

# SITTING AS COURT OF IMPEACHMENT

## JOURNAL OF THE SENATE

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Monday, July 22, 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 rules 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. Muselman, Jr., and their attorneys, Honorable William D. Hopkins and Honorable Paul Johnson, appeared in the seats provided for them.

The respondent, the 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	Cabot	Gautier	Knight
Barber	Carlton	Getzen	Morgan
Beall	Carraway	Hair	Neblett
Belser	Clarke	Hodges	Pearce
Bishop	Connor	Houghton	Rawls
Boyd	Davis	Johns	Shands
Brackin	Eaton	Johnson	Stenstrom
Branch	Edwards	Kicklitter	

—31.

A quorum present.

SECRETARY DAVIS: Thirty-one present, Mr. Chief Justice.

By unanimous consent, the reading of the Journal of the proceedings of the Senate, sitting as a Court of Impeachment, for Wednesday, July 10, 1957, was dispensed with.

The Senate daily Journal of Wednesday, July 10, 1957, was corrected and as corrected was approved.

SENATOR SHANDS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Shands.

SENATOR SHANDS: I would like to make a statement regarding Senator Bronson and Senator Rood.

Senator Bronson's father is right at the point of death, and he told me yesterday afternoon - - - advised me of his condition, and the doctor - - - while he was not - - - I didn't talk to the doctor, but the impression that I got was that he thought it would be very bad for Senator Bronson to leave, and I can certainly appreciate his position.

I told him I would so state his position to the Court, and if it is in order, and necessary, I would like to move that Senator Bronson be excused by the Senate.

CHIEF JUSTICE TERRELL: The Senate has the power to excuse any member of the Senate for cause - - -

SENATOR SHANDS: I so move you.

CHIEF JUSTICE TERRELL: - - - and it seems to me that that would be a proper cause for excusing Senator Bronson, for the present, at least.

Did you make that - - -

SENATOR SHANDS: I make that motion.

CHIEF JUSTICE TERRELL: Did you make that as to Senator Rood?

SENATOR SHANDS: Yes - - - no, no, I have not, as to Senator Rood.

I think it well to make them in separate motions, if you do not object, Mr. Chief Justice.

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

(The motion was seconded from the floor.)

CHIEF JUSTICE TERRELL: It's been moved and seconded that Senator Bronson be excused from attendance on sessions of the Court for the present, on account of the illness of his father.

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

The "ayes" have it, and the motion is carried.

SENATOR SHANDS: Now, as to Senator Rood, he also called me on the phone a few days ago, and I think everyone will recall that he made a motion that we recess until August 12; and he writes me that the reason for making that motion was that he had had a pending sale of his business, or one of his businesses, that is to be closed this week, and that he had returned to Bradenton and attempted to get a delay from the purchasers of that business, and the attorneys and the buyers had all refused to delay the sale, and that is the reason that Senator Rood is not here this morning, so that he could take care of his personal business, which it will take him several days to close that out.

Now, for the purpose of getting it before the Senate, I move that Senator Rood be excused from attendance.

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

(The motion was seconded from the floor.)

CHIEF JUSTICE TERRELL: It's been moved and seconded - - -

SENATOR CONNOR: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator from the Ninth.

SENATOR CONNOR: Will the Senator from the Thirty-Second yield to a question?

SENATOR SHANDS: Yes.

SENATOR CONNOR: I'd like to say that there are none of us in here but who are not under hardship, from the business viewpoint.

SENATOR SHANDS: I understand that, but I merely expressed Senator Rood's statement to the Senate. I'm not - - - I realize everybody's serving under a hardship. I am merely stating that to the Senate at the request of Senator Rood.

CHIEF JUSTICE TERRELL: All in favor of excusing Senator Rood from appearance on the Court for the present, let it be known by saying "aye." Opposed, "no."

The "ayes" have it, and the motion is carried.

SENATOR CONNOR: Mr. Chief Justice, I'd like the record to show that I voted "no."

CHIEF JUSTICE TERRELL: Mr. Secretary, you heard Senator Connor's request. You will govern yourself accordingly.

Make the proclamation.

THE SERGEANT-AT-ARMS: Hear ye! Hear ye! Hear ye!

All persons are commanded to keep silence, on pain of imprisonment, while the Senate of the 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.

At this point Senators Kelly and Pope entered the Senate Chamber and asked to be recorded as present.

SENATOR SHANDS: Mr. Chief Justice, we have some other absentees. I should think that the Senate should take some action as to what they want to do about the others that are absent, that we know nothing about. We have Senator Dickinson and Senator Stratton.

SENATOR KICKLITER: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Kickliter.

SENATOR KICKLITER: I might make the suggestion, as regards those Senators that haven't been heard from, that we withhold any action until some time later on in the day, and we might find out, or there might be a cause or reason for which they would be excused, and perhaps we should withhold any action on it until later on in the day, maybe this afternoon.

CHIEF JUSTICE TERRELL: Well, since there's a quorum present, I think that - - -

SENATOR RAWLS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Rawls.

