

SUPREME COURT OF THE UNITED STATES

IN THE SUPREME COURT OF THE UNITED STATES

- - - - -
PROCURSIVE,)
Petitioner,)
v.)
UNITED STATES,)
Respondent.)
- - - - -

Pages: 1 through 25
Place: Washington, D.C.
Date: April 17, 2019

HERITAGE REPORTING CORPORATION

Official Reporters
1220 L Street, N.W., Suite 206
Washington, D.C. 20005
(202) 628-4888
www.hrcourtreporters.com

1 P R O C E E D I N G S

2 (8:38 p.m.)

3 CHIEF JUSTICE HOLMES: We'll hear argument this
4 evening in No. 07-05, Procursive v. United States.

5 Mr. Rockefeller.

6 MR. ROCKEFELLER: Mr. Chief Justice and may it
7 please the Court:

8 My name is Mason Rockefeller and I am arguing
9 today on behalf of the Petitioner, Mr. Procursive, in
10 the matter of Procursive v. U.S.

11 I want to start by first and foremost thanking
12 each and every one of you for making the time to be here
13 and hear this monumental case for my client.

14 Within the last few weeks, my client has gone
15 through unspeakable atrocities. On Sunday, the 31st of
16 March, he was tried by the Senate on 4 articles of
17 impeachment and removed from his Presidential office.

18 These four articles were brought forth by the
19 House of Representatives for the following reasons:

20 Article 1: Secret Service abuse/false arrest,
21 which occurred months before Mr. procursive was
22 President.

23 Article 2: The use of Executive Privilege by
24 the President to defer attending a hearing while he was
25 on vacation with his family.

26 Article 3: Nepotism for hiring his cousin as a
27 member of his personal security detail while President.

1 And finally, Article 4: Jeopardizing national
2 security by hiring Mr. James Montagu as Principal Deputy
3 White House Chief of Staff.

4 JUSTICE PITNEY: Do you think its this courts
5 authority to determine the truth or fiction of the
6 articles brought against President Procursive?

7 MR. ROCKEFELLER: I believe it is the authority
8 of the court to interpret all pieces of legislation
9 passed by the Congress, as per the implied powers of
10 Judicial review in Marbury v. Madison.

11 Which should include articles of impeachment,
12 as the Constitution does not explicitly define High
13 Crimes and Misdemeanors.

14 CHIEF JUSTICE HOLMES: But, should that review
15 extend to the facts alleged by the impeachment?

16 MR. ROCKEFELLER: I hold that it should.

17 CHIEF JUSTICE HOLMES: Under your view, would
18 at least some deference be owed to Congress' factual
19 conclusions?

20 MR. ROCKEFELLER: Naturally we should always
21 consider the conclusions of Congress in their
22 impeachment processes, but the argument to be made is
23 that they did not follow their own requirements to be
24 able to draw such conclusions.

25 JUSTICE PITNEY: Does this not contradict the
26 ruling laid down in Nixon v. United States, 506 U.S. 224

1 (1993)? Would you argue that Anytime Review supersedes
2 this ruling?

3 MR. ROCKEFELLER: I hold that it does.

4 JUSTICE STEWART: Why shouldn't the Court not
5 intervene because of the political question doctrine?

6 MR. ROCKEFELLER: May I also reserve 5 minutes
7 for a rebuttal as I answer this question?

8 CHIEF JUSTICE HOLMES: Of course.

9 MR. ROCKEFELLER: The Court should not
10 intervene in regards to the political question, however,
11 they should be able to intervene into the factual
12 findings of the high crimes and misdemeanors being
13 alleged based on political motivations.

14 In the Constitution it determines the job of
15 Congress to legislate the laws, and the Court to
16 interpret.

17 JUSTICE PITNEY: What does High Crimes and
18 Misdemeanors mean to you, as referenced in the
19 Constitution of the United States?

20 CHIEF JUSTICE HOLMES: That'll be your first
21 ten minutes, but go ahead and answer the question;
22 you'll have your 5 minutes for rebuttal still reserved.

23 MR. ROCKEFELLER: Respectfully, my
24 interpretation means naught when it is the job of the
25 Court to interpret and determine what the Constitution
26 meant by High Crimes and Misdemeanors.

