

**JOURNAL
OF
THE SENATE
SITTING FOR THE TRIAL OF
THE VARIOUS JUSTICES OF THE
SUPREME COURT OF APPEALS OF THE
STATE OF WEST VIRGINIA,
UPON ARTICLES OF IMPEACHMENT**

TUESDAY, SEPTEMBER 11, 2018

**THE STATE OF WEST VIRGINIA
VS
THE VARIOUS JUSTICES OF THE
SUPREME COURT OF APPEALS OF THE STATE OF WEST VIRGINIA**

The Senate, sitting as a Court of Impeachment to consider proceedings against Robin Jean Davis, Retired Justice of the Supreme Court of Appeals of the State of West Virginia; Allen H. Loughry II, Justice of the Supreme Court of Appeals of the State of West Virginia; Elizabeth D. Walker, Justice of the Supreme Court of Appeals of the State of West Virginia; and Margaret L. Workman, Chief Justice of the Supreme Court of Appeals of the State of West Virginia.

Upon direction of the President of the Senate, the oath was administered to the Honorable Paul T. Farrell, Acting Chief Justice of the Supreme Court of Appeals of the State of West Virginia, by the Honorable Lee Cassis, Clerk of the West Virginia Senate.

The Acting Chief Justice of the Supreme Court of Appeals of the State of West Virginia assumed the chair and directed the Honorable Lee Cassis, Clerk of the West Virginia Senate, to administer the oath to the following members of the West Virginia Senate:

First Senatorial District: Ryan J. Ferns of the County of Ohio;

First Senatorial District: Ryan W. Weld of the County of Brooke;

Second Senatorial District: Michael J. Maroney of the County of Marshall;

Second Senatorial District: Charles H. Clements of the County of Wetzel;

Third Senatorial District: Donna J. Boley of the County of Pleasants;

Third Senatorial District: Michael T. Azinger of the County of Wood;

Fourth Senatorial District: Mitch Carmichael of the County of Jackson;

Fourth Senatorial District: Mark A. Drennan of the County of Putnam;

Fifth Senatorial District: Robert H. Plymale of the County of Wayne;

Fifth Senatorial District: Michael A. Woelfel of the County of Cabell;

Sixth Senatorial District: Mark R. Maynard of the County of Wayne;

Sixth Senatorial District: Chandler Swope of the County of Mercer;

Seventh Senatorial District: Ron Stollings of the County of Boone;

Seventh Senatorial District: Richard N. Ojeda II of the County of Logan;

Eighth Senatorial District: C. Edward Gaunch of the County of Kanawha;

Eighth Senatorial District: Glenn D. Jeffries of the County of Putnam;

Ninth Senatorial District: Sue Cline of the County of Wyoming;

Ninth Senatorial District: Lynne Carden Arvon of the County of Raleigh;

Tenth Senatorial District: Kenny Mann of the County of Monroe;

Tenth Senatorial District: Stephen Baldwin of the County of Greenbrier;

Eleventh Senatorial District: Robert Karnes of the County of Upshur;

Eleventh Senatorial District: Gregory L. Boso of the County of Nicholas;

Twelfth Senatorial District: Douglas E. Facemire of the County of Braxton;

Twelfth Senatorial District: Michael J. Romano of the County of Harrison;

Thirteenth Senatorial District: Roman W. Prezioso, Jr. of the County of Marion;

Thirteenth Senatorial District: Robert D. Beach of the County of Monongalia;

Fourteenth Senatorial District: Dave Sypolt of the County of Preston;

Fourteenth Senatorial District: Randy E. Smith of the County of Tucker;

Fifteenth Senatorial District: Craig Blair of the County of Berkeley;

Fifteenth Senatorial District: Charles S. Trump IV of the County of Morgan;

Sixteenth Senatorial District: John R. Unger II of the County of Berkeley;

Sixteenth Senatorial District: Patricia Puertas Rucker of the County of Jefferson;

Seventeenth Senatorial District: Corey Palumbo of the County of Kanawha;

Seventeenth Senatorial District: Tom Takubo of the County of Kanawha.

The Presiding Officer then announced that the oath having been administered to all the Senate members present, the Senate was now organized as a Court of Impeachment to consider proceedings against the various justices of the Supreme Court of Appeals of the State of West Virginia, and directed the Sergeant at Arms to make the following proclamation: All persons are commanded to keep silence, on pain of imprisonment, while the Senate is sitting as a Court of Impeachment.

The Presiding Officer then announced that summonses had been issued against and served upon each of the Respondents; that returns of service were made for the same; and that the summonses and returns are available for review.

The Presiding Officer then directed the Sergeant at Arms to summon the Managers, attorneys, and respondents.

The Managers, appointed by the House of Delegates to conduct the trial of impeachment of the various justices of the Supreme Court of Appeals of the State of West Virginia, to wit: Delegates Shott, Hollen, Byrd, and Miller (Delegate Foster, one of the said managers, being absent) entered the Senate Chamber and took the seats assigned them.

Brian Casto, Marsha Kaufmann, and Joe Altizer, counsel for the Managers of the House of Delegates, accompanied said Managers.

Respondent Allen H. Loughry II, Justice of the Supreme Court of Appeals of the State of West Virginia, and the respondents' counsel entered the Senate Chamber and took the seats assigned them.

The Presiding Officer recognized John H. Shott, Chair of the Managers appointed by the House of Delegates, for a presentation concerning an agreement between the Managers and Elizabeth D. Walker, Justice of the Supreme Court of Appeals of the State of West Virginia, and Margaret L. Workman, Chief Justice of the Supreme Court of Appeals of the State of West Virginia.

The Presiding Officer then recognized Andrew D. Byrd, one of the Managers appointed by the House of Delegates, to read the *Stipulation and Agreement of the Parties*.

IN THE WEST VIRGINIA SENATE***IN THE MATTER OF IMPEACHMENT PROCEEDINGS AGAINST
RESPONDENTS CHIEF JUSTICE MARGARET WORKMAN AND JUSTICE
ELIZABETH WALKER***

Honorable Paul T. Farrell
Acting Justice of the
Supreme Court of Appeals of West Virginia
Presiding Officer

STIPULATION AND AGREEMENT OF PARTIES

Respondents Chief Justice Margaret L. Workman and Justice Elizabeth D. Walker (the “Respondents”), together with the Board of Managers of the West Virginia House of Delegates for the impeachment trials pending in the West Virginia Senate (the “Board of Managers”), jointly agree and stipulate as follows:

1. The Respondents acknowledge indefensible spending by the Supreme Court of Appeals of West Virginia (the “Court”), as well as the absence of Court policies and practices that likely would have prevented that indefensible spending.
2. The Respondents accept full responsibility for all spending on renovations to their personal offices over which they exercised or should have exercised spending oversight and approval.
3. The Respondents acknowledge the need for changed policies and practices to correct the failures identified in Article XIV of the Articles of Impeachment and rebuild public trust in the Court.
4. The Respondents have begun and will continue to implement reforms to improve the administration of the Court and prevent future inappropriate expenditures, and to ensure compliance with all applicable laws and regulations governing the conduct of the Court.

