

A Case of Judicial Misconduct: The Impeachment and Trial of Robert W. Archbald

IT IS A regrettable affair whenever it becomes necessary to remove a federal judge from office. The position of trust inherent in a judicial post is self-evident. The guarantees of the Constitution are worthless when a corrupt jurist is at hand. Indeed, the Constitution allows federal judges to sit only as long as no misconduct is discerned.¹ Impeachment by the House of Representatives and trial by the Senate is necessary when proof of "Treason, Bribery, or other high Crimes and Misdemeanors" comes to the fore.² The mere fact that the framers of the Constitution required Congress to devote time to the removal of recalcitrant judges shows how much trust is placed in them.

By the second decade of the twentieth century congressional impeachment had not been common practice but sufficient precedent had been established. Representative cases were on hand from all three branches of the federal government. Members of Congress debated the vague phrases of the Constitution dealing with impeachment from the first case in 1797.³ To the question, "what is misconduct?," all shades of answers have been given.

In the spring of 1912 the House, under a resolution advanced by George Norris of Nebraska, began to seek information about the conduct of Judge Robert Wodrow Archbald, an associate judge of the Commerce Court. Commissioner Eugene Meyer of the Interstate Commerce Commission had informed President Taft in February of suspected wrong doing by Archbald. Taft asked the

¹ *Constitution of the United States*, Art. 3, Sec. 1.

² *Ibid.*, Art. 2, Sec. 4.

³ In that case William Blount, Senator from Tennessee, was involved in a conspiracy to violate United States neutrality by organizing a military expedition against Spanish Florida. See Irving Brant, *Impeachment Trials and Errors* (New York, 1972), 24-27.

Attorney General to look into the matter and forward information to the House Judiciary Committee if warranted. Following Attorney General G. W. Wickersham's report to Taft on his investigation the information was transferred to the Judiciary Committee.⁴ On May 4 Henry D. Clayton of Alabama, chairman of that committee, introduced a resolution to start the official House investigation.⁵

The five-member Commerce Court had been created in June 1910 by the Mann-Elkins Act.⁶ Since it possessed the jurisdiction and power of circuit courts, its judges were circuit judges of the United States.⁷ While each judge was to sit five years, the initial appointments were for staggered terms to allow a new appointment annually with the President appointing the first members and the Chief Justice of the Supreme Court all subsequent members.⁸ The purpose of the court was to act only on cases involving the Interstate Commerce Commission; it "had jurisdiction over most proceedings to enforce, and over all to enjoin, set aside, annul or suspend, any order of the Interstate Commerce Commission."⁹ The original members of the Commerce Court included John E. Carland of South Dakota, Robert W. Archbald of Pennsylvania, William H. Hunt of Montana, Julian W. Mack of Illinois, and presiding judge Martin A. Knapp of New York.¹⁰ Washington, D. C., was the home of the Commerce Court.¹¹

Archbald, born in Carbondale, Pennsylvania, in 1848, the son of a manager of coal hauling railroads, was an 1871 graduate of Yale University and had been a jurist since his appointment to be additional judge of Pennsylvania's forty-fifth district in 1885.¹² In March 1901 President McKinley commissioned him a United States

⁴ *Proceedings of the United States Senate and the House of Representatives in the Trial of Impeachment of Robert W. Archbald*, volume III, 62d Cong., 3d Sess., III, 1680, 1913 (hereinafter cited as *Proceedings*).

⁵ *Ibid.*, 1680-1684.

⁶ George E. Dix, "The Death of the Commerce Court: A Study in Institutional Weakness," *The American Journal of Legal History* (1964), VIII, 239.

⁷ U.S. *Statutes at Large*, XXXVI, 539.

⁸ *Ibid.*, 540.

⁹ John C. Rose, *Jurisdiction and Procedure of the Federal Courts*, 3d ed. (Albany, N. Y., 1926), 103.

¹⁰ *New York Times*, Feb. 19, 1911.

¹¹ *Proceedings*, III, 1686.

