

# THE FLORIDA SENATE

## ORGANIZATION SESSION—COURT OF IMPEACHMENT

Journal, June 3, 1975

(A portion of this journal is an excerpt from the daily journal of the Senate in regular session on June 3, 1975, pages 734-737, which shows the proceedings of the Senate upon receipt of House Resolution No. 2334.)

**The President, Dempsey J. Barron, in the Chair**

The House of Representatives notified the President of the Senate that Representatives James L. Redman, Ralph Haben and Granville Crabtree, with Representatives Carl Ogden and Edmond Fortune as alternates, had been appointed as the Board of Managers to deliver House Resolution No. 2334 to the Senate.

By direction of the President, the Secretary of the Senate notified the Speaker of the House of Representatives that the Senate was prepared to receive the Board of Managers for the purpose of presenting to the Senate, House Resolution No. 2334, the same being a Resolution for the impeachment of the Honorable Thomas D. O'Malley, Insurance Commissioner and Treasurer of the State of Florida.

The Board of Managers approached the door of the Senate and informed the Sergeant at Arms of its mission.

The President recognized the Sergeant at Arms who informed the President that the Board of Managers appointed by the Speaker of the House of Representatives was at the door of the Senate for the purpose of presenting House Resolution No. 2334 on behalf of the House of Representatives.

By direction of the President, the Sergeant at Arms escorted the Board of Managers to the Bar of the Senate where they were recognized by the President.

The Board of Managers reported as follows: "The Managers of the House of Representatives appointed by the Speaker of the House under and by virtue of the authority of House Resolution No. 2334 herewith submits House Resolution No. 2334, the same being a Resolution for the impeachment of the Honorable Thomas D. O'Malley, Insurance Commissioner and Treasurer of the State of Florida."

The roll was called and the following Senators were recorded present—39:

Mr. President	Graham	Peterson	Thomas, J.
Brantley	Hair	Plante	Thomas, P.
Childers, D.	Henderson	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Trask
Deeb	Johnston	Saunders	Vogt
Dunn	Lane, J.	Saylor	Ware
Firestone	Lewis	Scarborough	Wilson
Gallen	MacKay	Sims	Winn
Glisson	McClain	Spicola	Zinkil
Gordon	Myers	Stolzenburg	

Excused: Senator D. Lane

By direction of the President, the Secretary received and read the Resolution as follows:

### HOUSE RESOLUTION NO. 2334

#### Articles of Impeachment

The following Articles of Impeachment were adopted by the House of Representatives on June 2, 1975.

*Donald L. Tucker*

Speaker of the House of Representatives

*Allen Morris*

Clerk, House of Representatives

#### House Resolution No. 2334

A resolution of the House of Representatives of the state of Florida preferring Articles of Impeachment against Thomas D. O'Malley, as the duly elected and commissioned insurance commissioner and treasurer of the state of Florida; providing for the presentation of Articles of Impeachment to the Senate of the state of Florida requesting the trial thereof; providing for appointment of a committee of the House to manage, present and prosecute Articles of Impeachment at trial before the Senate; providing for subpoenas and compensation of witnesses.

WHEREAS, a committee of this body of the 1975 legislative session was appointed by the speaker of the house of representatives to investigate charges of official misconduct of Thomas D. O'Malley, insurance commissioner and treasurer, and make its report and recommendations to the house of representatives, and

WHEREAS, upon a finding of probable cause the house of representatives is charged with a responsibility of voting articles of impeachment, and

WHEREAS, said committee has performed its duties and filed this report recommending that said officer be impeached, NOW, THEREFORE,

*Be It Resolved by the House of Representatives of the State of Florida:*

Section 1. That Thomas D. O'Malley, the duly commissioned insurance commissioner and treasurer of the state of Florida, pursuant to section 20.13, Florida Statutes, has been guilty of official misconduct in office as insurance commissioner and treasurer for which he, Thomas D. O'Malley, as insurance commissioner and treasurer, should be and is hereby impeached of said office and further disqualified to hold any office of honor, trust or profit as provided by Article III, Section 17 of the Constitution of the State of Florida; the said acts so constituting official misconduct and misdemeanor in office of Thomas D. O'Malley, as insurance commissioner and treasurer, being hereinafter more particularly set forth by way of separate articles of impeachment which are hereby found and voted against said Thomas D. O'Malley, as insurance commissioner and treasurer, by two-thirds vote of the house of representatives of the state of Florida, viz.:

#### ARTICLES OF IMPEACHMENT

Articles of impeachment of the house of representatives of the state of Florida, in the name of themselves, and all of the people of the state of Florida against Thomas D. O'Mal-

ley who was heretofore elected, duly qualified and commissioned to serve as insurance commissioner and treasurer of the state of Florida.

#### ARTICLE I

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, insurance commissioner and treasurer of the state of Florida, on an uncertain date in the fall of 1971, did instruct E. A. Faircloth, while he was officially on duty as an employee of the Department of Insurance of the state of Florida, to solicit from J. F. Bryan, III, Chairman of the Board and President of Independent Life and Accident Insurance Company of Jacksonville, a financial contribution; that, pursuant to Thomas D. O'Malley's instruction, E. A. Faircloth requested a contribution from J. F. Bryan, III; that J. F. Bryan, III then instructed J. H. Stanley, an employee of Independent Life and Accident Insurance Company, to solicit contributions from other employees of Independent Life and Accident Insurance Company; that J. F. Bryan, III initiated the collection of contributions by giving one hundred dollars (\$100) in United States Currency to J. H. Stanley; that J. H. Stanley collected between eight hundred dollars (\$800) and one thousand dollars (\$1,000) from other employees of said company and placed it in an envelope; that J. H. Stanley traveled to Miami, Florida, where he personally delivered the currency sealed in the envelope to E. A. Faircloth; that E. A. Faircloth personally handed the contribution to Thomas D. O'Malley; that during the time period in which said currency was being solicited and received by E. A. Faircloth on behalf of Thomas D. O'Malley, the Independent Life and Accident Insurance Company had pending a request for a hearing to obtain the consent of Thomas D. O'Malley, as insurance commissioner and treasurer, for authorization for the Independent Life and Accident Insurance Company to exceed the 10 percent limitation on investment in real estate as required by s.625.013(2), Florida Statutes, 1969, as transferred to s.625.333(2), Florida Statutes, 1973, in a matter relating to the home office building being planned for construction in Jacksonville on or about that time, a matter which required the special consent of Thomas D. O'Malley, insurance commissioner and treasurer; that said Thomas D. O'Malley, as insurance commissioner and treasurer, on or about February 18, 1972, approved said special consent investment of Independent Life and Accident Insurance Company pursuant to s.625.331, Florida Statutes; that said contribution was not compensation as provided by law; and further that said acts constituted a misdemeanor in office as provided by Section 17, Article III of the State Constitution.

#### ARTICLE II

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, on the 10th day of February, 1972, did willfully swear or affirm falsely in regard to a material matter or thing respecting which said oath or affirmation was authorized or required by law as necessary to the due and legal execution of a writing or document, in that on the 10th day of February, 1972, he did execute, and on

the 14th day of February, 1972, he did file or cause to be filed with the department of state of the state of Florida, his Statement of Elected Official as Required by Chapter 111.011 Florida Statutes, wherein he, Thomas D. O'Malley, did depose and say that said Statement of Elected Official as Required by Chapter 111.011 Florida Statutes was a true, accurate and total listing of all contributions the value of which was in excess of twenty-five dollars (\$25.00) received by him, Thomas D. O'Malley, for the period July 1, 1971, to December 31, 1971, not otherwise reported as required by chapter 99, Florida Statutes; whereas, in truth and in fact as he then and there well knew, the Statement of Elected Official as Required by Chapter 111.011 Florida Statutes, executed February 10, 1972, was not a true, accurate and total listing of all contributions the value of which was in excess of twenty-five dollars (\$25.00) received by him, Thomas D. O'Malley, for the period July 1, 1971, to December 31, 1971, otherwise reported as required by chapter 99, Florida Statutes, in that said Statement of Elected Official as Required by Chapter 111.011 Florida Statutes did not reflect that on or about the 1st day of December, 1971, Thomas D. O'Malley did receive the sum in the amount of eight hundred dollars (\$800.00) to one thousand dollars (\$1,000.00), good and lawful money of the United States of America, in currency, from E. A. Faircloth, said receipt of the eight hundred dollars (\$800.00) to one thousand dollars (\$1,000.00) not being otherwise reported as required by chapter 99, Florida Statutes, contrary to the provisions of section 837.01, Florida Statutes; which acts further constitute a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