5. The Respondents and the Board of Managers therefore agree to:

a. Jointly recommend that the Senate adopt a resolution of censure with respect to the Respondents, which is included with this Stipulation and Agreement of Parties; and

b. Upon passage of such a resolution of censure, jointly move to dismiss the Articles of Impeachment with respect to the Respondents.

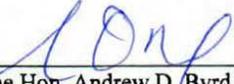
6. The Respondents and the Board of Managers further agree that if the Senate does not dismiss the Articles of Impeachment with respect to the Respondents, no part of this Stipulation and Agreement of Parties may be used in any trial of the Articles of Impeachment.

Agreed to by:



The Hon. John Shott
For: Board of Managers

Dated: 9/11/18



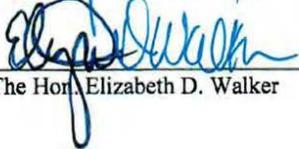
The Hon. Andrew D. Byrd
For: Board of Managers

Dated: 9/11/18



The Hon. Margaret L. Workman

Dated: 9/11/18



The Hon. Elizabeth D. Walker

Dated: 9/11/18

SENATE RESOLUTION _____

Publicly reprimanding and censuring Chief Justice Margaret L. Workman and Justice Elizabeth D. Walker of the Supreme Court of Appeals of West Virginia.

Whereas, Chief Justice Margaret Workman was named in Articles IV and VI of the Articles of Impeachment, which allege overpayment of senior status judges;

Whereas, Chief Justice Workman and Justice Walker were named in Article of Impeachment XIV, which alleges that the Justices of the Supreme Court of Appeals generally and collectively failed to provide or prepare policies and reasonable supervisory oversight of the operations of the Court and in the absence of such policies and oversight, wasted state funds on unnecessary renovations, travel, computers for home use, lunches, and the framing of personal items, and;

Whereas, the House of Delegates also adopted House Resolution 203 censuring all then-sitting Justices related to their conduct concerning, among other things, the spending on their personal offices;

Whereas, Chief Justice Workman and Justice Walker have accepted full responsibility for all spending on renovations to their personal offices over which they exercised or should've exercised spending oversight and approval;

Whereas, Chief Justice Workman and Justice Walker have previously and publicly acknowledged indefensible spending by the Court and the absence of appropriate policies and practices that likely would have prevented that indefensible spending;

Whereas, Chief Justice Workman and Justice Walker have publicly acknowledged the need for changed policies and practices to rebuild public trust in the Court;

Whereas, Chief Justice Workman and Justice Walker have begun and will continue to implement reforms to improve the administration of the Court and prevent future inappropriate expenditures and to ensure compliance with all applicable laws and regulations governing the conduct of the Court;

Whereas, Justice Walker has not served as Chief Justice over the Court or Judicial Branch in the time that she has served on the Supreme Court of Appeals;

Whereas, Chief Justice Workman and Justice Walker support increased legislative oversight, transparency, and accountability of the Supreme Court of Appeals;

Whereas, Chief Justice Workman and Justice Walker accept personal and institutional responsibility for the Court's failure to enact certain specific policies as described in Article XIV in the Articles of Impeachment; therefore, be it

Resolved by the Senate:

That Chief Justice Workman and Justice Walker be hereby publicly reprimanded and censured for and because of the aforementioned conduct; and be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Chief Justice Workman and Justice Walker.

Delegate Byrd then presented the *Stipulation and Agreement of the Parties* document to the Clerk of the Senate.

The Presiding Officer then recognized Ben Bailey, counsel for Margaret L. Workman, Chief Justice of the Supreme Court of Appeals of the State of West Virginia, to address the Court of Impeachment concerning the *Stipulation and Agreement of the Parties*.

The Presiding Officer then recognized Mike Hissam, counsel for Elizabeth D. Walker, Justice of the Supreme Court of Appeals of the State of West Virginia, to address the Court of Impeachment concerning the *Stipulation and Agreement of the Parties*.

On motion of Senator Ferns, at 10:54 a.m., the Court of Impeachment to consider proceedings against the various justices of the Supreme Court of Appeals of the State of West Virginia adjourned until 2:30 p.m. today.

The Rules of the West Virginia Senate While Sitting as a Court of Impeachment During the Eighty-Third Legislature and the Articles of Impeachment Against the Various Justices of the Supreme Court of Appeals of the State of West Virginia are as follows:

**RULES OF THE WEST VIRGINIA SENATE
WHILE SITTING AS A COURT OF IMPEACHMENT
DURING THE EIGHTY-THIRD LEGISLATURE**

1. Definitions

(a) "Articles of Impeachment" or "Articles" means one or more charges adopted by the House of Delegates against a public official and communicated to the Senate to initiate a trial of impeachment pursuant to Article IV, Section 9 of the Constitution of West Virginia.

(b) "Board of Managers" or "Managers" means a group of members of the House of Delegates authorized by that body to serve as prosecutors before the Senate in a trial of impeachment.

(c) "Conference of Senators" means a private meeting of the Court of Impeachment, including an executive session authorized by W. Va. Code §6-9A-4.

(d) "Counsel" means a member of the Board of Managers or an attorney, licensed to practice law in this state, representing the Board of Managers or a Respondent in a trial of impeachment.

(e) "Court of Impeachment" or "Court" means all Senators participating in a trial of impeachment.

(f) "Parties" means the Board of Managers and its counsel and the Respondent and his or her counsel.

(g) "Presiding Officer" means the Chief Justice of the West Virginia Supreme Court of Appeals or other Justice, pursuant to the provisions of Article IV, Section 9 or Article VIII, Section 8 of the Constitution of West Virginia.

(h) "Respondent" means a person against whom the House of Delegates has adopted and communicated Articles of Impeachment to the Senate.

(i) "Trial" means the trial of impeachment.

(j) "Two thirds of the Senators elected" means at least 23 Senators.

2. Pre-Trial Proceedings

(a) Whenever the Senate receives notice from the House of Delegates that Managers have been appointed by the House of Delegates to prosecute a trial of impeachment against a person or persons and are directed to carry Articles of Impeachment to the Senate, the Clerk of the Senate shall immediately inform the House of Delegates that the Senate is ready to receive the Managers for the reporting of such Articles.

(b) When the Board of Managers for the House of Delegates is introduced at the bar of the Senate and signifies that the Managers are ready to communicate Articles of Impeachment, the President of the Senate shall direct the Sergeant at Arms to make the following proclamation: "All persons are commanded to keep silence, on pain of imprisonment, while the House of Delegates is reporting to the Senate Articles of Impeachment"; after which the Board of Managers shall report the Articles. Thereupon, the President of the Senate shall inform the Managers that the Senate will notify the House of Delegates of the date and time on which the Senate will proceed to consider the Articles.