¹² *New York Times*, Jan. 14, 1913; obituary notice *Public Ledger*, Aug. 20, 1926.

district judge for the Middle District of Pennsylvania while the Senate was on vacation. In December the Senate confirmed the appointment and Theodore Roosevelt, assuming the presidency on the death of McKinley, signed the judge's commission.¹³ In January 1911 President Taft elevated Archbald to the new Commerce Court.¹⁴

The House Judiciary Committee investigated Archbald's affairs from May 7 through June 4, 1912. Archbald's legal staff included A. S. Worthington of Washington, D. C., assisted by M. J. Martin, Samuel B. Price, and Archbald's son Robert Archbald, Jr.¹⁵ The House investigation was not a court of law. Procedural liberties were allowed in order to facilitate the gathering of information. Cross-examination of witnesses was allowed to go beyond subjects introduced in direct examination, a procedure not allowed in a court of law. Although Archbald was permitted to be a witness in his own behalf he never availed himself of the opportunity during the House investigation.¹⁶

Before opening the hearings to the public and press the Judiciary Committee checked over the documents forwarded by President Taft and Attorney General Wickersham.¹⁷ This was in deference to Taft's May 3 letter to the House asking that the papers not be made public "until the Committee on the Judiciary shall have sifted them out."¹⁸ Wrisley Brown, as special investigator for the Attorney General, compiled the Justice Department's dossier on Archbald. Coal contracts, maps, photographic copies of letters, and other documents were included in Brown's report.¹⁹

On July 8, 1912, chairman Clayton of the Judiciary Committee reported to the full House the findings of his committee. By a unanimous vote the committee had accepted thirteen articles of impeachment for presentation to the House.²⁰ Some of the acts for which Archbald was accused had occurred before he took office with

¹³ *Proceedings*, III, 1685.

¹⁴ *Ibid.*, 1686.

¹⁵ *Ibid.*, 1718.

¹⁶ *Ibid.*, 1719.

¹⁷ *Evening Sun* (Baltimore), May 8, 1912.

¹⁸ *Proceedings*, III, 1684.

¹⁹ *Ibid.*, 1823-2147.

²⁰ *Ibid.*, 1701; "Impeaching Judge Archbald," *The Literary Digest*, July 6, 1912, p. 6.

the Commerce Court but while he was still a federal judge. This was a unique situation for the lawyers in Congress, one in which the Judiciary Committee insisted that Archbald was liable to impeachment for misbehavior he committed while holding another federal judgeship. Because the United States Circuit Courts were abolished in December 1911 by act of Congress, the office of circuit and district judge became interchangeable.²¹ In effect, Archbald always held the power of a district judge, even after his elevation to the Commerce Court.

Archbald's dealings revolved largely around the businesses most active in his hometown region of eastern Pennsylvania—coal and railroads. The money to be made in speculation on culm dumps was tempting. Culm is the waste product of coal breakers which can be cleaned and used as coal with proper management.²² The close association of railroads and coal companies offered still further opportunities for profitable speculation.

The first and most important witness called by the Judiciary Committee was Edward J. Williams. In the Scranton coal district he was known as "Option" Williams because of his many business deals.²³ A report that he planned a quick departure for Europe caused the committee to move for his testimony.²⁴ In March 1911 Williams was in an active partnership with Archbald to secure an option on the Katydid culm dump near Moosic, Pennsylvania, from the Hillside Coal and Iron Company which was owned by the Erie Railroad. Archbald and Williams offered the business operator of the culm dump, John M. Robertson, \$3,500 for his interest in the dump. Hillside was offered \$4,500 for its interest.

At the time of the purchase negotiations the Erie Railroad Company was a party to suits then in litigation before the Commerce Court. An independent mining engineer investigated the worth of the Katydid dump and found approximately 46,704 tons to be marketable coal. Gross worth of the coal was about \$51,300 from which a profit of about \$35,000 could be realized. Transportation of the coal on the Erie Railroad would gain another \$35,000 for the

²¹ *Proceedings*, III, 1700; Rose, *Federal Courts*, 94-95.

²² H. Ries, *Economic Geology*, 7th ed. (New York, 1937), 26.

²³ *Evening Sun*, May 8, 1912.

