

COMMONWEALTH OF PENNSYLVANIA
House OF REPRESENTATIVES
JUDICIARY COMMITTEE

In re: Conduct of Supreme Court Justice Rolf Larsen

Stenographic record of hearing held in
Room 140, Main Capitol, Harrisburg,
Pennsylvania

Wednesday, May 18, 1994, 10:30 a.m.

SUBCOMMITTEE ON COURTS
SPECIAL COMMITTEE

Hon. Frank Dermody, Chairman
Hon. Thomas Caltagirone
Hon. Jeffrey Piccola
Hon. Daniel Clark
Hon. Michael Gruitza

Counsel Present:

John P. Moses, Special Counsel
William Andring, Counsel to Judiciary Committee
Mary Woolley, Counsel to Judiciary Committee
Richard Scott, Counsel to Judiciary Committee
Karen Dalton, Counsel to Judiciary Committee

Staff Present:

David Krantz, Executive Director
Margaret Tricarico Secretary
Karon Haring

Reported by:
Emily R. Clark, CM, RPR

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I N D E X

| <u>Speaker</u> | <u>Page</u> |
|-------------------------|-------------|
| Hon. Frank Dermody | 3 |
| Hon. Thomas Caltagirone | 5 |
| Hon. Jeffrey Piccola | 5 |

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1 CHAIRMAN DERMODY: This is a meeting of the
2 special committee to prepare Articles of Impeachment against
3 the Honoral Justice Rolf Larsen of the Pennsylvania Supreme
4 Court.

5 Would you please call the roll.

6 MS. HARING: Dermody.

7 CHAIRMAN DERMODY: Here.

8 MS. HARING: Caltagirone.

9 REPRESENTATIVE CALTAGIRONE: Here.

10 MS. HARING: Gruitza?

11 REPRESENTATIVE GRUITZA: Here.

12 MS. HARING: Piccola?

13 REPRESENTATIVE PICCOLA: Here.

14 MS. HARING: Clark.

15 REPRESENTATIVE CLARK: Here.

16 CHAIRMAN DERMODY: This committee has been
17 assembled for the purpose of preparing Articles of Impeachment
18 against the Honorable Rolf Larsen, a justice on the Supreme
19 Court of the Commonwealth of Pennsylvania. The task before us
20 today is one of extraordinary importance, for nothing short of
21 the health and wellbeing of the Pennsylvania judiciary is at
22 stake. It is a task that culminates a process begun six
23 months ago with House Resolution 205 authorizing the judiciary
24 committee to investigate the conduct of Justice Larsen.

25 After an exhaustive investigation, the judiciary

1 subcommittee on courts issued a 58-page report finding that
2 Justice Larsen had engaged in numerous episodes of egregious
3 misbehavior in office. In light of the subcommittee's
4 findings, it was the unanimous view of the subcommittee, and
5 later the full judiciary committee, that the damage Justice
6 Larsen had done to the integrity of the judiciary could be
7 remedied by nothing short of impeachment and removal from
8 office.

9 Accordingly, the committee drafted seven Articles
10 of Impeachment that it recommended to the House. That
11 recommendation that is a draft of those articles are the basis
12 for our deliberations here today. There have been some
13 technical changes made in the Articles of Impeachment. Those
14 technical changes have been made and have been corrected and
15 they are now part of the resolution that is before us today.

16 As we begin our work, it is important to bear in
17 mind the history that we are making. It has been 183 years
18 since the General Assembly has impeached and removed a
19 judicial officer of this Commonwealth. That is
20 understandable. Impeachment is an extreme remedy, properly
21 reserved for extreme cases such as this. It is precisely
22 because impeachment has been employed so sparingly in
23 Pennsylvania, and elsewhere, that the Articles we agreed upon
24 today will serve as a model for the future, not only in
25 Pennsylvania, but around the country.