27 Thank you, Mr. Chief Justice.

1 CHIEF JUSTICE HOLMES: Thank you, counsel.
2 General.

3 GEN. JADEN: Mr. Chief Justice, and may it
4 please the court:

5 Tonight, this Court will hear arguments
6 regarding a very important matter. For the first time,
7 an impeached President has challenged the proceedings of
8 his impeachment before this court. Now, there's a lot of
9 controversy surrounding the grounds and merits of this
10 case, so I'm sure we'll all be buckled in for a ride.

11 We, the respondents, intend to dissect the
12 merits of each question that the petitioner asks this
13 court. Let us begin with the first question. The
14 petitioner asks, "Does Congress have the ability to
15 diminish the constitutional rights of a President during
16 Impeachment Proceedings not related to capital crimes?"
17 Well to even begin, we have to ask ourselves, "do
18 Presidents (or any civil officer) under impeachment even
19 have the constitutional rights to due process?" And in
20 the United States' perspective, no, they do not.

21 Here is the single reason why: The framers of
22 the Constitution explicitly set the standards for
23 impeachment separate as to those of criminal
24 prosecutions. If the framers would have wanted the
25 standards for impeachment to be the same as to those of
26 criminal prosecutions, in which due process is
27 guaranteed to defendants, then they would've vested the

1 power to impeach within the federal judiciary. However,
2 it is apparent that they decided to vest that power
3 within the legislative; thus, creating completely
4 separate standards for impeachment.

5 For example, due process under law requires
6 one to be unanimously convicted by a jury. However, in
7 impeachment, where the Senate acts as a jury, a civil
8 officer only needs to be convicted by a 2/3 vote. Another
9 example would be the burden of proof for impeachment
10 trials. As we all know, the Constitution requires, under
11 the due process clause, that a jury be convinced "beyond
12 a reasonable doubt" in order to convict.

13 However, in cases of impeachment, the
14 Constitution never specifies that Senators must be
15 convinced beyond a reasonable doubt in order to cast a
16 vote for a guilty conviction. And separately, that's
17 also why House Managers don't have to prove their claims
18 beyond a reasonable doubt.

19 The second question that the petitioner
20 presents this court with, whether it be answered in
21 favor of the respondents or petitioners, would not
22 affect the passing of the impeachment. Even if the votes
23 of the alternate accounts were to be deemed invalid, the
24 vote still would have passed.

25 Now, the third question presented is pretty
26 much already answered by the court. Just granting the
27 review of this very case shows that the court will still

1 exercise their power with anytime review. The Ichigo
2 case series only confirms the court's power.

3 As for the fourth question, regarding the
4 congress' power to try civil officers for "high crimes
5 and misdemeanors," the respondents believe the
6 petitioner's claims are blasphemy. Petitioners argue
7 that the crimes charged in articles 2-4 are not high
8 crimes or misdemeanors. However, there is no limit as to
9 what "high crimes or misdemeanors" may be. The framers
10 of the Constitution explicitly wrote the words "other
11 high crimes or misdemeanors" so that the Congress may
12 specify and decide what crimes may constitute for high
13 crimes or misdemeanors.

14 CHIEF JUSTICE HOLMES: Is your view that
15 Congress can deem anything a "high crime or
16 misdemeanor?"

17 GEN. JADEN: In the respondent's view, the
18 framers specifically vested this power solely with the
19 Congress. They should decide what and when to charge one
20 with impeachment.

21 CHIEF JUSTICE HOLMES: So, anything goes?

22 GEN. JADEN: Yes, anything goes. Now, the
23 Senate provides the safeguard to any legislative abuse
24 from the House of Representatives.

25 JUSTICE CHASE: But then why mention
26 specifically these four things - and why did they
27 intentionally mention trivialities as a potential

1 problem? Treason is one of these four things defined in
2 the Constitution, while the others aren't.