²⁴ *Ibid.*

company. Archbald and Williams paid only a fraction of the real worth of the culm dump. A letter written by Archbald on Commerce Court stationery revealed his intention to sell the dump to the Laurel Electric Line Railroad.²⁵ By doing business with a litigant in a case then pending in his court, Archbald was accused of breaking the trust of his office. Therefore, the first article of impeachment charged that Archbald "willfully, unlawfully, and corruptly took advantage of his official position."²⁶

The second article of impeachment charged Archbald with using his influence as a Commerce Court judge to facilitate sale of stock and settle a case then in litigation. Archbald had agreed to help George M. Watson, an agent of the Marion Coal Company, sell part of Marion's stock to the Delaware, Lackawanna & Western Railroad Company, of which Archbald's father had been manager. In October 1910 Marion Coal brought suit against the Delaware Railroad before the Interstate Commerce Commission because of discrimination in freight rates. By the summer of 1911 William P. Boland and Christopher G. Boland, owners of Marion Coal, were ready to sell two-thirds of their company's stock to the Delaware Railroad. The Boland brothers hired Watson to facilitate the sale and settle the litigation then pending for review by the Commerce Court.

Archbald became active in the stock sale by personal conferences and correspondence on Commerce Court stationery. Watson, with the backing of Archbald, asked a price for the stock in excess of what the Bolands had instructed him to ask. Archbald was to receive part of Watson's original fee from the Bolands plus part of the excess Watson could gouge from the Delaware Railroad. By entering into that agreement Archbald became an agent for a company which had litigation pending in his court.²⁷

Another culm dump deal was entered into by Archbald in the summer of 1911 with a company then involved in litigation before the Commerce Court. The Lehigh Valley Coal Company, owned in full by the Lehigh Valley Railroad Company, held a fifteen-year lease on coal lands located on the Girard estate near Shenandoah,

²⁵ *Proceedings*, III, 1686-1687; *Evening Sun*, May 9, 1912.

²⁶ *Proceedings*, III, 1702, 1708.

²⁷ *Ibid.*, 1687-1688, 1702, 1708-1709.

Pennsylvania. Two years of the lease remained when Archbald entered the picture. Archbald, it was alleged, convinced Lehigh Valley Coal to relinquish control of its lease on the coal land, known as Packer Number 3, to him. In return Archbald agreed to pay the coal company a small royalty on all coal removed from Packer Number 3 and transport all coal on the lines of the Lehigh Valley Railroad. The judge also attempted to convince the managers of the Girard estate to allow him to pay them royalties similar to those negotiated by the Lehigh concern thirteen years before when coal prices were much lower, but the Girard managers refused to accept the offer and the deal was never consummated.

The Judiciary Committee realized that the profits lost by Lehigh Valley Coal would only have been relinquished reluctantly. The influence of a judge sitting on the Commerce Court, where litigation concerning them was in progress, convinced the Lehigh concern to agree to the loss of culm dump Packer Number 3. The third article of impeachment charged Archbald with exerting undue influence to secure concessions from the Lehigh Valley Coal Company.²⁸

One of the first cases heard by the Commerce Court was in April 1911. The Louisville & Nashville Railroad Company, represented by Helm Bruce, was involved in a suit with the Interstate Commerce Commission. The Louisville & Nashville had been charged with rate discrimination and the Commerce Court heard the appeal.²⁹ Archbald communicated with Bruce about the case several times and Bruce submitted a supplemental brief to Archbald in which he argued in the railroad's behalf. These contacts between Archbald and Bruce were confidential; the Interstate Commerce Commission was given no opportunity to answer Bruce's arguments. The case was decided in the railroad's favor, Archbald submitting the majority opinion. The fourth article of impeachment charged Archbald with misbehavior for personally entering into negotiations with a litigant in his court.³⁰

Frederick Warnke leased coal property near Lorberry Junction, Pennsylvania, in 1904 from the Philadelphia & Reading Coal & Iron Company, a subsidiary of the Reading Company. The Reading

²⁸ *Ibid.*, 1688, 1702-1703, 1709.

²⁹ *Ibid.*, 3212-3213.

³⁰ *Ibid.*, 1688-1689, 1703, 1709-1710.

Company also owned the Philadelphia & Reading Railroad Company. Warnke settled all the paperwork for obtaining a lease but never received the document of lease. He started work on the culm dump in full confidence that the lease would be sent to him.