1 Is there a motion to adopt Articles of
2 *Impeachment*?

3 REPRESENTATIVE CALTAGIRONE: Mr. Chairman, I so
4 move that the committee adopt the resolution before us
5 containing the Articles of Impeachment against the Honorable
6 Justice Rolf Larsen of the Pennsylvania Supreme Court, and
7 report said resolution to the full House of Representatives.

8 CHAIRMAN DERMODY: Is there a second to that
9 motion?

10 REPRESENTATIVE PICCOLA: Mr. Chairman, I have
11 reviewed the resolution that is the subject of Representative
12 Caltagirone's motion. I find that the Articles contained
13 therein are consistent with the proposed Articles in the
14 report of the committee on the judiciary, and I would,
15 therefore, second the motion of the gentleman, Mr.
16 Caltagirone.

17 CHAIRMAN DERMODY: Is there any discussion on the
18 proposed Articles of Impeachment?

19 (No audible response.)

20 CHAIRMAN DERMODY: Please call the roll.

21 MS. HARING: Dermody?

22 REPRESENTATIVE DERMODY: Yes.

23 MS. HARING: Caltagirone?

24 REPRESENTATIVE CALTAGIRONE: Yes.

25 MS. HARING: Piccola?

1 REPRESENTATIVE PICCOLA: Yes.

2 MS. HARING: Clark?

3 REPRESENTATIVE CLARK: Yes.

4 MS. HARING: Gruitza?

5 REPRESENTATIVE GRUITZA: Yes.

6 CHAIRMAN DERMODY: The resolution containing the
7 Articles of Impeachment against Justice Larsen Ralph of the
8 Commonwealth of Pennsylvania will be reported to the floor of
9 the House.

10 At this time, I would like to ask each member to
11 step up to the table and sign the resolution that will be
12 reported to the floor of the House. Before we do that, I
13 believe the secretary will call the roll for members.

14 MS. HARING: Dermody?

15 (Representative Dermody duly signed.)

16 MS. HARING: Caltagirone?

17 (Representative Caltagirone duly signed.)

18 MS. HARING: Piccola?

19 (Representative Piccola duly signed.)

20 MS. HARING: Clark?

21 (Representative Clark duly signed.)

22 MS. HARING: Gruitza?

23 (Representative Gruitza duly signed.)

24 CHAIRMAN DERMODY: The meeting of the special
25 committee for and pursuant to House Resolution 316 is now

1 adjourned.

2 (Whereupon, the proceeding was concluded at
3 10:36 a.m.)

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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings, and that this copy is a correct transcript of the same.

Emily Clark

Emily Clark, CP, CM
Registered Professional Reporter

NOTARIAL SEAL
EMILY R. CLARK, Notary Public
Harrisburg, Dauphin County
My Commission Expires July 7, 1997

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A RESOLUTION

1 Impeaching Rolf Larsen, Justice of the Pennsylvania Supreme
2 Court, for misbehavior in office.

3 BE IT RESOLVED, That Rolf Larsen, a Justice of the Supreme
4 Court of the Commonwealth of Pennsylvania, be impeached for
5 misbehavior in office, and that the following Articles of
6 Impeachment be exhibited to the Senate:

ARTICLE I

7
8 From at least 1980 and continuing into 1991, Justice Larsen
9 instructed his office staff to track certain petitions for
10 allowance of appeal to the Supreme Court of Pennsylvania, so
11 that these petitions could be specially handled by Justice
12 Larsen and his staff. These petitions were put on a special list
13 and tracked not because of the legal issues presented, but
14 because the attorneys involved were friends of and made
15 political contributions to Justice Larsen.