#### ARTICLE III

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, insurance commissioner and treasurer of the state of Florida, on an uncertain date in the fall of 1971, did instruct E. A. Faircloth, while he was officially on duty as an employee of the Department of Insurance of the state of Florida, to solicit from J. F. Bryan, III, Chairman of the Board and President of Independent Life and Accident Insurance Company of Jacksonville, a financial contribution; that pursuant to Thomas D. O'Malley's instruction, E. A. Faircloth requested a contribution from J. F. Bryan, III; that J. F. Bryan, III then instructed J. H. Stanley, an employee of Independent Life and Accident Insurance Company, to solicit contributions from other employees of Independent Life and Accident Insurance Company; that J. F. Bryan, III initiated the collection of contributions by giving one hundred dollars (\$100) in United States Currency to J. H. Stanley; that J. H. Stanley collected between eight hundred dollars (\$800) and one thousand dollars (\$1,000) from other employees of said company and placed it in an envelope; that J. H. Stanley traveled to Miami, Florida, where he personally delivered the currency sealed in the envelope to E. A. Faircloth; that E. A. Faircloth personally handed the contribution to Thomas D. O'Malley; that during the time period in which said currency was being solicited and received by E. A. Faircloth on behalf of Thomas D. O'Malley, the Independent Life and Accident Insurance Company had pending a request for a hearing to obtain the consent of Thomas D. O'Malley, as insurance commissioner and treasurer, for authorization for the Independent Life and Accident Insurance Company to exceed the 10 percent limitation on in-

vestment in real estate as required by s.625.0132(2), Florida Statutes, 1969, as transferred to s.625.333(2), Florida Statutes, 1973, in a matter relating to the home office building being planned for construction in Jacksonville on or about that time, a matter which required the special consent of Thomas D. O'Malley, insurance commissioner and treasurer; that said Thomas D. O'Malley, as insurance commissioner and treasurer, on or about February 18, 1972, approved said special consent investment for Independent Life and Accident Insurance Company pursuant to s.625.331, Florida Statutes; that said contribution was accepted by Thomas D. O'Malley as a gift or favor that did reasonably tend improperly to influence him in the discharge of his official duties; that the aforesaid constitutes a violation of section 112.313(1), Florida Statutes, and further constitutes a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

#### ARTICLE IV

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, duly elected and commissioned insurance commissioner and treasurer, did accept unlawful compensation, in that on December 31, 1970, Thomas D. O'Malley entered into a contractual agreement with Rick G. Ciravolo and Bennett G. Feldman under the terms of which said Ciravolo and Feldman agreed to purchase Thomas D. O'Malley's seventy percent (70%) interest in the law firm then known as O'Malley and Ciravolo for the sum of two hundred thirty-nine thousand nine hundred ninety-nine dollars (\$239,999.00), to be paid over the course of eight years with interest at four percent per annum on the unpaid balance; that pursuant to said agreement Thomas D. O'Malley, insurance commissioner and treasurer, on diverse dates during 1971, 1972, 1973, 1974, has received and accepted payments of \$70,175, more or less, good and lawful money of the United States of America; that Thomas D. O'Malley, insurance commissioner, acting as receiver for certain insurance companies pursuant to court order, has retained the law firm of Ciravolo and Feldman, to represent him in his capacity as insurance commissioner, as receiver of certain insurance companies, to wit: First American Insurance Company, State Fire and Casualty Company, and Pan American Surety Company, resulting in payments to said law firm from the funds of said insurance companies in liquidation in the amount of thirty-four thousand two hundred twenty-two dollars and sixty-three cents (\$34,222.63); that said acts constitute compensation not otherwise authorized by law for Thomas D. O'Malley, insurance commissioner and treasurer of the state of Florida and a violation of s.838.06, Florida Statutes, and further constitute a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

#### ARTICLE V

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, duly elected and commissioned insurance commissioner and treasurer of the state of Florida, did unlawfully use his official position to secure special privileges for himself and others, in that on December 31, 1970,

Thomas D. O'Malley entered into a contractual agreement with Rick G. Ciravolo and Bennett G. Feldman under the terms of which said Ciravolo and Feldman agreed to purchase Thomas D. O'Malley's seventy percent (70%) interest in the law firm then known as O'Malley and Ciravolo for the sum of two hundred thirty-nine thousand nine hundred ninety-nine dollars (\$239,999) to be paid over the course of eight years with interest at four percent per annum on the unpaid balance; that Thomas D. O'Malley, as insurance commissioner, and acting as receiver for certain insurance companies pursuant to court order, retained the law firm of Ciravolo and Feldman to represent him in his capacity as such insurance commissioner, as receiver of certain insurance companies, to wit: First American Insurance Company, State Fire and Casualty Company, and Pan American Surety Company, resulting in payments to said law firm from the funds of said insurance companies in liquidation in the amount of thirty-four thousand two hundred twenty-two dollars and sixty-three cents (\$34,222.63), contrary to the provisions of s.112.313(3), Florida Statutes; which acts further constitute a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

#### ARTICLE VI

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, duly elected and commissioned insurance commissioner and treasurer of the state of Florida, did have personal investments in an enterprise creating a substantial conflict between his private interests and the public interest, in that on December 31, 1970, Thomas D. O'Malley entered into a contractual agreement with Rick G. Ciravolo and Bennett G. Feldman under the terms of which said Ciravolo and Feldman agreed to purchase seventy percent (70%) interest in the law firm then known as O'Malley and Ciravolo for the sum of two hundred thirty-nine thousand nine hundred ninety-nine dollars (\$239,999), to be paid over the course of eight years with interest at four percent per annum on the unpaid balance; that Thomas D. O'Malley, as insurance commissioner, and acting as receiver for certain insurance companies pursuant to court order, retained the law firm of Ciravolo and Feldman to represent him in his capacity as such insurance commissioner, as receiver of certain insurance companies, to wit: First American Insurance Company, State Fire and Casualty Company, and Pan American Surety Company, said acts resulting in payments to said law firm from the funds of said insurance companies in liquidation in the amount of thirty-four thousand two hundred twenty-two dollars and sixty-three cents (\$34,222.63), thereby raising a substantial conflict between his private interests and the public interests contrary to s.112.314(2), Florida Statutes; which acts further constitute a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

#### ARTICLE VII

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, duly elected and commissioned insurance commissioner and treasurer did receive and accept

unlawful compensation for the past, present or future performance, nonperformance, or violation of an act, rule or regulation that is or was incumbent upon him as a public officer to administer, respect, perform, execute or have executed, in that on December 31, 1970, Thomas D. O'Malley entered into a contractual agreement with Rick G. Ciravolo and Bennett G. Feldman under the terms of which the said Rick G. Ciravolo and Bennett G. Feldman agreed to purchase Thomas D. O'Malley's seventy percent (70%) interest in the law firm then known as O'Malley and Ciravolo for the sum of two hundred thirty-nine thousand nine hundred ninety-nine dollars (\$239,999.00), to be paid over the course of eight years with interest at four percent per annum on the unpaid balance; that pursuant to said agreement, Thomas D. O'Malley, insurance commissioner and treasurer, on diverse dates during 1971, 1972, 1973 and 1974, has received and accepted payments of seventy thousand one hundred seventy-five dollars (\$70,175.00), more or less, good and lawful money of the United States of America, which was compensation not authorized by law for the insurance commissioner and treasurer of the state of Florida to receive; that on July 26, 1972, Thomas D. O'Malley had submitted to him for his approval Peninsular Life Insurance Company's plan for the proposed formation of the McMillen Corporation, a holding company to hold 100% of the shares of Peninsular Life Insurance Company; that Thomas D. O'Malley did withhold his approval of the said plan, while staff of the department of insurance had given their approval, on an uncertain date in August or September, 1972; that after the retention of Bennett G. Feldman as counsel for Peninsular Life Insurance Company on November 1, 1972, for a fee of ten thousand dollars (\$10,000.00) plus out-of-pocket expenses to be paid by Peninsular Life Insurance Company; that Thomas D. O'Malley approved said plan November 8, 1972; that said compensation is not otherwise authorized by law for the insurance commissioner and treasurer of the state of Florida; that said acts constitute a violation of s.838.06, Florida Statutes, and further constitute a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

#### ARTICLE VIII

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, duly elected and commissioned insurance commissioner and treasurer of the state of Florida, used his official position to secure special privileges or exemptions for himself or others in that, on diverse dates beginning in August, or thereabouts, in 1971 and continuing through 1972, he did accept a gift, to wit: a one-eighth proprietary interest in that parcel of land, leasehold interests and structures commonly described as the Fort Walton Square Shopping Center located in Fort Walton Beach, Florida, from Horace Drew; that while part-owner of the shopping center, Thomas D. O'Malley, as insurance commissioner, approved a special consent investment pursuant to s.625.331, Florida Statutes, to wit: a second lien mortgage commonly known as a "wrap-around" mortgage which was pledged as security on the said shopping center and sought by Thomas D. O'Malley, Drew and other partners, the mortgagors, together with Gulf Life Insurance Company, the mortgagee; which acts constitute a violation of s.112.313(3), Florida Statutes, and further constitute a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