After the culm dump had been gleaned of useable coal Warnke asked the Reading Company for the subsurface maps of the area so he could begin underground operations only to be told that he did not hold a lease, and, in fact, the area had been leased two years earlier to another operator. Warnke then asked George F. Baer, president of both the Philadelphia & Reading Coal & Iron Company and the Philadelphia & Reading Railroad, about possible compensation, agreeing to relinquish any claim he had on the Lorberrry Junction property in return for a lease on the Lincoln culm bank, also owned by Philadelphia & Reading Coal & Iron. Although Baer conferred with his vice-president and general manager W. J. Richards on the proposition, the executives refused to break their company's policy.

In November 1911 Warnke asked his old friend Archbald to intercede on his behalf, but the judge could not get Richards to change his mind. At that time the Reading Company was not engaged in litigation before the Commerce Court and Archbald received no money for his services from Warnke. However, the Judiciary Committee found a pay-off scheme in a later transaction between the judge and Warnke. In December 1911 Warnke was interested in buying a culm dump near Pittston, Pennsylvania, from the Lacoë & Shiffer Coal Company. Since he wanted to be sure the property was free to be sold, Archbald was contacted to check on its ownership. After an investigation the judge assured Warnke that the dump had a clear title and Warnke purchased it. For his services Archbald received a promissory note for \$500. The fifth article of impeachment accused the judge of corruptly accepting a gift or reward for his actions on behalf of Frederick Warnke.³¹ The Judiciary Committee reasoned that Archbald should have had no business whatsoever with a company which one day might be a litigant in his court.

During the winter of 1911-1912 Archbald went into partnership

³¹ *Ibid.*, 1689-1690, 1703-1704, 1710; *Public Ledger* (Philadelphia), May 12, 1912.

with James R. Dainty to secure concessions from the Lehigh Valley Coal Company. This company, owned, as previously stated, in full by the Lehigh Valley Railroad, had held part interest in a tract of coal land near Wilkes-Barre since 1884. The other portion of the tract was owned by the Everhart estate. The Lehigh concern had attempted several times to purchase the Everhart estate's rights and finally called on Archbald to help in its negotiations. In return Archbald and Dainty were to receive operating rights on another coal property owned by Lehigh known as the Morris and Essex tract.

While these negotiations were in progress the Lehigh Valley Railroad was engaged in litigation before the Commerce Court. Archbald seemingly used his position as a member of the Commerce Court to gain profitable favors from the railroad. The sixth article of impeachment charged misbehavior in office for putting official pressure on the Lehigh.³²

In the fall and winter of 1908, while Archbald was a federal district judge in Pennsylvania, the Old Plymouth Coal Company brought suit against its insurance companies for contract disagreements amounting to \$30,000. The case went to trial before Archbald's court in November, but before final judgment could be made the insurance companies agreed to pay a total of \$28,000. All concerned agreed to the settlement and the case was closed. Some time before the case came to his court Archbald had entered into an agreement with W. W. Rissinger, controlling stockholder of the Old Plymouth Coal Company, to buy part interest in a gold mining project Rissinger was promoting in Honduras.

In order to raise cash for the project Rissinger signed a promissory note for \$2,500 payable to Archbald and Rissinger's mother-in-law, Sophia J. Hutchison. Archbald deposited the note in a bank and drew money on it for the gold mining project. Because the note was deposited only five days after final judgment of the Old Plymouth case the Judiciary Committee believed negotiations between Rissinger and Archbald had commenced while the case was still in litigation. The seventh article of impeachment charged the judge with improper and unbecoming behavior.³³

³² *Proceedings*, III, 1690, 1704, 1711; *Public Ledger*, May 11, 1912.

³³ *Proceedings*, III, 1690-1691, 1704-1705, 1711.

John Henry Jones approached Archbald in 1909 with the wish to include him in a Venezuelan timber project Jones was promoting. To secure the needed cash Archbald prepared a \$500 promissory note to be paid to Jones. The judge asked Edward J. "Option" Williams to ask the Boland brothers if they would give cash for the note.³⁴ At the time the Bolands' Marion Coal Company was involved in litigation before Archbald's district court in Scranton. When the Bolands refused to grant the judge's request, Williams attempted to present the note to a Scranton bank and was rebuffed there.

