

SITTING AS COURT OF IMPEACHMENT

JOURNAL OF THE SENATE

16

Tuesday, July 9, 1957

The Senate, sitting as a court for the trial of Article of Impeachment against the Honorable George E. Holt, Circuit Judge for the Eleventh Judicial Circuit of Florida, convened at 10:00 o'clock A. M., in accordance with the rule adopted on July 8, 1957, prescribing the hours of the daily sessions.

The Chief Justice presiding.

The Managers on the part of the House of Representatives, Honorable Thomas D. Beasley and Honorable Andrew J. Musselman, Jr., and their attorneys, Honorable William D. Hopkins and Honorable Paul Johnson, appeared in the seats provided for them.

The respondent, Honorable George E. Holt, with his counsel, Honorable Richard H. Hunt, Honorable William C. Pierce and Honorable Glenn E. Summers, appeared in the seats provided for them.

By direction of the Presiding Officer, the Secretary of the Senate called the roll and the following Senators answered to their names:

Adams	Carlton	Hodges	Pope
Barber	Carraway	Houghton	Rawls
Beall	Clarke	Johns	Rodgers
Belser	Connor	Johnson	Rood
Bishop	Davis	Kelly	Shands
Boyd	Dickinson	Kicklitter	Stenstrom
Brackin	Eaton	Knight	Stratton
Branch	Edwards	Morgan	
Bronson	Gautier	Neblett	
Cabot	Hair	Pearce	

—37.

A quorum present.

By direction of the Presiding Officer, the Sergeant-At-Arms made the following proclamation:

Hear ye! Hear ye! Hear ye!

All persons are commanded to keep silence, on pain of imprisonment, while the Senate of the State of Florida is sitting for the trial of Article of Impeachment exhibited by the House of Representatives against the Honorable George E. Holt, Circuit Judge of the Eleventh Judicial Circuit of Florida.

By unanimous consent, the reading of the Journal of the proceedings of the Senate, sitting as a Court of Impeachment, for Monday, July 8, 1957, was dispensed with.

The Senate daily Journal of Monday, July 8, 1957, was corrected as follows:

Page 5, column 1, strike out lines 10, 11 and 12, and insert in lieu thereof the following:

"The respondent, by counsel, waived the issuance and service upon him of a writ of summons and filed the following Appearance of Respondent and Counsel which, by direction of the Presiding Officer, was read by the Secretary of the Senate:"

Also—

Page 9, column 2, between lines 6 and 7, counting from the bottom of the column, insert the following:

"Mr. Hunt, of counsel for and on behalf of the respondent, Honorable George E. Holt, interposed objection to the filing of the Bill of Particulars by the managers on the part of the House of Representatives, and to the distribution of copies thereof to members of the Senate.

"The Chief Justice announced that the Senate, sitting as a Court of Impeachment, would hear arguments of counsel and managers on respondent's motion to strike and dismiss Article of Impeachment, and on respondent's objection to the filing of a Bill of Particulars, upon convening on Tuesday, July 9, 1957."

And as corrected was approved.

Senator Getzen appeared in the Senate Chamber, asked to be recorded as present, and took his seat.

The Chief Justice administered the oath of office to Senators Adams, Boyd, Rood and Stratton, who had not previously been sworn, in the following language:

"I solemnly swear that in all things appertaining to the trial of the impeachment of the Honorable George E. Holt, Circuit Judge of the Eleventh Judicial Circuit of Florida, now pending, I will do impartial justice according to the Constitution and Laws of the State of Florida; so help me God."

CHIEF JUSTICE TERRELL: Be seated.

Is counsel ready to proceed on the question where we left off yesterday?

MR. BEASLEY: Yes sir, we are ready to proceed.

MR. HUNT: We are ready, Your Honor.

CHIEF JUSTICE TERRELL: The Court will hear you, Mr. Hunt.

MR. HUNT: You'll hear me on the objection to the Bill of Particulars first?

CHIEF JUSTICE TERRELL: Yes.

MR. HUNT: Thank you, sir.

Mr. Chief Justice, Members of the Senate sitting as a High Court of Impeachment at the trial of George E. Holt, Circuit Judge of the Eleventh Circuit—

SENATOR SHANDS: Mr. Chief Justice, would it—I think it would help every member of the Senate if the Sergeant-at-Arms or someone would place a mike there for the counsel to speak through.

MR. HUNT: May I say, Senator, that they've looked for one. I don't believe they've been able to find one as yet.

SENATOR SHANDS: They've given you one right now.

MR. HUNT: Good. Thank you, sir, thank you very much.

The members of this august body sit here as the highest constitutional Court of this state, even higher than the Supreme Court of Florida, because, indeed, you exercise impeachment powers over members of the Supreme Court itself.

The questions first to be cleared away are necessarily those bedded and rooted in the law, the law of this land. They pertain to the constitutions, the Constitution of the State of Florida and the Constitution of the United States of America. Matters of that type cannot be settled merely by beginning the arduous taking of testimony of witnesses. The issues have to be properly framed, and legal issues have to have been joined, both by the prosecution and the defense, before either side can be advised of what testimony will be permitted and what testimony will not be permitted.

Now, we were met here at the outset yesterday—and I address myself particularly to the professional members of this august body—with a most unique move. It was on the part of the Honorable House Managers.

They came forward before the Respondent had even filed his appearance, with an eighteen-page proffered Bill of Particulars, whereas, the single Article of Impeachment covers one page.

These gentlemen came forth gratuitously, without motion, without order of Court, and they proffered an eighteen-page document over their own unsworn signatures.

I say to the Senate at the outset that that move on the part of the House Managers was a simple, but astounding concession of the rank insufficiency in law and under the Constitution, of the single Article of Impeachment which the House of Representatives sent over here for trial. The gentlemen of the profession know that in order to get a Bill of Particulars, a defense counsel has to file a motion, and a very, very good motion, and he usually has to argue and drag in law and plead like the mischief to prevail upon the Court to require the prosecution to furnish a Bill of Particulars.

Now, the purpose of a Bill of Particulars as we shall get into, is not to act like adhesive tape and baling wire to the Article the House of Representatives sent over here. Its only purpose pertains to the trial itself, and tends to confine the prosecution to certain witnesses or certain lines of examination and certain dates, and matters of that type.

The Court, the Presiding Officer, Mr. Chief Justice Terrell, will agree, and undoubtedly will instruct but the labor before this Senate under the Constitution is to try this Respondent upon the single Article of Impeachment which the House of Representatives, in official session, over the signature of the Speaker and the Clerk, sent over here to you for trial under the Constitution, and I feel certain that the Chief Justice will, likewise, instruct, when this Senate meets to consider the issues which will be presented here this morning, that it is incompetent and beyond the official power or function of the Honorable House Managers to either add to or take from the precise and exact phraseology on paper which the House of Representatives saw fit to send over here for trial.

The purpose of a Bill of Particulars is not to accomplish a strengthening or a weakening of that Article of Impeachment. It was presented here so precipitantly and in unannounced fashion yesterday. If I may resort to the vernacular—and I don't say it with any reflection whatever upon the Honorable Members of the House, because I hold each of them in high esteem, but when lawyers get into a trial, gentlemen, there are certain tricks of the trade; the "old Army game," we sometimes refer to it in that manner, and what these gentlemen so arduously tried to do, as you will recall, was not simply to send up to the Clerk for later consideration at the proper time, a Bill of Particulars, but rather, did they make every effort to distribute mimeographed copies among the members of this Court over their own signatures, the purpose being to prejudice the members of this Court against the Respondent upon the consideration of the true legal constitutional issue. The gentlemen tried to anticipate, apprehend and torpedo the fair presentation, the honest, open presentation that this Respondent is entitled to have when he lays these constitutional questions before this Senate, by gratuitously and without motion, a thing unheard of in my short experience of only thirty-four years at the Bar.

Like Santa Claus, almost, they came forward with an eighteen-page document, trying to proffer the one-page document that the House sent over. It will be my purpose—and I trust I shall be successful—to show you gentlemen that the Honorable Members of the House have no such authority.

I shall undertake to show you that upon this single Article of Impeachment, and that alone, is the trial of this Respondent to proceed before this august body.

At the outset of the Bill of Particulars, it reads as follows:

"The undersigned Managers of the House of Representatives appointed by the Speaker of the House under and by virtue of the authority of House Resolution 1945 herewith submit this, their Bill of Particulars to House Resolution 1942, same being a Resolution for the Impeachment of George E. Holt, Circuit Judge."

With your permission—it's very short, I shall read you House Resolution Number 1945. House Resolution Number 1945, which I take from the Journal of the House of May 27, 1957, Page 1758:

"A Resolution providing for the appointment of Managers to conduct the impeachment trial against George E. Holt, Judge of the Eleventh Judicial Circuit of Florida; pursuant to House Resolution Number 1942:

"Be it resolved by the House of Representatives of the State of Florida:

"Section One"—and this is all of it—"That the Speaker of the House of Representatives of the Legislature of the State of Florida be and he is hereby authorized and directed to appoint two members of the said House of Representatives as Managers to conduct the impeachment proceedings against George E. Holt, one of the Judges of the Eleventh Judicial Circuit of Florida, pursuant to Articles of Impeachment heretofore adopted; that the said Managers are hereby instructed to appear before the Senate of the State of Florida and at the Bar thereof, in the name of the House of Representatives of the State of Florida, and all of the people of the State of Florida, to impeach the said George E. Holt of misdemeanors in office and to exhibit to the said Senate the Articles of Impeachment against said Judge, which have been agreed upon by this House; and that the said Managers demand that the Senate issue an order for the appearance of said George E. Holt before the said Senate to answer said Articles of Impeachment, and demand his impeachment, conviction and removal from office."

The gentlemen have no further authority, although they have brought here professional prosecuting officials to sit with them—and I don't blame them for bringing in assistants; the House has given them a monumental job to perform here.

They do not have the authority of a State Attorney or a County Solicitor, who operates under our statute law. They do not have the general authority that a privately-employed attorney has in a Civil proceeding to manage his client's case, to file such pleadings as he feels should be filed. They have the most limited authority; as Managers, they are only agents of a limited nature, of the House of Representatives, the House being the impeaching authority under the Constitution, and not the Managers. They have only the official function and authority of prosecuting the Article which their fellows in the House, by a two-thirds vote, adopted and sent over here. They have not the authority to add one whit to it or to take away from it one iota.

The Bill of Particulars which has been intervened into this proceeding, as I have pointed out, is a most unprecedented and gratuitous sort of way, gives many names and dates and amounts and cases that the impeaching authority may or may not have had in mind.

It was up to the impeaching authority to adopt an Article if they impeached this Respondent, which squared up with the Articles of Impeachment of history—and there are plenty of them in the books, but it would appear that upon an examination of the worker product here before us, that there apparently was extreme haste.

I know that the House had a number of fine lawyers among its membership; they, apparently, were not consulted.

So, I plead with the Senate to follow me as I point out the lack of authority that these gentlemen have.

Now, I'll make this assertion. I have the big books here. There is no impeachment in history, in all of the trials of the United States Senate: Louderback, Chase, Peck, Pickering, Archbald, Ritter, Swayne, in which all pleadings of every nature, the original Articles, Amendments to the Articles, Bills of Particulars, or Better Particulars, as they are sometimes called, replication, and even down to surrejoinder, have not, on each and every occasion, been submitted to and adopted by the House of Representatives, the sole impeaching authority, and then sent to the Senate and presented by these limited agents to whom I refer.

I have the books, if anyone wishes to question that or to check them. They're all here. So, from - - - if we are to gather experience and direction for this proceeding from the lightposts of history, from that which has gone on before, any kind of a pleading which has anything to do with this trial on the part of the impeaching authority must itself emanate from the impeaching authority; it cannot emanate from its Managers alone.

I call your attention particularly to the fact that in the Louderback trial - - - I'm reading from the Precedents of the House of Representatives Canon Precedents, Volume Six, Page 726:

"There was a motion submitted to make the Fifth Article more definite and certain. The notice was read by the secretary as follows: - - - I shall not read that.

"In conformity with the notice, Mr. Linforth, on behalf

of the Respondent, moved to require the House to specify in the Particulars set forth the fifth count of the Articles of Impeachment, and failing to do so within a reasonable time, that the Articles be dismissed.

