

T R A N S C R I P T

of

Proceedings

before

SENATE JUDICIARY COMMITTEE

RE: Reappointment of Judge Bry-Nildsen
Warren County Court

HELD:
March 17, 1978
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

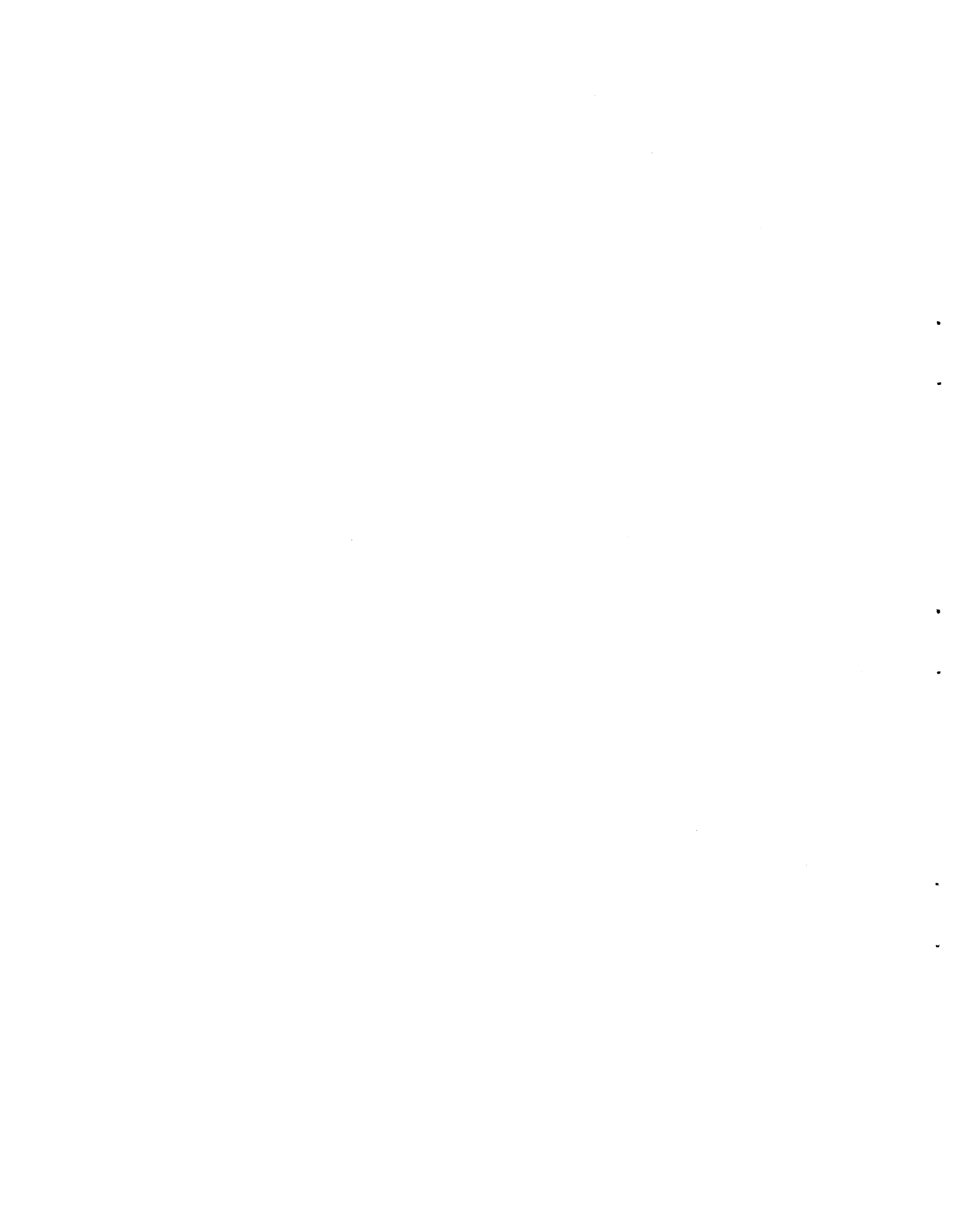
Senator Martin L. Greenberg (Chairman)
Senator James S. Cafiero
Senator William J. Hamilton, Jr.
Senator Joseph A. Maressa
Senator William V. Musto
Senator Steven P. Perskie
Senator Walter N. Sheil

ALSO:

John J. Tumulty, Research Associate
Legislative Services Agency
Aide, Senate Judiciary Committee

I N D E X

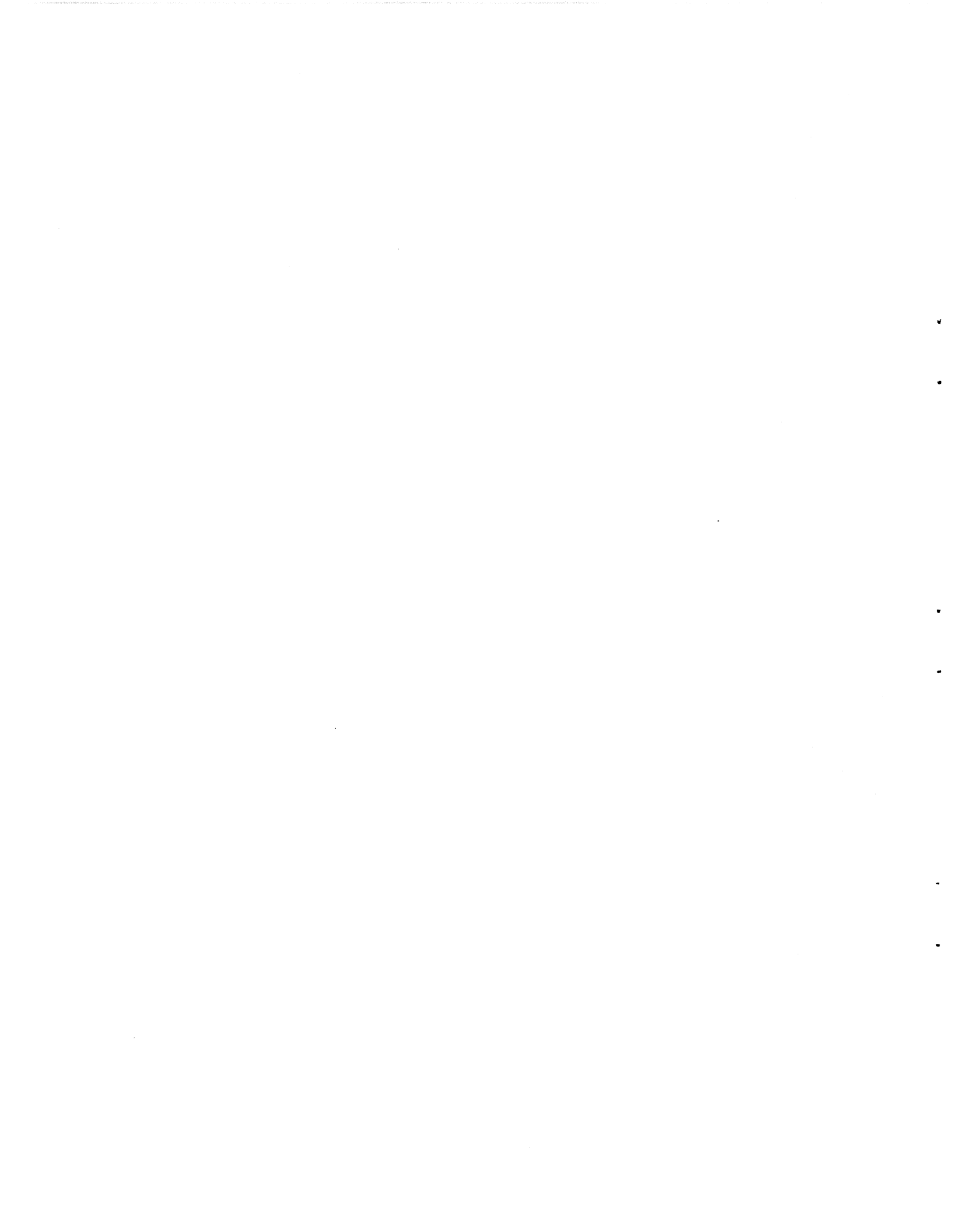
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Anthony J. Sciascia	13
Charles Stachnik	14
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Letter from Stachnik Lumber and Wrecking Co., Inc.	2X