SENATOR RAWLS: I'd like to point out to the Senate that the rules provide that once we start taking testimony, and any Senator is not present, then he cannot participate any further in the proceedings.

SENATOR EATON: Mr. Chief Justice, my suggestion is that the Sergeant-at-Arms check forthwith on the whereabouts of those absent—by telephone or otherwise.

CHIEF JUSTICE TERRELL: Well, we're attempting to follow the rules of the United States Senate in this proceeding, and I find in the proceedings there that it's a frequent thing that they - - - of course, they have ninety-eight, where we have thirty-eight here, but I find it a frequent thing that they excuse Senators from attending - - - that is, for cause, and since we have a quorum present, my suggestion is that we proceed, and it may be, as one of the Senators suggested, that these gentlemen who are absent will be in shortly, and have some excuse that will be acceptable to the Senate for not being here.

SENATOR RAWLS: Well, Mr. Chief Justice, then, in that situation, we'll have to change the rules of this proceeding, because the rule, as adopted in this proceeding, is that once we start taking testimony, that no senator may participate who has been absent for any time.

SENATOR KICKLITER: I'd like to call the Chief Justice's attention also that under one of the rules, they have a right to change the rules if an emergency should exist.

SENATOR RAWLS: That's right, and now is the time to change it.

CHIEF JUSTICE TERRELL: I think that's a matter that the Court can handle at its pleasure.

We will proceed with the point of business.

MR. HUNT: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Mr. Hunt.

MR. HUNT: Mr. Chief Justice, if this is the proper time, we have to submit the Answer and Motion to Dismiss of the Respondent. May I hand it to the Secretary - - -

CHIEF JUSTICE TERRELL: Yes.

MR. HUNT: - - - and have it read?

CHIEF JUSTICE TERRELL: I think this is the proper time to submit your Answer, Mr. Hunt.

MR. HUNT: Yes sir. Counsel have copies of it.

CHIEF JUSTICE TERRELL: Does your Motion to Dismiss go to certain particulars of the Bill of Particulars? Is that it?

MR. HUNT: The Motion to Dismiss was to save the legal questions that have already been argued.

CHIEF JUSTICE TERRELL: All right.

SENATOR POPE: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Pope.

SENATOR POPE: I'd like to make a motion that we recess, and that the Sergeant-at-Arms be instructed to send after those people that are absent.

I don't think it's fair to the rest of the members of this body - - - everybody's making a sacrifice - - - to sit here and go through all of this without someone - - - with someone being absent that has not been specifically excused by this body.

I'd like to put that in the form of a motion.

CHIEF JUSTICE TERRELL: The motion of Senator Pope is that the Senate take a recess until the Sergeant-at-Arms can ascertain if the absent Senators are anywhere near to be called to the Senate.

SENATOR SHANDS: Mr. Chief Justice, may I make a statement?

CHIEF JUSTICE TERRELL: Senator Shands.

SENATOR SHANDS: I have requested the Sergeant-at-Arms, and he is now attempting to reach the two senators that are not accounted for, Senator Dickinson and Senator Stratton, and he is contacting their places of residence to see just where they are, and make an attempt to find out, and I imagine he will give us a report in a very few minutes.

SENATOR DAVIS: Mr. Chief Justice, will the Senator from the Thirty-First - - -

SENATOR POPE: Yes sir.

SENATOR DAVIS: - - - to save time, would you mind withholding your motion until we can get these procedural matters settled?

SENATOR POPE: I'll be glad to.

MR. BEASLEY: Mr. Chief Justice, at this time the Managers on the part of the House of Representatives wish to file a certificate to the effect that the Bill of Particulars add nothing, add no new material to the Articles of Impeachment, but merely serve to explain or clarify them.

I'd like to file this with the Secretary.

SENATOR STENSTROM: Mr. Chief Justice, could we call to the attention of the House Managers and the Defense, that it's awfully difficult, with this air-conditioner up here to the right, to hear on this last row, and if they could speak louder, we'd all appreciate it.

MR. BEASLEY: Yes sir. We have a certificate, prepared by the Members - - - by the Managers on the part of the House of Representatives, to the effect that the Bill of Particulars add nothing new to the Articles of Impeachment, but merely serve to explain or clarify them.

MR. HUNT: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Mr. Hunt.

MR. HUNT: We object to the filing of the paper, as we objected to the filing of the Bill of Particulars, but were overruled. We don't think that counsel's written certificate adds anything to the one- or two-hour oral argument they've already presented to the Senate. They have already certified professionally that, in their opinion, their Bill of Particulars is within the four corners of the Article of Impeachment.

It seems to me that this so-called certificate adds nothing to it. It's another stray pleading that is unknown to legal procedure.

MR. BEASLEY: Mr. Chief Justice, the Managers wish to file this for the record.

CHIEF JUSTICE TERRELL: I think the certificate is in order, Mr. Hunt.