"Mr. Manager Sumners responded" - - - and let me point out to the Senate that the Mr. Manager Sumners referred to was the venerable and honorable Hatton W. Sumners. In fact, as we study the impeachment proceedings of the last thirty or forty years - - - and I know Mr. Chief Justice will agree with me - - - we find that Mr. Hatton W. Sumners was the perennial Manager, Chief Manager on behalf of the House in the prosecution of those impeachments, which included Judge Ritter, Louderback, Archbald, and some of them; but Mr. Hatton Sumners, then the Manager for House, in response to the request for further particulars as regards one of these cases said this, and I quote:

"Mr. President, the Managers on the part of the House, in order to comply with the suggestion of counsel for the Respondent, and to save the necessity of considering the motion, consent to attempt to make Article Five more specific and to produce the endorsement of the House of Representatives. It is understood that we cannot, of ourselves, do these things; they have to be done through the House, but we will undertake to do the best we can."

So, on this particular point, I leave it with the members of the Court, with the assertion that the resolution appointing these honorable gentlemen to come here and act as House Managers is bereft of authority to file pleadings of any nature on behalf of or in the name of the House of Representatives. They are here with what they were provided with by their fellows in the House. We have nothing on the statute books to guide us in a proceeding of this kind. Indeed, the word "Managers", or "House Managers", appear nowhere in the law books except in the annals of legislative trial and impeachment proceedings; that's the only place it's found. So, I assert, if we're to be guided by the Rules and the conduct of our National Congress which, in turn, were taken from the English practice, that no one, save the House of Representatives, has it within its power to submit a Bill of Particulars, regardless of what's in it, whether it's ten pages long or as long as from here to Key West.

The House of Representatives has acted; the Respondent has joined the issue on that which the House of Representatives voted, and it lies not within any unwritten or unstated general power which the Honorable Managers may claim to add to or detract from that paper one whit. It's not in their Resolution, and it's in direct opposition to the - - - all the impeachment trials of history.

Secondly, gentlemen, the purpose of the submission of that lengthy expression from the House Managers, setting forth over their unsworn signatures their thoughts of what might have been in the minds of the House when it voted the Article of Impeachment, is not but an attempt to put a new strand of barb wire on the fence that really needs some posts. They're trying to patch up a situation with a legal tool which they hope this Senate will accept, and it would be highly improper, most prejudicial to the Respondent, and wholly unfair to bring him to trial on the ideas and thoughts of these gentlemen reaching beyond their official jurisdiction and not to limit the prosecution to precisely the Article which the House sent here and authorized these gentlemen to come here to prosecute.

In Bishop's New Criminal Procedure, Volume Two, Page 646 - - - and I shall not belabor this point any longer than I feel is absolutely necessary, gentlemen. I want you to know that it's our purpose to be considerate at all times of the fact that everybody is up here from their homes, and would like to conclude this unsavory matter as expeditiously as possible, and I can assure you, likewise, that I would like to get back to my own little cubbyhole law office as soon as possible, but there are certain constitutional aspects and questions which have to point out the future of this proceeding, and necessarily must be settled first.

Now, as to the purpose of a Bill of Particulars, generally, let us assume, let us assume that these gentlemen had a broad and wide scope of agency from the House of Representatives, and that they were here, and that I had never presented the first point of that lack of official authority to sign and present a Bill of Particulars, let me undertake to show you what the Courts of this country and the Supreme Court of Florida, or rather, including the Supreme Court of Florida, has said quite briefly, about the function of a Bill of Par-

ticulars. You will find that it cannot serve the function which these gentlemen hope for:

"The Bill of Particulars, not being made by the Grand Jury on oath" - - - the House, gentlemen, may be likened to the Grand Jury; the House was the body which found probable cause and voted the impeachment, sending it over here for trial; so, let us liken the House to the Grand Jury:

"The Bill of Particulars, not being made by the Grand Jury, on oath, cannot support any defect in the indictment, nor in reason, should the Court suffer any otherwise insufficient allegation to pass on the ground that it has power to order a Bill of Particulars from any person not of the Grand Jury."

In a Pennsylvania case, Commonwealth versus Baltimore, 72 Atlantic 278, the Court said this:

"A Bill of Particulars prepared by a District Attorney can never take the place of what must affirmatively appear on the face of an indictment to which the accused must plead."

In the Florida case of Middleton versus State, 9 Southern 2d 807, the Court said this:

"A paper referred to as a Bill of Particulars, which was attached to the information, and not sworn to or verified, could not be looked to as supplying allegations necessary in the information to constitute a charge of a criminal offense."

In the case of Smith versus State, 112 Southern 70, the Florida Supreme Court said:

"This Court has held that the Bill of Particulars is no part of the pleadings and the indictment is neither strengthened or weakened by it."

Now, they hope to patch it up by running in here without request and submitting that far-fetched, inflammatory, accusatory paper. It really sounded like one of our Dade County Grand Jury indictments, that boil and skin our people alive, and we have to go to the Florida Supreme Court to have expunged. I'll comment on that later, if we get into it, but the gentlemen, I am sure inadvertently, have said and alleged a lot of things in that paper that they don't even hope to try to prove. I repeat again, "and the indictment is neither strengthened or weakened by it". In other words, if we were to draw an answer to this vague thing they call an Article of Impeachment, we would have to answer that; we wouldn't answer the Bill of Particulars. The purpose of that, really, is only to limit the scope of trial, but the purpose of its presentation yesterday, with proffered mimeographed copies for each and every member of this Court, was obviously to inflame and prejudice the minds of you good gentlemen who have taken a double barreled oath to fairly try this man according to the Constitution and Laws of this country.

In the North Carolina case of State versus Van Felt, 49 Southeastern 177:

"The Bill of Particulars is not a part of the indictment, and does not prevent quashing the indictment if the indictment in itself is insufficient."

Now, we say that the indictment, in itself, is insufficient, but we cannot approach that question on our motion to strike it and bring home to you gentlemen the real question until this Bill of Particulars matter is out of the way, whether these unauthorized gentlemen will be permitted to file it.

In the Mississippi case of Pruitt versus State, found in 76 Southern Reporter 761, that involved a case of a constable who was accused of drunkenness and failure to perform his duty. The Court said this - - - and it involved a Bill of Particulars:

"The indictment in this case is based solely upon the latter clause, that is, that the defendant was drunk when called upon to perform one of the duties of his office," and let me stop there at that word "drunk" and interpolate that.

I doubt if the members of this august body realize that in connection with Judge Holt's unfortunate accident of some time ago, in which he nearly lost his life, that until yesterday, in this paper they tried to intervene into this proceeding, no one had suggested or accused or charged or intimidated that Judge Holt was driving his car in a drunken condition, or that he was guilty of driving while intoxicated, or anything of that kind.

You know what everyone knows; you will take cognizance of all the investigations that have gone on before this trial. You know that ample time has been given for the sifting of truth and the gathering of witnesses, and you know that if they had proper evidence upon which to sustain any such charge that the constitutional body from which these gentlemen came, which investigated this case to the extent of two thousand pages, would have been able to make out such a case, and you know it would not have been necessary, had these gentlemen felt confident of their case, for them to hie off to Dade County for a week or ten days ago, and use the telephone and issue subpoenas over their signatures - - -

MR. MUSSELMAN: Mr. Chief Justice, may I interpose an objection at this point, please sir, to the references of the counsel to matters extraneous to the record or extraneous to any matters that we have presently before us.

SEVERAL UNIDENTIFIED SENATORS: We can't hear over here.

CHIEF JUSTICE TERRELL: Just one at a time, gentlemen. I can't hear but one.

MR. MUSSELMAN: I wish at this time to interpose an objection to counsel making reference to facts and other matters which are extraneous to the records we have before us, and discussing evidence we do not have before us.

I have no objection whatsoever to him discussing the Bill of Particulars, but he is discussing other matters which are not before us at this time.

CHIEF JUSTICE TERRELL: Mr. Hunt, I think the question that the Senate, as a Court, would be confronted with when they pass on this matter, is whether or not the Bill of Particulars introduces substantive matter that is extraneous to the Articles of Impeachment.

MR. HUNT: Yes sir. Well - - -

CHIEF JUSTICE TERRELL: If the Senate should decide that it introduces matter that is substantive, and not contained in the Articles of Impeachment, certainly, it can't be considered; the only way it could be considered would be to go back to the House of Representatives and amend the Articles of Impeachment there, and I think it would be a good idea to let us hear something on that question, on the question of whether or not the Bill of Particulars does present substantive matter.

MR. HUNT: Your Honor please, it was - - -

CHIEF JUSTICE TERRELL: New matter.

MR. HUNT: It was my thought that regardless of what the Bill of Particulars presents, if the Managers on the part of the House are without authority to bring it here, it should not be considered in the trial of this Respondent regardless of its purpose.

CHIEF JUSTICE TERRELL: Well, the question of whether it contains new substantive matter will determine that question.

MR. HUNT: Well, I should think, if the Court please, that since they are not allowed by Law to furnish any pleadings over their signatures, regardless of content, that whether it contains new or old matter would not control the question. These gentlemen either do or do not have authority at law to bring in here a Bill of Particulars or further pleadings, and my principal point was that regardless of the contents of the Bill of Particulars, that their authority is limited to the trial of the Respondent, to the prosecution of the Respondent, on the Articles of Impeachment, and that they do not have constitutional power, if Your Honor please, to either explain, add to, detract from, or otherwise tamper with the Article of Impeachment by a Bill of Particulars or any other pleading.

CHIEF JUSTICE TERRELL: I think this: If the Bill of Particulars merely explains and clarifies the Articles of Impeachment, then it would be admitted, then that concludes on that point. I say, if it merely explains or clarifies, but if it adds substantive matter, then it can't be admitted, and the only way it can is to go back to the House of Representatives, and new Articles filed, unless counsel could stipulate on it as to what, certain portions of it would be admitted; that's the only way I've found that it would at this time be admitted.

MR. HUNT: Your Honor, I will not beg the question, but I do feel that Your Honor would not permit a stranger to this proceeding to file a Bill of Particulars which could be of vital importance in the trial of this Respondent, and if, under the law, these gentlemen are bereft of constitutional authority to bring in here a Bill of Particulars, a replication, or any other pleading without the approval of the accusing authority, then it would seem to me - - - and I may be wrong, I often have been - - - that regardless of the contents of the Bill of Particulars, it is a void pleading, ab initio, and cannot be considered.

However, I have just one or two - - - I would like to complete this case, Your Honor.

CHIEF JUSTICE TERRELL: Yes.

MR. HUNT: It is in point - - -

CHIEF JUSTICE TERRELL: Proceed.

MR. HUNT: - - - as to the function and purpose of the Bill of Particulars.

"It was necessary that the indictment set out the particular duty which the defendant was called upon to perform at the time he is alleged to have been drunk. It is the universal rule that it is essential to the validity of any indictment that the material facts constituting the offense charged must be alleged with certainty. If the rule were otherwise, former jeopardy could not be subsequently availed of by the accused on an indictment for the same offense.

"In the case before us, the rule is peculiarly applicable for the reason that the official duties of the appellant were numerous and definite, and it was his right to know, from the indictment" - - - not the Bill of Particulars, from the indictment - - - "what particular official duties he was called upon to perform while drunk. Merely being drunk occasionally while not discharging a duty, or being called upon to do so, would not fall within the Bill of Particulars.

"The Bill of Particulars furnished by the District Attorney, setting out the particular duty that the defendant was called upon to perform while drunk did not cure the fatal defect in the indictment for the very simple reason that the duty which the defendant was called upon to perform, as set forth in the Bill of Particulars furnished by the District Attorney, may not have been the particular duty which the Grand Jury had in mind when it returned the indictment in this case. In furnishing the Bill of Particulars here, the District Attorney attempted to do that which only the Grand Jury could do; that is, to definitely charge the particular duty the defendant was called upon to perform while drunk.

"As we have stated the Bill of Particulars did not and cannot cure the defect in the indictment. Therefore, we hold that the indictment in this case is fatally defective, and the lower Court erred in overruling the demurrer filed thereto."

I have one concluding citation, Your Honor; it's from American Law Reports, 10 ALR, Page 982, "Sufficiency of indictment as affected by Bill of Particulars"; there's no higher authority that I know anything about insofar as this purpose is concerned. It is in the nature of a pleading, yet it forms no part of the record, and cannot create or cure a defect in the indictment. An indictment sufficient on its face cannot be made demurrable by a Bill of Particulars, and where an indictment is insufficient on its face, it cannot be made valid by the service of a Bill of Particulars."