On Archbald's order Jones took the note to C. H. Von Storch's Providence Bank, located in a Scranton suburb, in an attempt to secure the needed cash. Von Storch was a lawyer who had, within the year, gained favorable judgment in Archbald's court. When the judge advised Von Storch that it would be considered a great favor if the bank would accept the note, the cash was granted. However, the note was never paid by Archbald and Jones was forced to accept the liability. So it was that because of the poor state of Archbald's credit he tried to influence litigants in his court to give him money, was refused, then gained favor from an attorney who had been successful before his court. The Judiciary Committee decided to assign two articles of impeachment to those actions. The eighth article charged gross misconduct in office for attempting to gain favors from the Bolands. The ninth article referred to favors gained from Von Storch.³⁵

In the fall of 1910, while Archbald was a district judge, he and his wife took a pleasure trip to Europe. Henry W. Cannon, officer and stockholder in several railroad and coal companies, paid the Archbalds' expenses for the trip. Cannon was a cousin of Mrs. Archbald and suggested the trip to her.³⁶

The trip also evoked the good will of Edward R. W. Searle, clerk of Archbald's court, and J. B. Woodward, jury commissioner of the court. Both men owed their appointive positions to the judge. They were able to raise more than \$500 from lawyers practicing before Archbald's court as a parting gift for the judge. A list of

³⁴ *Ibid.*, 1894.

³⁵ *Ibid.*, 1691, 1705, 1711-1712; *Evening Sun*, May 9, 1912.

³⁶ *New York Times*, Jan. 7, 1913.

contributors accompanied the cash gift. The European trip added two more counts against him. The tenth article charged Archbald with bringing disrepute to his office for accepting the trip as a gift from a man who might be a future litigant in his court. The eleventh article referred to accepting money raised in solicitation from officeholders indebted to the judge for their jobs.³⁷

Archbald's appointment of J. B. Woodward as jury commissioner raised another question of conflict of interest. Jury commissioners select potential jurors to sit in cases of the federal courts and received a compensation of a mere five dollars a day. Woodward, at the time of his appointment and afterwards, was an attorney for the Lehigh Valley Railroad. The Judiciary Committee reasoned that the small federal salary he received was not the reason he accepted the job. The influence of Woodward's court office and his close connection with a railroad company put him in an important position. For appointing a railroad company attorney as jury commissioner Archbald added another article of impeachment to the list. The twelfth article charged the judge with bringing the federal judiciary into disrepute.³⁸

The thirteenth article of impeachment was merely a restatement of the charges against Archbald. He had used his influence as a federal judge to gain favors from litigants in his court. All the favors received by the judge were given at no expense to himself. As these allegations became public a scandal was released which tended to bring scorn on the federal bench. He "grossly abused the proprieties of his said office as judge, was guilty of misbehavior and of a misdemeanor in office."³⁹

In general session the House voted on the thirteen articles of impeachment on July 11, 1912. The vote included 233 yeas, 1 nay, 10 present, and 155 not voting.⁴⁰ The one nay vote was cast by Archbald's old friend John R. Farr. Farr, a Republican representing the Scranton area,⁴¹ had known the judge for more than twenty years. He offered this comment on Archbald: "He has been un-

³⁷ *Proceedings*, III, 1692, 1706, 1712.

³⁸ *Ibid.*, 1692, 1706, 1713.

³⁹ *Ibid.*, 1693.

⁴⁰ *Ibid.*, 1793.

fortunate in his associates, to whom he extended assistance solely out of kindness."⁴²

Just as in a court of law, prosecuting attorneys were chosen to try the case for the government. The House was responsible for supplying prosecutors or managers in the impeachment case. The Judiciary Committee chose seven of its members to present the case against Archbald to the Senate, which acted in the capacity of a court of impeachment. The House managers were Henry D. Clayton of Alabama, Edwin Y. Webb of North Carolina, John C. Floyd of Arkansas, John W. Davis of West Virginia, John A. Sterling of Illinois, Paul Howland of Ohio and George Norris of Nebraska. The Senate was informed of the House's decision and was asked to prepare for the trial.⁴³

Answers to the charges made against Archbald were read to the Senate on July 29, 1912. The line of argument taken by the defense was amazing considering the circumstances. It was admitted that the judge had entered into the agreements alleged in the articles of impeachment, but with no criminal intent. In all cases Archbald was presented as a friend to those in need and an expediter of business deals. The fact that companies were in litigation before his court made no impression on him. He acted out of goodwill alone.⁴⁴ The House managers promptly presented a replication of arguments in denial of the allegations made by the defense.⁴⁵

In order to give the defense time to prepare its case the Senate adjourned as a court of impeachment until December 3, 1912. Manager Clayton opened arguments on that date with a brilliant denunciation of judicial misconduct.