MR. HUNT: Well, the Chair, I don't suppose, would rule it to be in order for the Respondent's counsel to file a counter certificate to the same effect, to the contrary effect?

CHIEF JUSTICE TERRELL: Well, I understand - - - suppose you read the certificate, Mr. Secretary.

SECRETARY DAVIS: (Reading)

"Certificate of Managers on Part of the House of Representatives to Bill of Particulars.

"The Managers for the House of Representatives, Thomas D. Beasley, and A. J. Musselman, Jr., appointed pursuant to authority herein, do hereby certify that the Particulars and recitals as to Article 1 (a); Article 1 (b); Article 1 (c); Article 1 (d); Article 1 (e), and Article 1 (f), which are in terms detailed in the Bill of Particulars offered with the Articles of Impeachment and approved by the Senate July 9, 1957, were before the House of Representatives when it considered the charges preferred against Honorable George E. Holt, Judge of the Circuit Court of the Eleventh Judicial Circuit of Florida, that the Articles of Impeachment preferred against the said Honorable George E. Holt on which he is now being tried were predicated on the recitals in said Articles 1 (a), 1 (b), 1 (c), 1 (d), 1 (e) and 1 (f), more specifically set out in the said Bill of Particulars and the evidence supporting them, taken by the committee appointed under House Resolution 63, and that the undersigned Managers for the House of Representatives were at the time members of the House of Representatives, that one of the Managers participated in all of the proceedings leading up to, and both of said Managers participated in preferring, the said Articles of Impeachment against the said George E. Holt and that in our judgment the Bill of Particulars adds nothing material to the Articles of Impeachment but merely serves to explain or clarify them, all of which we stand ready to verify and prove.

"Respectfully submitted,

"(s) THOMAS D. BEASLEY

(s) A. J. MUSSELMAN, JR.,

Managers of the House of Representatives."

CHIEF JUSTICE TERRELL: Mr. Hunt.

MR. HUNT: Mr. Chief Justice, there are statements in that certificate which are untrue. There are matters within that Bill of Particulars, many of them, that the House Investigating Committee never heard of.

Now, if that piece of paper has any legal significance to any Senator here or to the Presiding Officer, then I want an opportunity to plead against it and to point out the untruths set out in it. Otherwise, I think counsel, to save time, ought to withdraw it and stand on their oral certificates and protestations that took place here for three days that, in their opinion, their Bill of Particulars is good.

It poses an untrue situation, which I will be forced to reply to if it is permitted to be filed.

SENATOR KNIGHT: Mr. Chief Justice, may I inquire?

CHIEF JUSTICE TERRELL: Senator Knight.

SENATOR KNIGHT: Isn't it proper that the instrument should be sworn to before it is admitted? That's an unsworn document, I believe.

CHIEF JUSTICE TERRELL: I understand it's certified to by the Managers for the House of Representatives.

SENATOR KNIGHT: You can't certify to something without a seal. Shouldn't it be certified to before somebody that has a seal?

MR. BEASLEY: I know of no reason, Mr. Chief Justice, why the certificate should have a seal on it, since we both signed it. It's just a simple pleading.

MR. HUNT: Mr. Chief Justice, the Senate has already passed upon a piece of paper entitled "Bill of Particulars," which counsel submitted here and argued for, and they are bound to stand on it.

Now, that piece of paper is eighteen pages long, and bears their unsworn signatures. Now, that action has gone before us. Are they to be permitted now to reopen the record and to add some curative paper to the Bill of Particulars?

SENATOR EATON: Mr. Chief Justice, - - -

CHIEF JUSTICE TERRELL: Senator Eaton.

SENATOR EATON: - - - the note that I sent to you, the question was for the Managers. I don't believe I made that clear in the note.

Under the rules of this body, I would ask that question, please sir.

CHIEF JUSTICE TERRELL: "What is the proof of this certificate?"

SENATOR EATON: "What is the purpose of the certificate?" Is my question, Mr. Chief Justice.

CHIEF JUSTICE TERRELL: As I understand it, Mr. Beasley stated the purpose of the certificate is to merely clarify or explain the Bill of Particulars. It contains nothing more than that, according to his statement.

MR. BEASLEY: Yes sir, and Mr. Chief Justice, it's for the purpose of getting that in the record. There is nothing to that effect in the record, Senators.

MR. HUNT: Mr. Chief Justice, that's a very flimsy excuse.

We could send up any number of things for the purpose of getting it into the record. It's the protection of that record that the Presiding Officer, I am sure, is concerned with; and matters which are unknown to legal practice, and which have no place in legal procedure in courts of law, should not be indulged in in this body, whether counsel wants to file it or not.

CHIEF JUSTICE TERRELL: Any further remarks, Mr. Beasley?

MR. BEASLEY: No sir, I have nothing further to state.

CHIEF JUSTICE TERRELL: Mr. Hunt, I think that if the statements in the certificate are untrue, why, certainly, you have a right to respond to them.

MR. HUNT: We will have to ask for time, and will ask permission to later file a response to this certificate.

