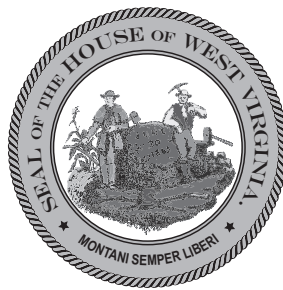


West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Second Legislature
Second Extraordinary Session

Held at Charleston
Published by the Clerk of the House



August 13, 2018
SECOND DAY

Monday, August 13, 2018

SECOND DAY

[MR. SPEAKER PRO TEMPORE, MR. OVERINGTON, IN THE CHAIR]

Pursuant to the June 26, 2018 motion to adjourn and the August 7, 2018 letter from the Speaker Pro Tempore, the House of Delegates was called to reconvene the Second Extraordinary session on Monday, August 13, 2018 at 10:00 a.m.

The House was called to order by the Honorable John Overington, Speaker Pro Tempore.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

**Messages from the Executive
and other Communications**

The following communications were laid before the House of Delegates and read by the Clerk:

July 19, 2018

Tim Armstead, Speaker, West Virginia House of Delegates
West Virginia State Capitol
Office of the Speaker of the House
1900 Kanawha Blvd., East
Charleston, West Virginia 25305

Subject: Resignation from the House of Delegates

Mr. Speaker:

It is with profound regret that I must resign from the 16th House District, West Virginia House of Delegates seat to which I was elected in 2016, and that my resignation is effective July 13, 2018. Due to personal and health reasons, Phyllis and I have moved to a retirement community that is outside of the 16th District.

I have been honored and blessed to have served 5 terms in the House over a 50 year period. The people that I have met and worked with over the years have become life long friends. Having the opportunity to be a part of this body has been a privilege that new people in our state get to experience. To serve the people of West Virginia for most of 10 years has been a singular honor.

Serving with you and my fellow Delegates, on and off since 1968, has been some of the most rewarding times of our lives and we are grateful to the people of the 16th District as well as all the staff and other elected officials in the state government for the high privilege of public service.

Sincerely,

C. E. Romine, Jr.

Jim Justice
Governor of the State of West Virginia
August 1, 2018

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Pursuant to W. Va. Code §3-10-5, I have this day appointed Daniel Linville, Post Office Box 475, Milton, Cabell County, West Virginia 25541, as a Delegate representing the Sixteenth District of the House of Delegates, to fill the vacancy created by the resignation of the Honorable C. E. Romine.

Sincerely,

Jim Justice,
Governor.

The Clerk announced that Delegate Linville had taken the oath of office as prescribed by Section 16, Article VI of the Constitution of the State of West Virginia on August 3, 2018.

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 602**), and 94 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Hamrick, Hornbuckle, Miley, Moye, Phillips and Storch.

The Clerk proceeded to read the Journal of Tuesday, June 26, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

At 10:13 a.m., on motion of Delegate Cowles, the House of Delegates recessed until 10:45 a.m.

* * * * *

Morning Session

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-continued-

The House of Delegates was called to order by the Honorable John Overington, Speaker Pro Tempore.

Committee Reports

On motion for leave, a resolution was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it be adopted), which was read by its title, as follows:

By Delegate Shott:

H. R. 202 - "Relating to the impeachment of Chief Justice Margaret Workman, Justice Allen Loughry, Justice Robin Davis, and Justice Elizabeth Walker, Justices of the Supreme Court of Appeals of West Virginia, for maladministration, corruption, incompetency, neglect of duty, and high crimes and misdemeanors committed in their capacity and by virtue of their offices as Justices of the Supreme Court of Appeals of West Virginia."

