

THE FLORIDA SENATE
SITTING AS COURT OF IMPEACHMENT

ADDENDUM

July 29, 1975

**Disposition by the Chief Justice
of Articles of Impeachment Against
State Treasurer O'Malley**

IN THE SENATE OF THE STATE
OF FLORIDA SITTING AS A
COURT OF IMPEACHMENT.

above referenced proceedings that he is considering resigning the office he is now holding of Insurance Commissioner and Treasurer of the State of Florida, and

IN RE:

**THOMAS D. O'MALLEY, INSURANCE
COMMISSIONER AND TREASURER OF
THE STATE OF FLORIDA.**

WHEREAS, the Board of Managers of the House of Representatives have advised the undersigned attorney for Thomas D. O'Malley that in the event of said resignation, that the impeachment proceedings now pending herein will be dismissed and that there will be no further prosecution of the foregoing Articles of Impeachment now pending herein.

MOTION TO DISMISS

NOW, THEREFORE, it is stipulated and agreed between the Respondent, Thomas D. O'Malley, through his undersigned attorneys, and the Board of Managers of the House of Representatives, through its undersigned attorney, who are charged with the responsibility to manage, present and prosecute the now pending Articles of Impeachment at the trial in the Senate as follows:

The Board of Managers, representing the House of Representatives, through its undersigned attorney, and pursuant to Court of Impeachment Rules of Practice and Procedure, moves the Court to dismiss the Articles of Impeachment on the following grounds:

1. That the undersigned attorneys for Respondent, Thomas D. O'Malley, are authorized by Thomas D. O'Malley to enter into this Stipulation.

1. That Thomas D. O'Malley, Insurance Commissioner and Treasurer of the State of Florida has submitted his resignation to the Governor; creating a vacancy in office pursuant to Article X, Section 3, Florida Constitution.

2. That the Board of Managers of the House of Representatives, through its undersigned attorney and pursuant to the provisions of Section 5 of the Articles of Impeachment, HR 2334 of the Florida House of Representatives, being authorized and directed thereby to manage, present and prosecute the Articles of Impeachment now pending herein, are authorized thereby to enter into this agreement, and have the authority to agree to the matters set forth herein.

2. That the Governor has accepted the said resignation and has full authority to appoint a successor pursuant to Article IV, Section 1 (f), Florida Constitution.

3. That upon the filing, acceptance by the Governor and the recording of the resignation of Thomas D. O'Malley as Insurance Commissioner and Treasurer of the State of Florida, the office to which he has been duly elected, qualified and commissioned, that the Board of Managers of the House of Representatives shall forthwith move for and secure the dismissal of the Articles of Impeachment and proceedings pending herein against Thomas D. O'Malley, discharging the Respondent from said Articles of Impeachment.

3. That said resignation is effective immediately and continuous until Inauguration Day, 1979.

4. That upon the completed resignation of Thomas D. O'Malley aforesaid, the impeachment proceedings now pending herein will be terminated and that there will be no further prosecution of the foregoing Articles of Impeachment against Respondent.

4. That attorneys for Thomas D. O'Malley and the Board of Managers have agreed by Stipulation attached hereto and incorporated by reference herein that upon the filing, acceptance by the Governor and the recording of the resignation by Thomas D. O'Malley from the office of Insurance Commissioner and Treasurer of the State of Florida, this Motion seeking a dismissal of the Articles of Impeachment will be filed with this Court.

WHEREFORE, the Board of Managers respectfully move this Court to dismiss the Articles of Impeachment against Thomas D. O'Malley, Insurance Commissioner and Treasurer of the State of Florida.

Respectfully submitted this 29th day of July, 1975.

STIPULATED AND AGREED to at Tallahassee, Leon County, Florida, this 29 day of July, 1975.

