

WEST VIRGINIA LEGISLATURE
2018 SECOND EXTRAORDINARY SESSION

Originating
House Resolution 202

BY DELEGATE SHOTT

[Originating in the House Committee on the Judiciary]

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

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

Article II

1 That the said Justice Robin Davis, being a Justice of the Supreme Court of Appeals of
2 West Virginia, unmindful of the duties of her high office, and contrary to the oaths taken by her to
3 support the Constitution of the State of West Virginia and faithfully discharge the duties of her
4 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
5 her oath of office, then and there, with regard to the discharge of the duties of her office, did waste
6 state funds with little or no concern for the costs to be borne by the tax payer for unnecessary and
7 lavish spending in the renovation and remodeling of her personal office, to the sum of

8 approximately \$500,000, which sum included, but is not limited to, the purchase of an oval rug
9 that cost approximately \$20,500, a desk chair that cost approximately \$8,000 and over \$23,000
10 in design services, and other such wasteful expenditure not necessary for the administration of
11 justice and the execution of the duties of the Court, which represents a waste of state funds.

Article III

1 That the said Justice Allen Loughry, being a Justice of the Supreme Court of Appeals of
2 West Virginia, unmindful of the duties of his high office, and contrary to the oaths taken by him to
3 support the Constitution of the State of West Virginia and faithfully discharge the duties of his
4 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
5 his oath of office, then and there, with regard to the discharge of the duties of his office, did on or
6 about June 20, 2013, cause a certain desk, of a type colloquially known as a "Cass Gilbert" desk,
7 to be transported from the State Capitol to his home, and did maintain possession of such desk
8 in his home, where it remained throughout his term as Justice for approximately four and one-half
9 years, in violation of the provisions of W.Va. Code §29-1-7 (b), prohibiting the removal of original
10 furnishings of the state capitol from the premises; further, the expenditure of state funds to
11 transport the desk to his home, and refusal to return the desk to the state, constitute the use of
12 state resources and property for personal gain in violation of the provisions of W.Va. Code §6B-
13 2-5, the provisions of the West Virginia State Ethics Act, and constitute a violation of the provisions
14 of Canon I of the West Virginia Code of Judicial Conduct.

Article IV

1 That the said Chief Justice Margaret Workman, and Justice Robin Davis, being at all times
2 relevant Justices of the Supreme Court of Appeals of West Virginia, and at various relevant times
3 individually each Chief Justice of the Supreme Court of Appeals of West Virginia unmindful of the
4 duties of their high offices, and contrary to the oaths taken by them to support the Constitution of
5 the State of West Virginia and faithfully discharge the duties of their offices as such Justices, while
6 in the exercise of the functions of the office of Justices, in violation of their oaths of office, then

7 and there, with regard to the discharge of the duties of their offices, commencing in or about 2012,
8 did knowingly and intentionally act, and each subsequently oversee in their capacity as Chief
9 Justice, and did in that capacity as Chief Justice severally sign and approve the contracts
10 necessary to facilitate, at each such relevant time, to overpay certain Senior Status Judges in
11 violation of the statutory limited maximum salary for such Judges, which overpayment is a
12 violation of the provisions of W.Va. Code §51-2-13 and W.Va. Code §51-9-10, and, in violation of
13 an Administrative Order of the Supreme Court of Appeals, in potential violation of the provisions
14 of W.Va. Code §61-3-22, relating to the crime of falsification of accounts with intent to enable or
15 assist any person to obtain money to which he was not entitled, and in potential violation of the
16 provisions of W.Va. Code §5-10-45, relating to the crime of fraud against the West Virginia Public
17 Employees Retirement System, and, in potential violation of the provisions set forth in W.Va. Code
18 §61-3-24, relating to the crime of obtaining money, property and services by false pretenses, and,
19 all of the above are in violation of the provisions of Canon I and Canon II of the West Virginia
20 Code of Judicial Conduct.