Resolved by the House of Delegates:

BE IT RESOLVED, That, pursuant to the authority granted by the House of Delegates of West Virginia to the House Committee on the Judiciary in House Resolution 201, dated June 26, 2018, the Committee on the Judiciary recommends to the House of Delegates of West Virginia:

THAT, pursuant to the authority granted to the House of Delegates in Section 9, Article IV of the Constitution of the State of West Virginia, that Chief Justice Margaret Workman, Justice Allen Loughry, Justice Robin Davis, and Justice Elizabeth Walker, Justices of the Supreme Court of Appeals of West Virginia, be impeached for maladministration, corruption, incompetency, neglect of duty, and certain high crimes and misdemeanors committed in their capacity and by virtue of their offices as Justices of the Supreme Court of Appeals of West Virginia, and that said Articles of Impeachment, being fourteen in number, be and are hereby adopted by the House of Delegates, and that the same shall be exhibited to the Senate in the following words and figures, to wit:

ARTICLES exhibited by the House of Delegates of the State of West Virginia in the name of themselves and all of the people of the State of West Virginia against:

Margaret Workman, who was at the general election held in November 2008, duly elected to the office of Justice of the Supreme Court of Appeals of West Virginia and on the 29th day of December 2008, after having duly qualified as a Justice by taking the required oath to support the Constitution of the United States and the Constitution of the State of West Virginia and faithfully discharge the duties of that office to the best of her skill and judgment, entered upon the discharge of the duties thereof; and on the 16th day of February 2018, was elevated to the position of Chief Justice and entered upon the discharge of the duties thereof; and

Allen Loughry, who was at the general election held in November 2012, duly elected to the office of Justice of the Supreme Court of Appeals of West Virginia and on the 14th day of December 2012, after having duly qualified as a Justice by taking the required oath to support the Constitution of the United States and the Constitution of the State of West Virginia and faithfully discharge the duties of that office to the best of his skill and judgment, entered upon the discharge of the duties thereof; and

Robin Davis, who was at the general election held in November 2012 duly elected to the office of Justice of the Supreme Court of Appeals of West Virginia and on the 13th day of January 2013, after having duly qualified as a Justice by taking the required oath to support the Constitution of the United States and the Constitution of the State of West Virginia and faithfully discharge the duties of that office to the best of her skill and judgment, entered upon the discharge of the duties thereof; and

Elizabeth Walker, who was at the general election held in November 2016 duly elected to the office of Justice of the Supreme Court of Appeals of West Virginia and on the 5th day of December 2016, after having duly qualified as a Justice by taking the required oath to support the Constitution of the United States and the Constitution of

the State of West Virginia and faithfully discharge the duties of that office to the best of her skill and judgment, entered upon the discharge of the duties thereof; and

In maintenance and support of their impeachment against them Margaret Workman, Allen Loughry, Robin Davis, and Elizabeth Walker for maladministration, corruption, incompetency, neglect of duty, and certain high crimes and misdemeanors.

Article I

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

Article II

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

Article III

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

Article IV

That the said Chief Justice Margaret Workman, and Justice Robin Davis, being at all times relevant Justices of the Supreme Court of Appeals of West Virginia, and at various relevant times individually each Chief Justice of the Supreme Court of Appeals of West Virginia unmindful of the duties of their high offices, and contrary to the oaths taken by them to support the Constitution of the State of West Virginia and faithfully discharge the duties of their offices as such Justices, while in the exercise of the functions of the office of Justices, in violation of their oaths of office, then and there, with regard to the discharge of the duties of their offices, commencing in or about 2012, did knowingly and intentionally act, and each subsequently oversee in their capacity as Chief Justice, and did in that capacity as Chief Justice severally sign and approve the contracts necessary to facilitate, at each such relevant time, to overpay certain Senior Status Judges in violation of the statutory limited maximum salary for such Judges, which overpayment is a violation of the provisions of W.Va. Code §51-2-13 and W.Va. Code §51-9-10, and, in violation of an Administrative Order of the Supreme Court of Appeals, in potential violation of the provisions of W.Va. Code §61-3-22, relating to the crime of falsification of accounts with intent to enable or assist any person to obtain money to which he was not entitled, and in potential violation of the provisions of W.Va. Code §5-10-45, relating to the crime of fraud against the West Virginia Public Employees Retirement System, and, in potential violation of the provisions set forth in W.Va. Code §61-3-24, relating to the crime of obtaining money, property and services by false pretenses, and, all of the above are in violation of the provisions of Canon I and Canon II of the West Virginia Code of Judicial Conduct.