3 JUSTICE STEWART: What if the Senate convicted
4 based on a coin toss, or some other arbitrary measure?

5 JUSTICE CHASE: I'm sorry, Justice Stewart, may
6 I have a moment before he answers your ... uh, question?

7 JUSTICE STEWART: Yes, go ahead.

8 GEN. JADEN: That, Justice Chase, is due to the
9 framer's will to make the Constitution as clear as
10 possible. Treason is just an example of when the
11 Congress should absolutely impeach.

12 Anything else that they deem necessary is up
13 to the Congress themselves.

14 JUSTICE CHASE: So you're asserting that
15 officials are impeachable even when no offense against
16 law has been committed?

17 One more question after that.

18 GEN. JADEN: No, the framers put the power of
19 impeachment within the Congress so that the public's
20 interest would be met. If it were the public's interest
21 for a President to impeached for something that does not
22 break a law, and the Congress would adhere to that, then
23 that would be just.

24 JUSTICE CHASE: You start off with "no" and you
25 end in "yes."

26 GEN. JADEN: Apologies, meant yes.

1 As for Justice Stewart's question, the
2 Constitution mandates that the Senate conduct a trial.
3 If they convicted based on a coin toss, the trial
4 requirement would not be met.

5 Continuing on with arguments.

6 And this case, they have, with the impeachment
7 at hand. Referencing to my merits brief, did the framers
8 intend these "other high crimes and misdemeanors" to be
9 only indictable crimes, or as John Jay put it,
10 "political crimes and misdemeanors." See Federalist
11 Papers No. 64.

12 CHIEF JUSTICE HOLMES: At the request of
13 members of the Court, your time has been extended by
14 three minutes.

15 GEN. JADEN: The fifth question has no textual
16 support in either favor, therefore the United States
17 will not argue its standing.

18 JUSTICE PITNEY: Do you believe that the Senate
19 and/or the House of Representatives failed to meet their
20 constitutional requirement to be sworn in "in-game"?

21 GEN. JADEN: I'm getting there, Mr. Pitney.

22 And finally, for the last question. This is a
23 tricky question for the court to answer. And for these
24 reasons; if the court were to rule that the Congress,
25 and Congress' before the current, are completely invalid
26 due to not being sworn in, in game, then that would
27 constitute an entire government-type restart.

1 Congressional records would be deemed
2 invalidated; in fact, 8 of the 9 sitting justices on
3 this court would be deemed invalid.

4 JUSTICE CHASE: What if we limited ourselves to
5 restoring the status quo on this proceeding only?

6 GEN. JADEN: Elaborate?

7 Well, the President would take the initiative
8 to nominate eight people.

9 JUSTICE CHASE: What if, instead of it
10 "constituting an entire government-type restart", we'd
11 limit our authority to "restart" to where injury has
12 happened due to invalid oaths - here, in the Procursive
13 case?

14 GEN. JADEN: Oh, I see. Well, injury would've
15 occurred to President Bakedgoods, as he would be
16 replaced by inappropriately confirmed justices, as well.

17 CHIEF JUSTICE HOLMES: Thank you, General,
18 that'd be all your time. You may finish responding to
19 the question, if you'd like.

20 GEN. JADEN: I've finished, Mr. Chief Justice.

21 CHIEF JUSTICE HOLMES: Mr. Cochran.

22 MR. COCHRAN: Mr. Chief Justice, and may it
23 please the Court:

24 To start off, I would like to thank the Court
25 for inviting me to supply my thoughts on this case.

26 Now, I would like to add on to a few things
27 that General Jaden_NH said.

1 Just to reiterate, the Petitioner brings this
2 case to challenge his impeachment and removal from
3 office. He presents a three pronged argument.

4 Succinctly, he claims that, firstly, Congress
5 violated his client's constitutional right to due
6 process. Secondly, he claims that since Congress did not
7 supply U.S. Codes to support three of their articles, it
8 did not constitute a high crime or misdemeanor. Thirdly,
9 he claims that Congress could not vote on the Articles
10 since they were not sworn in on an in-game medium.

11 I will go through the Petitioner's argument
12 point-by-point.

13 While due process is important in criminal
14 trials, the Framers did not consider it as a guarantee
15 in impeachment trials.