Now, we believe that when we're permitted to discuss the sufficiency of the Article of Impeachment the members of this Senate will find agreement that there is no impeachable offense set forth in the Article, and that it is insufficient when tested by the Constitution and Laws under which we live, and as this authority states, "An indictment, where it is insufficient on its face, it cannot be made valid by the service of a Bill of Particulars."

In other words, the general rule is that a Bill of Particulars merely amplifies the indictment and limits the scope of the proof at the trial. Now, under that are cited any number of cases from the United States Supreme Court, the Florida case of Middleton versus State; Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, the Pruitt versus State, which I just read from, the constable drunkenness case; North Carolina, Pennsylvania and Virginia and Washington, and it quotes the Florida headnote in the Middleton case:

"No resort can be made to a Bill of Particulars to point out any defect in the indictment and the indictment is not affected by any defect or inadequacies of the former."

In State versus Van Felt, a North Carolina case shown here in the footnote - - - I beg your pardon, a Massachusetts case, Commonwealth versus Farrell, 105 Massachusetts 189, the Court said this:

"Specifications are ordered at the discretion of the Court before which a cause is to be tried." Well, nobody has ordered any here. No one has asked for it here; it was gratuitously brought in. "They affect the proof and mode of trial and not the indictment. They are not a part of the record and are not subject to demurrer, but are merely to give notice and guard against surprise at a trial."

In the Virginia case - - - and I will conclude with this one - - - still quoting from the ALR annotations, Pine versus Commonwealth, 121 Virginia 812, 93 Southeastern 652, the Court said this:

"The object of the Bill is to state with greater particularity than is done in the indictment the cause and nature of his accusation. The indictment, of course, must charge the offense, and if it fails to give the information necessary to enable the defendant to concert his defense, such information may be supplied, but if the offense is not charged in the indictment, the defect cannot be supplied by the Bill of Particulars. A Bill of Particulars may supply the thought of generality or uncertainty, but not the omission of an essential averment of the indictment."

Now, if the Court please, I feel that we have shown ample authority on the two points with which my meager presentation was concerned, and that is, Number One, that we came here for trial upon the Article of Impeachment voted against this Respondent under the Constitution of this state, and we are entitled to have the prosecution required to stand on that Article of Impeachment, and while they may prosecute it as best they can, that they have not the authority under the law from the House of Representatives or by - - - from the stare decisis of this country, or legislative impeachment history, which has gone on before us, they cannot find the first authority to come in here without sanction, official and formal sanction of their appointing a principal; they cannot come in here and over their own signatures, unsworn, manufacture up an eighteen-page - - - what is actually intended to inflame and be considered as a substitute, their substitute, for what the constitutional House of Representatives sent over here for this august body to try, and that even if they did have the authority to file a Bill of Particulars, unrequested and unsolicited, that the Bill of Particulars would supply no defect whatever which later may be pointed out in the single Article of Impeachment.

Thank you.

MR. PIERCE: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Mr. Pierce.

MR. PIERCE: May I inquire of a point of procedure, as to just how the argument will proceed on the present motions now before the High Court?

I'm perfectly willing to go ahead with a few remarks of my own now, or wait until later. There are two motions, as I understand it. One is the motion for right to file a Bill of Particulars, and the other, of course, is our original motion to dismiss the Articles as presented.

I'm willing to abide by the Chief Justice or the members of the Senate as to just what manner of procedure to follow.

CHIEF JUSTICE TERRELL: Rule Twenty provides that argument on a question of this kind shall be limited to a half hour to the side unless the Senate extends the time, and I take it that would mean one counsel for each side, unless counsel agreed to divide their time.

MR. PIERCE: We weren't familiar with those rules, Your Honor. We had no advices as to any rules that had been adopted, or were being contemplated to be followed. I don't believe we've been served with them, and I was only inquiring as to just what the procedure or the rules were.

I would like to be heard for just a few moments, either now or later; doesn't make any difference.

MR. HUNT: May I say, Your Honor, one thing: I had assumed that we would have, on our objection to the Bill of Particulars, the conventional opening and closing, and since it does involve a constitutional question of momentous nature, I would beg of the Honorable Chief Justice and the Senate, if necessary, to permit more than one argument, and to extend the time until the question can be adequately presented.

I had expected that Mr. Pierce would be able - - -

CHIEF JUSTICE TERRELL: How many - - -

MR. HUNT: - - - to close.

CHIEF JUSTICE TERRELL: How many of you gentlemen want to argue the case?

MR. HUNT: I would like for Mr. Pierce to respond to whatever the prosecution presentation may be.

CHIEF JUSTICE TERRELL: And that's the conclusion of your argument?

MR. HUNT: Yes sir, on the question of the Bill of Particulars.

MR. PIERCE: And the motion to strike.

MR. HUNT: It's understood that we have not taken up the motion to strike.

CHIEF JUSTICE TERRELL: Yes, that's right.

Mr. Beasley, how much time do you gentlemen want to use? How many of you want to talk, in the first place?

MR. BEASLEY: Mr. Chief Justice, I believe the two of us, and I believe we will limit our time to about fifteen or twenty minutes. I don't think we want to take up any more than that.

It will be all right for Mr. Pierce to go ahead now, if he would like.

CHIEF JUSTICE TERRELL: Well, he wants to make the closing argument.

MR. PIERCE: I would prefer to close, but I would yield to the Chief Justice and the Members of the Senate on that point. I have no pride of closing; in fact, I have no pride of argument, but the matter of procedure I leave entirely with the Court.

CHIEF JUSTICE TERRELL: You say the two of you want twenty minutes to the side, Mr. Beasley?

MR. BEASLEY: I don't believe we want - - - I believe the two of us together, twenty or twenty-five minutes, at the outside, for the two of us, together, would be sufficient.

CHIEF JUSTICE TERRELL: Well, the Court will hear you; the Court will hear you, then, twenty minutes, if you want it, or whatever part of that time that - - - do you want to divide that time, or do you want fifteen or twenty minutes apiece?

MR. MUSSELMAN: I think we can divide that time, don't you?

MR. BEASLEY: I believe so.

SENATOR RAWLS: Can you speak a little louder?

MR. MUSSELMAN: I believe, sir, we can divide that time, or divide a half hour between us.

May I point out something to the Court, though? I believe, sir, that we - - -

MR. PIERCE: Should probably go first. There's been no argument yet on the question of sufficiency of the Articles originally presented, and we would like to hear that so that we might reply to it.

CHIEF JUSTICE TERRELL: Well, I was just going to ask Mr. Beasley if he would discuss the question of whether or not this pleading presents new and substantive matter.

MR. BEASLEY: I'll be glad to do that.

CHIEF JUSTICE TERRELL: I think that's a question that the Senate and the Court will be confronted with, and will be conclusive, the question on this argument.

MR. BEASLEY: I'll be glad to discuss that in my argument, sir.

CHIEF JUSTICE TERRELL: The Court will hear you, then, fifteen minutes.

MR. PIERCE: What is the ruling as to our side of the matter?

CHIEF JUSTICE TERRELL: That they be heard, fifteen minutes to each one, and that you be permitted to close.

MR. PIERCE: I'll be permitted to close?

CHIEF JUSTICE TERRELL: Yes.

MR. HUNT: And then after that, Mr. Chief Justice, we will then take up the motion - - -

CHIEF JUSTICE TERRELL: Yes.

MR. HUNT: - - - to strike.

Thank you.

MR. BEASLEY: Mr. Chief Justice, and Members of the Senate sitting as a Court of Impeachment:

Now, first of all, I want to say, in reply to some of the arguments of counsel for the Respondent, that there is precedent for Bills of Particulars, and I would like to call your attention to an excerpt from the Harvard Law Review in two cases in Minnesota. The Court allowed Bills of Particulars to the Articles of Impeachment; and that is discussed in Foster, Volume One, on the Constitution, Pages 609 and 610; also, in the cases of Page - - - in the case of Page, in Minnesota, the Court directed that a Bill of Particulars be filed in an impeachment proceeding. So, it is not an unprecedented matter.

I would like, also, to call your attention to the fact that the Members of the Senate, sitting as a High Court of Impeachment, is a Court of First and Last Resort. Your decision cannot be appealed from.

I would like to say also that - - - in the beginning here, that - - -

SENATOR EATON: Mr. Chief Justice, I wonder if it would be possible for the Senate to ask counsel to give the citations from the cases as he discusses them?

CHIEF JUSTICE TERRELL: Will you give the citations, Mr. Beasley?

MR. BEASLEY: The case - - - the cases which I cited are Minnesota cases, both of them, and the authority which I had is from the Harvard Law Review. It's found in Foster on the Constitution, Volume One, Pages 609 and 610; also, Foster on the Constitution, Volume One, Page 609, and that was in the case of the trial of Judge Cox, in Minnesota, and in that case, the Court directed, on trial of Judge Cox of Minnesota, where the Respondent had demurred on the ground of Articles too indefinite, required the Managers on the part of the House of Representatives to file a Bill of Particulars.

Now, the question of whether or not the Articles of - - - or whether or not the Bill of Particulars addition to the Articles, is what I understand the Court would prefer that I discuss here briefly.

First of all, I want to say that it is not a question of whether or not the Respondent did this thing or that thing or some other thing, but it's a question of whether or not the sum total of what he did brought his Court into disrepute and scandal.

The first Article - - - that is, the first paragraph of the Article charging the Respondent with misdemeanors in office is "(a) Accept favors from attorneys practicing before his Court."

In our Bill of Particulars, we allege, we state, in Paragraphs 1, 2, 3, 4, 5, 6, 7 - - - and 7, numerous times, when the Respondent is alleged to have accepted favors from attorneys practicing before him.

In one of those Paragraphs we allege - - - that is, in the first one, that he accepted a favor from an attorney named Thurman A. Whiteside by the said Thurman A. Whiteside allowing the Respondent to invest two hundred dollars in a proposition whereby he received a return of great percentage;

and then, Paragraph 2 alleges that he later allowed the Respondent to make an additional investment in this proposition, where he again received a large return from it, and that Thurman A. Whiteside was an attorney in Dade County, practicing before the Court over which the Respondent presided.

Also, that Thurman A. Whiteside, we allege in Paragraph 3, that Thurman A. Whiteside arranged for the purchase by Judge Holt from Waco Motors, in Miami, a Jaguar automobile at a discount. An attorney practicing before his Court arranged for that condition there where he received a favor from such an attorney.

Then, we further allege that Judge Holt accepted additional favors from Thurman A. Whiteside, that he accepted a favor from Joseph J. Gersten, an attorney practicing in his Court. Now, that's all under that Paragraph (a) there, where we allege that he accepted favors from attorneys practicing in his Court before him.

We allege also that he accepted from Joseph J. Gersten the sum of \$2,185 for the purchase of one Plymouth automobile from Christopher Motors.

We also allege that he accepted from Joseph A. Perkins, an attorney in Dade County, Florida, practicing before his Court, a favor by the said Joseph A. Perkins making arrangements to purchase airplane tickets for a trip to Haiti, and that Joseph A. Perkins accompanied them on their trip, and I think, under that, it will be shown that there's some question, and a serious question about whether the Respondent ever repaid the money that was furnished by Joseph A. Perkins to pay the expenses of that trip, and that he was an attorney practicing before the Court.

Under Article Two - - - I mean under Article 1, Section (b) or Paragraph (b), the Bill of Particulars says that he permitted his personal relationships with individuals to unduly and improperly influence his judicial appointments and the allowance of fees to such appointees, and we allege in there that on numerous occasions he appointed a man named L. J. Kurlan as receiver, from whence the said L. J. Kurlan received tremendous fees out of estates that there was some question as to whether or not the assets of the estates were able to pay such fees; and we allege also that he accepted favors from others and appointed others as Curators and receivers under that paragraph.

There are four Paragraphs in which the Articles allege things to substantiate Paragraph (b) of the Article; and then, we allege in (c), that he borrowed money from an attorney practicing before his Court, and that is part of the Article.

We allege that Circuit Judge George E. Holt, on or about January 27, 1955, borrowed money from one Joseph J. Gersten in the sum of \$2,185; and that Joseph J. Gersten was an attorney practicing before his Court.

(d), that he awarded excessive and unnecessary fees, and we will be able to show, as we have set out in this Bill of Particulars, that tremendous fees were allowed in cases where there was little or no assets, and one of them was the case of Stengel, in which there was \$5,312.71, and there were total fees allowed out of that estate of \$20,187.29; and those items are enumerated in that Article, and then, there are numerous other items set out in the Bill of Particulars where he violated the items just referred to.