SENATOR MARTIN L. GREENBERG (Chairman): We are now considering the renomination of Judge Bry-Nildsen. I might point out for the record several things. First, we considered this nomination last Monday. It was on a list posted in the State House, and given to the press, and we reported Judge Bry-Nildsen's name favorably last Monday. However, the Senate has not been in session since then, so it has not officially been reported to the Senate. The day after the consideration - that is the day after last Monday - I received a letter dated March 14, 1978, from Stachnik Lumber and Wrecking Company, Inc. which will be made part of this record, over the signature of Charles Stachnik, inquiring into our Friday, March 17th meeting to consider Judge Bry-Nildsen's reappointment. Obviously, Mr. Stachnik was under the impression that the matter would initially be considered today instead of last Monday.

Since we have not taken official action by reporting our action to the Senate, I thought it only proper and appropriate to give Mr. Stachnik and those individuals he mentioned in his letter an opportunity to be present before this Committee and testify. That is why we are having it today, Judge. That is why you have been invited, and I thank you for appearing.

I might point out that I have spoken with Bob Cowen, who works for the Supreme Court, Administrative Director of the Courts, in charge of ethics matters



of the court, and he advises me that after Judge Bry-Nildsen's decision in the case in question, which is referred to in this letter, he received a number of letters voicing indignation by local citizens as to the decision of the Judge. He advises me that he responded to those writers by saying that they were at liberty to file an ethics complaint if they saw fit to do so, and that the process would then commence. He advises me that no such ethics complaint letter was ever received by the Administrative Director of the Courts. Consequently, there is no pending matter before the Administrative Director of the Courts. That is the factual representation of Mr. Cowen to me as of today.

SENATOR PERSKIE: In contrast to this statement?

SENATOR GREENBERG: Yes, in contrast to this statement. However, we have the complainants, or certain of them, here. I understand two members of the family of the deceased are present; is that correct?

MR. SCIASCIA: Three.

SENATOR GREENBERG: As well as the letter writer; is that correct?

MR. STACHNIK: Right.

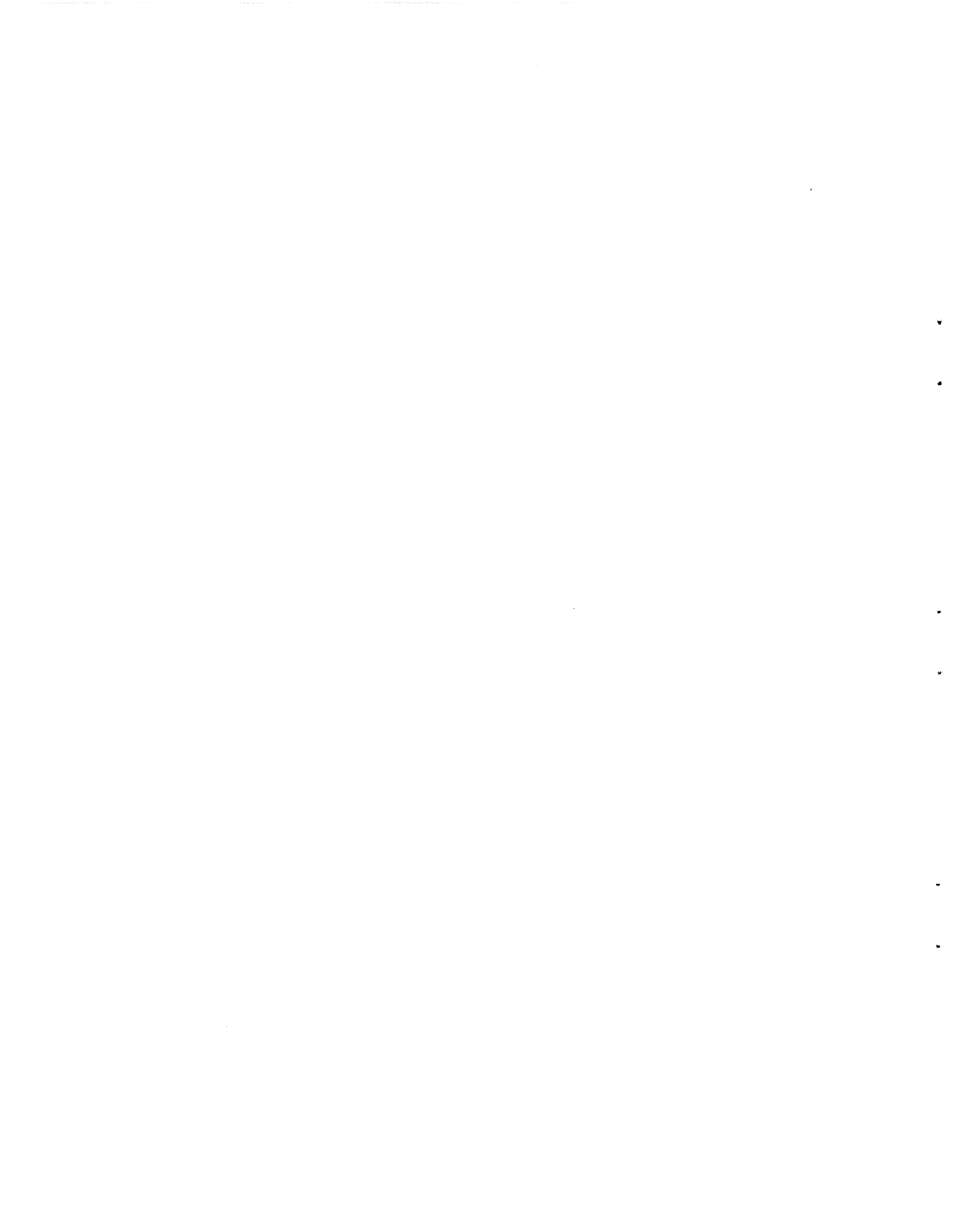
SENATOR GREENBERG: As well as Judge Bry-Nildsen.

JUDGE BRY-NILDSSEN: I have not seen the letter.

SENATOR GREENBERG: Please take a look at it.

SENATOR HAMILTON: Mr. Chairman, what was the date of the trial in question?

SENATOR GREENBERG: I do not know. We will find out in a moment. Judge, have you read the letter?



JUDGE BRY-NILDSSEN: Yes, sir.

SENATOR GREENBERG: Can you help the Committee by giving us - from your recollection, since you have not seen the letter before this moment, and you obviously have not brought a file - the details of the nature of this case, what occurred with regard to a determination and a disposition?