Article V

That the said Justice Robin Davis, being at all times relevant a Justice of the Supreme Court of Appeals of West Virginia, and at certain relevant times individually Chief Justice of the Supreme Court of Appeals of West Virginia, unmindful of the duties of her high offices, and contrary to the oaths taken by her to support the Constitution of the State of West Virginia and faithfully discharge the duties of his office as such Justice, while in the exercise of the functions of the office of Justice, in violation of her oath of office, then and there, with regard to the discharge of the duties of her office, did in the year 2014, did in her capacity as Chief Justice, sign certain Forms WV 48, to retain and compensate certain Senior Status Judges the execution of which forms allowed the Supreme Court of Appeals to overpay those certain Senior Status Judges in violation of the statutorily limited maximum salary for such Judges, which overpayment is a violation of the provisions of W.Va. Code §51-2-13 and W.Va. Code §51-9-10; her authorization of such overpayments was a violation of the clear statutory law of the state of West Virginia, as set forth in those relevant Code sections, and, was an act in potential violation of the provisions set forth in W.Va. Code §61-3-22, relating to the crime of falsification of accounts with intent to enable or assist any person to obtain money to which he was not entitled, and in potential violation of the provisions of W.Va. Code §5-10-45, relating to the crime of fraud against the West Virginia Public Employees Retirement System, and, in potential violation of the provisions set forth in W.Va. Code §61-3-24, relating to the crime of obtaining money, property and services by false pretenses, and all of the above are in violation of the provisions of Canon I and Canon II of the West Virginia Code of Judicial Conduct.

Article VI

That the said Justice Margaret Workman, being at all times relevant a Justice of the Supreme Court of Appeals of West Virginia, and at certain relevant times individually Chief Justice of the Supreme Court of Appeals of West Virginia, unmindful of the duties of her high offices, and contrary to the oaths taken by her to support the Constitution of the State of West Virginia and faithfully discharge the duties of his office as such Justice, while in the exercise of the functions of the office of Justice, in violation of her oath of office, then and there, with regard to the discharge of the duties

of her office, did in the year 2015, did in her capacity as Chief Justice, sign certain Forms WV 48, to retain and compensate certain Senior Status Judges the execution of which forms allowed the Supreme Court of Appeals to overpay those certain Senior Status Judges in violation of the statutorily limited maximum salary for such Judges, which overpayment is a violation of the provisions of W.Va. Code §51-2-13 and W.Va. Code §51-9-10; her authorization of such overpayments was a violation of the clear statutory law of the state of West Virginia, as set forth in those relevant Code sections, and, was an act in potential violation of the provisions set forth in W.Va. Code §61-3-22, relating to the crime of falsification of accounts with intent to enable or assist any person to obtain money to which he was not entitled, and in potential violation of the provisions of W.Va. Code §5-10-45, relating to the crime of fraud against the West Virginia Public Employees Retirement System, and, in potential violation of the provisions set forth in W.Va. Code §61-3-24, relating to the crime of obtaining money, property and services by false pretenses, and all of the above are in violation of the provisions of Canon I and Canon II of the West Virginia Code of Judicial Conduct.

Article VII

That the said Justice Allen Loughry, being at all times relevant a Justice of the Supreme Court of Appeals of West Virginia, and at that relevant time individually Chief Justice of the Supreme Court of Appeals of West Virginia, unmindful of the duties of his high offices, and contrary to the oaths taken by him to support the Constitution of the State of West Virginia and faithfully discharge the duties of his office as such Justices, while in the exercise of the functions of the office of Justice, in violation of his oath of office, then and there, with regard to the discharge of the duties of his office, did on or about May 19, 2017, did in his capacity as Chief Justice, draft an Administrative Order of the Supreme Court of Appeals, bearing his signature, authorizing the Supreme Court of Appeals to overpay certain Senior Status Judges in violation of the statutorily limited maximum salary for such Judges, which overpayment is a violation of the provisions of W.Va. Code §51-2-13 and W.Va. Code §51-9-10; his authorization of such overpayments was a violation of the clear statutory law of the state of West Virginia, as set forth in those relevant Code sections, and, was an act in potential violation of the provisions set forth in W.Va. Code §61-3-22, relating to the crime of falsification of accounts with intent to enable or assist any person to obtain money to which he was not entitled, and in potential violation of the provisions of W.Va. Code §5-10-45, relating to the crime of fraud against the West Virginia Public Employees Retirement System, and, in potential violation of the provisions set forth in W.Va. Code §61-3-24, relating to the crime of obtaining money, property and services by false pretenses, and all of the above are in violation of the provisions of Canon I and Canon II of the West Virginia Code of Judicial Conduct.

