord, on behalf of the House of Representatives, closed the argument.[5]

2466. Belknap's impeachment continued.

The Senate in secret session adopted an order to govern the voting on the articles in the Belknap impeachment.

There was much deliberation over the form of the final question in the Belknap trial.

The voting on the articles in the Belknap impeachment was without debate, but each Senator was permitted to file an opinion.

The Senate in the Belknap trial declined to renounce the practice of deliberating in secret session.

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[1] Senate Journal, p. 985; Record of trial, p. 299.

[2] Record of trial, pp. 306–313.

[3] Record of trial, pp. 314–318.

[4] Record of trial, pp. 319–334.

[5] Record of trial, pp. 334–341.

On July 31,[1] as the Senate sitting for the trial was about to determine its method of procedure, Mr. Hannibal Hamlin, a Senator from Maine, proposed such amendment to the rules as would prevent secret sessions; but the Senate, by a vote of 23 yeas to 32 nays, declined to consider it. Then, on motion of Mr. George F. Edmunds, of Vermont, and by a vote of yeas 32, nays 25, the doors were closed for deliberation. Thereupon the following occurred:

Mr. Roscoe Conkling, of New York, submitted the following order for consideration:

Ordered, That when called to vote whether the articles of impeachment or either of them are sustained, any Senator who votes in the negative shall be at liberty to state, if he chooses, that he rests his vote on the absence of guilt proved in fact, or on the want of jurisdiction, as the case may be; and the vote shall be entered in the Journal accordingly.

Mr. Edmunds moved to amend by striking out all after the word "ordered" and inserting:

That on Tuesday next, the 1st day of August, at 12 o'clock meridian, the Senate shall proceed to vote, without debate, on the several articles of impeachment. The presiding officer shall direct the Secretary to read the several articles successively, and after the reading of each article the presiding officer shall put the question following, viz: "Mr. Senator ——, how say you? Is the respondent, William W. Belknap, guilty or not guilty of a high crime or high misdemeanor, as the charge may be, as charged in this article?" Whereupon such Senator shall rise in his place and answer "guilty" or "not guilty" only. And each Senator shall be permitted to file within two days after the vote shall have been so taken his written opinion, to be printed with the proceedings.

Mr. John Sherman, of Ohio, moved to amend the amendment of Mr. Edmunds by striking out the word "only" after "guilty," and in lieu thereof inserting:

And each Senator shall be at liberty to state the ground of his vote in a single sentence, which shall be entered on the Journal.

Mr. Aaron A. Sargent, of California, moved to amend the amendment of Mr. Sherman by inserting in lieu of the words proposed to be inserted:

Any Senator who votes in the negative shall be at liberty to state if he chooses that he rests his vote on the absence of guilt proved in fact, or on the want of jurisdiction, as the case may be; and any Senator who votes in the affirmative may add that he holds the vote of a majority heretofore in favor of jurisdiction binding on him, and the vote shall be entered on the Journal accordingly.

Mr. Edmunds moved to amend the order proposed by Mr. Conkling by striking out all after the word "that" and in lieu thereof inserting:

Each Senator may in giving his vote state his reasons therefor, occupying not more than one minute, which reasons shall be entered in the Journal in connection with his vote.

Mr. Conkling moved to amend the amendment of Mr. Edmunds by adding thereto the words:

And immediately following his name and vote.

The amendment of Mr. Conkling to Mr. Edmunds's amendment was agreed to.

On the question to agree to the order of Mr. Edmunds as amended, it was determined in the affirmative.

Mr. Edmunds then withdrew the amendment first offered by him to the order proposed by Mr. Conkling.

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[1] Senate Journal, pp. 987–991; Record of trial, pp. 341, 342.

The question then being on the order of Mr. Conkling as amended, as follows:

Ordered, That each Senator may, in giving his vote, give his reasons therefor, occupying not more than one minute, which reasons shall be entered in the Journal in connection with his vote and immediately following his name and vote,

It was determined in the affirmative.

Mr. Edmunds submitted the following order for consideration:

Ordered, That on Tuesday next, the 1st day of August, at 12 o'clock meridian, the Senate shall proceed to vote without debate on the several articles of impeachment. The presiding officer shall direct the Secretary to read the several articles successively, and after the reading of each article the presiding officer shall put the question following, namely: "Mr. Senator ———, how say you? Is the respondent, William W. Belknap, guilty or not guilty of a high crime," or "high misdemeanor," as the charge may be, "as charged in this article?" Whereupon such Senator shall rise in his place and answer "guilty" or "not guilty," with his reasons, if any, as provided in the order already adopted; and each Senator shall be permitted to file within two days after the vote shall have been so taken his written opinion, to be printed with the proceedings.