(c) Upon the reporting of Articles of Impeachment to the Senate, the Senate shall adjourn until a date and time directed by the President of the Senate when the Senate will proceed to consider the Articles and shall notify the House of Delegates and the Supreme Court of Appeals of the same. Before proceeding to consider evidence, the Clerk shall administer the oaths provided in these Rules to the Presiding Officer; to the members of the Senate then present; and to any other members of the Senate as they shall appear.

(d) If the Board of Managers reports Articles of Impeachment against more than one person, the Senate shall conduct a separate trial of each Respondent individually as required by Rule 19 of these Rules.

3. Pre-Trial Conference

The Presiding Officer shall hold a pre-trial conference with the parties in the presence of the Court to stipulate to facts and exhibits and address procedural issues.

4. Clerk of the Court of Impeachment; Duties

The Clerk of the Senate, or his or her designee, shall serve as the Clerk of the Court of Impeachment, administer all oaths, keep the Journal of the Court of Impeachment, and perform all other duties usually performed by the clerk of a court of record in this state. The Clerk of the Senate may designate other Senate personnel to assist in carrying out the Clerk's duties. The Clerk shall promulgate all forms necessary to carry out the requirements of these Rules.

5. Marshal of the Court of Impeachment; Duties

The Sergeant at Arms of the Senate, or other person designated by the President of the Senate, shall serve as the Marshal of the Court of Impeachment. The Marshal of the Court of Impeachment shall keep order in accordance with these Rules under the direction of the Presiding Officer.

6. Trial to be Recorded in Journal of the Court of Impeachment

(a) All trial proceedings, not including transcripts of the trial and copies of documentary evidence required to be appended to the bound Journal of the Court of Impeachment by section (c) of this Rule, shall be recorded in the Journal of the Court of Impeachment. The Journal of the Court of Impeachment shall be read, corrected, and approved the succeeding day. It shall be published under the supervision of the Clerk and made available to the members without undue delay.

(b) After the Journal of the Court of Impeachment has been approved and fully marked for corrections, the Journal of the Court of Impeachment so corrected shall be bound in the Journal of the Senate. The bound volume shall, in addition to the imprint required by Rule 49 of the Rules of the Senate, 2017, reflect the inclusion of the official Journal of the Court of Impeachment.

(c) When available, transcripts of the trial and copies of any documentary evidence presented therein shall be printed and bound as an appendix to the Journal of the Court of Impeachment.

7. Site of Trial

The trial shall be held in the Senate Chamber of the West Virginia State Capitol Complex. All necessary preparations in the Senate Chamber shall be made under the direction of the President of the Senate.

8. Floor Privileges

Only the following persons may enter the floor of the Senate Chamber during the trial: Members of the Court of Impeachment; designated personnel of the Court of Impeachment; the parties; the Presiding Officer; a law clerk of the Presiding Officer; witnesses and their counsel while testifying; and authorized media, who shall be located in an area of the chamber designated by the Clerk.

9. Representation of Parties

The House of Delegates shall be represented by its Board of Managers and its counsel. The Respondent may appear in person or by counsel.

10. Method of Address

Senators shall address the Presiding Officer as “Madam (or Mr.) Chief Justice” or “Madam (or Mr.) Justice”.

11. Oaths

(a) The following oath, or affirmation, shall be taken and subscribed by the Presiding Officer: “Do you solemnly swear [or affirm] that you will support the Constitution of the United States and the Constitution of the State of West Virginia and that you will faithfully discharge the duties of

Presiding Officer of the Court of Impeachment in all matters that come before this Court to the best of your skill and judgment?"

(b) The following oath, or affirmation, shall be taken and subscribed by every Senator before sitting as a Court of Impeachment: "Do each of you solemnly swear [or affirm] that you will do justice according to law and evidence while sitting as a Court of Impeachment?"

(c) The following oath, or affirmation, shall be taken and subscribed by every witness before providing testimony: "Do you solemnly swear [or affirm] that the testimony you shall give shall be the truth, the whole truth, and nothing but the truth?"

12. Service of Process

(a) The Respondent shall be served with a summons for the appearance of the Respondent or his or her counsel before the Court of Impeachment and provided with a copy of the Articles of Impeachment and a copy of these Rules. The summons shall be signed by the Clerk of the Court of Impeachment, bear the Seal of the Senate, identify the nature of proceedings and the parties, and be directed to the Respondent. It shall also state the date and time at which the Respondent shall appear to answer the Articles of Impeachment and notify the Respondent that if he or she fails to appear without good cause, the allegations contained in the Articles of Impeachment shall be uncontested and that the Senate shall proceed to vote on whether to sustain such Articles pursuant to Rule 15 of these Rules.

(b) The notice required by this Rule shall be served on the Respondent in the manner required by Rule 4 of the West Virginia Rules of Civil Procedure. All process shall be served by the Sergeant at Arms of the Senate, unless otherwise ordered by the President of the Senate. A copy of the summons to the Respondent, upon its issuance, along with a copy of the Articles of Impeachment and a copy of these Rules, shall be provided by the Clerk of the Court of Impeachment to the Clerk of the West Virginia House of Delegates. Upon service of the same upon the Respondent, a copy of the return of service shall be provided by the Clerk of the Court of Impeachment to the Clerk of the West Virginia House of Delegates.

13. Dismissal of Articles Upon Resignation of Respondent; Termination of Trial

(a) Any Senator may move to dismiss the Articles of Impeachment against a Respondent if at any time before the presentation of evidence commences in his or her trial of impeachment the Respondent has resigned or retired from his or her public office. Upon motion of any Senator to dismiss the Articles pursuant to this Rule, all Senators not excused shall vote on the question of whether to dismiss the Articles against the Respondent. If a majority of Senators elected vote to dismiss the Articles against the Respondent, a judgment of dismissal shall be pronounced and entered upon the Journal of the Court of Impeachment or the Journal of the Senate, whichever is convened at the time such vote is taken.

(b) A vote pursuant to this Rule shall be taken by yeas and nays.

(c) Upon dismissal of the Articles of Impeachment against a Respondent pursuant to this Rule, all pre-trial and trial proceedings regarding said Respondent shall immediately cease.

(d) If the House of Delegates adopts and communicates Articles of Impeachment that name more than one Respondent in one or more of the Articles, a dismissal pursuant to this Rule shall not dismiss the articles as to any Respondent who has not resigned or retired.

14. Commencement of Trial; Answer to Articles of Impeachment

At the time and date fixed and upon proof of service of the summons directed to the Respondent, the Respondent shall be called to answer the Articles of Impeachment. If the Respondent appears in person or by counsel, the appearance shall be recorded. If the Respondent does not appear, either personally or by counsel, then the failure of the Respondent to appear shall be recorded. While the Court of Impeachment is in session, the business of the Senate shall be suspended except as otherwise ordered by the President of the Senate.