16 In fact, impeachment trials are very different
17 from criminal trials.

18 This is not the first time that this Court has
19 heard this argument and it will not be the last either.

20 During the impeachment of Judge Claiborne
21 (real life),

22 the defendant motioned the Senate to install a
23 beyond reasonable doubt standard—the standard in
24 criminal trials.

25 In response, the House Managers noted that the
26 reasonable doubt standard was designed to protect

1 criminal defendants against wrongful forfeiture of
2 "life, liberty or property."

3 They further argued that the standard was
4 inappropriate since the impeachment trial could not
5 subject the defendant to either of the three
6 forfeitures.

7 Claiborne's motion was rejected with 17 ayes
8 and 75 nays and was not challenged by the Supreme Court.

9 In the Ritter Impeachment, the Senate once
10 again rejected the analogy that an impeachment trial is
11 synonymous to a criminal trial.

12 In essence, their argument was that since
13 criminal sanctions could not be imposed,

14 a criminal standard was not warranted either.

15 They also contended that the criminal standard
16 was inappropriate in an impeachment because impeachment
17 was by its nature a proceeding where the public
18 interests weighed more heavily than the interests of the
19 Defendant—interests which would more adequately be
20 protected by the constitutionally mandated separate
21 criminal proceeding.

22 Let's imagine, however, that this long
23 standing idea of separate proceedings is bogus.

24 As a criminal defense attorney for many years,
25 I have always believed that, and this is going to sound
26 corny, if they don't have the proof, then you don't have
27 the truth.

1 The Petitioner provides no evidence to support
2 his claims that the defendant was denied the ability to
3 introduce evidence or witness testimony.

4 He, furthermore, claims that a motion to
5 adjourn was accepted in the middle of the defendant's
6 arguments.

7 Wrong.

8 While one was made, it was quickly withdrawn
9 and the proceedings continued uninterrupted after that
10 motion.

11 Petitioner also claims that the articles did
12 not constitute a high crime or misdemeanor.

13 The Petitioner would rather the Supreme Court
14 determine what is a high crime or misdemeanor.

15 I think there is little doubt that the
16 Constitution grants Congress the power to define a high
17 crime or misdemeanor through legislation that requires a
18 simple majority, a much lower standard than an
19 impeachment.

20 Furthermore, the Supreme Court claiming that
21 the House of Representatives does not have the power to
22 determine what constitutes a high crime or misdemeanor
23 would severely infringe on their sole right to impeach.

24 JUSTICE STEWART: Should we reverse the Ichigo
25 cases?

26 MR. COCHRAN: Well, there is not much to
27 reverse even. The statement that the Petitioner claims

1 is precedent was made obiter dictum. During that time,
2 the Supreme Court had two separate sections in their
3 decisions: one for reasoning and one for the actual
4 precedent set by the case. That Supreme Court did not
5 want the sentence that the Petitioner cited to be
6 precedent and thus it was put in the reasoning section.

7 CHIEF JUSTICE HOLMES: Is your argument that
8 the reasoning supporting a holding is always dicta?

9 MR. COCHRAN: In that case, at least, yes since
10 the Supreme Court specifically did not want it to be
11 precedent.

12 They specifically excluded it from precedent.

13 JUSTICE CHASE: I think, in fact, that there is
14 a lot of doubt concerning that - sure, when the
15 Constitution was written, these terms that don't have
16 much meaning (even when summed together, such in the
17 case of impeachment) now, had meaning then.

18 But we live in very different times, so why
19 wouldn't the Constitutional values behind the meaning of
20 these words be better fitted for our times?

21 I keep hearing the arguments related to what
22 the Founders' wanted: do you think the Founders' wanted
23 for the Executive to be careful of every single action
24 (whether politically fueled or not) they take within
25 their branch?

26 MR. COCHRAN: That was actually a huge
27 contention at the Constitutional Convention. Maddison

1 famous said that we don't want the President to serve at
2 the pleasure of the Senate,

3 That was a minority view, however.

4 JUSTICE CHASE: And that's why they excluded
5 the term of maladministration.

6 MR. COCHRAN: The majority believed that when
7 the public interest warranted it, the Congress should
8 have power to impeach the President.