Mr. John J. Ingalls, of Kansas, moved to amend the order by striking out all after the word "impeachment," in line 4, and in lieu thereof inserting:

And that in taking the final question the presiding officer shall call each Senator by name in alphabetical order and upon each article propose as follows:

"Mr. Senator ———, how say you, is the impeachment under this article sustained?"

Whereupon each Senator shall rise in his place and answer "yea" or "nay," and may, as provided in the order already adopted, state the ground of his vote.

The question being taken on this amendment by yeas and nays, resulted—yeas 24, nays 27.

So the amendment of Mr. Ingalls was rejected.

The question recurring on the order of Mr. Edmunds, Mr. William B. Allison, of Iowa, demanded a division of the question; and the question being put on the first branch of the order, namely:

Ordered, That on Tuesday next, the 1st day of August, at 12 o'clock meridian, the Senate shall proceed to vote, without debate, on the several articles of impeachment,

It was agreed to.

The question being on the second clause of the order of Mr. Edmunds, Mr. Ingalls moved to amend the clause by inserting in lieu thereof the following:

And that in taking the final question the presiding officer of the Senate shall call each Senator by name in alphabetical order, and upon each article propose as follows, that is to say: "Mr. Senator ——, how say you, is the impeachment under this article sustained?"

Whereupon each Senator shall rise in his place and answer "yea" or "nay," and may also, as provided in the order already adopted, state the grounds of his vote; and each Senator may, within two days thereafter, file his opinion in writing, to be published in the printed proceedings of the case.

Mr. Edmunds demanded a division of Mr. Ingalls's amendment; and the question being put on the first branch thereof, it was disagreed to—yeas 24, nays 26.

The question being put in the second branch of the amendment of Mr. Ingalls—namely, strike out all of the order of Mr. Edmunds after "impeachment" and in lieu thereof insert—

Whereupon each Senator shall rise in his place and answer "yea" or "nay," and may also, as provided in the order already adopted, state the grounds of his vote; and each Senator may, within two days thereafter, file his opinion in writing, to be published in the printed proceedings of the case,

It was disagreed to.

The question recurring on the order of Mr. Edmunds, it was agreed to, as follows:

Ordered, That on Tuesday next, the 1st day of August, at 12 o'clock meridian, the Senate shall proceed to vote, without debate, on the several articles of impeachment. The Presiding Officer shall direct the Secretary to read the several articles successively, and after the reading of each article the presiding officer shall put the question following, namely: "Mr. Senator ———, how say you? Is the respondent, William W. Belknap, guilty or not guilty of a high crime" or "high misdemeanor," as the charge may be, "as charged in this article?" Whereupon such Senator shall rise in his place and answer "guilty" or "not guilty" with his reasons, if any, as provided in the order already adopted.

And each Senator shall be permitted to file within two days after the vote shall have been so taken his written opinion, to be printed with the proceedings.

The Senate, sitting for the trial, thereupon adjourned.

2467. Belknap's impeachment continued.

The managers alone attended in the Senate on the day the Senate rendered judgment in the Belknap case.

The respondent in the Belknap trial attended throughout until the time of rendering judgment.

The President pro tempore announced the result of the vote on each article and the acquittal of respondent on each.

The vote on the final question in the Belknap trial was affected conclusively by opinions as to the question of jurisdiction.

Having announced the result of the voting in the Belknap case, the President pro tempore directed the entry of a judgment of acquittal.

The adjournment without day of the Senate sitting for the Belknap trial was pronounced after vote of the Senate.

On August 1[1] the Senate, sitting for the trial, began its proceedings with the usual formalities. The usual message[2] was sent to the House of Representatives; but as usual the managers alone appeared, the House adhering to its resolution made early in the trial. Mr. Matt. H. Carpenter, of counsel for the respondent, appeared. The respondent himself, who had attended with his counsel throughout the trial, was not present either on this or the preceding day.

After the Journal had been read the President pro tempore announced that according to the order already adopted the Senate would now proceed to vote on the several articles. The voting then began, the Secretary reading each article, and each Senator rising in his place and pronouncing his decision, either with or without the permitted explanation.