**BOARD OF MANAGERS
FLORIDA HOUSE OF
REPRESENTATIVES**

BY *Marvin L. Rudnick*
Marvin L. Rudnick, Esquire
207 Capitol
Tallahassee, Florida, 32304
Attorney for Board of Managers

**BOARD OF MANAGERS OF THE
HOUSE OF REPRESENTATIVES
OF THE STATE OF FLORIDA**

BY: *Marvin L. Rudnick*
Marvin L. Rudnick
Counsel to the Board of Managers

I HEREBY CERTIFY that a copy of the foregoing has been furnished by Hand this 29th day of July, 1975, to Edward M. Booth, Esquire, Attorney for Thomas D. O'Malley, Insurance Commissioner and Treasurer of the State of Florida.

ARNOLD, STRATFORD AND BOOTH
2508 Gulf Life Tower
Jacksonville, Florida, 32207

Marvin L. Rudnick
Marvin L. Rudnick, Esquire

BY: *Edward M. Booth*
Edward M. Booth

STIPULATION

ORDER

WHEREAS, THOMAS D. O'MALLEY, has advised the Board of Managers of the House of Representatives in the

The Board of Managers representing the House of Representatives in this matter of the Impeachment of Thomas D.

O'Malley, Insurance Commissioner and Treasurer of the State of Florida, has moved this Senate sitting as a Court of Impeachment, that Articles of Impeachment be dismissed against said Commissioner.

The Board of Managers show unto the Court of Impeachment that Commissioner O'Malley has submitted his resignation to the Governor of the State of Florida, thus, creating a vacancy in office pursuant to *Fla. Const.*, art. X, § 3, F.S.A., that the Governor has accepted the resignation and now has the authority to appoint a successor pursuant to *Fla. Const.*, art. IV, § 1(f), F.S.A.; and that the resignation is effective immediately and continues uninterrupted until Inauguration Day, 1979.

It appears from the provisions of a stipulation entered into between the attorney for the Board of Managers of the House of Representatives and the attorney for Thomas D. O'Malley that the prosecution of said Thomas D. O'Malley will not be carried forward by the Board of Managers because of the resignation of Commissioner O'Malley. The stipulation was entered into with a mutual understanding and agreement that same would be effective only if Commissioner O'Malley resigned and the impeachment proceedings were dismissed.

Therefore, under the circumstances, the convening of the Court of Impeachment on September 16, 1975, would be a fruitless and useless procedure incurring additional and unnecessary expense to the State of Florida. Many Senators have concurred in the view that some method should be followed whereby these proceedings could be dismissed without the further convening of the Senate as a Court of Impeachment. The undersigned, as presiding officer under the provisions of *Fla. Const.*, art. III, § 17(c), F.S.A., finds, from the above, that the trial of Commissioner O'Malley by the Court of Impeachment could not take place without the appearance and advocacy of the Board of Managers of the House of Representatives charged with the prosecution. Therefore, the impeachment proceedings are ineffective and should be dismissed.

IT IS THEREFORE, ORDERED that the Board's Motion to Dismiss is hereby granted; that Articles of Impeachment

against Thomas D. O'Malley, Insurance Commissioner and Treasurer of the State of Florida, be dismissed with prejudice, the resignation having taken effect upon the Governor's acceptance of same.

DATED this 29th day of July, A.D. 1975, at Tallahassee, Leon County, Florida.

James C. Adkins
James C. Adkins
Chief Justice

Resignation

July 29, 1975

Honorable Reubin O'D. Askew
Governor, State of Florida
Tallahassee, Florida

Dear Governor Askew:

I hereby resign from the Office of Insurance Commissioner and Treasurer of the State of Florida effective July 29, 1975.

I respectfully request that my resignation be accepted immediately in order that you may proceed to the appointment of a successor to this office, pursuant to Article IV, §1 (f) of the Florida Constitution.

Sincerely yours,

Thomas D. O'Malley

Thomas D. O'Malley

Resignation accepted effective, this 29th day of July, 1975.

J. H. Williams
Lt. Governor