JUDGE BRY-NILDSSEN: Yes, sir. The case was tried without a jury, and the application for the Attorney for the defendant accused a man named Stires, whom I believe was about nineteen or twenty. I conducted a hearing with respect to that, and at the time it was not disposed, but I had the opinion that I was obliged to grant his request. I took the matter up with the Prosecutor - I asked him - and he felt the same. So we went ahead. I granted his request after I had extensively interrogated the defendant.

SENATOR GREENBERG: What request was that, Judge.

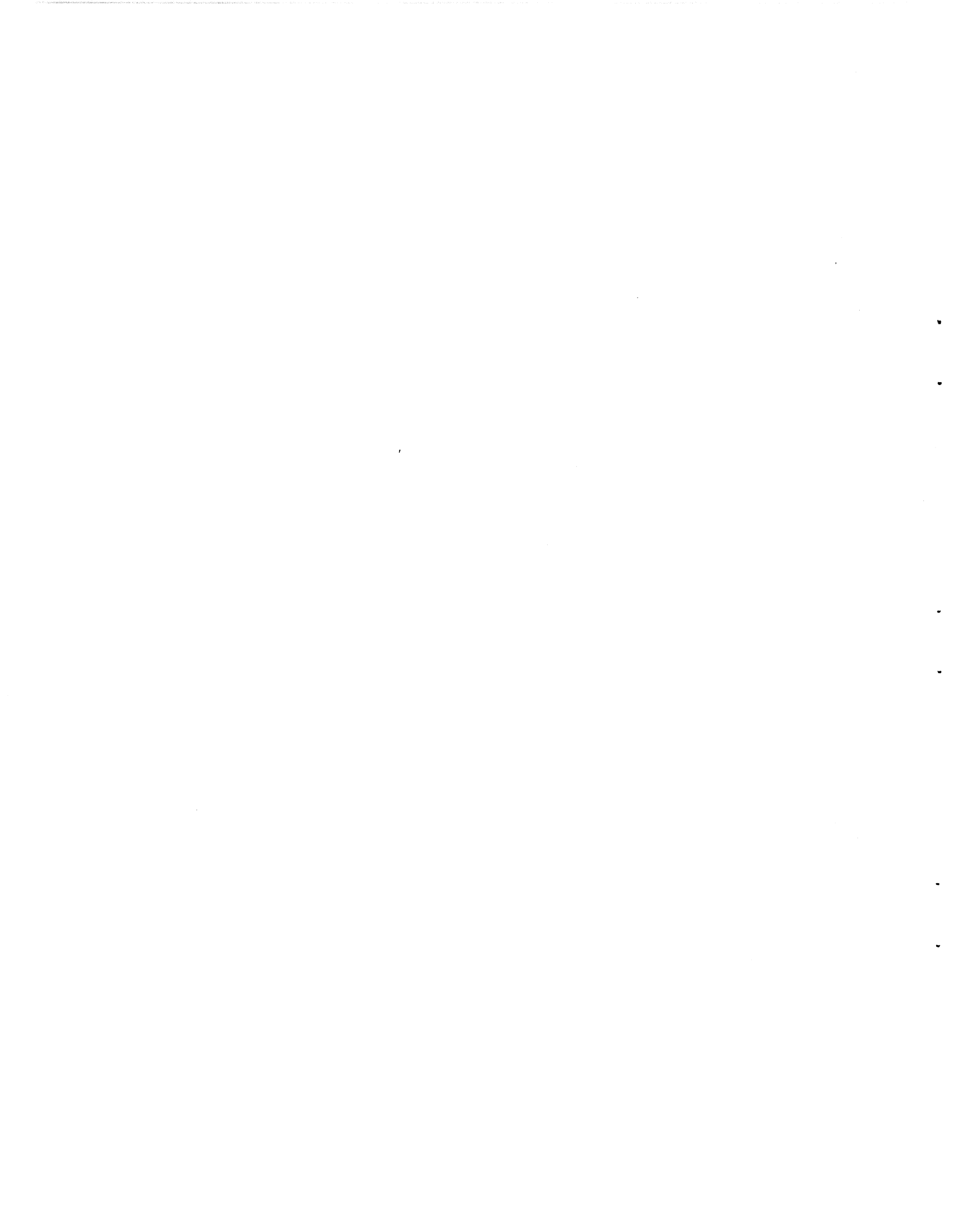
JUDGE BRY-NILDSSEN: To try it without a jury.

SENATOR MARESSA: Can you go into that a little deeper, just to save time, Judge. I don't understand how you arrived at that conclusion.

JUDGE BRY-NILDSSEN: To try it without a jury?

SENATOR MARESSA: Yes.

JUDGE BRY-NILDSSEN: Well, only because, very frankly, I was under the impression that I was obliged to do it, and I had that understanding. I have since learned that



it is not obligatory.

SENATOR MARESSA: It was your understanding that you were obliged to honor a request for a non-jury trial?

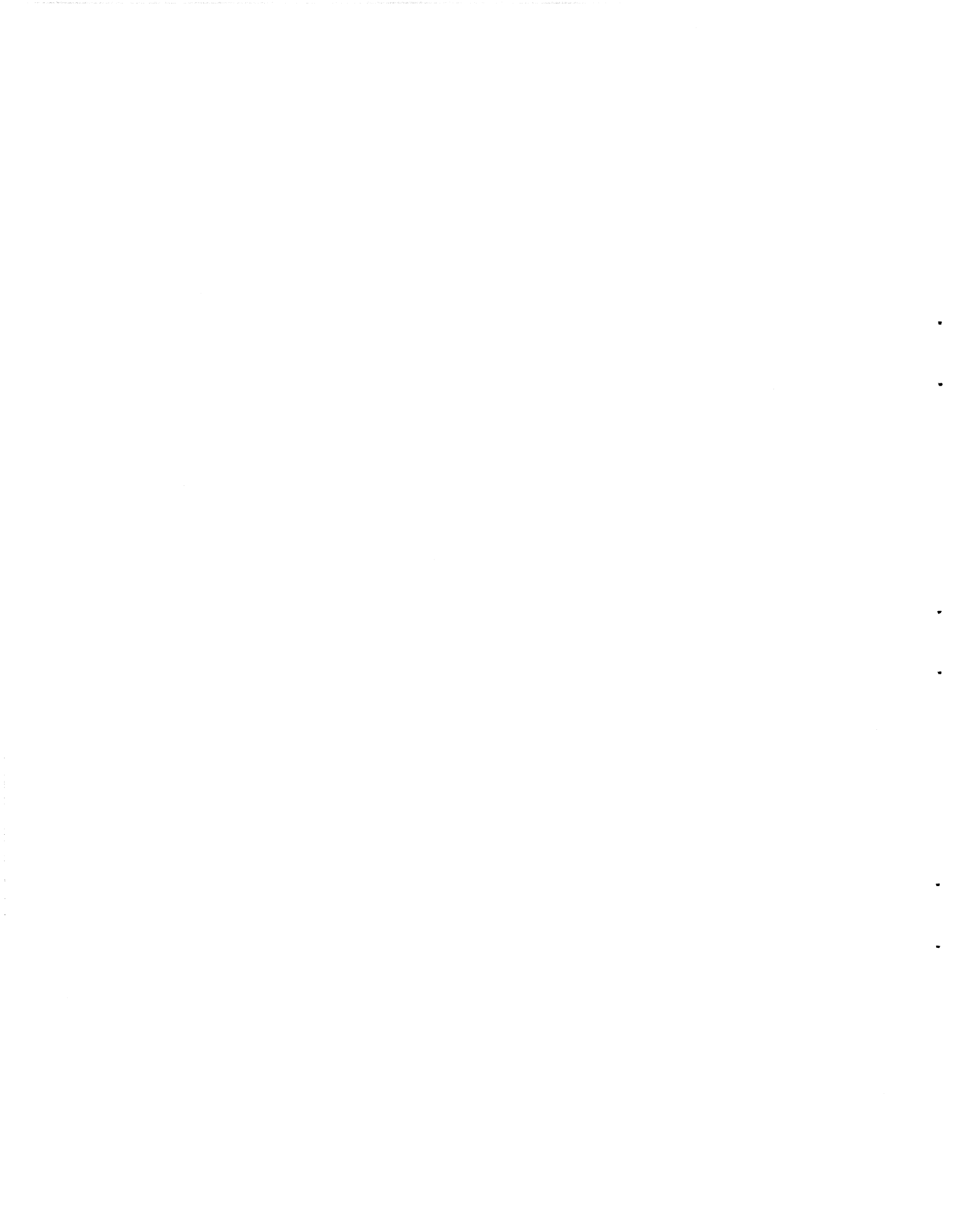
JUDGE BRY-NILDSEN: Well, that was my understanding at the time, and it was the Prosecutor acknowledging as well, so I never gave it more thought than that. I have not tried many criminal cases.