After Judge Archbald became judge he was evidently seized with an abnormal and unjudgelike desire to make money by trading directly and through others with railroads and their subsidiary corporations, which concerns had, or were likely to have, litigation in his court or to become directly or indirectly interested in cases coming before it for adjudication.

⁴¹ Clifford P. Reynolds, ed., *Biographical Directory of the American Congress, 1774-1961* (Washington, D. C., 1961), 876.

⁴² *Public Ledger*, July 12, 1912.

⁴³ *Proceedings*, III, 1795.

⁴⁴ *Ibid.*, I, 43-59.

⁴⁵ *Ibid.*, 61-62.

He abused his potentiality as judge to further these trades and place himself, or showed willingness to place himself, under obligations to these corporate concerns. . . .

The conduct of this judge has been exceedingly reprehensible and in marked contrast with the high sense of judicial ethics and probity which generally characterize American judges. Let unworthy judges be shorn of power so that an upright and independent judiciary may be maintained for the perpetuation of our Government of laws.⁴⁶

Defense attorney Worthington answered the managers with an interpretation of Constitutional impeachment. It was the belief of the defense "that no officer of the Government may be properly convicted in this tribunal in an impeachment proceeding unless he has committed an offense which is punishable in a criminal court."⁴⁷ The defense rested its case on the twin pillars of no criminal intent and a narrow interpretation of the Constitution.

The managers drew up a list of ninety-one witnesses they wished to question before the Senate and the first weeks of December were taken up with their questioning. Unusual Saturday sessions were held to speed up the trial, but on December 19 the Senate adopted a measure to allow an end-of-year vacation, agreeing to meet again on January 3, 1913.⁴⁸

Archbald's wife Elizabeth was called on to testify on January 6. The trip to Europe was brought under examination as well as the personal relationship between Mrs. Archbald and Henry Cannon. However, the managers were not able to shake Mrs. Archbald into admitting criminality for accepting the trip⁴⁹ and her short stay on the witness stand was a clear asset to the defense.

Archbald himself also took the stand on January 6. This was the first time the Senate had heard a defendant testify as a witness for himself in impeachment history.⁵⁰ The judge admitted being involved in business deals with litigants in his court but denied criminal intent. The following day he was cross-examined by Manager Sterling.⁵¹ The judge agreed that profit had excited his

⁴⁶ *Ibid.*, 110.

⁴⁷ *Ibid.*, 111-112; Brant, *Impeachment Trials and Errors*, 164.

⁴⁸ *Proceedings*, I, 1048.

⁴⁹ *Ibid.*, II, 1230-1234.

⁵⁰ *New York Times*, Jan. 7, 1913.

⁵¹ *Proceedings*, II, 1281-1282.

interest, but only as a private citizen. He said his business deals were not influenced by his judicial position. In gaining favors from business concerns Archbald felt his position in the community, apart from his judicial post, was of prime importance. Senators who questioned Archbald centered in on his judicial influence. To each question the judge reverted to his argument of no criminal intent.⁵²

Archbald was the last witness to be heard. Closing arguments followed on January 8, 9, and 10. Each manager in turn presented the case against Archbald followed by rebuttals by the defense with the Senate agreeing to meet in closed session on January 11 to set up voting procedures for the articles of impeachment.⁵³ It was decided that Monday, January 13 would be the date for final voting on the articles. A roll call vote for each article was required. Each Senator was to respond "guilty" or "not guilty" as charged.⁵⁴

The history of impeachment had generally run in favor of the defendants. By 1913 only eight cases had been heard by the Senate. Of those eight cases only two officials had been found guilty.⁵⁵ However, the two found guilty were both federal judges. Judge John Pickering was removed from the bench in 1804 on charges of being insane and a drunkard. Judge West H. Humphreys' removal in 1862 was due to his open Confederate leanings.⁵⁶ No federal judge had ever been removed from office because of corruption.