Then in (e), "Accept gifts from attorneys practicing before his Court", and under that item of the Bill of Particulars we allege, and can show, that he accepted a gift from an attorney, that is, a robe and a pair of pajamas of the value of \$45.00. He accepted from another attorney, Morton Rothenberg, a silver-plated wine bucket - - - well, let's see, he accepted both those gifts from Mr. Rothenberg; a chafing dish, steak knives and other gifts of value.

Also, we allege under that same thing, that is, accepted gifts from another attorney named Joseph A. Perkins; and then, under Article (f), that he flagrantly violated the provisions of the Code of Ethics governing Judges adopted by the Supreme Court, and under that, we allege, among other things, that he became drunk and wrecked his automobile, seriously injuring two people in Miami; that also that he violated the Code of Ethics by appointing his friends, close personal friends, to these lucrative jobs as receivers; and that on many occasions he entered ex parte orders without

taking testimony to be sure that those orders were justified.

Under that Article also it is to show that he had obligations inconsistent with his duties as a Judge of the Circuit Court of Dade County; also, the provision of the Code of Ethics governing Judges, that he made personal investments that are frowned upon by the Code of Ethics adopted by the Supreme Court.

Mr. Justice and Members of the Court, those are the items which the Bill of Particulars covers, and we submit to you that they are set out, in general, in the Articles of Impeachment.

CHIEF JUSTICE TERRELL: Mr. Beasley, while you're at a period, Senator Rawls sends up this question:

"Why is it necessary to file a Bill of Particulars? Is this not an attempt to plead evidence?"

MR. BEASLEY: No sir. Mr. Justice, and Members of the Court:

The Managers had this in mind in preparing this Bill of Particulars: Now, we didn't want it to ever be said that Judge Holt was not given every opportunity in this case to defend himself, and if we are wrong, if we can't substantiate the things enumerated in this Bill of Particulars, the Managers on the part of the House of Representatives, nor our assistants want him convicted. We want him acquitted if we can't furnish evidence to this Senate that justifies the Senate returning a verdict of guilty for him.

Now, we know that he has no other resort after the Senate rules, sitting as a Court, and we didn't ever want it to be said that we adopted any method of procedure in this impeachment proceeding that was unfair to Judge Holt; and we made a - - - we did a tremendous amount of work - - - the fact of the business, some of us worked both day and night to handle this thing, in an effort to get the information prepared so that Judge Holt would have it at his command at the trial of this case, because we certainly don't want him impeached if he shouldn't be impeached, but if the evidence in this case, as enumerated under this Bill of Particulars - - - and we realize this also, that we somewhat limited ourselves when we prepared this Bill of Particulars. We think it's more harmful to us than if we had gone to trial without it, because I don't believe that we could offer anything in evidence - - - and we'll not try to ourselves - - - that are not enumerated in this Bill of Particulars, and I ask you, as Members of this Court, how much fairer could the Managers on the part of the House of Representatives be to the Respondent than to furnish him in detail with the matters which we expect to prove against him, and if we can't prove the things enumerated in this Bill of Particulars, we ask you to completely ignore the things we cannot prove.

It may be that a witness may be sick or out of reach of the process of the Courts, and we can't get him, and if we don't, then we're not going to ask you to convict this man on any evidence that we don't bring before the Court, even though we have it set up in this Bill of Particulars, and we're not trying to unduly prejudice anybody against the respondent by this Bill of Particulars; the fact of the business, I - - - the last people that I would undertake to prejudice at all under any circumstances, would be the Members of the Senate, because I just don't believe that - - - I have seen the time when I thought maybe a jury might be prejudiced a little bit by certain things, but I don't believe the Members of the Senate, sitting as this Court, being the calibre of men that you are, think that the members of the House are trying to unduly influence you as counsel for the Respondent tried to lead you to believe, because I assure you that we are not, and that neither of us have nothing personal against the Respondent; the fact of the business, I served in the House with him, and at that time I greatly admired him, and I certainly don't want to do anything to prejudice anybody against Judge Holt; the only thing the Managers of this House, on the part of this House are trying to do is to see that he gets a fair trial, and if we don't put the evidence here, we don't want you to convict him, but if we do, we want to convict him and disregard the facts set out in the Bill of Particulars, but we gave it to him today so that he'll know what we expect to bring in here against him, and if that's not fair, I ask you what is.

Mr. Justice, that concludes my - - - and Members of the

Court, that concludes my argument on the Bill of Particulars, and Mr. Musselman would like to be heard.

CHIEF JUSTICE TERRELL: Before you take your seat, Senator Johnson sends up this question:

"Mr. Beasley made a statement to the Press after the recent investigation in Miami, that he had uncovered new incidents damaging to Judge Holt. The question is, is this new incident set out in the Bill of Particulars? If so, then, certainly, there is new substance."

MR. BEASLEY: Mr. Johnson, I never get in an argument with the Press - - - I mean Senator Johnson; I never get in an argument with the Press, and I never tell a member of the Press that they've misquoted me, because you can't win with them in that way, but they didn't quote me correctly on that statement.

I'll tell you this, that no evidence is in this Bill of Particulars that wasn't before - - - I mean no evidence of any consequence in this Bill of Particulars that wasn't before the Committee that heard the evidence against Judge Holt in this case. Now, there may be some other witnesses to substantiate some of those facts, but I don't believe you'll find any facts in here of any consequence that wasn't before the Committee that heard the facts.

Now, that concludes my - - -

CHIEF JUSTICE TERRELL: The rules require that if any Member of the Court wants a question answered, they are required to send it up in writing and have it read by the Chief Justice.

I make that statement for the benefit of some of the gentlemen who said they hadn't read the Rules.

I'll hear you, Mr. Musselman.

MR. MUSSELMAN: Is Mr. Pierce to precede me, sir?

CHIEF JUSTICE TERRELL: Well, I'll hear you next.

MR. MUSSELMAN: Mr. Chief Justice and Members of the Senate:

This will be short and sweet. I think you've had an opportunity now - - - I guess - - - I noticed this morning that the Bill of Particulars was printed in full in the Senate Journal; so there's no need for me, I believe, at this time to go through in detail what the Bill of Particulars outlines. I think solely the question before us at this time is the question of whether or not we are authorized to present a Bill of Particulars; and secondly, having that authority, should the Senate allow such a Bill of Particulars to be filed.

I would like to - - - Mr. Beasley, would you hand me that Resolution Number 1946, please?

Mr. Hunt referred to a Resolution of the House, I think, 1945, if I'm not mistaken. There was a Resolution 1946, which followed that, and provides, in:

"Section 1. That the Board of Managers on the part of the House of Representatives of Florida in the matter of the impeachment of George E. Holt, Circuit Judge in and for the Eleventh Judicial Circuit of Florida, be and it is hereby authorized and empowered to employ legal, clerical and other necessary assistance and to incur such expenses as may be necessary in the preparation and conduct of the case to be paid out of Legislative expense on vouchers approved by the Board of Managers."

I'm sure that from this, you can determine that we do have the power to do everything in the Rules and purview of the House to present a full and complete case to you here in the Senate. I don't think that the House ever intended otherwise, and I'm sure we have the power to do it.

The only question becomes whether or not, under the general law of impeachment, as we find it, we can present a Bill of Particulars, and I think that boils itself down to, as the Judge has ruled, or said, whether or not there is any new substance, or whether - - - this is the central question - - - whether the Bill of Particulars constitutes an amendment to the Articles of Impeachment.

Now, under the general law - - - and that is what we were using as argument by Judge Hunt - - - I think we will find that a Bill of Particulars is clearly defined and outlined; and

I think we'll find also that under the general law that a Bill of Particulars - - - that question as to whether or not it constitutes an amendment, has been presented time and time again. It really is only for the purpose of explaining and setting forth the general allegations and charges, as contained in the Article. I believe also that you will find, as we progress here, that an impeachment trial is an entirely new proceeding; that although Judge Hunt referred to and read from general laws, that really, the Constitution of Florida and the laws regarding informations and indictments and other forms, really is subservient to the questions here presented before us.

Now, I would like to read briefly from one section of the Statutes, and that's 906.07, because referred to the general law; I also will refer to it:

"The Court, on motion, may order the prosecuting attorney to furnish a Bill of Particulars when the indictment or information fails to inform the defendant of the particulars of the offense sufficiently to enable him to prepare his defense."

That's under the general law. There is nothing said in our Constitution at all about a Bill of Particulars in the Articles of Impeachment. Our Courts have never been called upon to rule, and it's been generally accepted, I believe - - - and I concur with Mr. Hunt in that, that a Bill of Particulars is normally rendered on a motion and the Court orders the prosecuting attorney to supply a Bill of Particulars. There is no case that I can find which said that the prosecuting attorney could not voluntarily submit a Bill of Particulars. There will be cases, of course, that they cannot amend nor change the information or an indictment, and that is the question you are called upon to decide solely and exclusively.

The central, main question, too, is whether or not the Articles of Impeachment, as originally presented, are sufficient. Article Three, Section Twenty-nine of our Constitution sets out what impeachment - - - what are grounds for impeachment, and says, simply, "Misdemeanor in office", and gentlemen, I submit to you, as Mr. Hunt has said, you are a - - - the Superior Court in the State of Florida while you're sitting here listening to impeachment trials, and you have the sole right to determine these things, and there's no appeal, no chance of reversal of your decision on this at all.

I believe that under the law, we could have come here to you and said, with a simple statement, "George E. Holt, Circuit Judge of the Eleventh Judicial Circuit of Florida is and was guilty of misdemeanor in office." I believe that the law would have allowed us to do it, and there is a question for your decision to make, whether or not, hereafter, these things can be done, and that is - - - we are setting precedent as we are here today.

I think that you will find you don't realize the full extent of your powers, sitting as a Court of Impeachment. I think that will unfold before you, and I think the decision you will make will be the correct one. Your main concern, I believe, at this point, is to determine whether or not these proceedings are fair to the Respondent, and I believe you cannot determine not to present this Article - - - this Bill of Particulars, and not have them be fair. I believe the question is a question of fairness and of due process, and I believe the Respondent has received them all; and that's the end of my argument, Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Mr. Musselman - - -

MR. MUSSELMAN: Yes sir?

CHIEF JUSTICE TERRELL: - - - Senator Rodgers, J. B. Rodgers, has sent up this question:

"If, as Mr. Beasley has stated, there is no new matter in the Bill of Particulars that was not presented to the House of Representatives, why was not the Bill of Particulars attached to and made a part of the Articles of Impeachment?"

MR. MUSSELMAN: The Bill of Particulars - - - the simple answer to that, it was not prepared, Mr. Rodgers - - - Senator Rodgers, at the time the Articles of Impeachment were presented. There was a Report of the Committee which preceded the Articles of Impeachment, and if the Senator would like, I would submit that in to evidence at this point.

Would the Senator request that I file the Report of the Committee?

SENATOR RODGERS: Mr. Musselman, I am not con-

ducting the trial; I am sitting, at this point, as a juror; that's a matter of discretion that you will have to determine, and it will be decided upon, of course, by the Chief Justice and by this Senate, upon objection, probably, being made by the Respondent. I'm not trying to decide a question of policy.

MR. MUSSELMAN: Well, the simple answer to it is that the Bill of Particulars was not prepared at the time the Articles of Impeachment were submitted.

CHIEF JUSTICE TERRELL: Several members of the Senate - - - of the Court, have expressed a desire to hear from one of the prosecuting attorneys here on this question of the Bill of Particulars.

Mr. Hopkins, are you or Mr. Johnson prepared to make that argument at this time, or had you rather let it go over until afternoon?

MR. HOPKINS: We are prepared at this time.

CHIEF JUSTICE TERRELL: Well, I think it would be proper, then, at this time to hear that argument before we hear the concluding argument over here.

MR. HOPKINS: It seems to me that this is a very simple question, actually, that's before the Court; that is the question in regard to the office or effect of the Bill of Particulars.

It has never been our thought at any time that the Bill of Particulars can take the place of the Articles of Impeachment. The Articles of Impeachment must stand alone, and I think that that is admitted to start with.

We have, first, the Articles of Impeachment, that set forth one reason for impeachment, and that is that he has brought the office of Circuit Judge into disrepute.

The Articles go a little further, and enumerate different reasons why he's brought the office into disrepute - - - excuse me just a minute, I need my glasses. They are listed by letter, if you will notice, from the Articles that are on your desk:

First (a), that he did accept favors from attorneys practicing before his Court, and right on down through (f).

The Articles themselves set forth the specific ways in which he has brought his office into disrepute. The Bill of Particulars merely brings that down a little further. We take and break down (a): "Accept favors from attorneys practicing before his Court."