CHIEF JUSTICE TERRELL: Well, we'll just pass the matter of the certificate over for the present, then, and take up the - - -

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: I, as one member of the Court, am not convinced that that certificate has any place in this record; and therefore, sir, I appeal the decision of the Chair.

CHIEF JUSTICE TERRELL: You've heard the motion - - - I take it, that's a motion.

SENATOR DAVIS: That's a motion.

(The motion was seconded from the floor.)

SENATOR BELSER: Mr. Chief Justice, a point of inquiry.

I believe it's the ruling of the Chair that this certificate is temporarily passed, and is not before this body at this time; so, therefore, the Chair has made no ruling as to the admissibility, for the purposes of the record or otherwise, as to this certificate.

Is that correct?

CHIEF JUSTICE TERRELL: That's correct. However, I'd be glad to put the motion.

SENATOR DAVIS: I had understood that you had accepted the certificate as a part of the record.

CHIEF JUSTICE TERRELL: I think the certificate is a proper instrument to be filed, and I think Mr. Hunt has a right to respond to it, if there are things in it that are not true, as he suggests.

SENATOR DAVIS: Well, my point is, I do not think the certificate should be filed, it's not proper to be filed, and I would like to insist on the motion.

CHIEF JUSTICE TERRELL: Gentlemen, Senator Davis has made a motion - - -

SENATOR POPE: Mr. Chief Justice, could I ask a question,

as one of the less erudite and informed members of this Senate, as far as law is concerned, and that is, by what authority is the pleading required under this action that's being taken before this body?

In other words, Mr. Chief Justice - - - and I suppose we might just as well come to it sooner or later - - - I'd like to offer a substitute motion, because I think it's important that we determine what policy we are following in this body. I would like to ask the Secretary to read this motion, and I think that it's essential that we decide whether we are trying this case on a basis of court procedure, about which a whole lot of us here know nothing whatsoever, or whether we are regarding this as an action to sustain a removal.

Now, it's been my feeling and my contention that the Constitution, which embodies the sole authority for this action, makes a reference to impeachment in just about five places. I think we can eliminate all of them except two of them, one dealing with the Declaration of Rights, and the other with the authority of the House to bring such action.

Now, it has been my feeling right along that the framers of the Constitution merely intended and provided that in the removal from office for misconduct, that the Governor would exercise that privilege except in certain cases; and then it specified that in other cases that that privilege would be exercised by the House of Representatives, and that the action of this body to sustain that removal has been necessary in both cases.

Now, if that position is true, then we should follow the same procedure in handling this case as we would in the removal of a sheriff, or any other officer.

Certainly, if this body is to assume itself as being in the position of a court, then we are going to have to accept rulings and so forth about which most of us know nothing, and I can find nothing within the Constitution which would lead me to contend that that is the action or the intention of the framers of this Constitution.

It is my feeling that any individual being tried for removal from office is having questioned his - - - not the right, but a privilege that the holding of an office is a privilege conferred by the Governor under a certain specified set of conditions; and therefore, the Declaration of Rights, insofar as a man's rights are concerned, do not come into play to the same extent that they would were he being tried for some crime or for some felony for which a sentence might be imposed.

Now, it seems to me that the framers of the Constitution of this state meant that, and they provided for that in Section 10 of the Declaration of Rights, whereby they required that sworn informations, and so forth, be filed, they provided that it would not apply in the case of impeachment; and I feel that the purpose and duty of this body is to get to the truth of this situation, and to determine whether the House was within their means and within their right in removing from office an individual - - - because that's what their action constitutes, was the removal from office, and if we are going to follow a legal procedure in this body, as though it were a court, we are going to be here for months and months and months, and the filing of papers, and so forth, are going to serve what purpose? In the final analysis, the decision is going to be made by this body, and it's going to be made upon a basis of what is told this body and what is testified before this body, and I think that the less red tape that we can have, and the less legal technicalities that can be involved in this procedure, the quicker we will be enabled to reach the truth, which is what we are all trying to do, in a fair and unbiased manner, and I don't want anyone to take my remarks here as being indicative of asserting any decision on either side of this case, but I am merely saying that it is our duty to get to the right and the wrong of this situation as quickly as possible, and all of this stuff about filing a paper that the members of this Senate are going to see it; it isn't going to do anybody any good except the members of this Senate, because they're the people that are going to reach a conclusion, and we should proceed on a basis of direct testimony, as soon as possible, and that this hearing should be run by the committee of the Senate calling upon such assistance as they deem fit.

Now, I have attempted to embody that philosophy in a resolution which I have offered, and I hope the Senate will see fit to adopt that resolution, in order that we might at

least establish a philosophy under which we are going to conduct this particular impeachment case, because we have no precedent for it, and I see no reason to attempt to write into and put into effect things which are not provided for in the Constitution, and do not exist, simply because, in some lawyer's mind, it happens to be a proper procedure in a court, which this is not, in my opinion; it is a quasi-court, and according to the definition on impeachment, it is an action brought before a political body, a quasi-court, acting in that particular capacity, and I hope that you'll give favorable consideration to this resolution, and I think it will enable us to proceed on a proper basis, or at least I think it will clarify our thinking, and we'll know whether we're going to proceed on this basis of getting to the truth as quickly as possible, or whether we're going to sit here and be bound up with technicalities for the next six or eight months, at the expense of some \$4,000 a day.