Article VIII

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

Article IX

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

Article X

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

Article XI

That the said Justice Allen Loughry, being a Justice of the Supreme Court of Appeals of West Virginia, unmindful of the duties of his high office, and contrary to the oaths taken by him to support the Constitution of the State of West Virginia and faithfully discharge the duties of his office as such Justice, while in the exercise of the functions of the office of Justice, in violation of his oath of office, then and there, with regard to the discharge of the duties of his office, direct that personal pictures and items be placed in customized picture frames and be paid for by state monies, and these items were subsequently removed from his state office and converted to his personal use and benefit, which acts constitute the use of state resources and property for personal gain in violation of the provisions of W.Va. Code §6B-2-5.

Article XII

That the said Justice Elizabeth Walker, being a Justice of the Supreme Court of Appeals of West Virginia, unmindful of the duties of her high office, and contrary to the oaths taken by her to support the Constitution of the State of West Virginia and faithfully discharge the duties of her office as such Justice, while in the exercise of the functions of the office of Justice, in violation of her oath of office, then and there, with regard to the discharge of the duties of her office, did waste state funds with little or no concern for the costs to be borne by the tax payer for unnecessary and lavish spending in the renovation and remodeling of her personal office, which had been largely remodeled less than seven years prior, to the sum of approximately \$131,000, which sum included, but is not limited to, the purchase of approximately \$27,000 in items listed as office furnishings and wallpaper, and other such

wasteful expenditure not necessary for the administration of justice and the execution of the duties of the Court, which represents a waste of state funds.

Article XIII

That the said Chief Justice Margaret Workman, being a Justice of the Supreme Court of Appeals of West Virginia, unmindful of the duties of her high office, and contrary to the oaths taken by her to support the Constitution of the State of West Virginia and faithfully discharge the duties of her office as such Justice, while in the exercise of the functions of the office of Justice, in violation of her oath of office, then and there, with regard to the discharge of the duties of her office, did waste state funds with little or no concern for the costs to be borne by the tax payer for unnecessary and lavish spending in the renovation and remodeling of her personal office, to the sum of approximately \$111,000, which sum included, but is not limited to, the purchase of wide plank cherry flooring, and other such wasteful expenditure not necessary for the administration of justice and the execution of the duties of the Court, which represents a waste of state funds.

Article XIV

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

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

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

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

WHEREFORE, the said Chief Justice Margaret Workman, Justice Allen Loughry, Justice Robin Davis, and Justice Elizabeth Walker, Justices of the Supreme Court of Appeals of West Virginia, failed to discharge the duties of their offices, and were and are guilty of maladministration, corruption, incompetency, neglect of duty, and certain high crimes and misdemeanors.

And the House of Delegates of West Virginia, saving to themselves the liberty and rights of exhibiting at any time hereafter any further Articles of Impeachment against the said Chief Justice Margaret Workman, Justice Allen Loughry, Justice Robin Davis, and Justice Elizabeth Walker, Justices of the Supreme Court of Appeals of West Virginia, individually and collectively, as aforesaid, and also of replying to their answers which they may make unto the Articles herein proffered against them, and of offering proof to any all of the Articles herein contained, and every part thereof, and to all an every other Article, accusation, or impeachment, which shall be exhibited by the said House of Delegates as the case may require, do demand that the said Chief Justice Margaret Workman, Justice Allen Loughry, Justice Robin Davis, and Justice Elizabeth Walker, Justices of the Supreme Court of Appeals of West Virginia, individually and collectively, as aforesaid, may be put to answer the of maladministration, corruption, incompetency, neglect of duty, and certain high crimes and misdemeanors herein charged against them, and that such proceedings, examinations, trials, and judgments, may be thereupon had, given and taken, as may be agreeable to the Constitution and the laws of the State of West Virginia, and as justice may require.

We, John Overington, Speaker Pro Tempore of the House of Delegates of West Virginia, and Stephen J. Harrison, Clerk thereof, do certify that the above and foregoing Articles of Impeachment proffered by said House of Delegates against Chief Justice Margaret Workman, Justice Allen Loughry, Justice Robin Davis, and Justice Elizabeth Walker, Justices of the Supreme Court of Appeals of West Virginia, individually and collectively, as aforesaid, were adopted by the House of Delegates on the ---- day of -----2018.