We merely tell him in a Bill of Particulars, the names of the lawyers, the amounts, and the instances in which he accepted favors from those attorneys. We went right down to the remainder of the Articles of Impeachment, that are broken down by letter, (b) being "Permit his personal relationships with individuals to unduly and improperly influence his judicial appointments and the allowance of fees to such appointees."

The Bill of Particulars do nothing but to name the instances that we expect to prove under that heading to the Senate, and right on down through the entire Articles of Impeachment.

Now, the reason for the Bill of Particulars: After all, we did a great deal of work in preparing those things; after all, it contains our entire case. The reason for those Bill of Particulars, as said by Mr. Beasley in his presentation here, is to be completely fair with the Respondent and to apprise him of the exact instances that we expect to offer proof; not only to apprise him for the purpose of being completely fair, but also to prevent a delay of this impeachment proceeding.

We can see ourselves coming up here under the Articles of Impeachment and presenting these matters, one by one, and have the Respondent rightly say, "You took me by surprise"; have the right to say, "We didn't know you were going to bring this particular attorney in as offering to do a favor for him. We didn't know that this particular attorney was one that you had in mind, that I accepted a favor from." So we thought it would save time and would be fair to tell him at the beginning each and every instance that we expect to present testimony in regard to at this Senate.

That, gentlemen of the Court, is the reason for the Bill of Particulars at this time.

MR. PIERCE: Mr. Presiding Justice, Chief Justice, and you Honorable Senators, sitting as a High Court of Impeach-

ment:

During my almost thirty-four years of fairly active practice in this State, there are two things that I look back upon that have preceded me in the argument of the eminent gentlemen at the other table. I have oftentimes during that period heard prosecutors tell the Court and the Jury, "All we want to do is to be fair," and all the time they're trying to put the harpoon into you.

They are there, Mr. Chief Justice and Senators, they are there for the same reason, contrarywise, that we are here; they are there to convict and we are there to acquit, and all this question about being fair and fair, and all they want to do, and all they've had the intent to do was to be fair, we're here on a question of law.

The other thing that I look back upon, which has come out in opposing argument - - - and this is strictly in reply - - - is the factor that Mr. Beasley, right on down to Mr. Musselman and Mr. Hopkins, have stated, "We voluntarily furnish this Bill of Particulars."

In almost thirty-four years of practice, I have never heard of a prosecutor in this State voluntarily even wanting to file a Bill of Particulars. They resisted. Even the statute which my friend, Mr. Musselman, read in attempted support of their position, but which wasn't, some section of the Statute, I believe, 906.07, or something thereabout, he read as justification for their position in the filing of this Bill of Particulars; he read, but he read fast the first few words, and the first few words were these: "Upon motion the Court may require a Bill of Particulars."

Have we made such a motion? No. Has the Court exercised any discretion in the matter? No. The discretion of the Court has not been invoked by us; the right to file them has been invoked by them, contrary to all of the rules of procedure, Civil or Criminal, that I or any other lawyer member of this honorable and august body has ever heard of.

So much for those two observations of being fair - - - well, we want to be fair too, and we want our client to be dealt with fairly, and if we wanted a Bill of Particulars, we would have asked for it; we would have moved for it, and that would have been upon their objection, you can bet your life.

We filed a motion, yes. We filed a motion to dismiss the only thing that this honorable body could try; namely, the Articles of Impeachment voted by the House.

Mr. Chief Justice and Senators, this matter is not without precedent; it is not without ancient precedent, the controversy that has arisen. It even has Biblical precedent.

The Chief Justice and you Senators will remember the old story of Esau and Jacob, when the father, Isaac - - - they were twin sons, but Esau was the elder of the twin sons, and under the laws, as it then prevailed, was entitled to all as being the elder son, to all of the father's lands, animals, holdings, and so forth in those ancient days, but Rebecca, the mother of the two sons, her favorite was the other brother, Jacob.

So, you Senators and Chief Justice will remember, that there was an arrangement - - - I use that word as a polite term for plot, or scheme, this being a serious proceeding, and not a facetious proceeding by any manner of means - - - they made the arrangement for the voice, which was the voice of Jacob, to be used upon an animal skin, Esau being known as the hairy one, as conflicted and contradistinguished from Jacob. So they killed an animal, and they got the skin of the goat and put it on the hand of - - - the one who was the favorite - - - Jacob. I can't remember Jacob. I can remember Esau. Esau was the one who had the power and the authority under the ancient law; but they put the skin of the goat on - - - what's his name?

MR. HUNT: Jacob.

MR. PIERCE: Jacob; Jacob - - - remind me of that name, Judge Hunt, if I forget it again.

I'm not - - - I don't pretend to be a Biblical student, but this parallel came to me last night, and I think it's an identical parallel.

They arranged to put the skin of the goat upon Jacob's hand, and the father, Isaac, being almost totally, if not totally

blind, Jacob came to him with the skin of the goat upon his hand, and he felt the skin, and there was some controversy and some conversation passed between them, and what did he say? "It may be the voice of Jacob, but it's the hand of Esau", in some versions, and in other versions, "It's the hand of Esau, but I recognize the voice of Jacob."

So the father, Isaac, was not fooled. Now, where is there a parallel here? You Senators are sitting as a High Court of Impeachment for the first time in Florida history, at the trial of an impeachment case. Your sole power is derived from Section Twenty-nine, Article Three of the Florida Constitution.

What is the Florida Constitution? It's not an act of the Legislature. The act of a Legislature is the voice of the representatives of the people. The Constitution of Florida is the voice of the people, the people itself speaking.

That is not only the sole power of you Senators and your Honorable Chief Justice sitting as Presiding Officer here, it is the sole power of a House. And what does that Article - - - let's go back to the genesis of this proceeding, where all the power is vested, and see what it says. The very first clause reads, Senators, and particularly you lawyer members of the Senate, you might be called upon by the non-lawyer members of the Senate for advice on this, whether you go into executive session or otherwise, the very first clause of that Constitutional article which gives this body vitality and breathes life into this body, where nothing else could, says this:

"The House of Representatives shall have the sole power of impeachment," s-o-l-e, meaning "only", meaning "exclusive", the sole power of impeachment.

It talks there about the two-thirds members, and then it winds up that same sentence in the following language: "All impeachment shall be tried before the Senate."

That's what you Senators are concerned with here, as to their right voluntarily - - - not upon our motion, but their right to breathe life into a corpse by filing these Bills - - - so-called Bill of Particulars, which they're not, because a Bill of Particulars, as Mr. Musselman read, are those that the Court may direct to be filed and presented by the prosecution, upon motion of the defendant only, and that's the sole power to file a Bill of Particulars. So, they're not Bills of Particulars, except by the way they are titled documents.

Now, what is to be tried and what is only to be tried? There is only one thing, and it's known from the very earliest law on impeachment down to this good second, known as the Article of Impeachment. Usually they are referred to as "Articles of Impeachment" for the simple reason that there are more than one. It's very - - - it's unprecedented in the history of this entire country, I believe, that there was nothing more against an impeachable officer, acting within the limited sphere of impeachable officers, as defined in this Article, as in most state and Federal constitutional impeachment articles, it was the - - - it has been almost unprecedented; in fact, it has been unprecedented that any prosecuting body, namely, the House of Representatives, in which it must, of necessity, originate, that there was only one Article against an impeachable officer, and here we have the Senior Circuit Judge of Dade County, the largest County in this State, and former honorable member of this legislature, but here they file one Article, subdivisions of (a) to (f), and I was right - - - I wouldn't say "amused", because it's not a matter of amusement, but I was somewhat struck when my friend, Mr. Hopkins, began reading those; they were so flimsy that when he got through with Subdivision (a), he looked at the others, and he gave up, and he said, "Well, it goes right on through (f)." I don't blame him; they were, but the point to remember, Senators, is this: It's vital, it's very, very serious, very serious, not only to Judge Holt; but serious to the entire judicial system of Florida. The only things that can be tried, the only thing, that can be tried by this body, is the Article of Impeachment.

It seems to be the fad these days and times, to always try somebody. It also seems to be the fad to keep the other side in the dark as long as they can.

If the House of Representatives, which is the sole body that can impeach, which is the sole body that can vote, and it must be by two-thirds vote, if the House is the sole body that can impeach, let them say what they want to try him for in their Article or Articles of Impeachment, and let them spell out, as even a common murderer would have a right to have

spelled out, or a second-story man, or the lowest citizen in the whole country, when tried upon a charge either of this character, either by analogy or otherwise, has the right to be tried upon the accusation.

The word "accusation", that's the key word. What is the accusation? It's not what Mr. Beasley here refers to as his so-called Bill of Particulars. I watched his language very carefully, and what did he say some six or seven times? "We allege, we allege. We allege, and can prove. We allege. We allege."; Mr. Beasley said it. "We allege". What did he mean?

You can't take the allegations of the so-called document they filed, known as - - - titled only as a Bill of Particulars, for want of a better title. They put the stamp on it; we didn't, and the Court didn't.

"We allege, and we can prove what we allege."

Senators, in closing, let me say this: The only thing that this honorable, august Senate body is concerned with is the allegation that the House made; going back to Section Twenty-nine, Article Three of the Constitution, wherein reposes the exclusive matter of impeachment trials, unique and unprecedented in the history of this State. Since the adoption of the Constitution, in 1885, the House of Representatives shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. That means the Article, as in this case, the sole, flimsy, unsubstantial Article voted by the House is the sole matter of impeachment that may come or can come, prosecutionally-wise, before this august body.

That is the only thing; not what they say, "We allege in our Bill of Particulars" - - - as they call it - - - "and we can prove;" they've got to stick to the four corners of the flimsy Article of Impeachment.

I close, Mr. Chief Justice and Senators, with one further thought:

I now, sir and sirs, offer and propose a motion ore tenus, that the so-called Article of Impeachment be sent back or referred back to the House of Representatives for whatever they might want to do about it by amplification, supplement or otherwise, dismissal, or what-have-you, or additions thereto; or, in the alternative, that the Article, as it now stands, be dismissed.

CHIEF JUSTICE TERRELL: Before you take your seat, Senator Connor - - - Mr. Pierce, before you take your seat, Senator Connor sends up this question:

"Had not Esau sold his birthright to Jacob for a bowl of porridge before Jacob got the blessing?"

MR. PIERCE: I believe that is correct, but everybody, Senators, was fooled except Isaac. Isaac was the one who occupied the status of the House, or the Senate, as the case may be. Here, the Senate is the one who has the authority to try impeachments, and the House is the one who has the authority, both exclusively, to approve Articles of Impeachment, and that must be by a two-thirds vote.

So it is the Senate here, and the House over there; the Senate to try, and the House to accuse, by proper legal articles and sufficient Articles of Impeachment. They are the persons that stand in the same shoes as Isaac. Isaac wasn't fooled, and he was the one to have the authority, just as this Senate has the sole authority under Section Twenty-nine, Article Three. You sit in the shoes of Isaac, and Isaac wasn't fooled.

SENATOR DAVIS: Mr. Chief Justice, I'd like to raise a point of order. It's time to adjourn.

CHIEF JUSTICE TERRELL: The point of order is well taken.

So the Senate, sitting as a Court of Impeachment, stood in recess at 12:00 o'clock Noon, until 2:00 o'clock P. M., this day.

AFTERNOON SESSION

The Senate reconvened at 2:00 o'clock P. M., pursuant to recess order.

The Chief Justice presiding with all members of the Senate present.

CHIEF JUSTICE TERRELL: I declare the Senate in session as a Court of Impeachment for the trial of the Article of Impeachment preferred against Honorable George E. Holt, as Circuit Judge of the Eleventh Judicial Circuit of Florida.

Is counsel ready to proceed with the Motion to Dismiss?

MR. HUNT: We are ready, Your Honor.

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: At the request of a majority of the members of the Senate, we would like to call to the attention of attorneys for both sides Rule 20, which reads as follows:

"All preliminary or interlocutory questions, and all motions, shall be argued for not exceeding one-half hour on each side, unless the Senate shall, by order, extend the time."

I've just further been requested, Mr. Chief Justice, to call a point of order if the attorneys go over the prescribed time under that rule.

CHIEF JUSTICE TERRELL: Gentlemen, you've heard the rule as read by Mr. Davis.

There's been no request for additional time. If you want any additional time to argue this motion to dismiss, motion to quash, now is the time to ask for it; otherwise, it will be confined to thirty minutes to the side.