15. Failure of Respondent to Appear and Contest

(a) If the Respondent fails to appear personally or by counsel without good cause at the time and date specified in the notice required by Rule 12 of these Rules, the allegations contained in the Articles of Impeachment shall be uncontested.

(b) If the allegations contained in the Articles of Impeachment are determined to be uncontested under section (a) of this Rule, the Presiding Officer shall then call upon the Board of Managers to deliver a summary of the evidence of the allegations contained in such Articles.

(c) After the summary of evidence delivered by the Managers, the Court of Impeachment shall vote on the question of whether to sustain one or more of the Articles of Impeachment in accordance with the requirements of Rule 31 of these Rules.

16. Entry of Plea or Pleas; Procedures Based on Plea or Pleas

If the Respondent appears and pleads not guilty to each article, the trial shall proceed. If the Respondent appears and pleads guilty to one or more articles, the Court of Impeachment shall immediately vote on the question of whether to sustain the Articles of Impeachment to which a plea of guilty has been entered in accordance with the requirements of Rule 31 of these Rules.

17. Subpoenas

A subpoena shall be issued by the Clerk of the Court of Impeachment for a witness on application of a party.

18. Procedure in a Contested Matter

(a) After preliminary motions are heard and decided, the Board of Managers or its counsel may make an opening statement. Following the opening statement by the Managers, the Respondent or his or her counsel may then make an opening statement.

(b) The trial shall be a daily special order of business following the Third Order of Business of the Senate, unless otherwise ordered by the President of the Senate. When the hour shall arrive for the special order of business, the President of the Senate shall so announce. The Presiding Officer shall cause proclamation to be made, and the business of the trial shall proceed. The trial may be recessed or adjourned and continued from day to day, or to specific dates and times, by

majority vote of the Senators present and voting. The adjournment of the trial shall not operate as an adjournment of the Senate, but upon such adjournment, the Senate shall resume.

(c) After the presentation of all evidence to the Court of Impeachment, the Board of Managers shall present a closing argument, after which the Respondent shall present a closing argument. Following the Respondent's closing argument, the Board of Managers may offer a rebuttal.

(d) The Board of Managers shall have the burden of proof as to all factual allegations. The Presiding Officer shall direct the order of the presentation of evidence.

19. Separate Trials of Multiple Respondents; Order of Trials

(a) If the House of Delegates communicates Articles of Impeachment against more than one Respondent, the Senate shall schedule and conduct a separate trial of each Respondent.

(b) The Presiding Officer, in consultation with the parties, shall determine the order in which multiple Respondents shall be tried.

20. Witnesses

(a) All witnesses shall be examined by the party producing them and shall be subject to cross-examination by the opposing party. Only one designee of each party may examine each witness. The Presiding Officer may permit redirect examination and recross-examination.

(b) After completion of questioning by the parties, any Senator desiring to question a witness shall reduce his or her question to writing and present it to the Presiding Officer who shall pose the question to the witness without indicating the name of the Senator presenting the question. If objection to a Senator's question is raised by a party, the objection shall be decided in the manner provided in Rule 23 of these Rules.

(c) It shall not be in order for any Senator to directly question a witness.

21. Discovery Procedures

(a) Within five days after service upon the Respondent of the Articles of Impeachment, the Respondent may request, and the Board of Managers shall disclose to the Respondent and make available for inspection, copy, or photograph, the following:

(1) Any written or recorded statement of the Respondent in the Managers' possession which the Managers intend to introduce into evidence in their case-in-chief during the trial;

(2) Any books, papers, documents, data, photographs, tangible objects, buildings or places, or copies of portions of such items in the Managers' possession that the Managers intend to use in their case-in-chief as to one or more Articles of Impeachment;

(3) A list of the persons the Board of Managers intends to call as witnesses in its case-in-chief during the trial; and

(4) A written summary of any expert testimony the Managers intend to use during their case-in-chief. Any summary provided must describe the witness' opinions, the bases and reasons for the opinions, and the witness's qualifications.

(b) The Board of Managers shall make its response to the Respondent's written requests within 10 days of service of the requests.

(c) If the Respondent makes a request pursuant to this Rule, he or she shall be required to provide the same information to the Managers, reciprocally, within 10 days following his or her request.

(d) A copy of all requests pursuant to this section shall be provided to the Clerk. The parties shall provide to the Clerk, in a format or in formats directed by the Clerk, copies of all items disclosed pursuant to this Rule.

(e) The Clerk may require parties to number or Bates stamp any trial exhibits or other information provided to the Clerk. The Clerk may hold a meeting with the parties to organize trial exhibits.

22. Court Reporters; Transcripts

(a) All proceedings shall be reported by an official court reporter or certified court reporter: *Provided*, That if the services of an official court reporter or certified court reporter are unavailable on one or more days of the trial, the proceedings shall be digitally recorded and copies of the recording made available to the parties.

(b) Upon request of a party, the Presiding Officer, or any Senator, the Clerk shall provide a copy of the transcript of any portion of the trial, when such transcripts are available.

23. Motions, Objections, and Procedural Questions

(a) All motions, objections, and procedural questions made by the parties shall be addressed to the Presiding Officer, who shall decide the motion, objection, or procedural question: *Provided*, That a vote to overturn the Presiding Officer's decision on any motion, objection, or procedural question shall be taken, without debate, on the demand of any Senator sustained by one tenth of the Senators present, and an affirmative vote of a majority of the Senators present and voting shall overturn the Presiding Officer's decision on the motion, objection, or procedural question.

(b) On the demand of any Senator or at the direction of the Presiding Officer, the movant shall reduce the motion to writing.

24. Qualification to Sit as Court of Impeachment

Every Senator is qualified to participate on the Court of Impeachment, unless he or she has been excused pursuant to Rule 43 of the Rules of the Senate, 2017.

25. Members as Witnesses

The parties may not call as witnesses, nor subpoena the personal records of, the Senators, members of the Board of Managers, personnel of the Court of Impeachment, the Presiding Officer, or counsel for the parties.

26. Attendance of Members

Every Senator is required to attend the trial unless he or she has been granted a leave of absence, pursuant to Rule 50 of the Rules of the Senate, 2017, or has been excused from voting on the Articles, pursuant to Rule 43 of the Rules of the Senate, 2017. Any Senator who has been granted a leave of absence shall be provided an opportunity to review the exhibits, video or audio recordings, and transcripts for the date or dates he or she is absent and may participate in the vote on verdict and judgment as provided in Rule 31 of these Rules.

27. Notetaking

Senators may take notes during the trial and such notes are not subject to the provisions of W. Va. Code §29B-1-1 *et seq.*

28. Applicability of Rules of the Senate

Except as otherwise provided herein, the Rules of the Senate shall apply to proceedings of the trial and the President of the Senate retains the authority to invoke such rules.