16 Contrary to his ordinary practice, Justice Larsen would have
17 papers relating to petitions on the special list brought to his

1 attention as soon as they came into his office, and would demand
2 to be notified when allocatur reports in such cases assigned to
3 other justices were received by his office. In certain cases, he
4 would write allocatur reports or counter-reports recommending
5 allowance or denial of appeal according to the position espoused
6 by the attorneys who were his friends and political
7 contributors. In others, he would join or oppose the
8 recommendation of other justices, according to the position
9 espoused by the attorneys who were his friends and political
10 contributors. In some instances, Justice Larsen would take
11 affirmative steps to cause a petition to be granted through the
12 allocatur process (which is not in the public view) and would
13 then recuse himself when the same case was heard on the merits
14 because of his association with an attorney involved in the
15 case. By such conduct, Justice Larsen abused his judicial
16 discretion, acted on account of selected private interests, and
17 failed to act in a fair and impartial manner with respect to all
18 litigants seeking to have appeals heard before the Supreme Court
19 of Pennsylvania.

20 Wherefore, Justice Rolf Larsen is guilty of an impeachable
21 offense warranting removal from office and disqualification to
22 hold any office of trust or profit under this Commonwealth.

23 ARTICLE II

24 Richard Gilardi, Esquire, once a friend and political
25 supporter of Justice Larsen, represented parties in two cases in
26 which petitions for allowance of appeal were pending before the
27 Pennsylvania Supreme Court in early 1988. The cases were
28 Buttermore v. Aliquippa Hospital, 579 W.D. Alloc. Dkt. 1987, and
29 Driscoll v. Carpenters District Council of Western Pennsylvania,
30 79 W.D. Alloc. Dkt. 1988. In early 1988, Gilardi met Justice

1 Larsen and requested that Justice Larsen, contrary to his
2 ordinary practice, personally review the pending petitions and
3 the briefs in opposition. At Justice Larsen's direction, Gilardi
4 came to Justice Larsen's chambers and gave Justice Larsen copies
5 of the cover sheets from the Buttermore and Driscoll cases. On
6 each cover sheet, as requested by Justice Larsen, Gilardi
7 indicated in writing the position that Gilardi was advocating.
8 On the cover sheet for the Buttermore case, in which Gilardi's
9 client was opposing allowance of appeal, Gilardi wrote the word
10 "NO." On the cover sheet for the Driscoll case, in which
11 Gilardi's client was seeking allowance of appeal, Gilardi wrote
12 the word "YES." In Buttermore, Justice Larsen recommended denial
13 of appeal, consistent with the position being advocated by
14 Gilardi. In Driscoll, Justice Larsen voted to join in Justice
15 McDermott's recommendation that appeal be allowed, again in
16 accordance with the position advocated by Gilardi.

17 By encouraging an improper ex parte contact by Attorney
18 Gilardi at a time when Gilardi had cases pending before the
19 Supreme Court, and by taking steps to benefit Gilardi's position
20 in those cases, Justice Larsen abused his judicial discretion,
21 acted on account of selected private interests, and failed to
22 act in a fair and impartial manner with respect to all litigants
23 seeking to have appeals heard before the Supreme Court of
24 Pennsylvania.

25 Wherefore, Justice Rolf Larsen is guilty of an impeachable
26 offense warranting removal from office and disqualification to
27 hold any office of trust or profit under this Commonwealth.

28 ARTICLE III

29 On April 19-20, 1993, July 19, 1993, and September 9, 1993,
30 Justice Larsen testified before the Ninth Statewide

1 Investigating Grand Jury in connection with Grand Jury Notice
2 No. 9. In the course of his testimony, Justice Larsen, while
3 under oath to tell the truth, the whole truth, and nothing but
4 the truth, did knowingly and contrary to that oath make false
5 statements which were intended to mislead the Grand Jury.

6 One false statement was, in substance, that Justice Larsen
7 never discussed with Richard Gilardi, Esquire, two pending
8 petitions for allowance of appeal in which Gilardi represented a
9 party in early 1988.

10 A second false statement was, in substance, that Attorney
11 Gilardi never delivered to Justice Larsen's chambers the cover
12 sheets from the Buttermore and Driscoll petitions for allowance
13 of appeal in early 1988 or at any other time.