In Testimony Whereof, we have signed our names hereunto, this the ---- day of -----2018.

At the respective requests of Delegate Cowles, and by unanimous consent, the report of the Committee on the Judiciary preparing Articles of Impeachment and the resolution effectuating the same were taken up for immediate consideration.

Delegate Cowles asked and obtained unanimous consent that the question be divided and that each Article be voted upon separately.

Consideration of Article I

Delegate Fast moved to amend Article I on line ten, after the period, by adding:

“Realizing the West Virginia Supreme Court of Appeals has, pursuant to the West Virginia Constitution, the sole authority as an equal branch of government to operate its own budget, The House of Delegates recommends, upon a conviction under this Article of Impeachment, a public censureship.”

On the adoption of the amendment, Delegate Fast demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 603**), and there were--yeas 5, nays 91, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Blair, Ellington, Fast, Graves and Summers.

Absent and Not Voting: Miley, Phillips, Storch and Mr. Speaker (Mr. Armstead).

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

Mr. Speaker, Mr. Armstead, arose from his seat and renewed his request to be excused from voting under the provisions of House Rule 49.

The Speaker Pro Tempore replied that, as was determined previously, any impact on Mr. Armstead would be as a member of a class of persons possibly to be affected and refused to excuse him from voting.

Speaker Pro Tempore Overington further stated that this would also apply to those Delegates who had previously made similar inquiries, for the rest of the impeachment votes today and in the future.

The question being on the adoption of Article I, Delegate Folk demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 604**), and there were--yeas 64, nays 33, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Anderson, Barrett, Bates, Blair, Brewer, Campbell, Caputo, Cowles, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Graves, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Kelly, Longstreth, Love, Lovejoy, Lynch, R. Miller, Moye, Pethtel, Pushkin, Pyles, Rowe, Sponaule, Thompson and Williams.

Absent and Not Voting: Miley, Phillips and Storch.

So, a majority of the members present and voting having voted in the affirmative, Article I was adopted.

At 1:16 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 2:00 p.m.

* * * * *

Afternoon Session

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The House of Delegates was called to order by the Honorable John Overington, Speaker Pro Tempore.

Consideration of Article II

Delegate Fast moved to amend Article II on line eleven, after the period by adding:

“Realizing the West Virginia Supreme Court of Appeals has, pursuant to the West Virginia Constitution, the sole authority as an equal branch of government to operate its own budget, The House of Delegates recommends, upon a conviction under this Article of Impeachment, a public censureship.”

Delegate Robinson was addressing the House when Delegate Howell arose to a point of order regarding the content of the remarks by the Delegate.

Speaker Pro Tempore Overington replied cautioning the Delegate to be respectful in his observations.

Delegate Frich had been recognized to ask questions when Delegate Marcum arose to a point of order regarding the content of the remarks by the Delegate.

The Speaker Pro Tempore reminded the Delegate to confine remarks to the question before the House.

The question being on the adoption of Article II, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 605**), and there were--yeas 56, nays 41, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Anderson, Barrett, Bates, Blair, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Cowles, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Graves, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Kelly, Longstreth, Love, Lovejoy, Lynch, Marcum, R. Miller, Moye, Pethel, Pushkin, Pyles, Robinson, Rowe, Sponaugle, Thompson, White and Williams.

Absent and Not Voting: Miley, Phillips and Storch.

So, a majority of the members present and voting having voted in the affirmative, Article II was adopted.

Consideration of Article III

The question being on the adoption of Article III, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been demanded, they were taken (**Roll No. 606**), and there were--yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Miley, Phillips and Storch.

So, a majority of the members present and voting having voted in the affirmative, Article III was adopted.

Consideration of Article IV

On motion of Delegate Shott, Article IV was amended on line twelve, after the words "violation of", by inserting "Article VIII, § 7 of the West Virginia Constitution, stating that Judges 'shall receive the salaries fixed by law' and".

And,

On line fifteen, immediately following the words "not entitled," by deleting "and in potential violation of the provisions of W.Va. Code §5-10-45, relating to the crime of fraud against the West Virginia Public Employees Retirement System,".