#### ARTICLE IX

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, duly elected and commissioned insurance commissioner and treasurer of the state of Florida, accepted unlawful compensation in that, on diverse dates beginning in August, or thereabouts, in 1971 and continuing through 1972, did accept a gift, to wit: a one-eighth proprietary interest in that parcel of land, leasehold interests and structures commonly described as the Fort Walton Square Shopping Center, located in Fort Walton Beach, Florida, from Horace Drew; that while part-owner of the shopping center, Thomas D. O'Malley, as insurance commissioner, approved a special consent investment pursuant to s.625.331, Florida Statutes, to wit: a second lien mortgage commonly known as a "wrap-around" mortgage which was pledged as security on the said shopping center and sought by Thomas D. O'Malley, Drew and other partners, the mortgagors, together with Gulf Life Insurance Company, the mortgagee; that an agreement was negotiated that, if the "wrap-around" mortgage was approved, the mortgagor and the mortgagee would share equally pursuant to an agreement to govern the interest savings; that while part-owner and contracting party to the agreement, Thomas D. O'Malley granted the special consent for the "wrap-around" mortgage, thus granting the financial savings of the interest to himself, Drew and other partners, said act providing compensation not authorized by law, which act constitutes a violation of s.838.06, Florida Statutes, and further constitutes a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

#### ARTICLE X

That Thomas D. O'Malley, while holding office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, in the County of Leon, state of Florida, on the 10th day of February, 1972, and on the 15th day of August, 1972, having been first duly sworn by a notary public authorized by law to administer oaths, did willfully swear or affirm falsely in regard to a material matter or thing respecting which said oath or affirmation was authorized or required by law as necessary to the due and legal execution of a writing or document, in that on the 10th day of February, 1972 and on the 15th day of August, 1972, he did execute and file or cause to be filed with the department of state of the state of Florida his Statement of Elected Official as Required by Chapter 111.011 Florida Statutes, wherein he, Thomas D. O'Malley, having been first duly sworn by a notary public, did depose and say that said Statement of Elected Official as Required by Chapter 111.011 Florida Statutes was a true, accurate and total listing of all contributions the value of which was in excess of twenty-five dollars (\$25.00) received by him, Thomas D. O'Malley, for the period July 1, 1971, to December 31, 1971, and January 1, 1972, to June 30, 1972, not otherwise reported as required by chapter 99, Florida Statutes; whereas, in truth and in fact as he then and there well knew, the Statement of Elected Official as Required by Chapter 111.011 Florida Statutes, sworn and executed February 10, 1972, and August 15, 1972, was not a true, accurate and total

listing of all contributions the value of which was in excess of twenty-five dollars (\$25.00) received by him, Thomas D. O'Malley, for the period July 1, 1971, to December 31, 1971, and January 1, 1972 to August 15, 1972, not otherwise reported as required by chapter 99, Florida Statutes, in that said statement of Elected Official as Required by Chapter 111.011 Florida Statutes did not reflect that on diverse dates beginning in August or thereabouts in 1971, and continuing through 1972, Thomas D. O'Malley did accept a gift, to wit: a one-eighth (1/8) proprietary interest in that parcel of land, leasehold interests and structures commonly described as the Fort Walton Square Shopping Center located in Fort Walton Beach, Florida, from Horace Drew and Betty B. Drew, said receipt of a gift the value of which was in excess of twenty-five dollars (\$25.00) not being otherwise reported as required by chapter 99, Florida Statutes which act constitutes a violation of the provisions of section 117.03, Florida Statutes, and further constitutes a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

ARTICLE XI

That Thomas D. O'Malley, while holding office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That the foregoing acts of Thomas D. O'Malley described in Articles I through X, the contents of which are hereby incorporated herein and made a part hereof by reference, constitute a misdemeanor in office as provided by Section 17, Article III of the State Constitution.

WHEREFORE, Thomas D. O'Malley as Insurance Commissioner and Treasurer of the state of Florida, was and is guilty of misconduct and misdemeanors in said office.

Section 2. That Thomas D. O'Malley as Insurance Commissioner and Treasurer of the state of Florida, be impeached of his office for misconduct and misdemeanors in office.

Section 3. That Representatives Ralph Haben and Granville Crabtree shall serve on the board of managers, and Representative James L. Redman shall serve as chairman of the board of managers; and that Representatives Carl Ogden and Edmond Fortune shall be alternate members of the board of managers and shall serve at the pleasure of the chairman.

Section 4. That the board of 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, to impeach the said Thomas D. O'Malley, for misconduct and misdemeanors in office, and to exhibit to the Senate the foregoing articles of impeachment against Thomas D. O'Malley, which have been agreed upon by the House, and that the managers request that the Senate issue an order for the appearance of Thomas D. O'Malley before the Senate to answer articles of impeachment, and demand his impeachment, conviction, removal and disqualification to hold any office of honor, trust or profit.

Section 5. That the said board of managers shall manage, present and prosecute the foregoing articles of impeachment at the trial in the Senate.

Section 6. That said board of managers be and it is hereby authorized to issue subpoenas and subpoenas duces tecum requiring appearance of witnesses at said impeachment trial, which witnesses shall receive the compensation provided by law.

The President thanked the Board of Managers for delivering the Articles of Impeachment and requested them to inform the House of Representatives that the Articles were received, filed and read, and that the Senate would carry out its constitutional duties.

(The Senate resumed the Regular Order of Business)

At 2:10 p.m., a quorum call was ordered by the President and the following Senators were recorded present:

Mr. President	Graham	Peterson	Thomas, J.
Brantley	Hair	Plante	Thomas, P.
Childers, D.	Henderson	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Trask
Deeb	Johnston	Saunders	Vogt
Dunn	Lane, J.	Saylor	Ware
Firestone	Lewis	Scarborough	Wilson
Gallen	MacKay	Sims	Winn
Glisson	McClain	Spicola	Zinkil
Gordon	Myers	Stolzenburg	

Senator Brantley moved that the Senate proceed to organize the Body as a Court of Impeachment to try the Honorable Thomas D. O'Malley, Insurance Commissioner and Treasurer of the State of Florida, on the Articles of Impeachment preferred against him by the House of Representatives as originally exhibited to the Senate on June 3, 1975, under authority of House Resolution No. 2334, Regular Session of the 1975 Florida Legislature.

The motion was adopted and the vote was:

Yeas—39

Mr. President	Graham	Peterson	Thomas, J.
Brantley	Hair	Plante	Thomas, P.
Childers, D.	Henderson	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Trask
Deeb	Johnston	Saunders	Vogt
Dunn	Lane, J.	Saylor	Ware
Firestone	Lewis	Scarborough	Wilson
Gallen	MacKay	Sims	Winn
Glisson	McClain	Spicola	Zinkil
Gordon	Myers	Stolzenburg	

Nays—None

Senator Brantley moved that the Senate fix 11:00 o'clock, a.m., September 16, 1975, as the time to convene for the purpose of trying Honorable Thomas D. O'Malley, on the Articles of Impeachment preferred against him by the House of Representatives, as more fully set forth in House Resolution No. 2334, with the Chief Justice of the Florida Supreme Court presiding, as provided by Section 17, Article III, of the Constitution of the State of Florida.

The motion was adopted and it was so ordered. The vote was:

Yeas—39

Mr. President	Graham	Peterson	Thomas, J.
Brantley	Hair	Plante	Thomas, P.
Childers, D.	Henderson	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Trask
Deeb	Johnston	Saunders	Vogt
Dunn	Lane, J.	Saylor	Ware
Firestone	Lewis	Scarborough	Wilson
Gallen	MacKay	Sims	Winn
Glisson	McClain	Spicola	Zinkil
Gordon	Myers	Stolzenburg	

Nays—None

Senator Brantley moved that a Committee on Rules and Procedure be appointed to promulgate and present to the Senate for adoption, rules to govern the impeachment trial. The motion was adopted.

The President appointed: Senator Brantley, Chairman; Senator Lewis, Vice Chairman; Senators Myers, W. D. Childers, Gallen, Graham, Gordon, Scarborough, Poston, Saunders, Trask, Ware, Plante, D. Lane, Henderson, Firestone, McClain and Peterson.