9 And they reached a compromise.

10 They would have ambiguous meaning and to
11 compensate they would have a two-pronged system for
12 impeachment: "indictment" by the House and conviction
13 byt he Senate.

14 JUSTICE CHASE: Then why'd they exclude a term
15 specifically -- or, let's relate to the Constitution
16 directly, why even add reasons if Congress' can do
17 anything they wish, make the Chief Executive their
18 creature, with impeachment?

19 MR. COCHRAN: The Senate has the sole power to
20 try the impeachment to see if the House's interpretation
21 of high crimes and misdemeanors warranted removal.

22 It was part of a compromise to add those words
23 and the majority saw it as maladministration.

24 JUSTICE CHASE: Do you believe that the "public
25 interested" is defined by 9 representatives when our
26 nation has over two thousand active voters?

1 MR. COCHRAN: 2000 active voters that voted for
2 those representatives.

3 JUSTICE CHASE: I, for one, don't care about a
4 "compromise" made by the Founders', or what the history
5 shows us - I'm not a historian, nor was I there when the
6 Constitution was ratified. What I do care about is that
7 you're arguing that Congress can do whatever they want
8 with the Executive, and that simply has been supported
9 by nothing but political science and some minor
10 references to "what the Founders wanted."

11 JUSTICE PITNEY: Mr. Cochran, in your brief you
12 claimed that the Oath ordered under Amendment 23 of the
13 U.S. Constitution is not the "transformation from
14 congressman-elect to congressman"; assuming it is true,
15 at what point is a congressman-elect a congressman?

16 MR. COCHRAN: In my brief, I said that a
17 congressman-elect doesn't necessarily turn into a
18 congressman upon being sworn-in if we assume that the
19 Petitioner's argument is true.

20 JUSTICE PITNEY: That wasn't my question: I
21 asked at what stage is a congressman-elect transformed
22 into a congressman. Surely there must be a point in time
23 and space. The Constitution is very clear about it.

24 MR. COCHRAN: Under the Petitioner's
25 interpretation, I truly don't know since they contend
26 that you have to be a Senator already to take the oath.
27 Under my interpretation, however, I believe they turn

1 into a congressman once the meaning of the oath is
2 adequately fulfilled.

3 JUSTICE STEWART: If I may refer to you brief
4 Counselor, quickly. You argued that Discord should count
5 as "in-game." Do you think that is what the Framers
6 intended?

7 MR. COCHRAN: The Constitution states that
8 "before a Senator or Representative is able to exercise
9 his Office, he must take [an] Oath or Affirmation in-
10 game" (paraphrasing, sorry if I got it wrong). It does
11 not specify what game, though.

12 This leaves it up to the interpretation of
13 Congress to what game is the national game.

14 In the House and Senate Standing Rules of the
15 time, they defined it as Discord.

16 JUSTICE PITNEY: Can any party prove that the
17 Senators and or Representatives were sworn in?

18 MR. COCHRAN: They absolutely were sworn-in. As
19 states in my amicus brief, in May of 2017, the United
20 States endorsed Discord as a game. As early as June
21 2016, the Supreme Court was allowing Discord gifs to be
22 admitted into evidence, allowing for ROBLOX characters
23 to be held accountable for the messages of their Discord
24 characters.

25 JUSTICE CHASE: You argue absolute intent of
26 the Founders' first, now you're arguing absolute
27 interpretation based on what the parties require (such

1 as the in-game clauses), in order for the clause to be
2 fulfilled.

3 CHIEF JUSTICE HOLMES: Returning to the
4 previous area of discussion.

5 Counselor, do you believe that even though the
6 Framers outlined multiple specific reasons for
7 impeachment, their inclusion of "high crimes or
8 misdemeanors" extended impeachment to anything the House
9 and Senate may agree upon?

10 MR. COCHRAN: Just like any other high crime or
11 misdemeanor that the House of Representative wishes to
12 establish, the Senate can approve or deny this, and if
13 the President vetoes, the Senate can override with
14 2/3rds majority.