14 Wherefore, Justice Rolf Larsen is guilty of an impeachable
15 offense warranting removal from office and disqualification to
16 hold any office of trust or profit under this Commonwealth.

17 ARTICLE IV

18 On or about May 30, 1986, Justice Larsen initiated a private
19 ex parte meeting with Judge Eunice Ross of the Allegheny County
20 Court of Common Pleas in her chambers regarding a civil court
21 case then pending before Judge Ross. In that meeting, Justice
22 Larsen provided information from an alleged undisclosed source
23 which was potentially beneficial to a litigant in the matter who
24 was represented by Attorney James Ashton, a friend of Justice
25 Larsen.

26 In providing the information ex parte to Judge Ross, Justice
27 Larsen disregarded accepted channels of communication and
28 attempted to influence the outcome of a lower court proceeding
29 in an improper manner, raising an appearance of impropriety
30 detrimental to public confidence in the judiciary.

1 Wherefore, Justice Rolf Larsen is guilty of an impeachable
2 offense warranting removal from office and disqualification to
3 hold any office of trust or profit under this Commonwealth.

4 ARTICLE V

5 On October 14, 1992, the Pennsylvania Supreme Court adopted
6 the recommendation of the Judicial Inquiry and Review Board
7 (JIRB) that Justice Larsen be publicly reprimanded for the
8 improper ex parte communication with Judge Eunice Ross on or
9 about May 30, 1986. Justice Stephen A. Zappala and Justice Ralph
10 J. Cappy voted in favor of the Order, while Justice Nicholas P.
11 Papadakos dissented. On or about November 24, 1992, and December
12 15, 1992, Justice Larsen, acting pro se, filed a petition and
13 supplemental petition for disqualification and recusal of
14 Justices Zappala and Cappy, alleging that they and other
15 individuals had engaged in various forms of criminal and other
16 misconduct. Justice Larsen verified that the allegations of each
17 petition were true and correct, and subject to the Pennsylvania
18 statute prohibiting unsworn falsification to authorities. The
19 following sworn allegations in the petitions by Justice Larsen
20 were made in bad faith, with a reckless disregard for the truth:

21 1. That Justice Zappala received kickbacks for directing
22 bond work to his brother's underwriting firm, and was being
23 investigated for this conduct.

24 2. That Justice Zappala met ex parte with litigants in
25 the Masloff v Port Authority of Allegheny County, 531 Pa.
26 416, 613 A.2d 1186 (1992) and City of Philadelphia v
27 Pennsylvania Labor Relations Board, 531 Pa. 489, 614 A.2d 213
28 (1992) cases and guided those matters through the Supreme
29 Court in a special manner.

30 3. That Attorney John Doherty attempted to suborn

1 perjury by Nikolai Zdrale, by bribing Zdrale with the offer
2 of free legal services, and was rewarded by Justices Zappala
3 and Cappy for doing so by appointment to the position of
4 Chief Disciplinary Counsel.

5 4. That Justice Cappy deliberately engineered the
6 reconsideration of Nikolai Zdrale's "out-of-time" petition in
7 the appeal of his conviction for attempted murder to the
8 Supreme Court.

9 5. That Justice Zappala commandeered a vehicle and
10 attempted to run Justice Larsen down.

11 By such conduct, Justice Larsen misused the legal process in
12 an attempt to obtain a reversal of his own reprimand for
13 judicial misconduct. Justice Larsen deliberately made serious
14 and damaging allegations without a reasonable basis to believe
15 the truth of those allegations at the time they were made.
16 Justice Larsen could not later supply credible evidence to
17 support the allegations when given the opportunity to do so. The
18 allegations were made in a public filing designed to bring his
19 fellow justices on the Supreme Court of Pennsylvania into
20 disrepute, and have undermined public confidence in the
21 integrity of the court system of the Commonwealth.

22 Wherefore, Justice Rolf Larsen is guilty of an impeachable
23 offense warranting removal from office and disqualification to
24 hold any office of trust or profit under this Commonwealth.