MR. BEASLEY: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: All right, Mr. Beasley.

MR. BEASLEY: Well, then, it's the Chair's conclusion that the motion to dismiss has not been argued yet.

CHIEF JUSTICE TERRELL: That's correct; that was the understanding yesterday, that we would hear the argument on the motion on the bill first, then follow it with the argument on the motion to quash.

Mr. Hunt.

MR. HUNT: Mr. Chief Justice, Members of the Senate:

The motion to strike and to dismiss the single Article of Impeachment, briefly stated, is as follows:

Number 1; the Article of Impeachment fails to charge misdemeanor in office within the purview and meaning of Article 3, Section 29, of the Constitution of Florida in that it fails to charge this Respondent with the violation of any duty imposed by law;

Further, that the Article of Impeachment is so vague, ambiguous, indefinite and uncertain in terms, and constructed in such general, loose and uninformative allegations and unsupported conclusions of the pleader as to embarrass, impede and prejudice the Respondent in the preparation of a proper defense, and it therefore deprives Respondent of fundamental rights secured to him under Sections 11 and 12 of the Declaration of Rights of the Florida Constitution and guaranteed to him by the 14th Amendment to the Constitution of the United States;

That the purported specifications, (a) to (f), and each and all of them, designated as the basis for impeachment, fail to show or allege a violation of a duty imposed on this Respondent as a Circuit Judge, either under the common law or any statutory or constitutional law of the State of Florida;

And Number 5, to remove this Respondent from the office to which he was appointed in the year 1941 and to which he has been reelected by the voters on two successive occasions upon the basis of the vague and unsupported conclusions set forth in the Article would violate Section 12 of the Declaration of Rights of the Constitution of Florida and would deprive Respondent of his right to office without due process, as guaranteed by the 14th Amendment to the Constitution of the United States.

The single Article of Impeachment recaptures the generalities of the Halsted Ritter Seventh Article; if you gentlemen have it before you, members of the court, you will see that it starts out in more or less concluding generalities concerning the reasonable and probable consequences of actions and conduct of the Respondent have been such as "to bring his court into scandal and disrepute," in that he did "(a) Accept

favors from attorneys practicing before his court."

We have no means of knowing whether he solicited those favors, whether they're talking about mink coats or Cadillacs, or an occasional cigar, or a Christmas bottle of whiskey. There is no law on the statute books that makes any such thing a violation of law or good conduct on the part of a judge or anybody else. The "(a)" does not inform what dates they're talking about, the value of the favors referred to, whether of substantial value, as in the Ritter case, and substantial money investments, as in the Archibald case. Just to baldly charge a man with accepting favors from attorneys, the senior judge of the largest circuit of Florida, having some three thousand practicing attorneys, a Respondent who has been on the Bench for sixteen consecutive years, leaves him with not even a scattergun possibility of filing a precise and definite and proper answer to any such charge as that.

"(b) Permit his personal relationships with individuals to unduly and improperly influence his judicial appointments and the allowance of fees to such appointees."

Personal relationships with what individuals? What undue and improper influence did they work upon him in the making of his judicial appointments and the allowance of fees? It was said once before that he appointed his friends to receiverships and curatorships and trusteeships.

In my experience, I have never known a judge to appoint an enemy to a curatorship or a trusteeship or a receivership. The operation of property in custodia legis is a function of the court and a responsibility of the judge who makes that appointment, and it's his responsibility to make the selection; and more often than not, he reaches beyond the parties litigant, who are at each other's throats to begin with, and selects a man in whom he, the judge, elected by the people, has confidence will do a good job.

So it is said, without naming them, that he permitted his personal relationships with individuals to unduly and improperly influence his judicial appointments and allowance of fees. We say that it's utterly impossible to know what particular personalities they're talking about, where the undue or improper influence arose, or where it existed; a man who, as I said before, has served the most popular circuit in this state for sixteen consecutive years with an attorney population of three thousand. We don't know whether it happened in the current term for which he is sought to be impeached, or one of his several previous terms. They don't tell us.

"(c) Borrow money from an attorney practicing before his court."

They don't say that he did that corruptly, illegally, dishonestly, wrongfully, with intent to barter away the powers of his office, or to exchange favors of his office for the money he borrowed; nor do they reveal the entire truth, which is well known from the public records, that the loan has long since been repaid.

"Award excessive and unnecessary fees."

Members of this Court, you have heard read before the Bar of the Senate here the proposed Bill of Particulars, and in it is plain that the House Managers would like to put this Respondent on trial, reaching back over the years, for practically every fee in every large hotel or apartment or motel case he has handled in which, in their judgment, he awarded an excessive fee, or which, in their judgment, amounted to an unnecessary fee. They would make an appellate tribunal out of the Senate of this state, so that disgruntled litigants and disgruntled attorneys could take their problems to the House at any time when they got crosswise with their Circuit Judges, and determine that in their judgment, something that he did of which the litigants themselves may not have complained, and in cases in which no appeal was filed, perchance, but nevertheless, let us let our enemies set up a code of conduct for your Circuit Judges and they'll be parading them over here by the dozen.

It is up to the Circuit Judge, as the Supreme Court of Florida has said before this thing was written in the House, to determine the personnel of the appointees of the Court, and it's his responsibility to select qualified appointees. It could be that the anti-Holt people don't like his appointees, but the court's records show whether those appointees did a good job or not. The Court records reflect the amount of compensation eventually paid to those appointees. They were large in some cases. There were large cases to be handled. There

were complicated cases to be handled, and just to arrange it out here in a so-called Bill of Particulars, it sounds like a bunch of big telephone numbers, that a man ought to be put on trial for, but now, the aspect of the situation, practically speaking, is this, as the Honorable House Managers will have to admit in their reply, and that is that in all these cases the people who owned the money and owned the property which was involved in every case agreed to the amount of the compensation, and took no appeal from it.

I believe that's a correct statement. There was an appeal in the so-called Flame Restaurant case, which did not involve the amount of a compensation to the receiver, per se, of some \$2,000; it involved the right of the court to have appointed him at the outset without notice. As I recall, that was the only appeal from any and all of these cases, ranging over the years, that they would have this Senate sit as an appellate tribunal and substitute your judgment for that of the Respondent, with the idea that if you didn't agree with his exercise of a vested discretion under the law, that you would impeach him. To me, it's utterly ridiculous, and the Supreme Court of this state, in the action which I shall cite to you a bit later, stated in definite terms that it is not judicial misconduct for a judge, in the exercise of a vested jurisdiction, to be wrong. Gentlemen, if it were, you couldn't find any judges. A man couldn't afford to be a judge if his head was to be rolled, or he was to undergo impeachment if he happened to err.

Now, that's precisely what we have appellate courts to guard against; that's exactly what the Supreme Court is up here for primarily, and a number of Judge Holt's rulings have been reversed, and if they have been, they were exercising the due procedure of our law. We have the appellate court sitting up here for that purpose, and it was never intended that if a man, in the exercise of a vested jurisdiction, sitting on one of our courts, should make a mistake - - - they're human beings, they have some of the attributes and characteristics of mortal men, even though there are those who would place tight-fitting halos about their heads and make them way up above the plateau of human beings. They're not; they're the best men we can find for the job, but they still have human characteristics, strength and frailties, and always shall have as long as we select human beings to be judges.

As I say, you cannot adopt a rule which would roll a judge's head for being wrong, or expose him to the puppetism of some member or members of the House of Representatives, and have him living under constant threat of reprisal if he did not succumb or be friendly with the gentlemen from his district; that would be a complete desecration and upsetting of the independence of the judiciary for which our forefathers fought for years and years to establish; so, as I say, if you spend time taking testimony in all these receiverships and curatorship cases, and have all the witnesses come up, and you'll have experts' opinions that the judge's fee was too high. You'll force us to bring up an equal number, or perhaps more expert witnesses than the prosecution gathered, to try to prove to you that the judge's discretion was wisely exercised; and then, at the end of it, you'll run square into the Supreme Court decision of only two or three months ago that I have mentioned, to the effect that a Circuit Judge who exercises a vested jurisdiction in chancery cases commits no official misconduct even if he's wrong.

I suggest that it is not a proper item to claim the attention of this Senate, and I call your attention respectfully to the fact that the investigating committee of the House did not include all this Dowling case, this Stengel case and all those matters in its agenda. They were never mentioned until a brother Circuit Judge got on the stand and insisted on testifying. They were not mentioned before, and not since.

So, it's my impression that the House of Representatives itself had no intention of going contra to the decision of the Supreme Court of this state on the matter of big or large or small fees.

Now, if they bring out something as they did in the Halsted Ritter case, or in the Louderback case, or in the Archibald case, and trace any of those fees back into the judge's pocket, or in the Ritter case, in his little tin box, and wind up with two charges of violation of income tax fraud law against him, then we'd have something to talk about, but they just say, "The fees were too large, in our opinion, and we don't like Holt"; that's what it amounts to.

"Accept gifts from attorneys practicing before his court."

The testimony before the House committee was to the effect that in the Eleventh Circuit Christmas presents are more of a rule than the exception. It may or may not be that an attorney should give a brace of quail or a box of cigars or a quart of Scotch to judges with whom he has probably been friendly for twenty-five or thirty, or maybe thirty-five years, but it's done. It may or may not be that that judge, who practically grew up with that attorney, should embarrass him by returning it to him, saying that, "I sort of doubt your motive, and you might taint me a little bit," but it's done in the Eleventh Judicial Circuit.

Now, they do not allege what gifts they're talking about, whether they're of minor value or of major value, whether they are considerable or not, to the extent that the attention and time of the Honorable Senators of this state should be occupied with it, or to the extent that even if proven, you would deprive this man of an office to which he has many times successively been elected.

You will recall that upon the forced reading of the Bill of Particulars, one gift that they intend to prove is four quarts of Scotch from a long-time friend, at Christmas time. The most expensive, as you will recall, was a pair of pajamas and a robe.

Gentlemen, the man made a near approach to death on December 20, 1955, and this friendly attorney took a robe and a pair of pajamas by the Jackson Memorial Hospital while he was still bleeding, and handed them to his wife, and they've got that charged against us. You might as well know that when you're considering whether or not you want to hear all the evidence in this case - - -

MR. MUSSELMAN: May I interpose an objection, please sir?

SENATOR RAWLS: Speak a little louder.

MR. MUSSELMAN: I'd like to object, please, to the discussion of the evidence at this point. I thought we were discussing the constitutionality of the Articles of Impeachment, and I would like to object to the discussion before the committee of the House, or to examine these things unless we bring them up later.

MR. HUNT: Mr. Chief Justice, may I say, very briefly, that the gentlemen utilized an eighteen-page alleged Bill of Particulars in order to discuss evidence in complete detail before this body, and I don't think I ought to be throttled from a few words in response, although I will say I'm through on that point, Mr. Musselman.

CHIEF JUSTICE TERRELL: I don't think this is the time to discuss the evidence, Mr. Hunt.

MR. HUNT: Yes sir.

Now, the Supreme Court of Florida has many times touched upon the requirements of a valid accusation, so many times it is not necessary for me to read at any length from my prepared brief; I see that time flies on me here anyhow.

I would like to point out that in *Sullivan vs. Leatherman*, 48 Southern (2d) 836, that is a case of an attempted common law indictment:

"A common law indictment must meet constitutional and statutory requirements, and the charge must be made in such positive and direct terms as will put the Defendant on notice of what he is charged with and enable him to prepare his defense."

In *Padgett vs. State*, the same court, in 170 Southern 175:

"Allegation in indictment must be such that accused may not be exposed to substantial danger of new prosecution for same offense";

And again in the *Sullivan* case:

"A common law indictment must meet constitutional and statutory requirements, and the charge must be made in such positive and direct terms as will put the Defendant on notice of what he is charged with and enable him to prepare his defense."

We have a prepared brief on the subject, Mr. Chief Justice, which I would like to pass up if the Senate or the presiding officer would like to take this matter under consideration. I

wish to point out that against the backdrop of history the scant and lone Article of Impeachment at the Bar stands by itself complete, and very roughly, I would like to state that in the Judge Charles Swayne impeachment, there were twelve voluminous articles filed against him. In the Judge John Pickering impeachment there were four lengthy and expertly-drafted articles that were for scandalous in-office conduct.

I would like further to point out, and for the examination of any of the members of the court, I have at the Bar of the Senate here copies of the Judge Magbee impeachment articles; the abortive Fuller Warren impeachment articles; the Governor Harrison Reed impeachment articles; the Charles Swayne impeachment articles; the Robert W. Archbald impeachment articles; the George W. English impeachment articles; and the Harold Louderback impeachment articles; all in photostats taken from the Journal of the Senate.