29. Applicability of Rules of Evidence

When not in conflict with these Rules or the Rules of the Senate, the Presiding Officer shall rule on the admissibility of evidence in accordance with West Virginia Rules of Evidence: *Provided*, That a vote to overturn the Presiding Officer's ruling on the admissibility of evidence shall be taken, without debate, on demand of any Senator sustained by one tenth of the members present, and an affirmative vote of the majority of Senators present shall overturn the ruling.

30. Instruction

At any time, the Presiding Officer may, *sua sponte*, or on motion of a party or upon request of a Senator, instruct the Senators on procedural or legal matters.

31. Verdict and Judgment

(a) After closing arguments, the Court may enter into a Conference of Senators for deliberation. After conclusion of said conference and return to open proceedings, or pursuant to Rule 15 or Rule 16 of these Rules, all Senators not excused shall vote on the question of whether to sustain one or more Articles of Impeachment: *Provided*, That any vote of the Senators on the question of whether or not to sustain an Article of Impeachment shall decide only that Article, and no single vote of the Senate shall sustain more than one Article of Impeachment. The Presiding Officer shall have no vote in the verdict or judgment of the Court of Impeachment.

(b) If two thirds of the Senators elected vote to sustain one or more Articles of Impeachment, a judgment of conviction and removal from office shall be pronounced and entered upon the Journal of the Court of Impeachment. If the Respondent is acquitted of any Article of Impeachment, a judgment of acquittal as to such Article or Articles shall be pronounced and entered upon the Journal.

(c) If two thirds of the Senators elected vote to sustain one or more Article of Impeachment, a vote shall then be taken on the question of whether the Respondent shall also be disqualified to hold any office of honor, trust, or profit under the state. If two thirds of the Senators elected vote to disqualify, a judgment of disqualification to hold any office of honor, trust, or profit under the state shall be pronounced and entered upon the Journal of the Court of Impeachment.

(d) Each vote pursuant to this Rule shall be taken by yeas and nays.

(e) A copy of all judgments entered shall be deposited in the office of the Secretary of State.

32. Conference of Senators

(a) On motion of any Senator and by a vote of the majority of the members present and voting, there shall be an immediate Conference of Senators. No Senator or any other person may photograph, record, or broadcast a Conference of Senators. Any motion made pursuant to this Rule shall be nondebatable.

(b) The President of the Senate, or his or her designee, shall preside over a Conference of Senators and the Rules of the Senate shall apply during said conference except as otherwise provided herein.

33. Contempt; Powers of Presiding Officer

The following powers shall be exercised by the Presiding Officer:

(1) The power to compel the attendance of witnesses subpoenaed by the parties;

(2) The power to enforce obedience to the Court's orders;

(3) The power to preserve order;

(4) The power to punish contempt of the Court's authority; and

(5) The power to make all orders that may be necessary and that are not inconsistent with these Rules or the laws of this state.

34. Prohibited Conduct; Sanctions

The Court of Impeachment shall have the power to provide for its own safety and the undisturbed transaction of its business, as provided in Article VI, Section 26 of the Constitution of West Virginia.

**ARTICLES OF IMPEACHMENT AGAINST THE
VARIOUS JUSTICES OF THE SUPREME COURT OF APPEALS
OF THE STATE OF WEST VIRGINIA**

Article I

1 That the said Justice Allen Loughry, being a Justice of the Supreme Court of Appeals of
2 West Virginia, unmindful of the duties of his high office, and contrary to the oaths taken by him to
3 support the Constitution of the State of West Virginia and faithfully discharge the duties of his
4 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
5 his oath of office, then and there, with regard to the discharge of the duties of his office, did waste
6 state funds with little or no concern for the costs to be borne by the tax payer for unnecessary and
7 lavish spending in the renovation and remodeling of his personal office, to the sum of
8 approximately \$363,000, which sum included the purchase of a \$31,924 couch, a \$33,750 floor
9 with medallion, and other such wasteful expenditure not necessary for the administration of justice
10 and the execution of the duties of the Court, which represents a waste of state funds.

Article II

1 That the said Justice Robin Davis, being a Justice of the Supreme Court of Appeals of
2 West Virginia, unmindful of the duties of her high office, and contrary to the oaths taken by her to
3 support the Constitution of the State of West Virginia and faithfully discharge the duties of her
4 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
5 her oath of office, then and there, with regard to the discharge of the duties of her office, did waste
6 state funds with little or no concern for the costs to be borne by the tax payer for unnecessary and
7 lavish spending in the renovation and remodeling of her personal office, to the sum of
8 approximately \$500,000, which sum included, but is not limited to, the purchase of an oval rug
9 that cost approximately \$20,500, a desk chair that cost approximately \$8,000 and over \$23,000
10 in design services, and other such wasteful expenditure not necessary for the administration of
11 justice and the execution of the duties of the Court, which represents a waste of state funds.

Article III

1 That the said Justice Allen Loughry, being a Justice of the Supreme Court of Appeals of
2 West Virginia, unmindful of the duties of his high office, and contrary to the oaths taken by him to
3 support the Constitution of the State of West Virginia and faithfully discharge the duties of his
4 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
5 his oath of office, then and there, with regard to the discharge of the duties of his office, did on or
6 about June 20, 2013, cause a certain desk, of a type colloquially known as a "Cass Gilbert" desk,
7 to be transported from the State Capitol to his home, and did maintain possession of such desk
8 in his home, where it remained throughout his term as Justice for approximately four and one-half
9 years, in violation of the provisions of W.Va. Code §29-1-7 (b), prohibiting the removal of original
10 furnishings of the state capitol from the premises; further, the expenditure of state funds to
11 transport the desk to his home, and refusal to return the desk to the state, constitute the use of
12 state resources and property for personal gain in violation of the provisions of W.Va. Code §6B-
13 2-5, the provisions of the West Virginia State Ethics Act, and constitute a violation of the provisions
14 of Canon I of the West Virginia Code of Judicial Conduct.

Article IV

1 That the said Chief Justice Margaret Workman, and Justice Robin Davis, being at all times
2 relevant Justices of the Supreme Court of Appeals of West Virginia, and at various relevant times
3 individually each Chief Justice of the Supreme Court of Appeals of West Virginia unmindful of the
4 duties of their high offices, and contrary to the oaths taken by them to support the Constitution of
5 the State of West Virginia and faithfully discharge the duties of their offices as such Justices, while
6 in the exercise of the functions of the office of Justices, in violation of their oaths of office, then
7 and there, with regard to the discharge of the duties of their offices, commencing in or about 2012,
8 did knowingly and intentionally act, and each subsequently oversee in their capacity as Chief
9 Justice, and did in that capacity as Chief Justice severally sign and approve the contracts
10 necessary to facilitate, at each such relevant time, to overpay certain Senior Status Judges in
11 violation of the statutory limited maximum salary for such Judges, which overpayment is a
12 violation of Article VIII, §7 of the West Virginia Constitution, stating that Judges "shall receive the
13 salaries fixed by law" and the provisions of W.Va. Code §51-2-13 and W.Va. Code §51-9-10, and,
14 in violation of an Administrative Order of the Supreme Court of Appeals, in potential violation of
15 the provisions of W.Va. Code §61-3-22, relating to the crime of falsification of accounts with intent
16 to enable or assist any person to obtain money to which he was not entitled, and, in potential
17 violation of the provisions set forth in W.Va. Code §61-3-24, relating to the crime of obtaining
18 money, property and services by false pretenses, and, all of the above are in violation of the
19 provisions of Canon I and Canon II of the West Virginia Code of Judicial Conduct.