Despite the seeming mathematical odds in his favor, Archbald's case was decided on its content alone. The Constitution requires a two-thirds vote in favor of each article for it to be binding.⁵⁷ Several Senators were not present at the voting or were excused from voting for various reasons. The final vote was as follows:

- Article 1: Guilty, 68; not guilty, 5. (Guilty)
- Article 2: Guilty, 46; not guilty, 25. (Not guilty)
- Article 3: Guilty, 60; not guilty, 11. (Guilty)
- Article 4: Guilty, 52; not guilty, 20. (Guilty)

⁵² *Ibid.*, 1282-1394; *New York Times*, Jan. 8, 1913.

⁵³ *Proceedings*, II, 1617; *New York Times*, Jan. 11-12, 1913.

⁵⁴ *Proceedings*, II, 1620.

⁵⁵ "Impeaching Judge Archbald," *The Literary Digest*, July 6, 1912.

⁵⁶ "Judge Archbald's Conviction," *The Literary Digest*, Jan. 25, 1913.

⁵⁷ *Constitution of the United States*, Art. 1, Sec. 3.

- Article 5: Guilty, 66; not guilty, 6. (Guilty)
 Article 6: Guilty, 24; not guilty, 45. (Not guilty)
 Article 7: Guilty, 29; not guilty, 36. (Not guilty)
 Article 8: Guilty, 22; not guilty, 42. (Not guilty)
 Article 9: Guilty, 23; not guilty, 39. (Not guilty)
 Article 10: Guilty, 1; not guilty, 65. (Not guilty)
 Article 11: Guilty, 11; not guilty, 51. (Not guilty)
 Article 12: Guilty, 19; not guilty, 46. (Not guilty)
 Article 13: Guilty, 42; not guilty, 20. (Guilty)⁵⁸

It will be remembered that Articles 7–12 dealt with the judge's actions before he was appointed to the Commerce Court. The final vote on those articles shows that the Senators were not swayed by the arguments of the House Judiciary Committee on the liability of offices held in the past.

The punishment imposed by the Senate was limited by the Constitution to "removal from Office, and disqualification to hold and enjoy any Office or honor, Trust, or Profit under the United States."⁵⁹ The Constitutional phrase was divided for voting purposes. Both sections of the phrase were adopted by the Senate as a sentence imposed on Archbald.⁶⁰

As the *New York Times* put it, "the number 13, proved fatal to Judge Archbald."⁶¹ The date, January 13, 1913, the thirteen articles of impeachment, and the sum of one, three, four, and five (the numbers of the articles for which Archbald was found guilty) all played against the jurist.

The Constitution insists on "good behavior as a condition of federal judicial tenure, and impeachment as the exclusive device for its enforcement."⁶² In choosing to ignore the defense argument about indictable crimes being the only impeachable crimes, the Senate took a strict view to "insure that the federal judiciary not be burdened with either the dishonest or the incompetent, impeachable conduct must necessarily include any such lack of good be-

⁵⁸ *Proceedings*, II, 1623–1647, appendix xiv.

⁵⁹ *Constitution of the United States*, Art. I, Sec. 3.

⁶⁰ *Proceedings*, II, 1649–1650.

⁶¹ *New York Times*, Jan. 14, 1913.

⁶² Carl L. Shipley, "Legislative Control of Judicial Behavior," *Law and Contemporary Problems*, XXXV (1970), 181.

havior whether prescribed by an existing statute or not.”⁶³ Archbald was removed from office “because it was proved that his standard of judicial conduct was low, that he was hopelessly dull to the requirements of his position, and that he set an example that made corruption easier.”⁶⁴

The reputation of the Commerce Court was shaken after the removal of Archbald. In any event, Congress had been debating the merits of the court since its inception in 1910 and Archbald’s impeachment added fuel to the arguments in favor of abolishment. Just nine months after Archbald’s removal, October 22, 1913, the Commerce Court was dissolved. All remaining judges were given alternate service.⁶⁵ Archbald returned to Scranton after the Senate trial and set up a law practice. While visiting a niece at Martha’s Vineyard he succumbed to a heart attack and died August 20, 1926, thirteen years after his removal from the bench.⁶⁶

Gulf Breeze, Florida

PATRICK J. MCGINNIS

⁶³ *Ibid.*, 184; Brant, *Impeachment Trials and Errors*, 165.

⁶⁴ Editorial, *New York Times*, Jan. 16, 1913.

⁶⁵ Rose, *Federal Courts*, 103.

⁶⁶ *New York Times*, Aug. 21, 1926.