CHIEF JUSTICE TERRELL: Senator Pope - - -

SENATOR POPE: I'd just like to have the resolution read, Mr. Chief Justice.

I move its adoption.

CHIEF JUSTICE TERRELL: You've set up a substitute motion, I understand.

SENATOR POPE: I offered that as a substitute, yes sir.

CHIEF JUSTICE TERRELL: Read the substitute, Mr. Secretary.

SECRETARY DAVIS: Senator Pope, Thirty-First District, introduces the following resolution, and moves its adoption:

"Be it resolved: That in the further consideration of this trial, that the Senate takes the position that its authority emanates from the Constitution of the State of Florida, and that the rights of the Respondent are protected under the Declaration of Rights, and that the Senate proceed upon the basis that it has the authority under the Constitution to determine and evaluate the validity of evidence submitted to it by House Managers, to introduce new evidence, or investigate upon its own authority the conduct of any Respondent before it own trial.

"Be it further resolved that the position of the Senate be considered as being comparable to acting upon a suspension by the Governor, with the House of Representatives being the suspending authority in lieu of the Governor, providing, however, it shall not violate the Declaration of Rights in the proceedings, and providing further that the Respondent be given every consideration in his efforts to disprove any new evidence which might be disclosed during the trial.

"Be it further resolved that the Senate shall continue to recognize itself as a political body, having the authority to investigate and evaluate, and at the same time act in judgment of the facts as a quasi-political court, and that its prime purpose shall be to seek out the truth and render a just decision, and that it shall not be hampered in this procedure by decisions or procedure of other states, whose Constitutions may be different from those of this state, and whose statutes may be more specific than those in this state; nor shall objections, technical in nature, ordinarily used in criminal proceedings, be allowed to hamper the province of this body."

Reading of the resolution, Mr. Chief Justice.

SENATOR BELSER: Mr. Chief Justice - - -

CHIEF JUSTICE TERRELL: Senator from the Third.

SENATOR BELSER: - - - members of the Senate:

Somebody may want to jump on some of these technical angles, and try to make something out of it, but that follows exactly the same basic procedure that we have followed in this body for many years, insofar as the removal of a sheriff or anybody else.

We just want to get to the truth for everybody's benefit, as fast as possible and as quickly as possible, without being handicapped by so-called courtroom procedure for which there is absolutely no authority in this body, and it is nothing in the world except something that is being injected into this body as a means of carrying on a trial when there is not a single provision, under the provisions of impeachment in the Constitution, that makes for - - - any provision for such a type

of procedure. It merely says that we can get down and get the meat of the coconut as quickly as possible, and that we are not going to be hampered and blocked by a whole lot of papers to be filed, and a postponement every three or four days that comes along.

I think it is sound; at least, it evaluates a philosophy, and I do think that a decision has to be made in that philosophy sooner or later. If it's not your will to accept this philosophy, why, then, we'll be hidebound by the other philosophy, because if one fails, the other automatically carries, and I think that this is a resolution in the right direction, and I hope you'll adopt it.

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: I'd like to make a statement in opposition to the resolution which has been submitted by the Senator from the Thirty-First.

The members of the Senate are acting as judges in this case. Practically everything that has been suggested by the Senator from the Thirty-First in his resolution is the procedure under which we are operating at this time.

In the beginning of this particular trial, we adopted rules which were recommended by the Presiding Officer and the Rules Committee. Those rules were based upon the rules adopted at one time by the Florida Senate, which were based upon rules adopted by the Senate of the United States. It seems to me that for this procedure to be orderly, we will, necessarily, have to operate under the rules which have already been adopted.

However, as I understand the philosophy of the motion, as made by the Senator from the Thirty-First, why, we're all trying to accomplish that one thing, and it is the chief desire of every member of this Senate to expedite matters as much as possible, in order that we may get down to the meat in the coconut, as shown by a vote, when we last met, sustaining the position of the Managers, with only two dissenting votes against the matter that was before the Senate at that time.

I think, personally - - - I agree with the Senator from the Thirty-First in this respect - - - and this is the meat in the coconut to his motion, that we should get away from the technicalities as far as actual technicalities are concerned.

As far as this particular certificate is concerned, I cannot see where it adds to or detracts from what has previously been filed. As far as I'm concerned, I will vote to let it be filed if the House Managers and the two attorneys representing the State think it proper.

I will also vote to allow the Defense to file a contradictory motion, but not to delay the trial of the case. In other words, if they want to file a motion in opposition to this, let them file it tomorrow or the next day, or two or three days from now, but not interfere with the trial of the case, and give them extra time to file their motion.