Article V

1 That the said Justice Robin Davis, being at all times relevant a Justice of the Supreme
2 Court of Appeals of West Virginia, and at certain relevant times individually Chief Justice of the
3 Supreme Court of Appeals of West Virginia, unmindful of the duties of her high offices, and
4 contrary to the oaths taken by her to support the Constitution of the State of West Virginia and
5 faithfully discharge the duties of his office as such Justice, while in the exercise of the functions
6 of the office of Justice, in violation of her oath of office, then and there, with regard to the discharge
7 of the duties of her office, did in the year 2014, did in her capacity as Chief Justice, sign certain
8 Forms WV 48, to retain and compensate certain Senior Status Judges the execution of which
9 forms allowed the Supreme Court of Appeals to overpay those certain Senior Status Judges in
10 violation of Article VIII, § 7 of the West Virginia Constitution, stating that Judges "shall receive the
11 salaries fixed by law" and the statutorily limited maximum salary for such Judges, which
12 overpayment is a violation of the provisions of W.Va. Code §51-2-13 and W.Va. Code §51-9-10;
13 her authorization of such overpayments was a violation of the clear statutory law of the state of
14 West Virginia, as set forth in those relevant Code sections, and, was an act in potential violation
15 of the provisions set forth in W.Va. Code §61-3-22, relating to the crime of falsification of accounts
16 with intent to enable or assist any person to obtain money to which he was not entitled, and, in
17 potential violation of the provisions set forth in W.Va. Code §61-3-24, relating to the crime of
18 obtaining money, property and services by false pretenses, and all of the above are in violation
19 of the provisions of Canon I and Canon II of the West Virginia Code of Judicial Conduct.

Article VI

1 That the said Justice Margaret Workman, being at all times relevant a Justice of the
2 Supreme Court of Appeals of West Virginia, and at certain relevant times individually Chief Justice
3 of the Supreme Court of Appeals of West Virginia, unmindful of the duties of her high offices, and
4 contrary to the oaths taken by her to support the Constitution of the State of West Virginia and
5 faithfully discharge the duties of his office as such Justice, while in the exercise of the functions
6 of the office of Justice, in violation of her oath of office, then and there, with regard to the discharge
7 of the duties of her office, did in the year 2015, did in her capacity as Chief Justice, sign certain
8 Forms WV 48, to retain and compensate certain Senior Status Judges the execution of which
9 forms allowed the Supreme Court of Appeals to overpay those certain Senior Status Judges in
10 violation of the statutorily limited maximum salary for such Judges, which overpayment is a
11 violation of Article VIII, § 7 of the West Virginia Constitution, stating that Judges "shall receive the
12 salaries fixed by law" and the provisions of W.Va. Code §51-2-13 and W.Va. Code §51-9-10; her
13 authorization of such overpayments was a violation of the clear statutory law of the state of West
14 Virginia, as set forth in those relevant Code sections, and, was an act in potential violation of the
15 provisions set forth in W.Va. Code §61-3-22, relating to the crime of falsification of accounts with
16 intent to enable or assist any person to obtain money to which he was not entitled, and, in potential
17 violation of the provisions set forth in W.Va. Code §61-3-24, relating to the crime of obtaining
18 money, property and services by false pretenses, and all of the above are in violation of the
19 provisions of Canon I and Canon II of the West Virginia Code of Judicial Conduct.

Article VII

1 That the said Justice Allen Loughry, being at all times relevant a Justice of the Supreme
2 Court of Appeals of West Virginia, and at that relevant time individually Chief Justice of the
3 Supreme Court of Appeals of West Virginia, unmindful of the duties of his high offices, and
4 contrary to the oaths taken by him to support the Constitution of the State of West Virginia and
5 faithfully discharge the duties of his office as such Justices, while in the exercise of the functions
6 of the office of Justice, in violation of his oath of office, then and there, with regard to the discharge
7 of the duties of his office, did on or about May 19, 2017, did in his capacity as Chief Justice, draft
8 an Administrative Order of the Supreme Court of Appeals, bearing his signature, authorizing the
9 Supreme Court of Appeals to overpay certain Senior Status Judges in violation of the statutorily
10 limited maximum salary for such Judges, which overpayment is a violation of Article VIII, § 7 of
11 the West Virginia Constitution, stating that Judges “shall receive the salaries fixed by law” and
12 the provisions of W.Va. Code §51-2-13 and W.Va. Code §51-9-10; his authorization of such
13 overpayments was a violation of the clear statutory law of the state of West Virginia, as set forth
14 in those relevant Code sections, and, was an act in potential violation of the provisions set forth
15 in W.Va. Code §61-3-22, relating to the crime of falsification of accounts with intent to enable or
16 assist any person to obtain money to which he was not entitled, and, in potential violation of the
17 provisions set forth in W.Va. Code §61-3-24, relating to the crime of obtaining money, property
18 and services by false pretenses, and all of the above are in violation of the provisions of Canon I
19 and Canon II of the West Virginia Code of Judicial Conduct.

Article VIII

1 That the said Justice Allen Loughry, being a Justice of the Supreme Court of Appeals of
2 West Virginia, unmindful of the duties of his high office, and contrary to the oaths taken by him to
3 support the Constitution of the State of West Virginia and faithfully discharge the duties of his
4 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
5 his oath of office, then and there, with regard to the discharge of the duties of his office, did
6 beginning in or about December 2012, and continuing thereafter for a period of years, intentionally
7 acquire and use state government vehicles for personal use; including, but not limited to, using
8 a state vehicle and gasoline purchased utilizing a state issued fuel purchase card to travel to the
9 Greenbrier on one or more occasions for book signings and sales, which such acts enriched his
10 family and which acts constitute the use of state resources and property for personal gain in
11 violation of the provisions of W.Va. Code §6B-2-5, the provisions of the West Virginia State Ethics
12 Act, and constitute a violation of the provisions of Canon I of the West Virginia Code of Judicial
13 Conduct.