Senator Brantley moved that a committee be appointed to wait upon the Honorable James C. Adkins, Chief Justice of the Supreme Court of Florida, to inform him that the Senate stood ready to organize as a Court of Impeachment and respectfully request his presence for the purpose of presiding over the Senate during the organization and trial of the Honorable Thomas D. O'Malley. The motion was adopted.

The President appointed Senators Brantley, Ware and Winn. The committee withdrew.

The committee subsequently returned to the Chamber escorting the Honorable James C. Adkins, Chief Justice of the Supreme Court of Florida accompanied by the Honorable B. K. Roberts, Justice of the Supreme Court of Florida who were presented to the Senate by the President. The President resumed his seat as the Senator from the 3rd District.

The Chief Justice took the chair and stated: "Senators, I attend the Senate in obedience to your notice for the purpose of joining with you in forming a Court of Impeachment for trial of the Honorable Thomas D. O'Malley, Treasurer and Insurance Commissioner of the State of Florida, and I am now ready to take the oath which will be administered by the Honorable B. K. Roberts, Justice of the Supreme Court of the State of Florida."

The oath was administered to the Honorable James C. Adkins, Chief Justice of the Supreme Court of Florida, by Justice B. K. Roberts as follows:

"I solemnly swear, that in all things appertaining to the trial of the impeachment of the Honorable Thomas D. O'Malley, now pending, I will do impartial justice according to the Constitution and Laws of the State of Florida; so help me God."

The Chief Justice:

"Senators, the oath will now be administered to you and you will please stand as your names are called and remain standing as the oath is administered."

The Secretary called the roll of the Senators in alphabetical order and the Chief Justice administered the oath to Senators Barron, Brantley, D. Childers, W. D. Childers, Deeb, Dunn, Firestone, Gallen, Glisson, Gordon, Graham, Hair, Henderson, Holloway, Johnston, J. Lane, Lewis, MacKay, McClain, Myers, Peterson, Plante, Poston, Renick, Saunders, Saylor, Scarborough, Sims, Spicola, Stolzenburg, J. Thomas, P. Thomas, Tobiassen, Trask, Vogt, Ware, Wilson, Winn and Zinkil as follows:

"I solemnly swear, that in all things appertaining to the trial of the impeachment of the Honorable Thomas D. O'Malley, now pending, I will do impartial justice according to the Constitution and Laws of the State of Florida; so help me God."

The Chief Justice then administered the following oath to Joe Brown, Secretary of the Senate:

"I solemnly swear that I will faithfully and impartially perform the duties of Secretary to the Senate of the State of Florida, sitting as a Court of Impeachment in the trial of the Honorable Thomas D. O'Malley, now pending, and true and faithful record make of the same; so help me God."

The Chief Justice then administered the following oath to John D. Melton, Sergeant at Arms of the Senate:

"I solemnly swear that I will faithfully and impartially perform the duties of Sergeant at Arms to the Senate of the State of Florida, sitting as a Court of Impeachment in the trial of the Honorable Thomas D. O'Malley, now pending; so help me God."

Senator Brantley moved that the Senate fix 11:00 o'clock, a.m., September 16, 1975, as the time to convene for the purpose of trying the Honorable Thomas D. O'Malley, Insurance Commissioner and Treasurer of the State of Florida, on the Articles of Impeachment preferred against him by the House of Representatives, as more fully set forth in the House Resolution No. 2334, with the Chief Justice of the Florida Supreme Court presiding, as provided by Section 17(c), Article III, of the Constitution of the State of Florida.

The motion was adopted and it was so ordered. The vote was:

Yeas—39

Barron	Graham	Peterson	Thomas, J.
Brantley	Hair	Plante	Thomas, P.
Childers, D.	Henderson	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Trask
Deeb	Johnston	Saunders	Vogt
Dunn	Lane, J.	Saylor	Ware
Firestone	Lewis	Scarborough	Wilson
Gallen	MacKay	Sims	Winn
Glisson	McClain	Spicola	Zinkil
Gordon	Myers	Stolzenburg	

Nays—None

Senator Barron: Mr. Chief Justice, I wish you would be pondering the question of admonishment to the membership of the Senate before we conclude here today relative to their discussion of this case with the press or others.

The Chief Justice: I will have more to say about this later but let me make one point with you now.

All of you have taken an oath that you will fairly and impartially consider any issues that may be presented to you. The hat you wear in these proceedings is entirely different from that of a member of the Senate, or as an advocate, or as an attorney, or whatever you may be.

The position of a judge is an unusual one. He should at all times remain impartial.

Do not make any statements which might be taken to show some leaning on your part one way or the other and I do suggest that you try to discipline yourself in such a way that when proceedings begin in September you will be able to come here with an open mind and an open heart and not be swayed by anything except what may come before you in the chambers of this Senate.

Senator Brantley moved that the foregoing remarks of the presiding Chief Justice be spread upon the Journal. The motion was adopted.

On motion by Senator Brantley, Senator Barron was named as a member of the Committee on Rules and Procedure.

On motion by Senator Brantley, the Senate sitting as a Court of Impeachment recessed at 4:30 p.m. to reconvene at 6:15 p.m. for the purpose of adopting rules to govern the Senate while sitting as a Court of Impeachment.

The Senate sitting as a court for the trial of Articles of Impeachment against the Honorable Thomas D. O'Malley reconvened at 6:15 p.m.

The Chief Justice presiding

A quorum was present.

REPORT OF COMMITTEE

The following Report of the Committee on Rules and Procedure was received and read:

Sir:

The Committee on Rules and Procedure designated to promulgate rules and procedure for the impeachment trial of Honorable Thomas D. O'Malley, Insurance Commissioner and Treasurer of the State of Florida, submits herewith the following Report and recommends the adoption of the following rules to govern the procedure of the Senate while sitting as a Court of Impeachment.

Respectfully submitted,

<i>Lew Brantley, Chairman</i>	<i>W. D. Childers</i>
<i>Philip D. Lewis, Vice-Chairman</i>	<i>Warren S. Henderson</i>
<i>Dempsey Barron</i>	<i>D. Robert Graham</i>
<i>Alan Trask</i>	<i>John T. Ware</i>
<i>Kenneth Plante</i>	<i>Bob Saunders</i>
<i>David H. McClain</i>	<i>Jack D. Gordon</i>
<i>George Firestone</i>	<i>Curtis Peterson</i>
<i>Ralph R. Poston</i>	<i>Dan Scarborough</i>
<i>Kenneth M. Myers</i>	<i>Thomas M. Gallen</i>

FLORIDA

RULES OF PROCEDURE AND PRACTICE IN THE SENATE WHEN SITTING ON THE TRIAL OF IMPEACHMENTS

1. Whensoever the Senate shall receive notice from the House of Representatives that Managers are appointed on their part to conduct an impeachment against any person, and are directed to carry Articles of Impeachment to the Senate, the Secretary of the Senate shall immediately inform the House of Representatives that the Senate is ready to receive the Managers for the purpose of exhibiting such Articles of Impeachment agreeable to said notice.

2. When the Managers of an impeachment shall be introduced at the bar of the Senate, and shall signify that they are ready to exhibit Articles of Impeachment against any person, the presiding officer of the Senate shall direct the Sergeant At Arms to make proclamation, who shall, after making proclamation, repeat the following words, viz: "All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the State of Florida Articles of Impeachment against \_\_\_\_\_;" after which the Articles shall be exhibited, and then the presiding officer of the Senate shall inform the Managers that the Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives or to the Managers when the House is not in session.

3. Upon such Articles being presented to the Senate, the Senate shall, at 11:00 o'clock A.M., of the day fixed to commence the consideration of such Articles proceed to the consideration of such Articles, and shall continue in session from day to day (Sundays excepted) after the trial shall commence (unless otherwise ordered by the Senate) until final judgment shall be rendered, and so much longer as may, in its judgment, be needed. Before proceeding to the consideration of the Articles of Impeachment, the presiding officer shall administer the oath hereinafter provided to the members of the Senate then present, and to the other members of the Senate as they shall appear, whose duty it shall be to take the same.

4. The Chief Justice of the Supreme Court of the State of Florida shall preside at all trials by impeachment except in the trial of the Chief Justice, when the Governor shall preside, and notice shall be given to him by the presiding officer of the Senate of the time and place fixed for the consideration of the Articles of Impeachment, as aforesaid, with a request to attend, and the Chief Justice shall preside over the Senate during the consideration of said Articles, and upon the trial of the person impeached therein.

5. The presiding officer shall have power to make and issue, by himself or by the Secretary of the Senate, all orders, mandates, writs, and precepts authorized by these rules, or by the Senate, and to make and enforce such other regulations and orders in the premises as the Senate may authorize or provide.