SENATOR GREENBERG: You mean that you were of the opinion that where the Prosecutor and the Defense Counsel both consented, or requested, to a non-jury trial that you were under an obligation to accept that request?

JUDGE BRY-NILDSEN: I thought so at the time. I have since learned that it is not obligatory.

SENATOR GREENBERG: All right, in any event, you made the determination to go ahead.

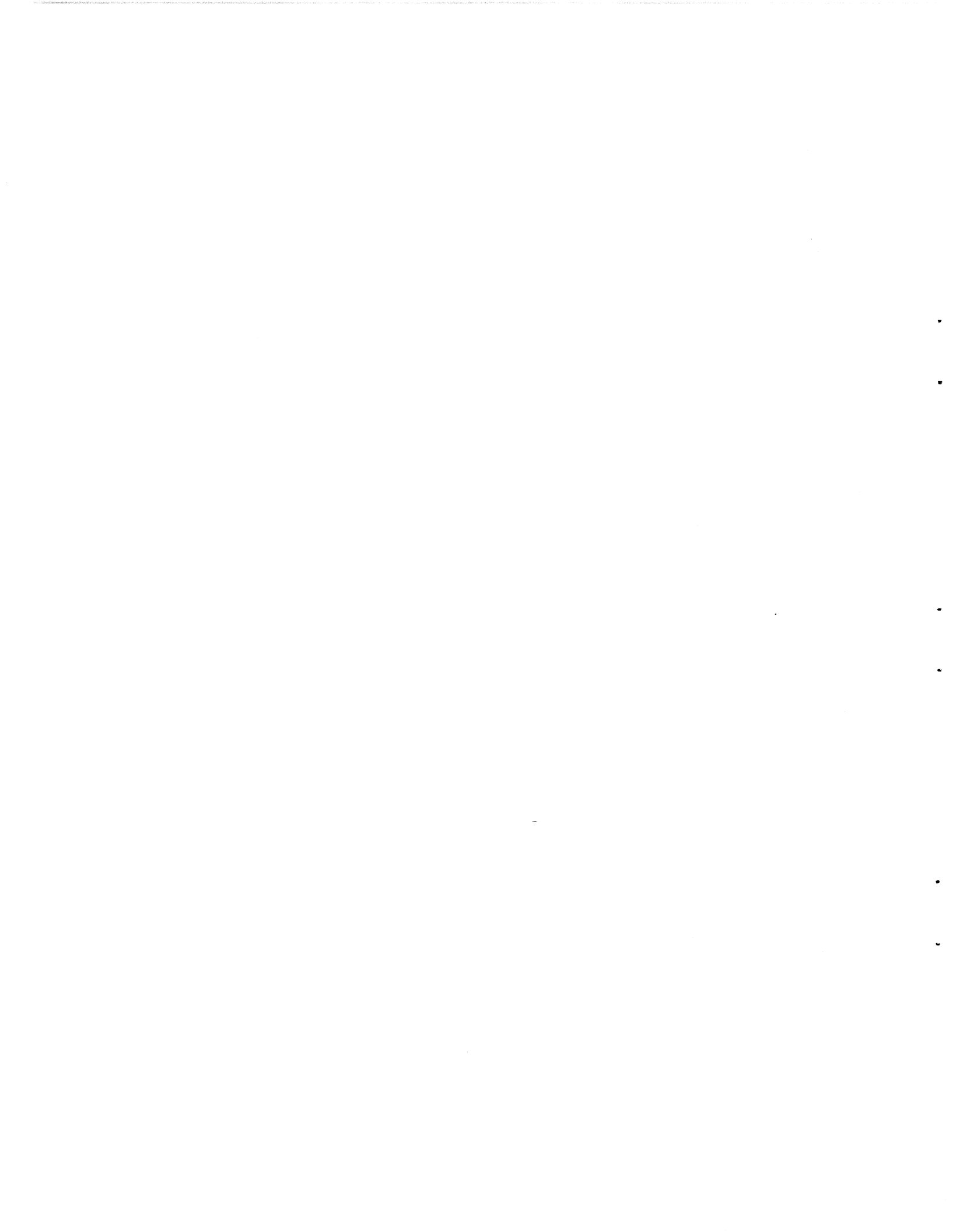
JUDGE BRY-NILDSEN: Yes. Then the case was presented in a rather lengthy trial. The factual matrix was that the defendant together with his brother or half brother had in the evening - it was a May night. I don't remember the date - hours gone to an area which was frequented by young teenagers and young people, known as the Ingersoll Dam, I believe. That was the general reference. At the time they first went there, there were a group of other people there, young men, and there developed an altercation between these two people, and those already there, another group. It eventuated in something of a fight, but this man and his brother, who were under the influence of alcohol, jumped into the car



and left. As they were leaving, a beer bottle was thrown at the windshield of the defendant's brothers car, and they resolved to get even, and went home and got a gun. And they returned with this to shoot out the windshield of the car to get even. All of this time was approximately between three quarters of an hour and an hour elapsed. As they returned, there was a vehicle parked in the roadway.