The question being on the adoption of Article IV, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been demanded, they were taken (**Roll No. 607**), and there were-- yeas 62, nays 34, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hornbuckle, Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rohrbach, Rowe, Sponaule, Thompson and Williams.

Absent and Not Voting: Deem, Miley, Phillips and Storch.

So, a majority of the members present and voting having voted in the affirmative, Article IV was adopted.

Consideration of Article V

On motion of Delegate Shott, Article 5 was amended on line ten, after the words "violation of", by inserting "Article VIII, § 7 of the West Virginia Constitution, stating that Judges 'shall receive the salaries fixed by law' and".

On line fifteen, immediately following the words "not entitled," by deleting "and in potential violation of the provisions of W.Va. Code §5-10-45, relating to the crime of fraud against the West Virginia Public Employees Retirement System,".

The question now being on the adoption of Article V, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been demanded, they were taken (**Roll No. 608**), and there were -- yeas 61, nays 35, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rohrbach, Rowe, Sponaule, Thompson and Williams.

Absent and Not Voting: Deem, Miley, Phillips and Storch.

So, a majority of the members present and voting having voted in the affirmative, Article V was adopted.

Consideration of Article VI

On motion of Delegate Shott, Article 6 was amended on line eleven, after the words "violation of", by inserting "Article VIII, § 7 of the West Virginia Constitution, stating that Judges 'shall receive the salaries fixed by law' and".

And,

On line fifteen, immediately following the words "not entitled," by deleting "and in potential violation of the provisions of W.Va. Code §5-10-45, relating to the crime of fraud against the West Virginia Public Employees Retirement System,".

The question being on the adoption of Article VI, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been demanded, they were taken (**Roll No. 609**), and there were-- yeas 63, nays 33, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rohrbach, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Deem, Miley, Phillips and Storch.

So, a majority of the members present and voting having voted in the affirmative, Article VI was adopted.

Consideration of Article VII

On motion of Delegate Shott, Article 7, was amended on line ten, after the words "violation of", by inserting "Article VIII, § 7 of the West Virginia Constitution, stating that Judges 'shall receive the salaries fixed by law' and".

And,

On line fifteen, immediately following the words "not entitled," by "and in potential violation of the provisions of W.Va. Code §5-10-45, relating to the crime of fraud against the West Virginia Public Employees Retirement System,".

The question being on the adoption of Article VII, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been demanded, they were taken (**Roll No. 610**), and there were -- yeas 51, nays 45, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Anderson, Barrett, Bates, Blair, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Cowles, Diserio, Eldridge, Ellington, E. Evans, Fast, Ferro, Fleischauer, Fluharty, Hartman,

Hornbuckle, Iaquinta, Isner, Kelly, Linville, Longstreth, Love, Lovejoy, Lynch, R. Miller, Moye, Pack, Pethtel, Pushkin, Pyles, Robinson, Rohrbach, Rowe, Sobonya, Sponaugle, Statler, Summers, Thompson, White and Williams.

Absent and Not Voting: Deem, Miley, Phillips and Storch.

So, a majority of the members present and voting having voted in the affirmative, Article VII was adopted.

Consideration of Article VIII

The question being on the adoption of Article VIII, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been demanded, they were taken (**Roll No. 611**), and there were-- yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Miley, Phillips and Storch.

So, a majority of the members present and voting having voted in the affirmative, Article VIII was adopted.

Consideration of Article IX

The question being on the adoption of Article IX, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been demanded, they were taken (**Roll No. 612**), and there were-- yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Miley, Phillips and Storch.

So, a majority of the members present and voting having voted in the affirmative, Article IX was adopted.

Consideration of Article X

The question being on the adoption of Article X, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been demanded, they were taken (**Roll No. 613**), and there were-- yeas 94, nays 2, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Blair and Fast.

Absent and Not Voting: Deem, Miley, Phillips and Storch.

So, a majority of the members present and voting having voted in the affirmative, Article X was adopted.

Consideration of Article XI

Delegate Hanshaw asked and obtained unanimous consent to withdraw Article XI.

At 7:16 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 8:15 p.m.

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Evening Session

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The House of Delegates was called to order by the Honorable John Overington, Speaker Pro Tempore.