The result of the voting was as follows:

	Guilty.	Not guilty.
Article I	35	25
Article II	36	25
Article III	36	25
Article IV	36	25
Article V	37	25

[1] Senate Journal, pp. 992–1012; Record of trial, pp. 342–357.

[2] House Journal, p. 1361.

After the vote on each article the President pro tempore made announcement in form as follows:

On this article 37 Senators vote "guilty" and 25 Senators vote "not guilty." Two-thirds of the Senators present not sustaining the fifth article, the respondent is acquitted on this article.

An analysis of the reasons given with the votes shows that of those voting "guilty," 2 believed that the Senate had no jurisdiction, but gave their verdict in good faith, since by vote jurisdiction had been assumed. Of those voting "not guilty," 3 announced that they did so on the evidence, while 22 announced that they voted not guilty because they believed the Senate had no jurisdiction. One Senator stated that he declined to vote because he believed they did not have jurisdiction. He did not ask to be excused from voting.

At the conclusion of the voting the President pro tempore announced:

This concludes the action of the Senate on all the articles of the impeachment. The Chair will call the Senate's attention to Rule 22, which provides:

"And if the impeachment shall not upon any of the articles presented be sustained by the votes of two-thirds of the members present, a judgment of acquittal shall be entered."

If there be no objection to complying therewith, the Secretary will be directed to enter a judgment of acquittal. Is there objection? The Chair hears none, and it will be so entered.

The Senate, sitting for the impeachment, then voted, on motion of Air. George F. Edmunds, a Senator from Vermont, to adjourn without day, and the President pro tempore said:

The Senate sitting for the trial of the impeachment of William W. Belknap, late Secretary of War, stands adjourned without day.

2468. Belknap's impeachment continued.

At the conclusion of the Belknap trial the managers presented to the House a written report of the judgment and certain features of the trial.

On August 2,[1] in the House of Representatives, Mr. Manager Scott Lord presented the following report in writing, which was read to the House and ordered printed:

That the defendant, William W. Belknap, has been acquitted on all the articles presented against him, less than two-thirds of the Senators present voting "guilty." The final vote was 61; 37 of the Senators voted "guilty," 23 "not guilty for want of jurisdiction," 1 "not guilty,"[2] I and I criticized a portion of the articles of impeachment, and stated that the offenses charged in other of the articles were not proved beyond a reasonable doubt. A change of 5 votes would have resulted in the conviction of the defendant by the two-thirds vote required by the Constitution.

The question of jurisdiction, raised by the plea of the defendant, was the first point presented to the court of impeachment. After a protracted and exhaustive argument, the court held that it had jurisdiction, notwithstanding the resignation of the defendant.; and the managers proceeded to prove the offenses charged in the articles of impeachment, and after proving them so conclusively that only two[3] Senators in any manner questioned the guilt of the defendant, the minority of the Senate refused to be governed by the deliberate judgment of the majority, that it had jurisdiction, and, in the form and mode before referred to, prevented the conviction of the defendant.

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[1] House Journal, p. 1373, Record; pp. 5082, 5083.

[2] Three voted "not guilty"—Messrs. Conover, Patterson, and Wright. (See pp. 355–357 of Record of trial.) The number voting "not guilty for want of jurisdiction" was 22, and 1, Jones, of Florida, declined to vote because he considered the Senate had no jurisdiction.

[3] Three Senators voted not guilty.

While exercising the power to vote "not guilty," it was practically asserted that there was no converse to the proposition, and therefore that Senators had no legal right to vote "guilty," however satisfied of the guilt of the accused.

Notwithstanding this result, the managers believe that great good will accrue from the impeachment and trial of the defendant. It has been settled thereby that persons who have held civil office in the United States are impeachable, and that the Senate has jurisdiction to try them, although years may elapse before the discovery of the offense or offenses subjecting them to impeachment. To such as are or may hereafter be among the civil officers of the United States, who have no higher plane of integrity than the rule that "honesty is the best policy," and it is conceded they are comparatively few, this decision will be a constant warning that impeachable offenses, though not discovered for years, may result in impeachment, conviction, and public disgrace. To settle this principle, so vitally important in securing the rectitude of the class of officers referred to, is worth infinitely more than all the time, labor, and expense of the protracted trial closed by the verdict of yesterday.

This report was evidently unanimous, and at the conclusion of the reading Messrs. Managers George F. Hoar and Elbridge G. Lapham addressed the House briefly affirming strongly the positions taken by the report.