6. The Senate shall have power to compel the attendance of witnesses, to enforce obedience to its orders, mandates, writs, precepts, and judgments, to preserve order, and to punish in a summary way contempts of and disobedience to its authority, orders, mandates, writs, precepts, or judgments, and to make all lawful orders, rules and regulations, which it may deem essential or conducive to the ends of justice. And the Sergeant At Arms, under the direction of the Senate, may employ such aid and assistance as may be necessary to enforce, execute, and carry into effect the lawful orders, mandates, writs, and precepts of the Senate.

7. The presiding officer of the Senate shall direct all necessary preparations in the Senate Chamber, and the presiding officer upon the trial shall direct all the forms of proceeding while the Senate is sitting for the purpose of trying an impeachment, and all forms during the trial not otherwise specially provided for. 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.

8. Upon the presentation of Articles of Impeachment and the organization of the Senate as hereinbefore provided, a writ of summons shall be issued to the accused, unless the accused waive the issuance of such writ and service thereof and voluntarily appears at the bar of the Senate, reciting said Articles, and notifying him to appear before the Senate upon a day and at a place to be fixed by the Senate and named in such writ, and file his answer or plea to said Articles of Impeachment, and to stand and to abide the orders and judgments of the Senate thereon; which writs shall be served by such officers or persons as shall be named in the precept thereof, at least one day prior to the day fixed for such appearance, as shall be named in such precept, either

by delivery of an attested copy thereof to the person accused, or, if that cannot conveniently be done by leaving such copy at last known place of abode of such person, or at his usual place of business, in some conspicuous place therein; or if such service shall be in judgment of the Senate, impracticable, notice to the accused to appear shall be given in such other manner, by publication or otherwise, as shall be deemed just; and if the writ aforesaid shall fail of service in the manner aforesaid the proceedings shall not thereby abate, but further service may be made in such manner as the Senate shall direct. If the accused, after service, shall fail to appear, either in person or by attorney, on the day so fixed therefor as aforesaid or appearing, shall fail to file his answer to such Articles of Impeachment, the trial shall proceed, nevertheless, as upon a plea of not guilty which may be entered by the presiding officer for the accused. If a plea of guilty shall be entered judgment may be entered thereon without further proceedings.

9. At 11:00 o'clock A.M. of the day appointed for the return of the summons against the person impeached, the legislative and executive business of the Senate shall be suspended, if in legislative session, and the Secretary of the Senate shall administer an oath to the returning officer in the form following, viz:

"I, \_\_\_\_\_ do solemnly swear that the return made by me upon the process issued on the day of \_\_\_\_\_, 19\_\_\_\_, by the Senate of the State of Florida against \_\_\_\_\_ is truly made, and that I have performed such service as therein described; so help me God."

Which oath shall be entered at large on the records. Should service of summons be waived then this oath may be dispensed with.

10. The person impeached shall then be called to appear and answer or plead to the Articles of Impeachment against him. If he appears, or any person for him, the appearance shall be recorded, stating particularly if by himself, or by agent or attorney, naming the person appearing, and the capacity in which he appears. If he cannot appear, either personally or by agent or attorney, the same shall be recorded.

11. At 11:00 o'clock A.M., of the day appointed for the trial of an impeachment, the legislative and executive business of the Senate shall be suspended, if in legislative session, and the Secretary shall give notice to the House of Representatives, if the House be in session, and if not in session, then to the board of managers that may have been named by the House, that the Senate is ready to proceed upon the impeachment of \_\_\_\_\_ in the Senate chamber, which chamber is prepared with accommodations for the reception of the House of Representatives, if the House be in session, and if the House be not in session, is ready to receive the board of managers that may have been appointed by the House.

12. The hours of the day at which the Senate shall sit upon the trial of an impeachment shall be designated by the presiding officer unless otherwise ordered by the Senate, and when the hour for such sitting shall arrive, the presiding officer of the Senate shall so announce; and thereupon the presiding officer upon such trial shall cause proclamation to be made and the business of the trial shall proceed. The adjournment of the Senate sitting in said trial shall not operate as an adjournment of the Senate if in legislative session, but on such adjournment the Senate shall resume the consideration of its legislative and executive business.

13. The proceedings of the Senate while sitting as a court of impeachment shall be recorded under the direction of the Secretary of the Senate, and published within 90 days after the final adjournment of the court of impeachment. Two copies of the record of the proceedings together with two attested copies of the transcript of testimony shall be filed as a permanent record of the Senate. One copy of the record of proceedings together with one copy of the transcript of testimony shall be filed in the office of the Attorney General of Florida.

14. Counsel for the parties shall be admitted to appear and be heard upon an impeachment.

15. All motions made by the parties of their counsel shall be addressed to the presiding officer, and if he, or any Senator shall require it, they shall be committed to writing, and read at the Secretary's table.

16. Witnesses shall be examined by one person on behalf of the party producing them, and then cross-examined by one person on the other side unless otherwise authorized by the presiding officer.

17. If a Senator is called as a witness he shall be sworn and give his testimony standing in his place, unless otherwise authorized by the presiding officer.

18. Any Senator may put a question to a witness, or offer a motion or order (except a motion to adjourn) after first having been recognized by, and with the approval of, the presiding officer of the trial.

19. All preliminary of 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.

20. The case, on each side, shall be opened by one person. The final argument on the merits may be made by two persons on each side (unless otherwise ordered by the Senate, upon application for that purpose), and the argument shall be opened and closed on the part of the House of Representatives or its managers or attorneys.

21. On the final question whether the impeachment is sustained, the yeas and nays shall be taken on each Article of Impeachment separately, and if the impeachment shall not, upon any of the articles presented, be sustained by the concurrence of two-thirds of the Senators present a judgment of acquittal shall be entered; but if the person in such Articles of Impeachment shall be convicted upon any of said Articles by the concurrence of two-thirds of the Senators present, the Senate shall proceed to pronounce judgment, and a certified copy of such judgment shall be deposited in the office of the Secretary of State.

22. All the orders and decisions shall be made and had by yeas and nays which shall be entered on the record, and without debate, subject, however, to the operation of rule 7, except when the doors shall be closed for deliberation, and in that case no member shall speak more than once on one question and for not more than five minutes on an interlocutory question, and for not more than ten minutes on the final question, unless by consent of the Senate, to be had without debate; but a motion to adjourn may be decided without the yeas and nays, unless they be demanded by one-fifth of the members present.

23. A. Witnesses shall be sworn in the following form, namely:

"You, \_\_\_\_\_, do swear (or affirm, as the case may be) that the evidence you shall give in the case

pending between the State of Florida and shall be the truth, the whole truth, and nothing but the truth; so help you God."

Which oath shall be administered by the Secretary or any other duly authorized person.

B. Form of subpoena to be issued on the application of the Managers of the impeachment, or of the party impeached, or of counsel:

The State of Florida, to \_\_\_\_\_, greeting:

You and each of you are hereby commanded to appear before the Senate of the State of Florida on the day of \_\_\_\_\_, 19\_\_\_\_, at the Senate Chamber, in the Capitol Building, in the City of Tallahassee, then and there to testify your knowledge in the cause which is before the Senate, in which the House of Representatives has impeached

Fail not.

Witness \_\_\_\_\_ and presiding officer of the Senate, at the City of Tallahassee, Florida, this day of \_\_\_\_\_, in the year of our Lord, 19\_\_\_\_.

C. Form of direction for the services of said subpoena:

The State of Florida, to \_\_\_\_\_ greeting:

You are hereby commanded to serve and return the within subpoena according to law.

Dated at Tallahassee, Florida, this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord, 19\_\_\_\_.

Secretary of the Senate

D. Form of oath to be administered to the members of the Senate sitting in the trials of impeachments:

"I solemnly swear (or affirm, as the case may be), that in all things appertaining to the trial of the impeachment of \_\_\_\_\_, now pending. I will do impartial justice according to the Constitution and Laws of the State of Florida; so help me God."

E. Form of summons to be issued and served upon the person impeached:

The State of Florida \_\_\_\_\_ greeting:

Whereas, the House of Representatives of the State of Florida did on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, exhibit to the Senate Articles of Impeachment against you, the said \_\_\_\_\_, in the words following:

24. If the Senate shall at any time fail to sit for the consideration of Articles of Impeachment on the day or hour fixed therefor, the Senate may, by an order to be adopted without debate, fix a day and hour for resuming and consideration.

25. There may be admitted to the floor of the Senate, when sitting as a court of impeachment, only the Chief Justice of the Supreme Court of Florida and his assistants, the Senators, the Secretary of the Senate and his assistants, the Sergeant At Arms and his assistants, the defendant and his attorney or attorneys, the House Managers and their attorneys, staff approved by the President, necessary court reporters, and witnesses called to testify in the case.