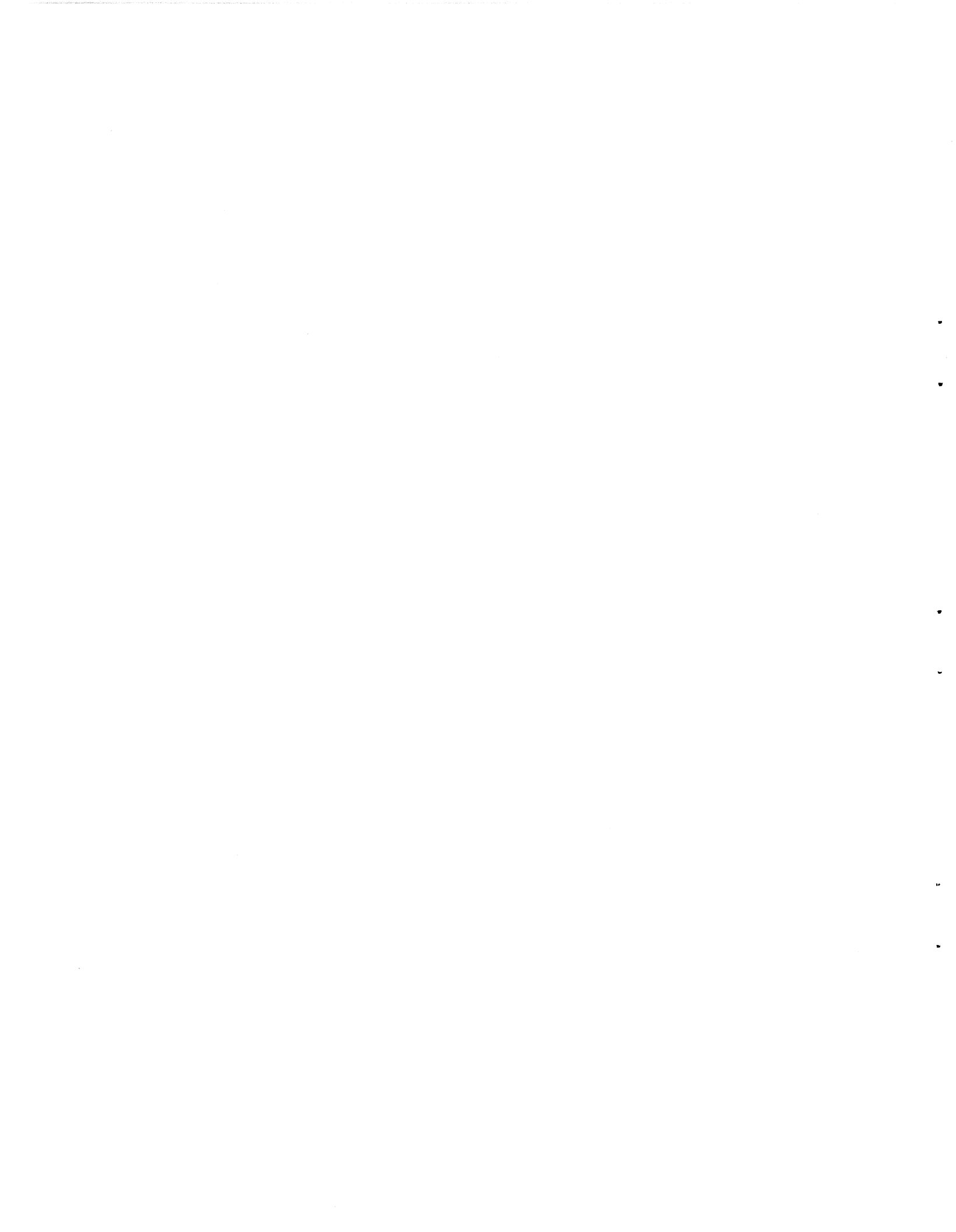
The evidence that I heard indicated that it was a dark night. The area --- It was a dark road, blacktop; there was a large canopy of trees over it. The car of the young victim, Mr. Sciascia, was I believe a station wagon type vehicle. And it was parked without its lights on at the side of the road. There was a young lady named Seese, Donna Seese, who gave evidence. They were out of the car. They were--- As I remember, the girl was several feet in front of the car looking toward the car, and the young Mr. Sciascia was in the vicinity of the left-hand corner of the car that was parked, as this vehicle approached in which this Stires and his brother, a man named Counterman, came. Counterman was driving the vehicle. I think it was some type of a Dodge automobile. I think it was a two-door.

Counterman was driving the car, and Stires was sitting in the window, out the window on the right side with his gun, and when he got in the vicinity of the car took a shot. That first shot lined up with the windshield.



The young lady was in the path of it. It was a shotgun. The evidence indicated that a portion of the pattern of the shot struck her in the hip. The remaining portion of it struck the hood of the vehicle, just about at the point of what I call the radiator, but where it turns down. That was evidenced by photographs - in line with the windshield. Another shot immediately followed, the car moving toward the Sciascia vehicle. That shot turned over, and that also--- There is no way to know exactly how it was lined up with the windshield, but from the definition of the evidence of the location of the vehicles, where the shot was, the young lady, unfortunately, had her back to the car. As I remember, she said it was about even with the car, when the second discharge went off. That caught the Sciascia boy in his left shoulder, arm, and it penetrated, and entered the heart, some of the shot, causing his death.

These two boys stopped and quit. The Counterman boy, from the evidence, went back and saw that this girl was struck, and the boy, and then they left, very callously, and very cravenly. Then they went on down, and the Counterman boy picked up his girlfriend, whom he later married, but I am not sure. They took the Stires boy, whom I tried, home. He was hiding at home, obviously a coward somewhat. And the Counterman boy and his girlfriend eventually were apprehended, and they gave that information to the police, and a warrant was issued, and Stires was then apprehended. That was, as I recall, the general sequence.



The evidence concerning the site, the reconstruction of the scene, was not done. There wasn't any evidence except the brief reference to the fact that it was dark. Both Miss Seese and I believe Mr. Sciascia were wearing dark dungaree type clothing. She, as I recall, had slacks, dungaree type, and a jacket of the same type of material. She had dark hair. Her back was to the vehicle, and the young man was dressed in the same way. Ultimately, the question resolved down to whether the case would be second degree or homicide.

SENATOR HAMILTON: What was that, I am sorry.

JUDGE BRY-NILDSEN: Second degree or manslaughter, excuse me. My mouth is dry.

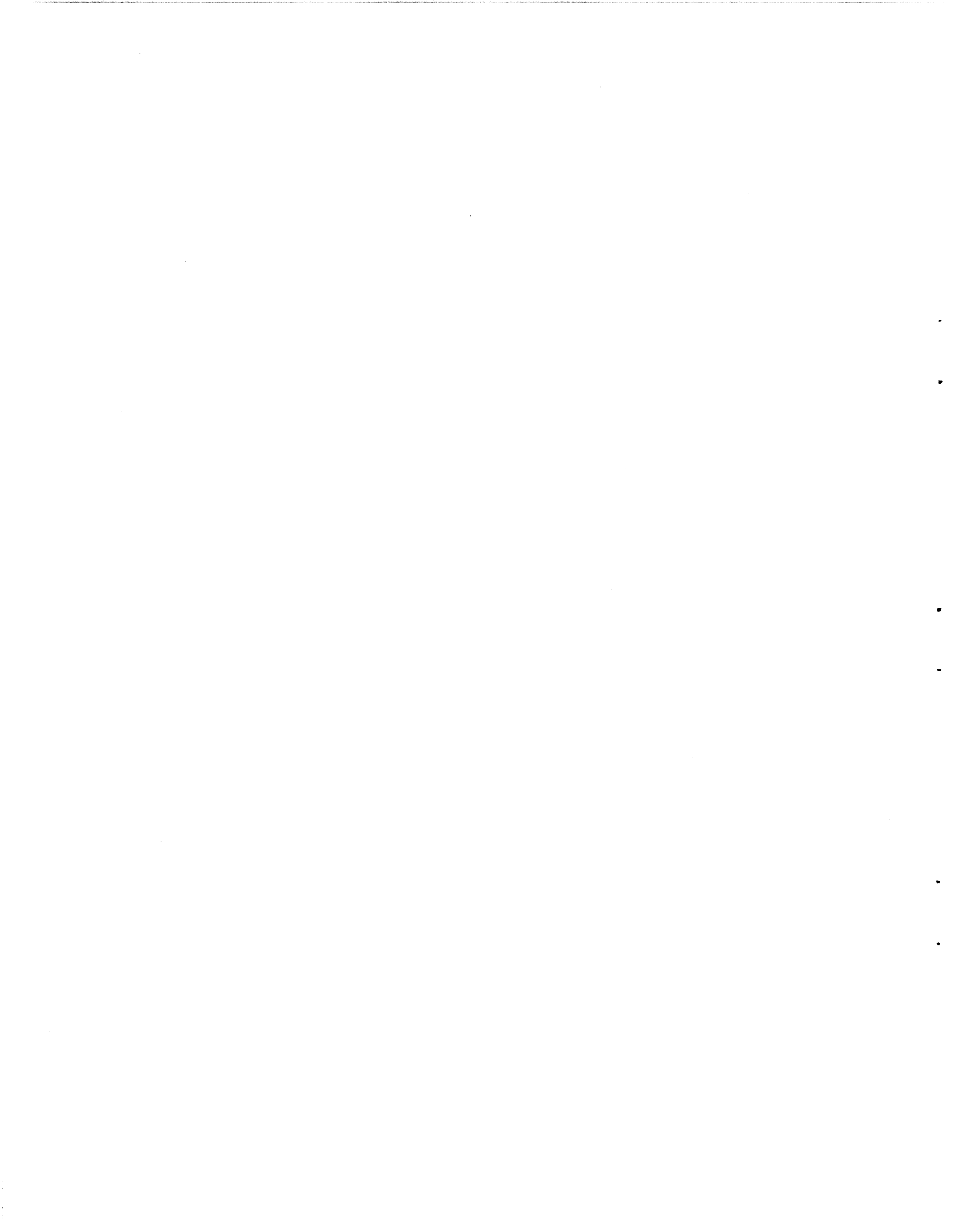
SENATOR GREENBERG: We will get you some water, Judge.