There's nothing involved in this particular certificate; there will be nothing involved in a denial of the certificate that we will not get upon a final hearing. Let them file all the papers they want to file, but let's proceed with the trial of the case according to the facts, and under the rules which have been adopted by this Senate; and if we do that, I sincerely think that we're acting under the Constitution of the State of Florida by following rules which have been adopted, and not only by our state, but by our Federal Government, and for that reason, I hope the substitute motion fails.

SENATOR POPE: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Pope.

SENATOR POPE: I offered this motion in the hopes of clarifying the situation, in view of the remarks of the Senator from the Tenth, and certainly, it was not my idea to eliminate the rules set up here, because they were necessary also.

I'm going to temporarily withdraw this resolution, and we'll see what happens later on; and I think we are at least together on our thinking, of the philosophy of what we're trying to do. I'm not trying to impede anything or to bring about any differences, but I do want us to get to the meat of this thing as quickly as possible.

SENATOR RAWLS: Mr. Chief Justice, in view of the remarks of the Senator from the Tenth, I'll withdraw my motion.

Let them file it.

CHIEF JUSTICE TERRELL: In view of the fact, then, that Senator Pope's motion is withdrawn, and the notion of the Senator from the Fourth is withdrawn, I believe the status would be to let the certificate stand over until Mr. Hunt has had an opportunity to read it and file a reply to it.

At this point Senator Dickinson entered the Senate Chamber and asked to be recorded as present.

CHIEF JUSTICE TERRELL: The next business, gentlemen, is on the Answer.

MR. HUNT: Mr. Chief Justice, may I ask that my Answer be read to the Senate?

CHIEF JUSTICE TERRELL: Yes, the Secretary will read the Answer to the Article.

(Mr. J. Birney Linn, Assistant to the Secretary, read the Answer and Motion to Dismiss as follows):

"In the Senate of the State of Florida Sitting as a Court of Impeachment.

"In Re: Impeachment of Circuit Judge George E. Holt. Answer and Motion to Dismiss.

"Comes now George E. Holt, now and at all times hereafter saving and reserving to himself all manner of benefit and advantage of exception to the many errors and insufficiencies of the Article of Impeachment in said Article contained, and not waiving same, but at all times protesting the insufficiencies thereof and first insisting upon the Motion to Strike and Dismiss said Article, for answer to such parts thereof as this Respondent is advised is material for him to answer, now states:

"A. For response to Paragraph (a) of said Article, Respondent denies that he has accepted favors from attorneys practicing before his court with unlawful intent or evil, wrongful, corrupt, immoral, or dishonest motive or design or under any such fashion, condition, or circumstance as to constitute misdemeanor in office within the letter or spirit of the Constitution of Florida.

"Respondent affirmatively states that he has occasionally accepted Christmas or wedding anniversary favors of minor value from attorneys but without solicitation, request or expectancy on his part, and without any consideration or hope thereof, direct or indirect, flowing from Respondent; but in complete good faith and not without honor; not in breach of the public trust imposed upon him as Circuit Judge; and not under circumstances constituting misdemeanor in office under the Constitution of Florida.

"B. For response to Paragraph (b) of said Article, Respondent denies that he permitted his personal relationships with individuals to unduly and improperly influence his judicial appointments and the allowance of fees to appointees, or otherwise acted in connection with, or pertaining to judicial appointments or fee allowances to appointees in bad faith or without honor, or in breach of the public trust imposed upon him as Circuit Judge, or under circumstances constituting misdemeanor in office under the Constitution of Florida.

"C. For response to Paragraph (c) of said Article, Respondent admits that he did on one occasion borrow money from an attorney practicing before his court and affirmatively avers that Respondent at the time of said loan delivered to said attorney an interest bearing promissory note, signed by Respondent and in due form of law, as written evidence of the debt.

"Respondent further avers that said debt has been discharged by payment as to both principal and interest and in full; that said loan was accepted in good faith and the promissory note aforesaid was executed and delivered in good faith and later paid and discharged by respondent in good faith, and not otherwise; that said loan transaction was lawful and not without honor and not in breach of the public trust imposed upon Respondent as Circuit Judge or under circumstances constituting misdemeanor in office under the Constitution of Florida.

"D. For response to Paragraph (d) of said Article, Respond-

ent denies that he has awarded excessive and unnecessary fees in breach of his public trust, or in bad faith, or without honor, or under circumstances constituting misdemeanor in office under the Constitution of Florida.

"E. For response to Paragraph (e) of said Article, Respondent denies that he has accepted gifts from attorneys practicing before his court with unlawful intent or evil, wrongful, corrupt, immoral, or dishonest motive or design or under any such fashion, condition, or circumstance as to constitute misdemeanor in office within the letter or spirit of the Constitution of Florida.

"Respondent affirmatively states that he has occasionally accepted Christmas or wedding anniversary gifts of minor value from attorneys but without solicitation, request, or expectancy on his part, and without any consideration or hope thereof, direct or indirect, flowing from Respondent, but in complete good faith and not without honor; not in breach of the public trust imposed upon him as Circuit Judge; and not under circumstances constituting misdemeanor in office under the Constitution of Florida.