26. Admissions to the Gallery shall be by admission card only.

27. The taking of pictures, photographs, tape and other recordings, including movies, televisions and other pictures, and similar devices, are permitted in those areas of the Senate chamber and within the Senate Office Building designated and approved by the President of the Senate.

28. If necessary to meet the ends of justice, rules may be amended, or new rules may be adopted by a majority vote of the members of the Senate present.

29. The Senate, sitting as a Court of Impeachment, may recess for a period of time on any trial day upon motion adopted by a majority vote of the members present.

30. After testimony has commenced, in case of emergency, any member of the Senate may be excused from further duty in the Impeachment proceedings upon his request therefor being approved by a majority vote of the members of the Senate present, and upon being excused shall not further participate in said proceedings. Any such Senator shall file his reasons for his request to be excused in writing with the Secretary of the Senate and the same shall be incorporated in the transcript of the record. His absence shall not affect the results of the trial.

31. The presiding officer of the Court may, at least 15 days prior to the trial and upon timely notice to the Counsel for the Board of Managers of the House of Representatives and Defendant or his Counsel, conduct a pre-trial conference to consider and determine, but not limited to, procedural matters; the possibility of making admissions of fact and documents that would avoid unnecessary proof at the trial; the issues in the trial, and shall submit the matters resolved at the pre-trial conference to the Rules Committee on Impeachment of the Senate, who shall present the same to the Senate with recommendations.

32. The Rules of Evidence, the Florida Rules of Civil Procedure and the Florida Rules of Criminal Procedure, where applicable, shall apply, except where they are in conflict with the rules herein, and in such cases, the rules herein shall prevail, provided, however, that nothing in such rules shall delay or prevent the trial by the Senate sitting as a Court of Impeachment. Pre-trial discovery and other applicable Rules of Procedure may be limited by the Presiding Officer to avoid abuse or unnecessary delay.

33. Rules number 1, 5, 6, 8, 10, and 12 of the Rules of the Florida Senate, 1974-76, shall apply insofar as those rules are not in conflict with the rules herein which are as follows:

RULES OF THE FLORIDA SENATE

RULE ONE

OFFICERS, SENATORS, EMPLOYEES, AND ETHICS

PART ONE—OFFICERS OF THE SENATE

1.3—The President's control of Chamber, corridors, and rooms

The President shall preserve order and decorum and shall have general control of the Chamber, corridors, passages, and rooms of the Senate whether in the Capitol or elsewhere. In case of disturbance he may cause the area to be cleared. Unless authorized by the President, no food or newspapers shall be permitted in the Senate Chamber while the Senate is in session.

**1.4—The President's signature; questions of order; travel**

The President shall sign all acts. The President shall approve vouchers. He shall decide all questions of order, subject to an appeal by any Senator. The President is authorized to incur such travel and per diem expenses as are necessary in the preparation for the next session of the legislature. For the purposes of carrying on the financial business of the Senate, the President of the Senate and the Chairman of the Committee on Rules and Calendar shall have the power to assign duties and sign requisitions pertaining to legislative expenses incurred as authorized.

**1.7—Vacating chair; duties of President Pro Tempore**

(a) The President may name any Senator to perform the duties of the chair.

(b) Upon the death, disability or other absence of the President and his omission to make such appointment, the President Pro Tempore shall assume the duties of the chair.

(c) In the event the chair is vacated permanently, nothing herein shall preclude the Senate from designating a presiding officer.

(d) Upon the resignation of the President from that office, he may, prior to such resignation, designate a member of the majority party to assume the duties of the chair until a permanent successor is elected.

**1.8—Election of Secretary of the Senate**

The Secretary shall be under the supervision of the President of the Senate, who may assign additional duties to the Secretary from time to time. The Secretary shall be the enrolling and engrossing clerk of the Senate but may designate an assistant enrolling and engrossing clerk. The Secretary shall generally supervise all matters pertaining to Senate business.

**1.12—Reads papers, calls roll**

The Secretary shall have read to the Senate all papers ordered to be read; note responses of Senators when the roll is called to determine the presence of a quorum; call the roll and note the answers of Senators when a question is taken by yeas and nays; and assist, under the direction of the President, in taking the count when any vote of the Senate is taken by a show of hands or otherwise.

**1.13—Attests to warrants and subpoenas; certifies passage**

The Secretary shall attest to all writs, warrants, subpoenas, and authorizations for payment issued by order of the Senate and shall attest to the passage of all bills, resolutions, and memorials.

**1.19—Sergeant at Arms; election and duties**

The Sergeant at Arms shall attend the Senate during its sessions and maintain order under the direction of the President or other presiding officer; he shall execute the commands of the President of the Senate and of the Senate, and all processes issued by authority thereof. The Sergeant shall have charge of all property of the Senate and will disburse the expendable materials to Senators for their official use; he shall distribute the number of Journals and Calendars certified to him by the Secretary of the Senate. The Sergeant shall have general charge of the gallery of the Senate and shall maintain order therein and shall police the Chamber and committee rooms of the Senate and shall be responsible therefor.

**PART TWO—SENATORS****1.23—Members deemed present unless excused**

Any Senator who answers roll call at the opening of any session or who enters after roll call and announces his presence to the Senate shall thereafter be considered present unless leave of absence is obtained from the President.

**1.24—Contested seat**

In cases of contest concerning a seat in the Senate, notice setting forth the grounds of such contest shall be given by the contestant to the Senate prior to the day of the organization session of the legislature; and in such case, the contest shall be determined by majority vote as speedily as is reasonably possible. The President shall appoint a Credentials Committee to be composed of not more than ten (10) members who shall consider the question and report their recommendations to the President who shall inform the Senate.

**1.25—Facilities for members**

Each Senator shall be entitled to such facilities and expense as may be necessary and expedient to the fulfillment of the duties of the office, the location and sufficiency of which shall be determined by the President.

**PART THREE—EMPLOYEES OF THE SENATE****1.26—Dismissal of employees; services of spouse**

Disputes of complaints involving the competency or decorum of a Senate employee or attache, except those officers elected by it, may be resolved by the President who may terminate the services of any employee or attache for just cause, or in his discretion, may refer the matter to the Committee on Rules and Calendar for its recommendation. The pay of an employee so terminated shall stop upon the date of termination. Any Senator's spouse or immediate relatives may serve in any authorized position, provided, however, that said spouse or relative shall not receive compensation for services performed in said positions.

**1.27—Employees forbidden to lobby**

No employee or attache of the Senate shall directly or indirectly interest or concern himself or herself with the passage or consideration of any measure whatsoever. Violation of this rule by an employee or attache shall be grounds for summary dismissal. This rule shall not preclude the performance of such duties as may be properly delegated to a Senator's aide.

**1.28—Duties and hours**

Employees and attaches shall perform the duties assigned to them by the President and required of them by rule and custom of the Senate. When the Senate is in session, attaches and employees will remain on duty as required. When the Senate is not in session, permanent staff of the Senate shall observe the same hours of employment as regular capitol employees or in case of part-time employees and Senator's personal aides, such hours as may be prescribed by their department head.

**1.29—Absence without permission**

If employees are absent without prior permission save for just cause, their employment shall be terminated or their compensation forfeited for the period of absence as determined by the President.

**1.30—Political activity**

Senate employees shall be regulated concerning their political activity pursuant to section 110.092, Florida Statutes.

**1.31—Secretary; supervision of employees**

All secretaries, stenographers, typists, verifiers, and other clerical assistants not specifically assigned to a Senator, to a committee, or to a permanent office of the Senate shall be under the supervision of the Secretary.

**1.32—Sergeant at Arms; supervision of employees**

The doorkeepers, janitors, pages, messengers, and attaches, except where otherwise specifically provided in these Rules or by order of the President, shall be under the supervision of the Sergeant at Arms.

**PART FOUR—LEGISLATIVE CONDUCT AND ETHICS****1.33—Legislative conduct**

Every Senator shall so conduct himself to justify the confidence placed in him by the people and, by personal example and admonition to colleagues, shall maintain the integrity and responsibility of his office.

**1.34—Improper influence**

A Senator shall not accept anything which will improperly influence his official act, decision, or vote.

**1.35—Conflicting employment**

A member of the Senate shall not allow his personal employment to impair his independence of judgment in the exercise of his official duties in the public interest.

**1.36—Undue influence**

A member of the Senate shall not use his influence as a Senator in any matter which involves substantial conflict between his personal interest and his duties in the public interest.

**1.37—Disclosure and disqualification**

A Senator shall disclose any personal, private, or professional interest in a bill which would inure to his special private gain or the special gain of any principal to whom he is obligated. Such disclosure shall be filed with the Secretary of the Senate for reporting in the Journal immediately following the record of the vote on the measure. Such disclosure may explain the logic of voting or of his disqualification.