SENATOR PERSKIE: Did the defendant testify, Judge?

JUDGE BRY-NILDSEN: No, sir, there was a statement given by the defendant to the police which was admitted after a rather considerable voir dire hearing as to its voluntariness and so forth. The contention was made that he was under the influence of alcohol, and---

SENATOR PERSKIE: At the time of the statement?

JUDGE BRY-NILDSEN: Yes, sir. I admitted that that statement was taken the following morning, and he had been asleep before he was apprehended, and he consumed more alcohol according to the evidence given by others.



SENATOR GREENBERG: Those basically were the facts; is that correct?

JUDGE BRY-NILDSEN: Yes. It resolved down, as I say, to an issue between those. It was never a first degree question.

SENATOR GREENBERG: What was your determination?

JUDGE BRY-NILDSEN: I found him guilty of manslaughter. Because I could not from that evidence be convinced that he could ever see those people under those circumstances. That was the problem. I wrestled with it, and it came to the forefront early.

SENATOR GREENBERG: Did you impose sentence?

JUDGE BRY-NILDSEN: Yes, sir.

SENATOR GREENBERG: What was the sentence?

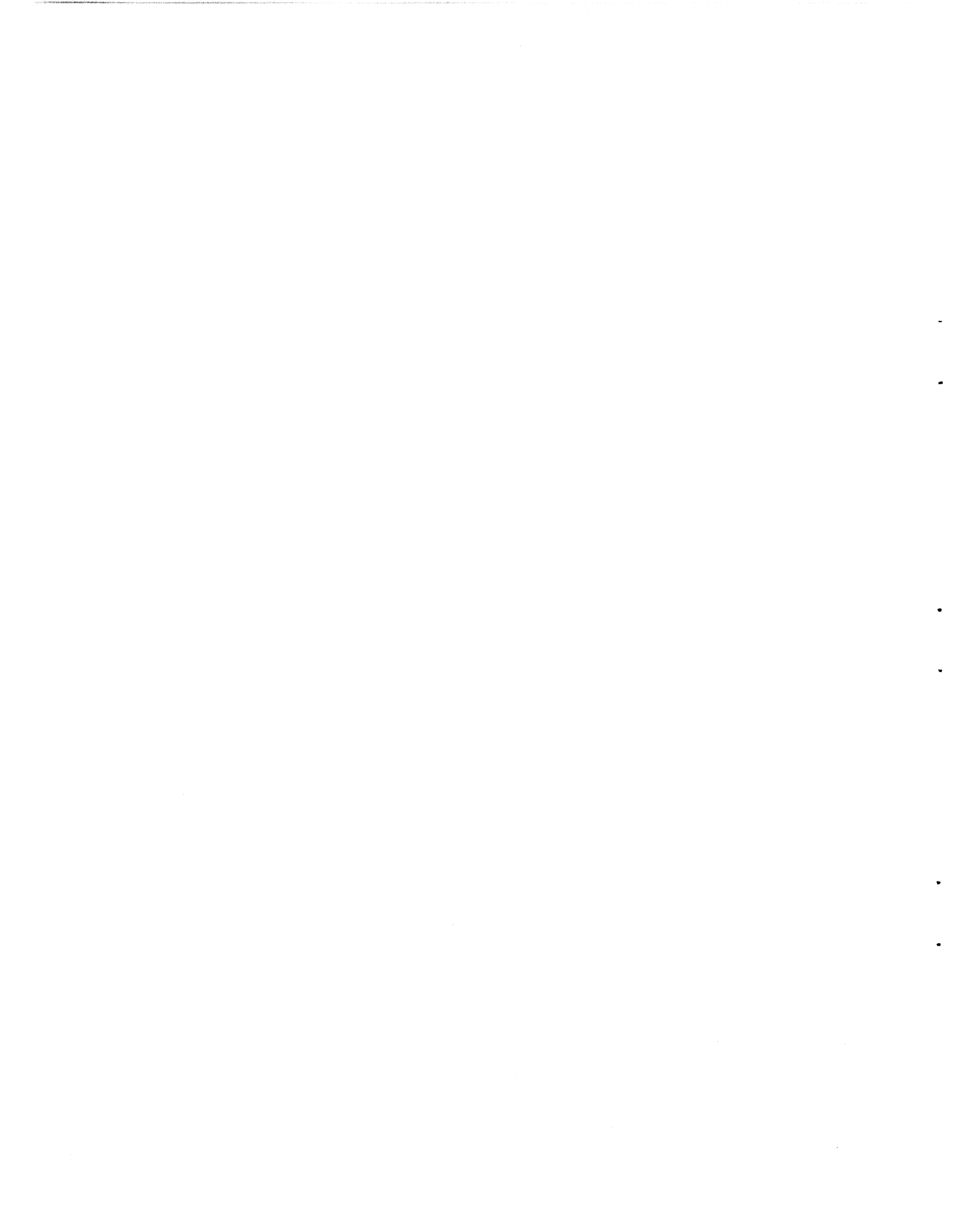
JUDGE BRY-NILDSEN: Ten years maximum. I, of course, had no sympathy, and I can assure you it was a difficult decision, but I was bound by the evidence.

SENATOR GREENBERG: All right, do any Senators have any questions of the Judge before we hear from the other witnesses? The Judge will have an opportunity to testify after that.

SENATOR AMARESSA: Who are the other witnesses? Can you tell us that?

SENATOR GREENBERG: Yes. The other witnesses are members of the deceased's family together with the individual who wrote the letter in front of you.

SENATOR MARESSA: Is there anybody representing the Prosecutor's office?



SENATOR GREENBERG: No.

SENATOR PERSKIE: I have a few questions. Judge, I don't have any questions about the trial. We have a letter here from Mr. Charles Stachnik. He says in here, "In my own court appearances against him I have found him to be very prejudiced," et cetera. Do you know Mr. Stachnik?