Consideration of Article XII

Delegate Fast moved to amend Article XII on line twelve, after the period, by adding "Realizing the West Virginia Supreme Court of Appeals has, pursuant to the West Virginia Constitution, the sole authority as an equal branch of government to operate its own budget, The House of Delegates recommends, upon a conviction under this Article of Impeachment, a public censureship."

Delegate Kelly requested to be excused from voting under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class and refused to excuse the Member from voting.

The amendment offered by Delegate Fast was then rejected.

The question being on the adoption of Article XII, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been demanded, they were taken (**Roll No. 614**), and there were-- yeas 44, nays 51, absent and not voting 5, with the yeas and absent and not voting being as follows:

Yeas: Speaker Armstead, Adkins, Ambler, Atkinson, Butler, Cooper, Criss, Dean, Espinosa, A. Evans, Folk, Foster, Frich, Hanshaw, Harshbarger, Higginbotham, Hill, Hollen, Householder, Howell, Kessinger, Linville, Malcolm, Martin, Maynard, McGeehan, C. Miller, Moore, Overington, Pack, Paynter, Pyles, Queen, Rodighiero, R. Romine, Rowan, Shott, Sobonya, Summers, Sypolt, Upson, Wagner, Ward and Wilson.

Absent and Not Voting: Deem, Ferro, Miley, Phillips and Storch.

So, a majority of the members present and voting not having voted in the affirmative, Article XII was rejected.

Consideration of Article XIII

Delegate Shott asked unanimous consent to withdraw Article XIII, which consent was not given, objection being heard.

Delegate Shott then so moved.

On the motion to withdraw Article XIII, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 615**), and there were--yeas 56, nays 39, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Adkins, Butler, Campbell, Canestraro, Criss, Dean, Eldridge, Espinosa, Folk, Foster, Frich, Hamrick, Hanshaw, Harshbarger, Hill, Hollen, Hornbuckle, Howell, Kessinger, Linville, Malcolm, Marcum, Martin, Maynard, McGeehan, C. Miller, R. Miller, Moore, Overington, Paynter, Queen, Rodighiero, Sobonya, Summers, Sypolt, Wagner, Ward, Wilson and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Deem, Ferro, Miley, Phillips and Storch.

So, a majority of the members present and voting having voted in the affirmative, the motion to withdraw Article XIII was adopted.

Consideration of Article XIV

Delegate Gearheart moved to amend Article XIV on line one, after the following: "Loughry," by striking out "Justice Robin Davis, and Justice Elizabeth Walker," and inserting in lieu thereof "and Justice Robin Davis,".

Delegate Fluharty was addressing the House when Delegate Butler arose to a point of order regarding the content of the remarks by the Delegate.

The Speaker Pro Tempore replied that the point was well taken and instructed the Gentleman to focus on the question before the House.

On the adoption of the amendment, Delegate Gearheart demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 616**), and there were--yeas 12, nays 83, absent and not voting 5, with the yeas and absent and not voting being as follows:

Yeas: Capito, Cowles, Ellington, Fast, Gearheart, Graves, Hamilton, Jennings, Lane, Nelson, Overington and Westfall.

Absent and Not Voting: Deem, Ferro, Miley, Phillips and Storch.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The question being on the adoption of Article XIV, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been demanded, they were taken (**Roll No. 617**), and there were--yeas 51, nays 44, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Anderson, Barrett, Bates, Brewer, Byrd, Campbell, Canestraro, Capito, Caputo, Cowles, Diserio, Eldridge, Fast, Fleischauer, Fluharty, Graves, Hamilton, Hartman, Hicks, Higginbotham, Hornbuckle, Iaquina, Isner, Kelly, Lane, Longstreth, Love, Lovejoy, Lynch, R. Miller, Moye, Nelson, Pack, Pethel, Pushkin, Robinson, Rohrbach, Rowe, Sponaule, Statler, Thompson, Westfall, White and Williams.

Absent and Not Voting: Deem, Ferro, Miley, Phillips and Storch.

So, a majority of the members present and voting having voted in the affirmative, Article XIV was adopted.

At 11:49 p.m., the House of Delegates adjourned until 12:15 a.m., Tuesday, August 14, 2018.

HOUSE OF DELEGATES
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