25 ARTICLE VI

26 From at least 1981 and continuing into 1993, Justice Larsen
27 regularly obtained certain anti-anxiety and anti-depressant
28 drugs for his own use by having one of his physicians, Dr. Earl
29 Humphreys, issue prescriptions for the drugs in the names of
30 members of Justice Larsen's staff. The drugs included valium,

1 diazepam, ativan, and serax, all Schedule IV controlled
2 substances under the act of April 14, 1972 (P.L.233, No.64),
3 known as The Controlled Substance, Drug, Device and Cosmetic
4 Act. At Justice Larsen's direction, the staff members would pick
5 up the drugs at a pharmacy, then give the drugs to Justice
6 Larsen for his own use. Payment for the drugs would be made
7 under the staff members' taxpayer-funded State employee benefit
8 plan.

9 Justice Larsen misused the prominence and authority of his
10 position as a Supreme Court Justice to influence court employees
11 to participate in an unlawful conspiracy to conceal his
12 prescription drug use, exposing them, as well as Dr. Humphreys,
13 to potential prosecution under Pennsylvania's criminal laws and
14 other serious consequences. A twelve-person jury in Allegheny
15 County Court of Common Pleas found Justice Larsen guilty beyond
16 a reasonable doubt of felony conspiracy charges pursuant to 18
17 Pa.C.S. § 903 (relating to criminal conspiracy).

18 Wherefore, Justice Rolf Larsen is guilty of an impeachable
19 offense warranting removal from office and disqualification to
20 hold any office of trust or profit under this Commonwealth.

21 ARTICLE VII

22 Justice Larsen, who as a Pennsylvania Supreme Court Justice
23 took an oath to support, obey and defend the Constitutions of
24 the United States and the Commonwealth of Pennsylvania, and to
25 discharge the duties of his office with fidelity, and who is
26 bound to uphold the integrity of the judiciary, to avoid
27 impropriety and the appearance of impropriety, and to perform
28 the duties of his office impartially, did, through actions
29 including --

30 (i) maintaining a system to specially track selected

1 petitions for allowance of appeal in cases in which
2 counsel to one of the parties was a friend of Justice
3 Larsen;

4 (ii) improperly meeting ex parte with Attorney
5 Richard Gilardi, and giving preferential treatment to
6 petitions for allowance of appeal in two cases in which
7 one of the parties was represented by Mr. Gilardi;

8 (iii) falsely testifying before the grand jury that
9 the ex parte contact with Richard Gilardi concerning two
10 pending petitions for allowance of appeal never took
11 place;

12 (iv) initiating an improper ex parte meeting with
13 Judge Eunice Ross, in a matter involving a friend who was
14 counsel to a party in a case pending before Judge Ross.

15 (v) deliberately misusing the legal process in
16 making unfounded allegations of criminal and judicial
17 misconduct against Justices Zappala and Cappy; and

18 (vi) misusing his position as a Supreme Court
19 Justice to induce court employees to engage in criminal
20 misconduct;

21 undermine confidence in the integrity and impartiality of the
22 judiciary and betray the trust of the people of the Commonwealth
23 of Pennsylvania, thereby bringing disrepute on the courts of the
24 Commonwealth, and rendering Justice Larsen unfit to continue to
25 serve as a Justice of the Supreme Court of Pennsylvania.

26 Wherefore, Justice Rolf Larsen is guilty of an impeachable
27 offense warranting removal from office and disqualification to
28 hold any office of trust or profit under this Commonwealth.

29 The House of Representatives hereby reserves to itself the
30 right and ability to exhibit at any time hereafter further

1 Articles of Impeachment against Justice Rolf Larsen, to reply to
2 any answers which Justice Larsen may make to any Articles of
3 Impeachment which are exhibited and to offer proof at trial in
4 the Senate in support of each and every Article of Impeachment
5 which shall be exhibited by them.