**1.38—Senate employees and conflicts**

Senate employees shall be accountable to the intent of this rule.

**1.39—Advisory opinions**

All questions relating to the interpretation and enforcement of these Rules touching upon legislative conduct and ethics shall be referred to the Committee on Rules and Calendar or shall emanate therefrom. A member of the Senate may submit a factual situation to the Committee on Rules and Calendar with a request for an advisory opinion establishing the standard of public duty. The Committee shall enter its opinion responding to each inquiry. All opinions shall, after hearing, be numbered, dated, and published in the Journal of the Senate. No opinion shall identify the requesting Senator without his consent.

**1.40—Penalties for violations**

Separately from any prosecutions or penalties otherwise provided by law, any Senator determined to have violated the requirements of the rule regulating ethics and conduct may be censured, reprimanded, or expelled. Such determination and disciplinary action shall be taken by a two-thirds (2/3) vote of the Senate, upon recommendation of the Committee on Rules and Calendar. The Committee, before making said recommendation, shall conduct a hearing after giving reasonable notice to the Senator alleged to have violated this rule and grant said Senator an opportunity to appear at the hearing.

**RULE FIVE****VOTING****5.1—Taking the Yeas and Nays**

The Presiding Officer shall declare all votes, but if five (5) Senators immediately question a vote by showing of hands, the Presiding Officer shall take the sense of the Senate by yeas and nays or electrical roll call. When taking yeas and nays on any question, the electrical roll call system may be used, and when so used shall have the force and effect of a roll call taken as provided in these Rules. This system likewise may be used to determine the presence of a quorum. When the Senate is ready to vote upon a question requiring a roll call, and the vote is by electrical roll call, the Presiding Officer shall state: "The Secretary will unlock the machine and Senators prepare to vote." When sufficient time has elapsed for each Senator to vote, the Presiding Officer shall say: "Have all voted?" And, after a short pause, shall state: "The Secretary shall now lock the machine and record the vote." When the vote is completely recorded, the Presiding Officer shall announce the result to the Senate; and the Secretary shall enter upon the Journal the result in the manner provided by these Rules. In all cases where the Senate shall be equally divided, the question shall be lost.

**5.2—Change of Vote**

After the result of the vote has been announced by the Presiding Officer, a Senator with unanimous consent may change his vote or vote on the measure except that no such change of vote or vote shall be valid where such vote would alter the final passage of the measure until the measure shall first have been recalled to the Senate for further consideration. Records of such requests shall be available at the Secretary's desk throughout the session. If no objections are raised before the close of business that day, requests will be accepted.

The original roll call shall not be altered but late votes and change of votes shall be recorded under the original roll call in the Journal. Upon request of a Senator prior to consideration of other business, the Presiding Officer shall order a verification of a vote.

**5.3—No Senator to Vote for Another**

No Senator shall vote for another Senator, nor shall any person not a Senator cast a vote for a Senator. In addition to such penalties as may be prescribed by law, any Senator who shall vote or attempt to vote for another Senator may be punished in such a manner as the Senate may deem proper. Any person not a Senator who shall vote wrongfully in the place of a Senator shall be excluded from the Chamber for the remainder of the session, in addition to such punishment as may be prescribed by law.

**5.5—Explanation of Vote**

No Senator shall be permitted to explain his vote during a roll call but may reduce his explanation to writing, upon filing with the Secretary, this explanation shall be spread upon the Journal.

**RULE SIX****MOTIONS AND PRECEDENCE****6.1—Motions: How Made, Withdrawn**

Every motion may be made orally. Upon request of the Presiding Officer, a Senator shall reduce his motion to writing. After a motion has been stated or read by the Presiding Officer, it shall be deemed to be in possession of the Senate, without a second, and shall be disposed of by vote of the Senate. The mover may withdraw a motion, except a motion to reconsider, as hereinafter provided, at any time before the same has been amended or before a vote thereon shall have been commenced.

**6.2—Motions: Precedence**

When a question is under debate, the Presiding Officer shall receive no motion except:

1. To adjourn
2. To take a recess
3. To proceed to the consideration of executive business
4. To reconsider
5. To limit debate
6. To temporarily pass
7. To postpone to a day certain
8. To commit to a select committee
9. To amend

The Presiding Officer shall propound all questions in the order in which they are moved unless the subsequent motion be previous in nature.

When any motion is under consideration, but prior to the commencement of the vote thereon, a substitute motion shall be in order. Only one substitute shall be entertained and the substitute shall be in the same order of precedence.

**6.3—Division of Question**

Any Senator may call for a division of a question when the sense will admit of it. A motion to strike out and insert shall be deemed indivisible; a motion to strike out, being lost, shall neither preclude amendment nor a motion to strike out and insert.

**6.4—Reconsideration Generally**

When a question, including a question relating to the vote on a veto message, has been decided by the Senate, any Senator voting with the prevailing side, or when a question has been decided by voice vote, any Senator, on the same or the next legislative day on which the Senate meets, may move the reconsideration thereof. Such motion may be made pending a motion to adjourn or if the time of adjournment has arrived. Consideration of a motion to reconsider shall be a special and continuing order of business for the Senate when it next meets on a legislative day succeeding that on which the motion was made and, unless considered on said day, shall be considered abandoned. If the Senate shall refuse to reconsider or, upon reconsideration, shall confirm its first decision, no further motion to reconsider shall be in order except upon unanimous consent. During the last five (5) days of a regular session, a motion to reconsider shall be made and considered

on the same day. When a majority of Senators present vote in the affirmative on any question but the proposition be lost because it is one in which the concurrence of more than a majority is necessary for adoption or passage, any Senator may move for reconsideration.

**6.5—Reconsideration: Vote Required**

The motion to reconsider shall require for its adoption the affirmative votes of a majority of the Senate present and voting.

**6.6—Reconsideration: Debate**

Debate shall be allowed on a motion to reconsider only when the question which it is proposed to reconsider is debatable. Where debate upon a motion is in order, no Senator shall speak thereon more than once nor for a period longer than five (5) minutes.

**6.7—Reconsideration: Collateral Matters**

A motion to reconsider a collateral matter must be disposed of during the course of the consideration of the main subject to which it is related, and such motion shall be out of order after the Senate has passed to other business.

**RULE EIGHT****DECORUM AND DEBATE****8.1—Decorum and Debate**

When any Senator desires to speak or deliver any matter to the Senate, he shall rise at his seat and respectfully address himself to Mr. Justice, and, on being recognized, may address the Senate from his desk or from the Well of the Senate, and shall confine himself to the question under debate, avoiding personality. A Senator shall not address or refer to another Senator by his or her first name. In all such cases, a Senator shall appropriately use the appellation of Senator or such appellation and the district number of the Senator being addressed, or he may also use such appellation and the surname of the Senator referred to or addressed.

**8.2—Presiding Officer's Power of Recognition**

When two (2) or more Senators rise at once, the presiding officer shall name the Senator who is first to be recognized.

**8.3—Interruptions: When Allowed**

No Senator shall be interrupted by another without the consent of the Senator who has the floor, except:

1. by rising to a question of privilege
2. by rising to a point of order requiring an immediate ruling
3. by appeal from the decision of the presiding officer concerning a point of order (if the appeal is made immediately following the decision)
4. a parliamentary inquiry requiring an immediate reply or a question of no quorum.

The presiding officer shall strictly enforce this Rule.

**8.4—Senator Speaking, Rights**

When a member is speaking and another member interrupts to request recognition, it is the right of the presiding officer to permit the person rising to state why he desires the floor; and if the question he desires to raise is entitled to precedence, the member originally speaking should relinquish the floor until the question having precedence is disposed of, but he is entitled to resume the floor as soon as the privileged

question has been disposed of. The Senator making a debatable motion or the primary introducer of a bill shall have five (5) minutes in order to close debate.

#### 8.5—Limit on Speaking

No Senator shall speak for any longer period of time than thirty (30) minutes without yielding the floor, except by consent of a majority of the Senators present.

#### 8.6—Limitation of Debate

When a measure is under debate by the Senate, it shall be in order for a Senator to move to limit debate, and such motion shall be decided without debate, except that the introducer of the measure shall have five (5) minutes within which to discuss said motion, and he may divide his time with, or waive it in favor of, some other member. If, by two-thirds (2/3) vote of the Senators present, the question is decided in the affirmative, debate shall be limited accordingly. The time allotted by such limitation shall be apportioned by the presiding officer equitably, provided, however, that the introducer of such measure shall be entitled to close.