Article V

1 That the said Justice Robin Davis, being at all times relevant a Justice of the Supreme
2 Court of Appeals of West Virginia, and at certain relevant times individually Chief Justice of the
3 Supreme Court of Appeals of West Virginia, unmindful of the duties of her high offices, and
4 contrary to the oaths taken by her to support the Constitution of the State of West Virginia and
5 faithfully discharge the duties of his office as such Justice, while in the exercise of the functions
6 of the office of Justice, in violation of her oath of office, then and there, with regard to the discharge
7 of the duties of her office, did in the year 2014, did in her capacity as Chief Justice, sign certain
8 Forms WV 48, to retain and compensate certain Senior Status Judges the execution of which
9 forms allowed the Supreme Court of Appeals to overpay those certain Senior Status Judges in
10 violation of the statutorily limited maximum salary for such Judges, which overpayment is a
11 violation of the provisions of W.Va. Code §51-2-13 and W.Va. Code §51-9-10; her authorization

12 of such overpayments was a violation of the clear statutory law of the state of West Virginia, as
13 set forth in those relevant Code sections, and, was an act in potential violation of the provisions
14 set forth in W.Va. Code §61-3-22, relating to the crime of falsification of accounts with intent to
15 enable or assist any person to obtain money to which he was not entitled, and in potential violation
16 of the provisions of W.Va. Code §5-10-45, relating to the crime of fraud against the West Virginia
17 Public Employees Retirement System, and, in potential violation of the provisions set forth in
18 W.Va. Code §61-3-24, relating to the crime of obtaining money, property and services by false
19 pretenses, and all of the above are in violation of the provisions of Canon I and Canon II of the
20 West Virginia Code of Judicial Conduct.

Article VI

1 That the said Justice Margaret Workman, being at all times relevant a Justice of the
2 Supreme Court of Appeals of West Virginia, and at certain relevant times individually Chief Justice
3 of the Supreme Court of Appeals of West Virginia, unmindful of the duties of her high offices, and
4 contrary to the oaths taken by her to support the Constitution of the State of West Virginia and
5 faithfully discharge the duties of his office as such Justice, while in the exercise of the functions
6 of the office of Justice, in violation of her oath of office, then and there, with regard to the discharge
7 of the duties of her office, did in the year 2015, did in her capacity as Chief Justice, sign certain
8 Forms WV 48, to retain and compensate certain Senior Status Judges the execution of which
9 forms allowed the Supreme Court of Appeals to overpay those certain Senior Status Judges in
10 violation of the statutorily limited maximum salary for such Judges, which overpayment is a
11 violation of the provisions of W.Va. Code §51-2-13 and W.Va. Code §51-9-10; her authorization
12 of such overpayments was a violation of the clear statutory law of the state of West Virginia, as
13 set forth in those relevant Code sections, and, was an act in potential violation of the provisions
14 set forth in W.Va. Code §61-3-22, relating to the crime of falsification of accounts with intent to
15 enable or assist any person to obtain money to which he was not entitled, and in potential violation
16 of the provisions of W.Va. Code §5-10-45, relating to the crime of fraud against the West Virginia

17 Public Employees Retirement System, and, in potential violation of the provisions set forth in
18 W.Va. Code §61-3-24, relating to the crime of obtaining money, property and services by false
19 pretenses, and all of the above are in violation of the provisions of Canon I and Canon II of the
20 West Virginia Code of Judicial Conduct.