Article IX

1 That the said Justice Allen Loughry, being a Justice of the Supreme Court of Appeals of
2 West Virginia, unmindful of the duties of his high office, and contrary to the oaths taken by him to
3 support the Constitution of the State of West Virginia and faithfully discharge the duties of his
4 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
5 his oath of office, then and there, with regard to the discharge of the duties of his office, did
6 beginning in or about December 2012, intentionally acquired and used state government
7 computer equipment and hardware for predominately personal use—including a computer not
8 intended to be connected to the court's network, utilized state resources to install computer
9 access services at his home for predominately personal use, and utilized state resources to
10 provide maintenance and repair of computer services for his residence resulting from
11 predominately personal use; all of which acts constitute the use of state resources and property
12 for personal gain in violation of the provisions of W.Va. Code §6B-2-5, the provisions of the West
13 Virginia State Ethics Act, and constitute a violation of the provisions of Canon I of the West Virginia
14 Code of Judicial Conduct.

Article X

1 That the said Justice Allen Loughry, being a Justice of the Supreme Court of Appeals of
2 West Virginia, unmindful of the duties of his high office, and contrary to the oaths taken by him to
3 support the Constitution of the State of West Virginia and faithfully discharge the duties of his
4 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
5 his oath of office, then and there, with regard to the discharge of the duties of his office, made
6 statements while under oath before the West Virginia House of Delegates Finance Committee,
7 with deliberate intent to deceive, regarding renovations and purchases for his office, asserting
8 that he had no knowledge and involvement in these renovations, where evidence presented
9 clearly demonstrated his in-depth knowledge and participation in those renovations, and, his
10 intentional efforts to deceive members of the Legislature about his participation and knowledge
11 of these acts, while under oath.

Article XIV

1 That the said Chief Justice Margaret Workman, Justice Allen Loughry, Justice Robin
2 Davis, and Justice Elizabeth Walker, being at all times relevant Justices of the Supreme Court of
3 Appeals of West Virginia, unmindful of the duties of their high offices, and contrary to the oaths
4 taken by them to support the Constitution of the State of West Virginia and faithfully discharge the
5 duties of their offices as such Justices, while in the exercise of the functions of the office of
6 Justices, in violation of their oaths of office, then and there, with regard to the discharge of the
7 duties of their offices, did, in the absence of any policy to prevent or control expenditure, waste
8 state funds with little or no concern for the costs to be borne by the tax payers for unnecessary
9 and lavish spending for various purposes including, but without limitation, to certain examples,
10 such as: to remodel state offices, for large increases in travel budgets—including unaccountable
11 personal use of state vehicles, for unneeded computers for home use, for regular lunches from
12 restaurants, and for framing of personal items and other such wasteful expenditure not necessary
13 for the administration of justice and the execution of the duties of the Court; and, did fail to provide
14 or prepare reasonable and proper supervisory oversight of the operations of the Court and the
15 subordinate courts by failing to carry out one or more of the following necessary and proper
16 administrative activities:

- 17 A) To prepare and adopt sufficient and effective travel policies prior to October of 2016,
18 and failed thereafter to properly effectuate such policy by excepting the Justices from
19 said policies, and subjected subordinates and employees to a greater burden than the
20 Justices;
- 21 B) To report taxable fringe benefits, such as car use and regular lunches, on Federal W-
22 2s, despite full knowledge of the Internal Revenue Service Regulations, and further
23 subjected subordinates and employees to a greater burden than the Justices, in this
24 regard, and upon notification of such violation, failed to speedily comply with requests
25 to make such reporting consistent with applicable law;
- 26 C) To provide proper supervision, control, and auditing of the use of state purchasing
27 cards leading to multiple violations of state statutes and policies regulating the proper
28 use of such cards, including failing to obtain proper prior approval for large purchases;
- 29 D) To prepare and adopt sufficient and effective home office policies which would govern
30 the Justices' home computer use, and which led to a lack of oversight which
31 encouraged the conversion of property;

- 32 E) To provide effective supervision and control over record keeping with respect to the
33 use of state automobiles, which has already resulted in an executed information upon
34 one former Justice and the indictment of another Justice.
- 35 F) To provide effective supervision and control over inventories of state property owned
36 by the Court and subordinate courts, which led directly to the undetected absence of
37 valuable state property, including, but not limited to, a state-owned desk and a state-
38 owned computer;
- 39 G) To provide effective supervision and control over purchasing procedures which directly
40 led to inadequate cost containment methods, including the rebidding of the purchases
41 of goods and services utilizing a system of large unsupervised change orders, all of
42 which encouraged waste of taxpayer funds.

43 The failure by the Justices, individually and collectively, to carry out these necessary and
44 proper administrative activities constitute a violation of the provisions of Canon I and Canon II of
45 the West Virginia Code of Judicial Conduct.

We, John Overington, Speaker Pro Tempore of the House of Delegates of West Virginia,
and Stephen J. Harrison, Clerk thereof, do certify that the above and foregoing Articles of
Impeachment against Justices of the Supreme Court of Appeals of West Virginia, were adopted
by the House of Delegates on the Thirteenth day of August, 2018.

In Testimony Whereof, we have signed our names hereunto this Fourteenth day of August,
2018.



John Overington,

Speaker Pro Tempore of the House of Delegates



Stephen J. Harrison,

Clerk of the House of Delegates

The following letter from the Honorable Lee Cassis, Clerk of the West Virginia Senate, is inserted into the Journal of the Court of Impeachment:

The Senate of West Virginia
Charleston

September 11, 2018

The Honorable Mitch B. Carmichael
President of the Senate
And
The Honorable Members of the West Virginia Senate

Dear Mr. President and Members:

Pursuant to Rule 4 of the Rules of the Senate While Sitting as a Court of Impeachment, I have this day designated Kristin Canterbury, the Assistant Clerk of the Senate, to serve as Clerk of the Court of Impeachment in my absence. This designation will be filed in the Journal of the Senate and the Journal of the Court of Impeachment.

Sincerely,

Lee Cassis
Clerk of the Senate

The Senate, sitting as a Court of Impeachment to consider proceedings against Robin Jean Davis, Retired Justice of the Supreme Court of Appeals of the State of West Virginia; Allen H. Loughry II, Justice of the Supreme Court of Appeals of the State of West Virginia; Elizabeth D. Walker, Justice of the Supreme Court of Appeals of the State of West Virginia; and Margaret L. Workman, Chief Justice of the Supreme Court of Appeals of the State of West Virginia, met on Tuesday, September 11, 2018, at 2:57 p.m.

The Honorable Paul T. Farrell, Acting Chief Justice of the Supreme Court of Appeals of the State of West Virginia, assumed the chair and presided over the Court of Impeachment.

The Presiding Officer then directed the Sergeant at Arms to summon the Managers, attorneys, and respondents.

Without objection, the Journal of the Court of Impeachment to consider proceedings against the various justices of the Supreme Court of Appeals of the State of West Virginia was considered as having been read and approved.

The Managers, appointed by the House of Delegates to conduct the trial of impeachment of the various justices of the Supreme Court of Appeals of the State of West Virginia, to wit: Delegates Shott, Hollen, Byrd, and Miller (Delegate Foster, one of the said managers, being absent) entered the Senate Chamber and took the seats assigned them.

Brian Casto, Marsha Kaufmann, and Joe Altizer, counsel for the Managers of the House of Delegates, accompanied said Managers.