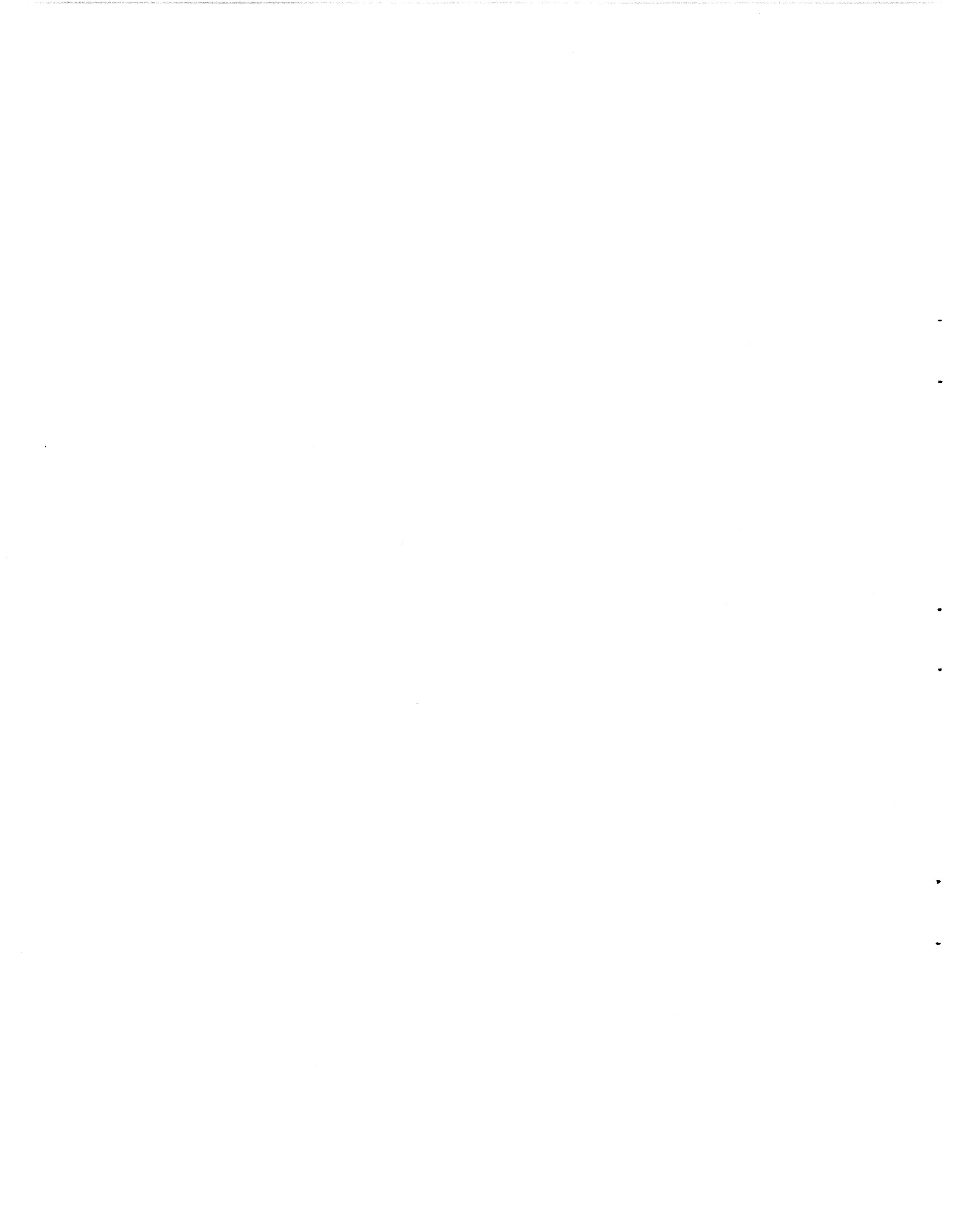
JUDGE BRY-NILDSEN: I don't know him, but I recall his having been in the District Court some years ago, when I was sitting in District Court. I don't remember the nature of the case specifically, but I know that he was represented first by Warren Herrigel who is now in the court of Hunterdon County. I believe it had to do with some fees that Mr. Herrigel sued for. From the evidence in that case, I found in favor of the plaintiff and awarded him some money, not as much as he asked for, if I recall, but he felt he was entitled to recover. There was an appeal taken---

SENATOR PERSKIE: You sat in that case as a Judge?

JUDGE BRY-NILDSEN: Yes.

SENATOR GREENBERG: Rather than have the Judge respond to allegations that are not yet clear, I would rather take the allegation.

SENATOR PERSKIE: Well, I wasn't dealing with the allegation as much as I was curious as to his reference to court appearances against him. I thought maybe you might have appeared as an attorney or something. I don't know why he would say against you.



JUDGE BRY-NILDSEN: I don't know. As far as I know, he appealed, and he changed counsel.

SENATOR HAMILTON: Judge, when was the verdict rendered in this case, and when was sentence imposed?

JUDGE BRY-NILDSEN: Stires?

SENATOR HAMILTON: Yes, sir.

JUDGE BRY-NILDSEN: It was in the early Fall. I don't remember the date, sir. The sentence was imposed as soon as the pre-sentence report was prepared.

SENATOR HAMILTON: What year, judge?

JUDGE BRY-NILDSEN: Late in 1977.

SENATOR HAMILTON: Sentence was imposed before Christmas?

JUDGE BRY-NILDSEN: Oh, yes. I believe it was.

SENATOR GREENBERG: Judge, we are going to hear from---

SENATOR MARESSA: Judge, the sentence of ten years means that the individual could be paroled after two years; is that correct?

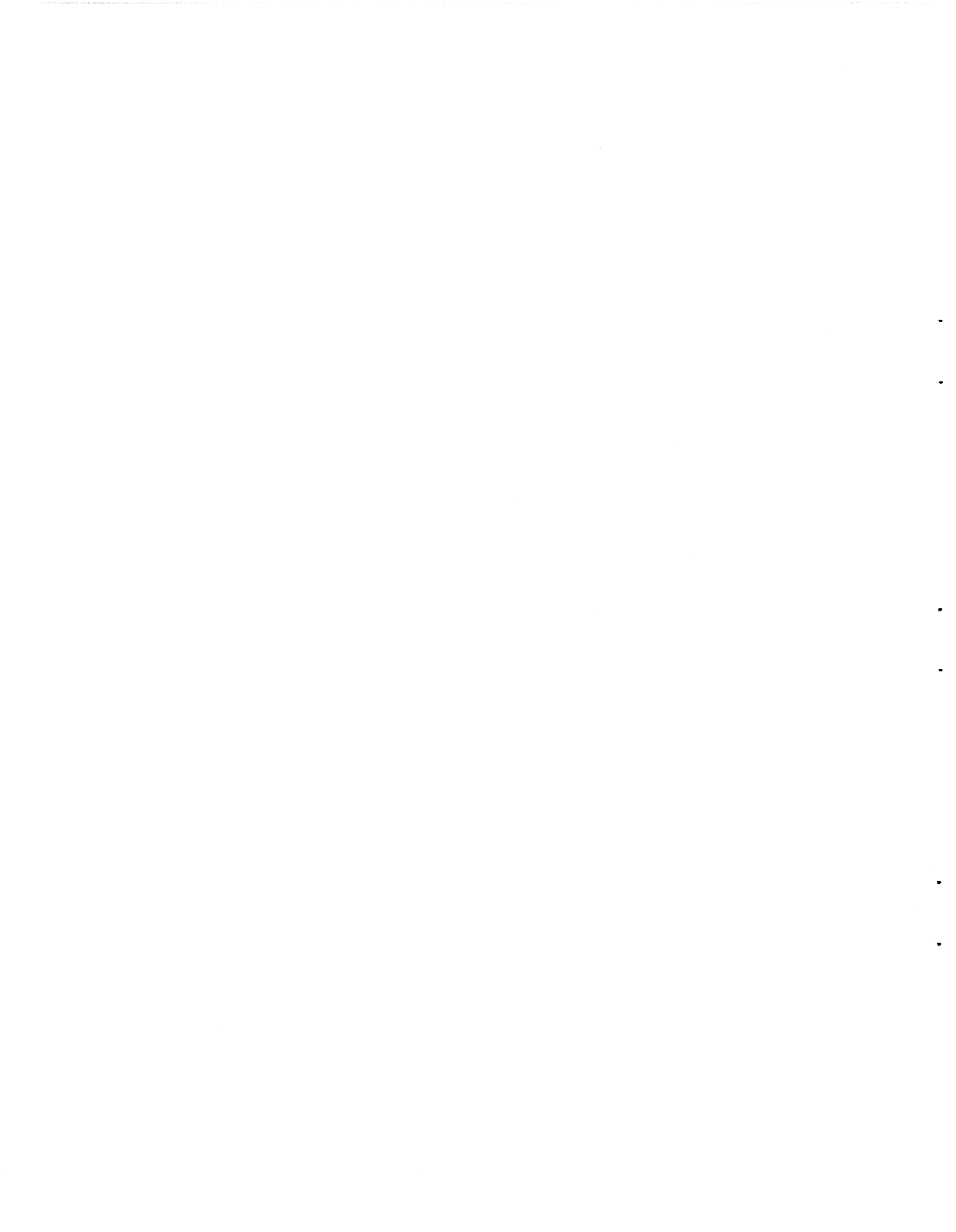
JUDGE BRY-NILDSEN: Not to my understanding, sir.