Article VII

1 That the said Justice Allen Loughry, being at all times relevant a Justice of the Supreme
2 Court of Appeals of West Virginia, and at that relevant time individually Chief Justice of the
3 Supreme Court of Appeals of West Virginia, unmindful of the duties of his high offices, and
4 contrary to the oaths taken by him to support the Constitution of the State of West Virginia and
5 faithfully discharge the duties of his office as such Justices, while in the exercise of the functions
6 of the office of Justice, in violation of his oath of office, then and there, with regard to the discharge
7 of the duties of his office, did on or about May 19, 2017, did in his capacity as Chief Justice, draft
8 an Administrative Order of the Supreme Court of Appeals, bearing his signature, authorizing the
9 Supreme Court of Appeals to overpay certain Senior Status Judges in violation of the statutorily
10 limited maximum salary for such Judges, which overpayment is a violation of the provisions of
11 W.Va. Code §51-2-13 and W.Va. Code §51-9-10; his authorization of such overpayments was a
12 violation of the clear statutory law of the state of West Virginia, as set forth in those relevant Code
13 sections, and, was an act in potential violation of the provisions set forth in W.Va. Code §61-3-
14 22, relating to the crime of falsification of accounts with intent to enable or assist any person to
15 obtain money to which he was not entitled, and in potential violation of the provisions of W.Va.
16 Code §5-10-45, relating to the crime of fraud against the West Virginia Public Employees
17 Retirement System, and, in potential violation of the provisions set forth in W.Va. Code §61-3-24,
18 relating to the crime of obtaining money, property and services by false pretenses, and all of the
19 above are in violation of the provisions of Canon I and Canon II of the West Virginia Code of
20 Judicial Conduct.

Article VIII

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

Article IX

1 That the said Justice Allen Loughry, being a Justice of the Supreme Court of Appeals of
2 West Virginia, unmindful of the duties of his high office, and contrary to the oaths taken by him to
3 support the Constitution of the State of West Virginia and faithfully discharge the duties of his
4 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
5 his oath of office, then and there, with regard to the discharge of the duties of his office, did
6 beginning in or about December 2012, intentionally acquired and used state government
7 computer equipment and hardware for predominately personal use—including a computer not
8 intended to be connected to the court’s network, utilized state resources to install computer
9 access services at his home for predominately personal use, and utilized state resources to
10 provide maintenance and repair of computer services for his residence resulting from
11 predominately personal use; all of which acts constitute the use of state resources and property

12 for personal gain in violation of the provisions of W.Va. Code §6B-2-5, the provisions of the West
13 Virginia State Ethics Act, and constitute a violation of the provisions of Canon I of the West Virginia
14 Code of Judicial Conduct.

Article X

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

Article XI

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

Article XII

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

Article XIII

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

Article XIV

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

17 A) To prepare and adopt sufficient and effective travel policies prior to October of 2016,
18 and failed thereafter to properly effectuate such policy by excepting the Justices from
19 said policies, and subjected subordinates and employees to a greater burden than the
20 Justices;

21 B) To report taxable fringe benefits, such as car use and regular lunches, on Federal W-
22 2s, despite full knowledge of the Internal Revenue Service Regulations, and further
23 subjected subordinates and employees to a greater burden than the Justices, in this
24 regard, and upon notification of such violation, failed to speedily comply with requests
25 to make such reporting consistent with applicable law;

- 26 C) To provide proper supervision, control, and auditing of the use of state purchasing
27 cards leading to multiple violations of state statutes and policies regulating the proper
28 use of such cards, including failing to obtain proper prior approval for large purchases;
- 29 D) To prepare and adopt sufficient and effective home office policies which would govern
30 the Justices' home computer use, and which led to a lack of oversight which
31 encouraged the conversion of property;
- 32 E) To provide effective supervision and control over record keeping with respect to the
33 use of state automobiles, which has already resulted in an executed information upon
34 one former Justice and the indictment of another Justice.
- 35 F) To provide effective supervision and control over inventories of state property owned
36 by the Court and subordinate courts, which led directly to the undetected absence of
37 valuable state property, including, but not limited to, a state-owned desk and a state-
38 owned computer;
- 39 G) To provide effective supervision and control over purchasing procedures which directly
40 led to inadequate cost containment methods, including the rebidding of the purchases
41 of goods and services utilizing a system of large unsupervised change orders, all of
42 which encouraged waste of taxpayer funds.

43 The failure by the Justices, individually and collectively, to carry out these necessary and
44 proper administrative activities constitute a violation of the provisions of Canon I and Canon II of
45 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.