We have tried to approach this novel question by drawing upon the legal precedents that we have which governs accusations of any kind, and when you do that - - - and I'm sure the members of this court will come to this conclusion, that a stillkeeper wouldn't be held overnight by the most inept Justice of the Peace of this state on a charge of this kind.

I call your attention particularly to the fact that the words of accusation and of wrongdoing which are always found in indictments, informations or accusations, are completely absent from this Article; and gentlemen, if a single one of the words which I shall now read you is charged against this Respondent, the court has my full permission not to consider the motion. They only say that he did these things, and quit.

They don't use the word "wilful" or "wilfully," "intentional" or "intentionally," "deliberate" or "deliberately," "design" or "designedly," "unlawful" or "unlawfully," "illegal" or "illegally," "oppressive" or "oppressively," "wrong" or "wrongful," "fraud" or "fraudulent," "dishonest" or "dishonestly," "immoral" or "immorally," "fraudulently," "evil" or "evilily," "wicked" or "wickedly."

The reason I brought all these impeachment articles here is because you will find most of those words used in every article laid against any officer in the history of this country. They don't bring him up for some, perhaps, thoughtless transgression of a so-called code of ethics.

I wish to state, in closing my portion of the argument, that the judicial code of ethics to which reference has been so often made should be put in its proper legal light.

In 1923, the code of ethics governing judges was presented to the American Bar Association by a committee on ethics headed by the venerable and distinguished William Howard Taft. In the recommendations of the committee, the next to last paragraph, here is the significant language, written by Chief Justice Taft:

"We believe that the Association should supplement the canons of legal ethics adopted in 1908" - - - that had application to attorneys - - - "by declaring its views of the spirit and manner in which the judicial office should be administered; and, to do this completely, it is necessary to state many universally recognized principles . . . the code, however, is not intended to have the force of law; it is the statement of standards, announced as a guide and reminder to the judiciary and for the enlightenment of others, concerning what the Bar expects" - - - **the Bar expects** - - - "from those of its members who assume judicial office."

Now, this means that the manufacturers of the rules themselves disclaimed any intention that the American Bar rules of ethics governing judges should ever be enforced, or in anywise to have the force of law in this country.

In my brief, we have a case picked up in 1956, from the Supreme Court of Colorado, entitled "In Re: Hearings concerning Canon 35 of the Canon of Judicial Ethics, reported in Colorado 296, Pacific (2d), 465."

Now, Mr. Chief Justice, the Supreme Court of Colorado, like the Supreme Court, had approved or adopted the American Bar statement of the Code of Ethics. Here's what it says:

"By the 'adoption' or 'approval' of the canons of ethics the court did not intend to give them the force or effect of law. 'Adoption' of the canons of ethics by the court was not in-

tended to enlarge, or narrow, the field of conduct within which disciplinary actions would be warranted. It was not the intention of the court in expressing approval of these ethical standards to give the broad statements therein contained the effect of a 'rule of court' enforceable as such. It was the intention of the court to recommend the canons of ethics as a wholesome standard of conduct, as a statement of general principles best calculated to reflect credit upon the profession, to bestow dignity and poise upon the court, and repose confidence and faith in the people concerning the administration of justice. Rules for conduct suggested in those canons which do not recognize the distinction between that which is inherently wrong and inherently right, or that which is basically immoral and basically moral, or that which is fundamentally dishonest and fundamentally honest, cannot subject any person to disciplinary action because of the existence of the canon unless he was subject to such discipline in the absence of the canon. Although the canons employing language of wide coverage cannot be given the effect of law, they nevertheless are recognized generally as a system or principles of exemplary conduct and good character.

"No one could reasonably contend that for each deviation from the broad generalities expressed in the canons of ethics, which recently have been given strained construction or have been used for ulterior purposes, a person departing therefrom should be subjected to discipline or unwarranted publicity when his conduct involves no element of inherent wrong, immorality or dishonesty."

I thank you, Mr. Chief Justice.

SENATOR DAVIS: Mr. Chief Justice, a point of order.

CHIEF JUSTICE TERRELL: Mr. Davis, your point of order was that Mr. Hunt's time was out, I guess, wasn't it?

SENATOR DAVIS: Beg pardon, sir?

CHIEF JUSTICE TERRELL: I say, your point of order was that Mr. Hunt had used his time.

SENATOR DAVIS: Had consumed thirty minutes, yes sir.

MR. HUNT: Mr. Chief Justice, may I inquire if it would be possible for Mr. Pierce to have a few moments to conclude the point upon the completion of the prosecution argument?

CHIEF JUSTICE TERRELL: The Court will consider that as soon as we hear the argument of the State.

MR. HUNT: Well - - -

CHIEF JUSTICE TERRELL: Mr. Hunt, I suggest you file your brief with the Clerk.

MR. HUNT: Yes sir, thank you, sir.

MR. BEASLEY: Mr. Chief Justice, Members of the Court:

I do not expect to consume anything like as much time as we are allowed myself in arguing against the motion of Mr. Hunt.

First of all, I want to say - - - and I know you will bear in mind - - - that this is not a criminal prosecution; it's not a civil suit, but it is an inquiry into whether or not Judge Holt, the Respondent in this case so conducted himself, as Judge of the Eleventh Judicial Circuit of Florida that his court became in disrepute.

That is what we allege in the Articles of Impeachment. These Articles have been read to you several times, and I know that you've read them, but the House, in drawing the Articles, said that:

"The said George E. Holt, while holding the office of Circuit Judge for the Eleventh Judicial Circuit of Florida, having been duly elected, qualified and commissioned as such judge and while acting as such judge was guilty of misdemeanor in office in the manner and form as follows, to-wit:

"The reasonable and probable consequences of the actions and conduct of George E. Holt hereunder specified and indicated in this article since he became judge of said court, as an individual, or as said judge, or both, has been such as to bring his court into scandal and disrepute, to the prejudice of said court and public confidence in the administration of justice therein, and to the prejudice of public respect for and confidence in the state judiciary and to render him unfit

to continue to serve as such judge," and then we set out, or the House did, an Article of Impeachment, enumerating six items by which Judge Holt did so conduct himself and his court as to bring his court into scandal and disrepute.

Now, the Articles are general - - - that is, the Article is a general Article, charging Judge Holt with six different offenses, as a judge of the Eleventh Judicial Circuit of Florida.

There have been a number of cases of impeachment, but this is the first case of impeachment to reach a trial in the history of the State of Florida.

Now, the question is not whether the Senate, sitting as a court of impeachment, desires to be technical and not hear the evidence in this case, but Manager Sumners, from Texas, the distinguished congressman from that state, that Judge Hunt spoke of this morning, had this to say in opposition to a motion to quash the Articles of Impeachment against Judge Halsted L. Ritter, from this state:

"I beg to make this practical suggestion, that if a judge on the Bench, who is in office during good behavior, by his proven acts make the people doubt whether his court is a court where they are going to get a square deal, and whether it is an honest place to go to, the Senate cannot be technical," and we say to you in this case that the Senate cannot be technical, but should hear the evidence in this case; "that is what the Senate is trying to find out" - - - this is further what Mr. Sumners, the Manager on the part of the House of Representatives in the Ritter case had to say: "that is what the Senate is trying to find out about, I assume. When doubt enters, confidence departs, and when confidence in a man who sits on the Bench is gone, confidence in the court is gone."

Now, so, in that case, where they had a motion to impeach - - - I mean dismiss a general Article against Judge Ritter, Manager Sumners had that to say about that case.

Now, Mr. Hunt has spoken of the Archbald case. I want to read to you what has been said in the Harvard Law Review concerning the Archbald case:

"In 1912 the House of Representatives impeached Robert W. Archbald, United States Circuit Judge, designated a member of the Commerce Court. This case presents the only satisfactory test of the remedy of impeachment as applied to the judiciary, and for that reason it requires a somewhat particular review as to its most salient features.

"There were thirteen Articles exhibited against Judge Archbald. The first six Articles, with the exception of Article 4, charged the Respondent with the use of official power and influence to secure business favors and concessions in transactions relating to coal properties and railroad companies and their subsidiaries and the litigation before the Commerce Court.

"Article 4 charged serious correspondence between the Respondent and counsel for railroad companies, regarding the merits of a case then pending before the Commerce Court.

"Articles 7 to 12, inclusive, charged misconduct of a United States District Judge, which office Respondent did immediately prior to his appointment" - - - "which held immediately prior to his appointment as Circuit Judge. The charges related to the alleged use of his official influence to secure printing and other favors from parties having litigation in the court over which he presided. The acceptance of a purse from a certain member of the Bar of his court, a trip abroad at the expense of a magnate of large corporate interests, and a designation of general railroad attorneys to be the Jury Commission.

"Article 13 is in the nature of a blanket count, charging a general course of misconduct which embodied all the various acts alleged in all the Articles."

So, we say that in this Article of Impeachment that it embodies a general course of conduct on the part of the Respondent, as Judge of the Eleventh Judicial Circuit of Florida.

Now, Judge Hunt has said that one act of accepting a bottle of whiskey, or one act of receiving a pair of pajamas was not an impeachable act, and I agree with him on that, but under these counts it can easily be shown a series of those kind of acts, running over a period of years, and because of that kind of a conduct, we expect to show to this

Senate, under these Articles, that over a period of years, the Judge of the Eleventh Judicial Circuit, the Respondent here, so conducted himself that his court became a court of disrepute in Dade County.

Then, Mr. Justice, and Members of the Court: We know that it is not an impeachable offense for a judge to at one time, or on several occasions, make a mistake, but we believe that it is an impeachable offense for a Circuit Judge to appoint a man receiver or curator or guardian numerous times, involving thousands of dollars of estates of people who are incompetents or minors, or something like that, and then, during the pendency of those appointments, take a trip abroad with him, and there's considerable question, as will be shown to the Senate, whether or not the Respondent paid the expenses of his trip abroad.

Then, it will be shown also there is an estate, under these Articles here, an estate that had five thousand dollars in it, in round figures; that the Respondent in this case allowed twenty thousand dollars out of that estate in fees and judgment, a personal judgment against the parties in the case for the balance of the fee, which was something like \$14,800 balance of fee.

MR. HUNT: Mr. Chief Justice, isn't the gentleman guilty of discussing the evidence for which the point was sustained against me?

MR. BEASLEY: Mr. Chief Justice, I am merely answering, in part, some of the things that the counsel for the Respondent had to say. I don't think that I should be stopped from saying those things when he was allowed to say them in detail.

However, I'm through on that point, as Judge Hunt said a few minutes ago.

CHIEF JUSTICE TERRELL: Counsel should confine themselves to the sufficiency of the pleading, I think. I don't think this is the place here to discuss questions of the testimony.

MR. BEASLEY: Thank you.

Now, further, under (c): "Borrow money from an attorney practicing before his court."

Now, I don't think that's too good, but I think we will be able to convince you, under this Article, that under the circumstances which it is - - - was borrowed, was terrible, and I think you can readily see where such conduct would bring the court over which the Respondent presided into scandal and disrepute;

And then, "Award excessive and unnecessary fees."

Now, I have explained this morning, and I want to repeat that under that Article it will be shown, and it properly should, that certain of these cases that Respondent awarded fees, these fees in, or made decisions in, were reversed, and some of them with considerable criticism from the appellate court; and some of these fees were so large that when you hear the evidence in this case, they will be shocking to you - - - the one that I just mentioned a moment ago;

And then, "Accept gifts from attorneys practicing before his court."

Well, if somebody gives a judge a gift, I don't know, one gift, a small gift at Christmas time, or something like that, I don't know that that would be too bad, but when attorneys who are receiving large appointments from the court, and receiving large fees, excessive fees under those appointments, and give, then, expensive gifts, why, then, that's not good conduct on the part of the court.

So, under these Articles, Mr. Chief Justice and Members of the Court, it will be possible to show to you that over a period of years that the Respondent didn't just do one or two things amounting to an error, but did a series of things that the Managers on the part of the House of Representatives and the members of the House of Representatives, in discussing it, think that because of that course of conduct on the part of the Respondent, that he rendered himself unfit to sit as a Bar of the temple of - - - to sit at the Bar in the temple of justice; and as Manager Summers said, when confidence in the court is gone, why, you have no court.