15 The definition of High Crime and misdemeanor
16 is already up to Congress through Acts, at least.

17 It wouldn't be super crazy that this power
18 would extend to impeachments as well.

19 CHIEF JUSTICE HOLMES: The salient different
20 between the two is one provides prior notice while the
21 other does not. In order for something to be a high
22 crime or misdemeanor, does it first need to be a crime
23 or misdemeanor?

24 MR. COCHRAN: I contend that the House of
25 Representatives can allege what a high crime and
26 misdemeanor is through "indictment" and the Senate can
27 confirm or deny their interpretation through a trial.

1 Furthermore, in this case, the Petitioner was charged
2 with false arresting which has been in the U.S. Code for
3 several years.

4 CHIEF JUSTICE HOLMES: Alright, thank you,
5 counselor. That'll be your time.

6 Mr. Rockefeller, you have five minutes
7 remaining.

8 MR. ROCKEFELLER: Thank you.

9 Mr. Chief Justice and may it once more please
10 the Court:

11 There is some right to due process in an
12 impeachment process, otherwise the founders rightfully
13 would not have included the necessity for an oath
14 obligation or a trial at all, they could have simply
15 done it by roll-call vote.

16 The Senate released a letter prior to their
17 trial pleading with the petitioner to resign the
18 presidency. This contradicts the oath they took at the
19 start of the trial to be impartial in deciding. This
20 letter shows the exact opposite of impartiality, that
21 they, in their own right, had determined him to be
22 guilty and requiring resignation before a trial before
23 them had even convened.

24 JUSTICE PITNEY: How does oath equal due
25 process?

26 Due process referring to the rights guaranteed
27 to a person facing criminal charges.

1 MR. ROCKEFELLER: The oath requires them to be
2 impartial, and by negating Due Process it points to
3 partiality on the part of the Senators.

4 The Impeachment process is a constitutional
5 process with constitutional requirements to be convened.

6 One can predict the purpose of the Founders to
7 be able to access Constitutional rights.

8 Continuing on, per the argument by Mr.
9 Cochran, if it were true that the court of public
10 opinion is what determines the necessity of Congress to
11 impeach, I'm sure President Abraham Lincoln would have
12 been impeached.

13 It is the job of Congress per the Constitution
14 to allege articles of impeachment. Not the general
15 public.

16 CHIEF JUSTICE HOLMES: Counselor, the
17 Constitution states that "Judgment in Cases of
18 Impeachment shall not extend further than to removal
19 from Office, and disqualification to hold and enjoy any
20 Office of honor, Trust or Profit under the United
21 States: *but the Party convicted shall nevertheless be*
22 *liable and subject to Indictment, Trial, Judgment and*
23 *Punishment, according to Law."* Does this in any way
24 indicate that impeachable offenses must be real
25 indictable, criminal offenses?

26 MR. ROCKEFELLER: I hold that it does, Mr.
27 Chief Justice.

1 If the accused is to be impeached for offenses
2 they may later be convicted of, I hold that the high
3 crime and misdemeanor burden set by the Constitution for
4 Congress to impeach on must be lawful offenses.

5 JUSTICE CHASE: You referred to the oath as
6 being an indication (although subliminally) of required
7 due process: what is the purpose of the oath?

8 MR. ROCKEFELLER: The purpose of the oath per
9 Article 23 of the NUSA Constitution was to establish and
10 require complete impartiality on the Senate for the
11 Trial.

12 Er.

13 My apologies.

14 Not per that article.

15 But the impeachment oath was established for
16 that reason.

17 JUSTICE BRANDEIS: Why do you truly believe
18 that it is the judicial branch's job in deciding whether
19 if the impeachment meets the criteria laid out in the
20 constitution? You seem to be heavily relying on us.

21 MR. ROCKEFELLER: By not allowing the same due
22 process rights to the alleged, they jeopardize
23 impartiality by not allowing for adequate counsel,
24 testimony, and time to develop a defense.

25 May I get an additional 10 minutes as the
26 opposing counsel and amicus received ample additional
27 time and I am arguing alone for my side?

1 CHIEF JUSTICE HOLMES: An additional 10 minutes
2 are granted at the request of members of the Court.

3 MR. ROCKEFELLER: Justice Brandeis, I believe
4 that it is the Judicial Branch's job to determine
5 whether it meets the requirement to impeach because it
6 is laid out for the Court to interpret the law.