Respondent Allen H. Loughry II, Justice of the Supreme Court of Appeals of the State of West Virginia, and the respondents' counsel entered the Senate Chamber and took the seats assigned them.

The Presiding Officer informed the Managers, attorneys, and Respondents that the Court of Impeachment had not adopted a resolution publicly reprimanding and censuring Chief Justice Margaret L. Workman and Justice Elizabeth D. Walker and that the trials would move forward.

The Presiding Officer then directed Mike Hissam, counsel for Elizabeth D. Walker, Justice of the Supreme Court of Appeals of the State of West Virginia, to approach the podium.

The Presiding Officer stated that Elizabeth D. Walker, Justice of the Supreme Court of Appeals of the State of West Virginia, was charged in Article XIV of the Articles of Impeachment and asked if Justice Walker admitted or denied the same. Mike Hissam, counsel for Justice Walker, responded that Justice Walker denied the charge.

The Presiding Officer then set the trial date for Justice Walker for Monday, October 1, 2018, at 9 a.m.

The Presiding Officer then directed Steven R. Ruby, counsel for Margaret L. Workman, Chief Justice of the Supreme Court of Appeals of the State of West Virginia, to approach the podium.

The Presiding Officer stated that Margaret L. Workman, Chief Justice of the Supreme Court of Appeals of the State of West Virginia, was charged in Articles IV, VI, and XIV of the Articles of Impeachment and asked if Chief Justice Workman admitted or denied the same. Steven R. Ruby, counsel for Chief Justice Workman, responded that Chief Justice Workman denied the charges.

The Presiding Officer then set the trial date for Chief Justice Workman for Monday, October 15, 2018. The Presiding Officer stated that pre-trial motions would be taken up at that time.

The Presiding Officer then directed Allen H. Loughry II, Justice of the Supreme Court of Appeals of the State of West Virginia, and John A. Carr, counsel to Justice Loughry, to approach the podium.

The Presiding Officer then asked Mike Hissam, counsel for Justice Walker, and Steven R. Ruby, counsel for Chief Justice Workman, if the Respondents formally waive the reading of the Articles of Impeachment. Mike Hissam, counsel for Justice Walker, and Steven R. Ruby, counsel for Chief Justice Workman, responded that Justice Walker and Chief Justice Workman waived the reading of the Articles.

The Presiding Officer then asked Justice Loughry if he formally waived the reading of the Articles of Impeachment. John A. Carr, counsel for Justice Loughry, responded that Justice Loughry waived the reading of the Articles.

The Presiding Officer stated that Allen H. Loughry II, Justice of the Supreme Court of Appeals of the State of West Virginia, was charged in Articles I, III, VII, VIII, IX, X, and XIV of the Articles of Impeachment and asked if Justice Loughry admitted or denied the same. Allen H. Loughry II responded that he denied the charges.

The Presiding Officer then set the trial date for Justice Loughry for Monday, November 12, 2018, at 9 a.m.

The Presiding Officer then directed the counsel for Robin Jean Davis, Retired Justice of the Supreme Court of Appeals of the State of West Virginia, to approach the podium.

The Presiding Officer stated a motion for *pro hac vice* admission of James M. Cole had been filed for James M. Cole to appear as counsel on behalf of Retired Justice Davis during the Court of Impeachment. The Presiding Officer then stated the motion was granted.

The Presiding Officer then asked James M. Cole, counsel for Retired Justice Davis, if the Respondent formally waives the reading of the Articles of Impeachment. James M. Cole, counsel for Retired Justice Davis, responded that Retired Justice Davis waived the reading of the Articles.

The Presiding Officer stated that Robin Jean Davis, Retired Justice of the Supreme Court of Appeals of the State of West Virginia, was charged in Articles II, IV, V, and XIV of the Articles of Impeachment and asked if Retired Justice Davis admitted or denied the same. James M. Cole, counsel for Retired Justice Davis, responded that Retired Justice Davis denied the charges.

The Presiding Officer then set the trial date for Retired Justice Davis for Monday, October 29, 2018.

James M. Cole, counsel for Retired Justice Davis, stated a motion for continuance for filing motions and reciprocal discovery had been filed, to which the House Managers did not oppose.

The Presiding Officer noted that Robin Jean Davis had retired from the office of Justice of the Supreme Court of Appeals of the State of West Virginia and there were provisions relating to this matter contained in the Rules of the West Virginia Senate While Sitting as a Court of Impeachment During the Eighty-Third Legislature and that the Constitution of West Virginia states, in part, that the removal from office is the only punishment in an impeachment [Art. IV, Sec. 9].

Senator Trump then moved that, pursuant to Rule 13 of the Rules of the West Virginia Senate While Sitting as a Court of Impeachment During the Eighty-Third Legislature, Articles II, IV, V, and XIV of the Articles of Impeachment adopted by the House of Delegates be dismissed in so far as they relate to Robin Jean Davis, Retired Justice of the Supreme Court of Appeals of West Virginia.

Following extended discussion,

The question being on the adoption of Senator Trump's aforestated motion,

The roll being taken, the yeas were: Arvon, Baldwin, Boley, Drennan, Facemire, Gaunch, Jeffries, Palumbo, Plymale, Prezioso, Romano, Stollings, Swope, Trump, and Carmichael (Mr. President)—15.

The nays were: Azinger, Beach, Blair, Boso, Clements, Cline, Ferns, Karnes, Mann, Maroney, Maynard, Ojeda, Rucker, Smith, Sypolt, Takubo, Unger, Weld, and Woelfel—19.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the Presiding Officer declared Senator Trump's aforestated motion had not prevailed.

Whereupon, the Presiding Officer stated the trial date for Retired Justice Davis would be Monday, October 29, 2018.

Steven R. Ruby, counsel for Margaret L. Workman, Chief Justice of the Supreme Court of Appeals of the State of West Virginia, stated a motion had been filed to set a trial date and a briefing schedule. He also stated a motion had been filed to set a Bill of Particulars.

John H. Shott, Chair of the Managers appointed by the House of Delegates, stated one of the dates in the proposed briefing schedule had already passed and the House Managers questioned the validity of certain motions under the Rules of the West Virginia Senate While Sitting as a Court of Impeachment During the Eighty-Third Legislature. Chairman Shott then stated the House Managers objected to Chief Justice Workman's motion for a Bill of Particulars.

The Presiding Officer stated a Bill of Particulars was a criminal type motion and this was not a criminal trial; therefore, the motion for a Bill of Particulars was denied.

The Presiding Officer recognized John H. Shott, Chair of the Managers appointed by the House of Delegates, to address the Court of Impeachment.

Following a point of inquiry to the Presiding Officer, with resultant response thereto,

At 3:29 p.m., the Court of Impeachment to consider proceedings against the various justices of the Supreme Court of Appeals of the State of West Virginia adjourned until Monday, October 1, 2018, at 9 a.m.