So, Mr. Chief Justice and Members of the Court, we hope that you will hear the evidence in this case, and then, after

you hear the evidence in this case, if you think that it's insufficient to convict the Respondent, then we think you ought to acquit him, but if you will hear the evidence in this case, and you believe it is such that the Respondent is guilty of a course of conduct that has brought his court into scandal and disrepute, we think he should be impeached.

The Managers on the part of the House have no prejudice in this case. We only want you to hear it and make a decision, based on the evidence.

CHIEF JUSTICE TERRELL: Is that your case, Mr. Beasley?

MR. MUSSELMAN: I would like to reserve some time, if Your Honor please. If Mr. Pierce speaks, I would like to reply to his remarks; otherwise, I have nothing.

CHIEF JUSTICE TERRELL: Mr. Pierce has the concluding argument. Do you have any - - - if he has one.

MR. MUSSELMAN: Well, I'll wait, sir. Thank you.

CHIEF JUSTICE TERRELL: You say you have nothing further?

MR. MUSSELMAN: We understood that they had used their half hour, but if the Senate allows them some additional time to present some more argument, why, I wish to reply to it.

CHIEF JUSTICE TERRELL: How much time do you want, Mr. Pierce?

MR. PIERCE: Mr. Chief Justice, and Senators, if I'm allowed two minutes, why, I'll be glad to respond to Your Honor's knock of the wood.

CHIEF JUSTICE TERRELL: Any objection on the part of any member of the court to indulging Mr. Pierce two minutes?

SENATOR RAWLS: Mr. Chief Justice, I object.

As a member of the Rules Committee, we wrote the rules and explained them very thoroughly.

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: The rule, as I understand it, he shall not be allowed to speak unless by order of the Senate, the time is extended.

I move that the time be extended for two minutes, as per his request.

CHIEF JUSTICE TERRELL: Do we have a second to the motion?

SENATOR SHANDS: I'll second the motion.

CHIEF JUSTICE TERRELL: It's been moved and seconded that Mr. Pierce's time be extended two minutes. All in favor of the motion let it be known by saying "aye." Opposed, "no."

The "ayes" have it. The extension is granted.

MR. PIERCE: Mr. Chief Justice, Members of the Senate:

There are six specifications, there are six specifications which come the nearest that we have in this case to Bills of Particular:

First "Accept favors from attorneys practicing before his court"; that's (a).

First, what is a favor? Is bowing to a judge a favor? Sure, it is. Is letting a judge out of an elevator first, is that a favor? Surely, it is.

On the same ground, is borrowing money - - - that was under "(c) - - - Borrow money from an attorney practicing before his court." That is grossly insufficient, Senators, on its face. An attorney might even be a banker, and judges are not prohibited from doing business with banks. Frequently, an attorney is a banker; if he's not, he's an attorney for a bank.

Where can we draw the line? And this Senate is confined upon a consideration of the instant motion to the four corners of this Article.

(e) is along the same line, "Accept gifts from attorneys

practicing before his court."

What is a gift? Is a package that may be receipted for by the judge's secretary through the open mail, or the express office, and given to him at a recess of his court, is that a gift? Surely, it is. That's a gift, and he's accepted it, either if he signs the receipt for it himself, or his secretary does for him; that's a gift, so, those obviously go out.

Judge Hunt has given you the law respecting Number (f), regarding the code of ethics. It was never meant to have the force of law; it was merely advisory, and certainly never meant to be the basis of impeachment by a high court of impeachment. That leaves only two, (b) and (d).

(b) is "Permit his personal relationships with individuals to unduly and improperly influence his judicial appointments and the allowance of fees to such appointees."

It doesn't say there, "excessive fees"; that's in another one, that's in Number (d), the very one following, "Award excessive and unnecessary fees"; that's the subject matter of a separate specification.

Now, what is that? Those last three that I have mentioned, namely, accept favors, accept gifts, and so forth, there is a court for that, the court of the people, by election. We don't have judges for life in this state, they come up for election every six years, and the court is a court of last resort by election of the people that know him best, in his own, home circuit.

Now, then, gentlemen, all the rest of them, excessive fees, and appointments, and so forth, there are two courts, both the court of public opinion at the polls, and the Supreme Court of Florida.

Thank you.

MR. MUSSELMAN: Mr. Chief Justice, we did not consume all of our time, and I would like to reply to Mr. Pierce's argument.

CHIEF JUSTICE TERRELL: I think that concludes the argument, Mr. Musselman. The Respondent had the opening and the closing.

I understood that you were through when the Court granted Mr. Pierce an additional two minutes.

MR. MUSSELMAN: We will, of course, abide by the ruling of the Court, but I would like an opportunity to reply to what was said, with the Senators' permission.

CHIEF JUSTICE TERRELL: Do we have a motion to grant to Mr. Musselman this privilege?

SENATOR BELSER: I move you, Your Honor, that he be granted an additional two minutes.

SENATOR SHANDS: Second the motion.

CHIEF JUSTICE TERRELL: You've heard the motion, and seconded, gentlemen. All in favor of the motion signify by saying "aye." Opposed, "no."

The privilege is granted.

MR. MUSSELMAN: Thank you, gentlemen. I hope it won't take two minutes.

Let me explain this thing to you as best I can, about these Articles of Impeachment.

Now, there is one Article of Impeachment, and all it says is that - - - it was read by Mr. Beasley, and it charges him with misconduct in office, in that he did, and then it begins to list, (a), (b), (c), (d), (e), and (f).

Now, gentlemen, I don't know if it's made clear to you or not just what misdemeanor in office, and the Supreme Court of Florida has defined it in the case of *In Re Investigation of a Circuit Judge*, 93 Southern 2d 601, where it says, in part - - - and I'll only read it in part, because it would take two minutes to read the entire thing:

"Misdemeanor in office as grounds for impeachment has a much broader coverage than a common law misdemeanor as usually defined and applied in criminal procedure. As applied to impeachment, misdemeanor in office may include any act involving moral turpitude which is contrary to justice, honesty, principles or good morals. If performed by virtue of

authority of office, misdemeanor in office is synonymous with misconduct in office, and is broad enough to embrace any wilful malfeasance, misfeasance or non-feasance in office."

I implore you to read that decision. As far as these judicial codes of ethics are concerned, in view of this decision of the Supreme Court, unless the Senate uses those as a standard by which to judge the conduct of a Circuit Judge, you are completely unenforceable, because the Supreme Court has ruled that a Grand Jury cannot criticize unless they indict. They have ruled that the Florida Bar Association has no power whatsoever to go after the conduct of a Circuit Judge, and it's entirely up to the Legislature of the State of Florida, and it's before you now, and this is a historic decision you're going to have to make now.

CHIEF JUSTICE TERRELL: That concludes the argument, gentlemen of the court.

Does the court desire to consider these two motions in executive session, or proceed with them in open session?

MR. PIERCE: Mr. Presiding Judge, I would like to inquire as to a point of procedure.

CHIEF JUSTICE TERRELL: Yes.

MR. PIERCE: Or rather, a point of information, more than procedure.

At the conclusion of my few remarks this morning, I made a motion, ore tenus. Do we understand that that motion is also before the court?

CHIEF JUSTICE TERRELL: What was your motion?

MR. PIERCE: Sir?

CHIEF JUSTICE TERRELL: What was your motion?

MR. PIERCE: I believe the Reporter has it, but I can restate it.

My motion, ore tenus, which I made this morning, is substantially as follows:

That upon the consideration of both the motion to dismiss and the motion for right to file what they term a Bill of Particulars, that this - - - we make a motion, ore tenus, that the whole matter of the impeachment, the file of the impeachment, and the Articles, be referred back to the House for further action by the House, or any action by the House, as the House may see fit to do, either by amplification, simplification, supplement or dismissal, or adding onto it any facts which they have not heretofore alleged in the one single Article of Impeachment; or, in the alternative, that the Article of Impeachment be dismissed.

CHIEF JUSTICE TERRELL: Did you give that motion to the Secretary, Mr. Pierce?

MR. PIERCE: No sir, it's a motion, ore tenus, oral motion.

CHIEF JUSTICE TERRELL: I suggest that you'd better give a copy of it to the Secretary.

MR. PIERCE: We'll be glad to, Your Honor.

SENATOR JOHNS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Johns.

SENATOR JOHNS: I move that the court go into executive session to discuss this matter.

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: I'd like to call the Court's attention to Rule 7, the latter part of the rule, on Page 4, which reads as follows:

"The presiding officer of the Court may rule on all questions of evidence and incidental questions, which rulings stand as the judgment of the Court, unless some member of the Court shall ask that a formal vote be taken thereon, in which case it shall be submitted to the Court for decision, or he may, at his option, in the first instance submit any such question to a vote of the members of the court."

And Mr. Chief Justice, under the circumstances, if it's the desire of the Chief Justice to submit the ruling on this to the

Court, well, I think that that's proper under the rule.

However, I think that the Chief Justice, under the rule, is also authorized to make a ruling unless requested a vote by some member of the Senate.

SENATOR JOHNS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Johns.

SENATOR JOHNS: I am going to ask that a vote of the court be taken on this question, and I want to insist on my motion that we go into executive session to consider this question.

CHIEF JUSTICE TERRELL: Do we have a second to the motion?

SENATOR BELSER: Your Honor, before you make a decision, a point of inquiry:

Now, prior to taking action on the motion - - - Senator from the Fifteenth - - - where do we stand with reference to the motion made by the counsel for the defense, with reference to the ore tenus motion?

CHIEF JUSTICE TERRELL: I think that motion necessarily goes along, to be considered with the other - - - part of the other two motions here; that's my judgment about it.

Senator Davis, with reference to your suggestion there, it just occurs to me that this ruling, the concluding part of Rule 7, goes to the sufficiency of the Bill of Particulars, and whether or not they are to be admitted here, and also the motion to quash, two main questions, and I think they are questions that properly go to the Court.

MR. BEASLEY: Mr. Chief Justice, I would like to inquire if it's the opinion of the Court - - - the presiding officer, at least - - - that the motion of Mr. Pierce to refer this matter back to the House is in order, since the House is not in session. There's no House to refer it to; so, I just wonder if that motion isn't completely out of order.

CHIEF JUSTICE TERRELL: My judgment about that is, Mr. Beasley, that, in the first place, practically all of these impeachment trials have been had while Congress and while the Legislature were in session, and the Senate, just in considering them, just shuttled back from, first, as a Senate, to a Court of Impeachment.

For instance, they would meet this morning and go along till 10 o'clock, or 12 o'clock, as a Senate, and then the Senate would resolve itself into a Court of Impeachment and continue the balance of the day as such Court. I say, that's the manner in which most of these impeachment trials have been conducted, but the Constitution of Florida authorizes the Senate to set an impeachment trial at a time outside the session of the Legislature, and that was what was done in this case; the House is not in session.

Since the Constitution has that provision, I think unquestionably now, if the Court reaches the conclusion that this matter should be sent back to the House, they can send it back and advise the Speaker of the House, and then it's up to the House to take such action - - - for instance, get back in session, call themselves back in session for that purpose. I don't think you can reach any other conclusion on the effect of the Constitutional provision authorizing the Senate to set the case for trial outside the session of the Legislature.

That's my judgment about it. The Court may have a different one when they consider it.

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: I think that the motion of the Senator from the Fifteenth, although it may not be in proper form, is proper in substance.

Now, however, Rule 19, with reference to executive sessions, suggests the proper motion - - - I mean that the doors shall be open at all times unless the Senate shall direct the doors be closed while deliberating upon its decisions, which would, by implication, mean something similar to an executive session.

CHIEF JUSTICE TERRELL: That's my interpretation, Senator Davis; that's what it means, that the doors are open at all times, except when the Court is in executive session.

SENATOR DAVIS: Yes sir.

CHIEF JUSTICE TERRELL: The question then occurs on the motion of Senator Johns for an executive session. The motion was seconded, wasn't it, Senator?

SENATOR JOHNS: Yes sir.

CHIEF JUSTICE TERRELL: All in favor of the motion, let it be known by - - - do you want a roll call on that?

SENATOR DAVIS: Sine die, may it please the Court.

CHIEF JUSTICE TERRELL: All in favor of the motion, let it be known by saying "aye." Opposed, "no."

The "ayes" have it. The motion is carried.

Whereupon the doors of the Senate Chamber were closed at 3:12 o'clock P. M.

The doors of the Senate Chamber were opened at 4:22 o'clock P. M., at which time the Senate, sitting as a Court of Impeachment, stood adjourned until 10:00 o'clock A. M., Wednesday, July 10, 1957, pursuant to the rule.