7 JUSTICE BRANDEIS: Obviously, but then what is
8 the Senate's duty in this case then?

9 MR. ROCKEFELLER: If the Court cannot determine
10 what is and is not impeachable, which as stated in the
11 Constitution is Treason, Bribery, or High Crimes and
12 Misdemeanors, then the Court would be negating their
13 duty.

14 And the Duty of the Senate is to weigh the
15 facts alleged by the House of Representatives.

16 And in a true fair and impartial trial, it
17 should be viable that the Senate makes a justified
18 decision as to the alleged violations.

19 But in this situation we see the weaponization
20 of a very broad and arguably unconstitutional usage of
21 other High Crimes and Misdemeanors.

22 By a proven partial Senate who is responsible
23 for weighing facts they had determined to be true before
24 the trial had even convened.

25 JUSTICE STEWART: In your brief, you argue that
26 the Senate ignored evidence about the First Article.
27 What sort of standard of review would you like the Court

1 to impose for reviewing evidence on an evidentiary
2 basis?

3 MR. ROCKEFELLER: I would argue the court
4 imposes the same standard of review given to any
5 defendant.

6 To any person accused of a crime or tort,
7 criminal or civil.

8 That the evidence is proven to be accurate and
9 the whole picture, not cherry picked to show a certain
10 narrative.

11 JUSTICE CHASE: I'm sorry, that's just plainly
12 wrong, Counselor. It's best that you stick to your
13 original points.

14 CHIEF JUSTICE HOLMES: So, if we were to apply
15 the same rule applied in criminal appeals, how can you
16 say Congress clearly erred in finding that he committed
17 a false arrest?

18 MR. ROCKEFELLER: Mr. Chief Justice, this goes
19 in to my argument of Due Process. The Congress erred in
20 not allowing the petitioner adequate time to compile
21 evidence that painted the whole picture.

22 That in the alleged false arrest, eyewitness
23 testimony showed that the petitioner was in full
24 compliance of Public Law 33-3.

25 An active protection detail by the Secret
26 Service was ongoing and the person who had been detained

1 was warned prior to the evidence clip they had
2 submitted.

3 Of which, the clip the Congress used was not
4 the original. The --

5 JUSTICE CHASE: Counselor, we aren't here to
6 argue merits of a case that we aren't even hearing.

7 MR. ROCKEFELLER: -- original showed the
8 warning, but was removed and reuploaded to point a more
9 sturdy finger.

10 I was just answering the Chief Justice's
11 question, Justice Chase.

12 Regardless, going to an argument made by Mr.
13 Cochran and General Jaden in regards to the potential
14 disability of 8/9 of the justices here due to the
15 improper oath, I refer you again to the Judicial Review
16 clause of Marbury v. Madison, which established the
17 scope of Judicial Review to be strictly on what is
18 challenged in the Courts, not on all legislation passed.

19 Thus giving the Court the ability to determine
20 the Constitutionality of these impeachment articles and
21 potentially overturn without having to overturn any
22 prior legislation by the same Congress without a
23 challenge.

24 CHIEF JUSTICE HOLMES: Thank you, Mr.
25 Rockefeller, that is all your time.

26 You may answer Justice Stewart's question
27 before we finish.

1 JUSTICE STEWART: The respondent's have argued
2 that a person in an impeachment trial isn't been
3 deprived of life, liberty or property and is not
4 entitled to due process protection. Why should we apply
5 due process clause here?

6 MR. ROCKEFELLER: They are correct, the person
7 is not deprived of life but of livelihood, not of
8 liberty of but of the ability to uphold it. They are
9 losing their ability to serve as an elected
10 representative of the people who hold those three things
11 dear. Without due process, as we saw in this situation,
12 a Congress can weaponize the impeachment process to fit
13 their needs rather than fit the intent of the framers.

14 I thank the Court.

15 CHIEF JUSTICE HOLMES: Thank you.

16 The case is submitted.

17 (Whereupon, at 10:02 p.m., the case was
18 submitted.)

19

20

21

22

23

24

25

26

27