"F. For response to Paragraph (f) of said Article,

"a. Respondent denies that he has flagrantly violated unnamed and undesignated provisions of the Code of Ethics governing Judges as adopted by the Supreme Court of Florida.

"b. Respondent affirmatively avers that said Code of Ethics was originally promulgated by the American Bar Association only, and although approved by the Supreme Court of Florida, said Code of Ethics has never been adopted or enacted into law by the Legislature of Florida.

"c. Said Code of Ethics does not have force of law in Florida.

"Wherefore, this Respondent respectfully moves that this Honorable Senate dismiss said Article as to each and all of the six grounds therein contained for failure to charge a misdemeanor in office within the scope of the provisions of the Constitution of the State of Florida.

"(s) George E. Holt  
"RESPONDENT

"(s) Richard H. Hunt.

"(s) William C. Pierce.

"(s) Glenn E. Summers.

"OF COUNSEL

There's an affidavit that follows:

"State of Florida

"County of Leon

"Before me, the undersigned authority, personally appeared George E. Holt, who being duly sworn, states that he is the Respondent named and referred to in the foregoing Answer and Motion to Dismiss; that he has read the denials, averments and statements therein contained, and that the same are true and correct.

"Dated this 22nd day of July, 1957, at Tallahassee, Florida.

"(s) George E. Holt

" Affiant

"Sworn to and subscribed before me this 22nd day of July, 1957.

"(s) D. H. Seymour

"Notary Public, State of Florida

"My Commission Expires: April 5, 1959."

MR. MUSSELMAN: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Mr. Musselman.

MR. MUSSELMAN: The Managers just received the Answer just immediately prior to the convening of the Court.

We do not know at this point whether or not a replication is necessary or desirable. We understand that was done in the Ritter case, before the United States Senate.

We would like to reserve the right, in view of the Senate's

expression a moment ago, to file a replication at a later time. We do not ask for a recess at this time.

CHIEF JUSTICE TERRELL: If there's no objection, that will be the order. That makes an issue of the Articles of Impeachment, as I understand it.

Are you ready to put on your testimony?

MR. HUNT: Your Honor, before the taking of testimony begins, I understood from Senator Davis this morning that there was a possibility that the committee would wish to meet with one counsel from either side, and with Your Honor, more or less in the nature of a scheduling attitude, to see if we could process this hearing with a bit more speed than might be the case if we just stumbled along with it, and I just propose that point at this time, Senator Davis, whether or not you wanted to bring it up.

SENATOR DAVIS: Mr. Chief Justice, prior to convening this morning, the matter was discussed with several members of the Senate. We thought probably the wise policy would be to get the Special Rules Committee together with the Chief Justice, and one attorney from each side, for the purpose of setting hours and times that we are to continue with the trial of this particular case; to see if we can't arrange the hours where we can probably stay here longer and work harder. At the same time, we realize that at different times during the trial of the cause, that it will possibly be necessary for each side to ask for a recess; that's what we're going to try to avoid as much as possible, the killing of time.

With that thought in mind, I would like to request that the Chief Justice meet with this Special Rules Committee and one attorney representing each side immediately upon adjournment of this session this morning, whenever that is.

Now, Mr. Chief Justice, I would like to make another motion at this time - - -

CHIEF JUSTICE TERRELL: But this is just a request?

SENATOR DAVIS: This is just a request.

CHIEF JUSTICE TERRELL: Proceed.

SENATOR DAVIS: In line with the suggestion of Senator Pope, and in line with the thinking of the Senate, we have here on file a Motion to Dismiss, incorporated, as I understand it, in the Answer.

We have passed upon this matter as a question of law, as far as the Senate is concerned, and adopted a philosophy. At this time I would like to make a motion that the Motion to Dismiss, or that part of the paper just filed containing the Motion to Dismiss, be denied.

CHIEF JUSTICE TERRELL: You've heard the motion, gentlemen. Is there any debate?

MR. HUNT: Mr. Chief Justice, we did not intend that the motion be presented, Senator Davis, until after all the testimony is in. We did not intend to argue it or present that portion of the Answer at this time.

SENATOR DAVIS: Under the circumstances, then, if it please the Court, why, I would like to withdraw that motion.

CHIEF JUSTICE TERRELL: The motion is withdrawn.

Are you ready for your testimony?

MR. MUSSELMAN: Mr. Chief Justice - - - excuse me - - -

CHIEF JUSTICE TERRELL: Senator - - - excuse me, let me ask Senator Davis:

Is it your feeling that counsel, one from each side, and myself, should meet with you and the Rules Committee - - - should meet with you gentlemen immediately, or at some specified time during the day?

SENATOR DAVIS: Do you have any request for further delay, that - - -

MR. MUSSELMAN: We have some witnesses ready.

There is a witness who has filed here a request that he be excused, and has an affidavit from a doctor, as to his health.