#### 8.7—Points of Order, Parliamentary Inquiry, Definitions

A point of order is the parliamentary device that is used to require a deliberative body to observe its own rules and to follow established parliamentary practice. A parliamentary inquiry is the device for obtaining a predetermination of a rule or a clarification thereof and may be presented in hypothetical form.

#### 8.8—Questioning Right to Vote

A point of order questioning the right of a member to vote on account of interest may be raised after the vote has been recorded and before the result is announced.

#### 8.9—Appeals

The proper method of taking exception to a ruling of a presiding officer is by appeal. An appeal from a decision of the presiding officer must be made promptly, and before debate has concluded or other business has intervened. A point of order on any other question is not in order while an appeal is pending, but a point of order relating to the appeal may be raised; and, if the determination of the appeal is dependent on this point, it may be decided by the presiding officer. This second decision is also subject to appeal.

#### 8.10—Appeals, Debatable

An appeal from a decision of the presiding officer on a point of order is debatable even though the question out of which it arose was not debatable.

#### 8.11—Questions of Privilege

Questions of privilege shall be: first, those affecting the rights of the Senate collectively, its safety, dignity, and the integrity of its proceedings; and second, the rights, reputation, and conduct of Senators individually, in their representative capacity only. These shall have precedence over all other questions except motions to adjourn. The question shall not be recognized during the debate on a bill. A question of privilege affecting either house collectively takes precedence over a question of privilege affecting an individual member.

What is a question of privilege?

1. Questions which relate to the body or its members in such a manner as to affect proper functioning of the body are questions of privilege. It is necessary that these questions be under the immediate control of the body. They relate

to the rights and privileges of the body or any of its members in their official capacity, or to the comfort and convenience of the body or its members in the performance of their official duties.

2. "Questions of privilege" should be distinguished from "privileged questions" which is a class of motions having the highest precedence.

3. Questions of privilege are of two types: They may relate to the privilege of the entire body, which are known as questions of "privilege of the house", and questions of "privilege" which relate to a member, which are known as questions of "personal privilege". In case of conflict, questions of privilege of the house take precedence over questions of personal privilege.

### RULE TEN

#### CHAMBER OF THE SENATE

#### 10.5—Attire

All male persons on the main floor of the Senate and in the gallery (with the exception of visitors in that portion of the gallery set aside for the general public) shall wear coats and ties at all times while the Senate is in session.

### RULE ELEVEN

#### CONSTRUCTION AND WAIVER OF RULES

#### 11.1—Interpretation of Rules

It shall be the duty of the President, or the presiding officer for the time being, to interpret all rules. Motions for the previous question and to lay upon the table shall not be entertained.

#### 11.6—General

When used in these Rules, the following words shall, unless the text otherwise indicates, have the following respective meaning: (a) the singular always includes the plural, (b) the masculine always includes the feminine. Except where specifically provided otherwise, the use of the word "bill" or "measure" means a bill, joint resolution, concurrent resolution, resolution or memorial.

### RULE TWELVE

#### EXECUTIVE SESSIONS, APPOINTMENTS, SUSPENSIONS AND REMOVALS

#### 12.1—Executive Session: Authority

The business of the Senate shall be transacted openly and not in executive session except under conditions pursuant to article III, section 4(b) of the Constitution of Florida.

#### 12.2—Executive Session: Purpose

Pursuant to article III, section 4(b), of the Constitution of Florida, the Senate may resolve itself into executive session for the sole purpose of considering appointment, removal, or suspension during which no one shall be in attendance except Senators and the Secretary of the Senate, who shall be sworn not to disclose any executive business without consent of the Senate.

#### 12.3—Executive Session: Vote Required

When the Senate agrees, by a majority of Senators present, that specified appointments, removals, or suspensions shall be considered in executive session, such shall be accordingly calendared for formal consideration by the Senate.

#### 12.4—Work Product Confidentiality

All information and remarks including committee work product concerning the character and qualification, together with the vote on each appointment, removal or suspension considered in executive session shall be kept a secret except so much thereof upon which the bans of secrecy shall have been specifically lifted by the Senate while in executive session.

#### 12.5—Separate Journal

A separate Journal shall be kept of executive proceedings of the Senate and no information regarding same shall be made public except by order of the Senate or by order of a court of competent jurisdiction.

#### 12.6—Violation of Rule

Violations of the above Rule as to the secrecy of the proceedings of executive sessions shall be considered by the Senate as sufficient grounds for the unseating of the offending Senator.

On motion by Senator Brantley the rules of procedure and practice of the Senate while sitting on the trial of impeachments, as read, were adopted by the following vote:

Yeas—39

Barron	Graham	Peterson	Thomas, J.
Brantley	Hair	Plante	Thomas, P.
Childers, D.	Henderson	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Trask
Deeb	Johnston	Saunders	Vogt
Dunn	Lane, J.	Sayler	Ware
Firestone	Lewis	Scarborough	Wilson
Gallen	MacKay	Sims	Winn
Glisson	McClain	Spicola	Zinkil
Gordon	Myers	Stolzenburg	

Nays—None

**Senator Barron:** Mr. Chief Justice, would you now advise the members of the Senate that they should not discuss these impeachment proceedings with the press or anyone else. They will be asked questions in interviews for instance that might elicit an opinion from them and I certainly would not want anyone to inadvertently make a mistake by answering any matter dealing with the merits of this case.

**The Chief Justice:** Thank you, Mr. President. With the Senate's consent, I would like to say a few words.

The people of Florida, by our Constitution, have placed upon your shoulders the awesome responsibility of determining whether or not an elected officer of the state should be impeached. You are both judge and jury.

This will call for a lot of thinking within yourselves. When we begin our proceedings in September, it will call for much patience and much understanding in order to go through the technicalities of an impeachment proceeding.

You who have been doing so well as Senators in legislative problems are now assuming a new role in state government. The role of a judge is not easy. The role of a juror is even worse. There are times when perhaps you might think one way or the other and think perhaps the case ought to go this way or it ought to go that way. Remove such thought from your mind.

People will be quite anxious to discuss this matter with you because they are not aware of your responsibility. They are not aware of the fact that you are not supposed to discuss the case with anyone. You will get correspondence from people.

You will see things on television. You will read newspaper reports. During all of this you must remember that at all times you must be objective; you must always be impartial and, above all, you must not make up your mind.

Any time that you read something or any time that you see something, please do not form or express any opinion. This is extremely important in order to see that the officer receives a fair and impartial trial. For a fair and impartial trial does not only mean that you are, in fact, within your own mind giving this individual such a trial. It must have all of the appearances of a fair and impartial trial.

I am sure this Senate would not want to place itself in the position of having members of the Senate express their opinions, inadvertently perhaps, during the months to follow and then be castigated because you had already formed or expressed some opinion before you heard the merits of the case. So, even as a matter of inadvertence, guard yourself against forming any opinion or expressing one.

Lobbying is a wonderful thing, I believe, in the legislative process. It is instructive and it is helpful when properly used. But you are no longer in the legislative process. You have become judges and jurors. In this capacity lobbying has no place whatsoever. If at any time you should be contacted or anyone should make any effort to try to influence you in any way in your prospective deliberations, do not hesitate to notify me as the Chief Justice and I certainly will take appropriate steps to see that such a thing does not happen again.

Above all, do not form any opinion; do not express any opinion. Wait until you have heard all of the evidence and you have begun your deliberations and it is only then that you should begin thinking of forming any opinion or determination in this matter.

I am looking forward to working with you during this trial. It will be a tedious affair. Tempers will be short, they always are, and there will be times perhaps when we might seem to get a little disgusted with each other, but this above all, be patient. And if you are patient, and if you listen carefully you will find that anything can develop to such an extent that you will probably have no problem in making a final determination.

Senator Barron moved that the foregoing remarks of the presiding Chief Justice be spread upon the Journal and copy thereof be furnished to each Senator. The motion was adopted unanimously.

Senator Brantley moved that the Senate sitting as a Court of Impeachment for the purpose of trying Articles of Impeachment preferred against Honorable Thomas D. O'Malley, recess until 11:00 a.m., Tuesday, September 16, 1975.

The motion was adopted by the following vote:

Yeas—39

Barron	Graham	Peterson	Thomas, J.
Brantley	Hair	Plante	Thomas, P.
Childers, D.	Henderson	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Trask
Deeb	Johnston	Saunders	Vogt
Dunn	Lane, J.	Sayler	Ware
Firestone	Lewis	Scarborough	Wilson
Gallen	MacKay	Sims	Winn
Glisson	McClain	Spicola	Zinkil
Gordon	Myers	Stolzenburg	

Nays—None

Whereupon, at 7:00 p.m., the Senate, sitting as a Court of Impeachment, adjourned until 11:00 a.m., September 16, 1975.