We defer to the Senate rule on that question, but other than that, we'll be prepared to go to trial at any time.

CHIEF JUSTICE TERRELL: Well, do you want to put that witness on immediately, or - - -

MR. MUSSELMAN: No sir. He asked to be excused from his subpoena, although he was subpoenaed.

We don't know exactly when we will use him, but we do have his request before us at this time, or before the Secretary of the Senate.

CHIEF JUSTICE TERRELL: Well, do you want to excuse him? He's your witness.

SENATOR DAVIS: Mr. Chief Justice, he is a witness of the House Managers. It's up to them whether or not they want to use him.

CHIEF JUSTICE TERRELL: He's your witness; it depends on what you want to do with him.

MR. MUSSELMAN: Well, that - - - could we possibly, then, let the matter rest for the moment, until we determine, actually, whether we will demand his testimony?

Are we going to have this meeting, sir, or is that to come at a later time?

CHIEF JUSTICE TERRELL: That's to come at a later time. As I understand, the court's ready to hear your testimony.

MR. MUSSELMAN: Well, I believe, sir, the next order of business would be an opening statement.

SENATOR DAVIS: Mr. Chief Justice, we might expedite this matter by having that meeting right now.

I'd like to move that we recess until 11:15 o'clock, this morning.

SENATOR BELSER: Second the motion.

CHIEF JUSTICE TERRELL: Gentlemen, you've heard the motion and the second. All in favor of the motion, let it be known by saying "aye." Opposed, "no."

The Senate is recessed.

Whereupon, at 10:55 o'clock, a.m., the Senate stood in recess until 11:15 o'clock, a.m.

The Senate was called to order by the Chief Justice at 11:15 o'clock, a.m.

CHIEF JUSTICE TERRELL: If no one raises the question, the Chair declares a quorum present, and we'll dispense with the calling of the roll.

SENATOR SHANDS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Shands.

SENATOR SHANDS: On the opening day, in adopting our rules, we provided for five dollars per day as the expense of witnesses. I think everyone realizes that that is inadequate to and is unfair to any witness, to ask him to come to Tallahassee, or anywhere else on that inadequate remuneration; and it is the thinking of the Special Committee on Rules, and counsel for both sides, that that should be changed; and I'm going to move that that rule be amended to provide that witnesses shall be paid the same per diem and travel expense as paid to state employees under the law.

I so move.

CHIEF JUSTICE TERRELL: Gentlemen of the Senate, you've heard the motion. Is there a second?

SENATOR BELSER: Second the motion.

CHIEF JUSTICE TERRELL: Any question?

You've heard the motion of the Senator from the Thirty-Second. All in favor, let it be known by saying "aye." Opposed, "no."

The "ayes" have it; the motion is adopted.

At this point Senator Stratton entered the Senate Chamber and asked to be recorded as present.

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: - - - and Members of the Senate, we've just had a conference with the Special Rules Committee, and with attorneys representing the State, the House and the Accused.

It's been suggested that we follow the following lines:

Beginning tomorrow, that we convene at 9:30 a.m., from 9:30 till 12:00; that we recess from 12:00 to 2:00; and that we meet at 2:00, and stay here until 5:00, or until the Senate says adjourn; if we want to extend the time or shorten the time.

The regular hours will be from 9:30 a.m., to 12:00 noon, and from 2:00 p.m., till 5:00 p.m., beginning tomorrow morning.

Mr. Chief Justice, I make that in the form of a motion.

(The motion was seconded from the floor)

CHIEF JUSTICE TERRELL: Gentlemen, you've heard the motion and the second. All in favor of the motion, let it be known by saying "aye." Opposed, "no."

The "ayes" have it, and the motion is adopted.

SENATOR DAVIS: Mr. Chief Justice, it has also been suggested, and agreed between attorneys for both sides, and the Chief Justice, that the attorneys, with the Chief Justice, have a pre-trial conference, for the purpose of working out details with reference to testimony which will be admitted by both sides. That will take several hours, but, in the long run, will save worlds of time by admitting this evidence upon which there is no question or conflict between both sides.

Attorneys for both sides are willing to go into the conference right now. Since it will take several hours, it will probably be better not to say come back at 3:00 or 4:00 o'clock this afternoon, and start testimony.

Therefore, it's the opinion of the Committee that we will probably save time by not getting into the testimony today, but beginning in the morning at 9:30.

In order to give the attorneys the time for the pre-trial conference, Mr. Chief Justice, I move you that the Senate do now adjourn until 9:30 a.m. tomorrow.

SENATOR SHANDS: Second the motion.

CHIEF JUSTICE TERRELL: Gentlemen, you've heard the motion and the second. All in favor of the motion let it be known by saying "aye." Opposed, "no."

The "ayes" have it, and the motion is adopted.

The Senate is adjourned until 9:30 in the morning.

And the Senate, sitting as a Court of Impeachment, stood adjourned at 11:22 o'clock A. M. until 9:30 o'clock A. M., Tuesday, July 23, 1957, pursuant to the rule.