SENATOR MARESSA: What is your understanding?

JUDGE BRY-NILDSEN: I believe that the standard is one-third of the maximum.

SENATOR MARESSA: It is one-fifth, isn't it?

SENATOR GREENBERG: It is one-third, less time off for good behavior.



SENATOR MARESSA: Is that peculiar to a manslaughter?

JUDGE BRY-NILDSEN: No, no. He was also sentenced for another violation; he was found guilty of possession of a weapon. He was given another two to six on that, so it's a total of sixteen.

SENATOR PERSKIE: Two to six on what? I am sorry.

JUDGE BRY-NILDSEN: Possession of a weapon without the requisite permits.

SENATOR GREENBERG: Was that tried at the same time?

JUDGE BRY-NILDSEN: Yes, sir.

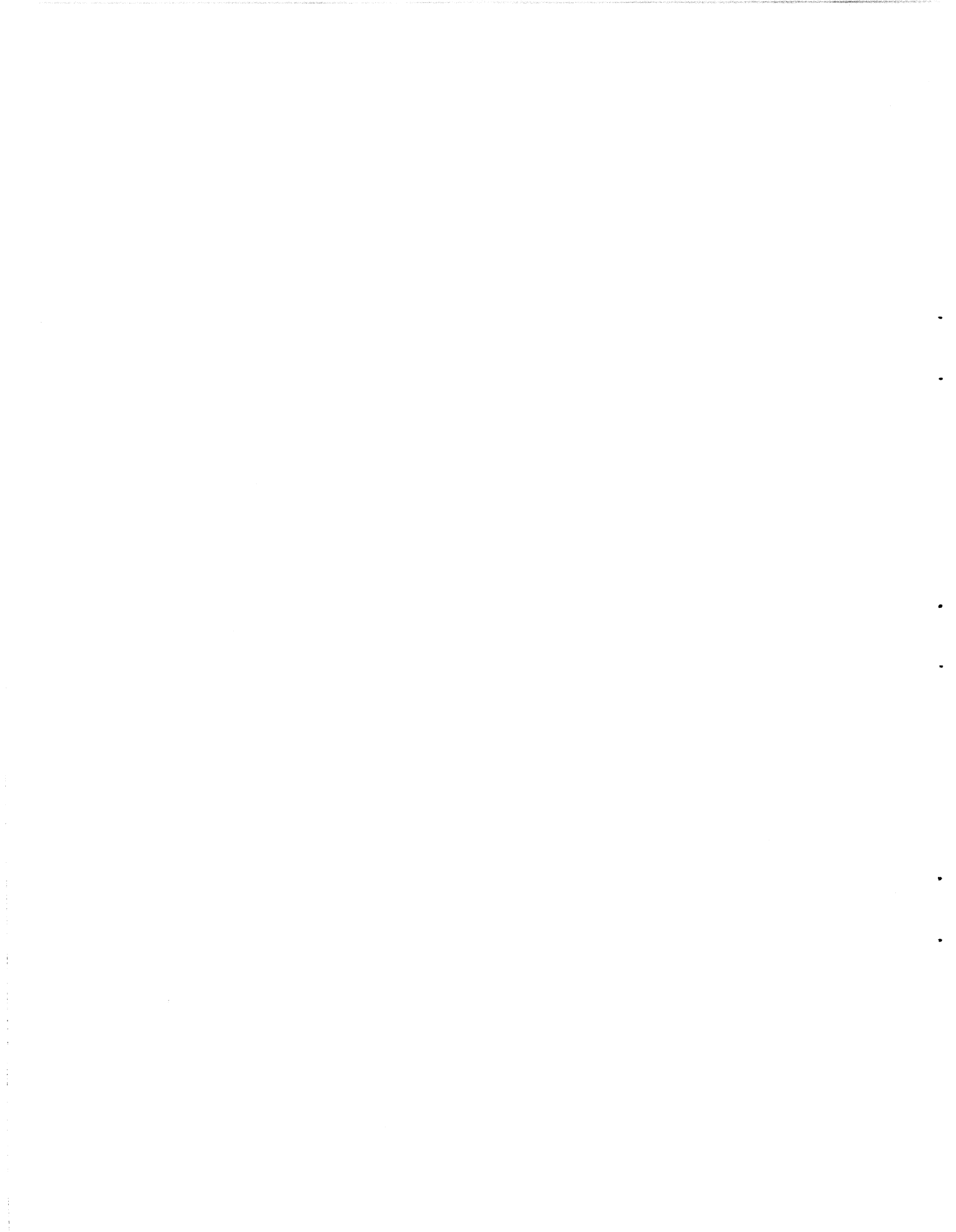
SENATOR GREENBERG: So his total sentence was what?

JUDGE BRY-NILDSEN: In that case, while that statute is one which is difficult sometimes, when we find relatively innocent and ignorant people coming in with guns from other states; I felt that this was a situation toward which that legislation was directed.

SENATOR GREENBERG: So, what was the total sentence?

JUDGE BRY-NILDSEN: Sixteen maximum, and eleven minimum.

SENATOR MARESSA: Now, Judge, I am particularly concerned about the fact that there wasn't a jury trial in this case. Was there a positive statement by the Prosecutor? Incidentally, who was the Prosecutor?



JUDGE BRY-NILDSEN: James Tyrrell.

SENATOR MARESSA: Is he the Prosecutor or the assistant?

JUDGE BRY-NILDSEN: No, he is the Prosecutor. We didn't go into it. As far as I was concerned, I had tried so many cases without juries over the years. As I say, I just sat this year on criminal matters.

SENATOR MARESSA: To your knowledge, was there any contact by the family, the Sciascia family, or counsel representing them, to you regarding the insistence on a jury trial?

JUDGE BRY-NILDSEN: I never heard from them.

SENATOR MARESSA: Was there any discussion with the Prosecutor that you knew of?

JUDGE BRY-NILDSEN: Not to my knowledge.

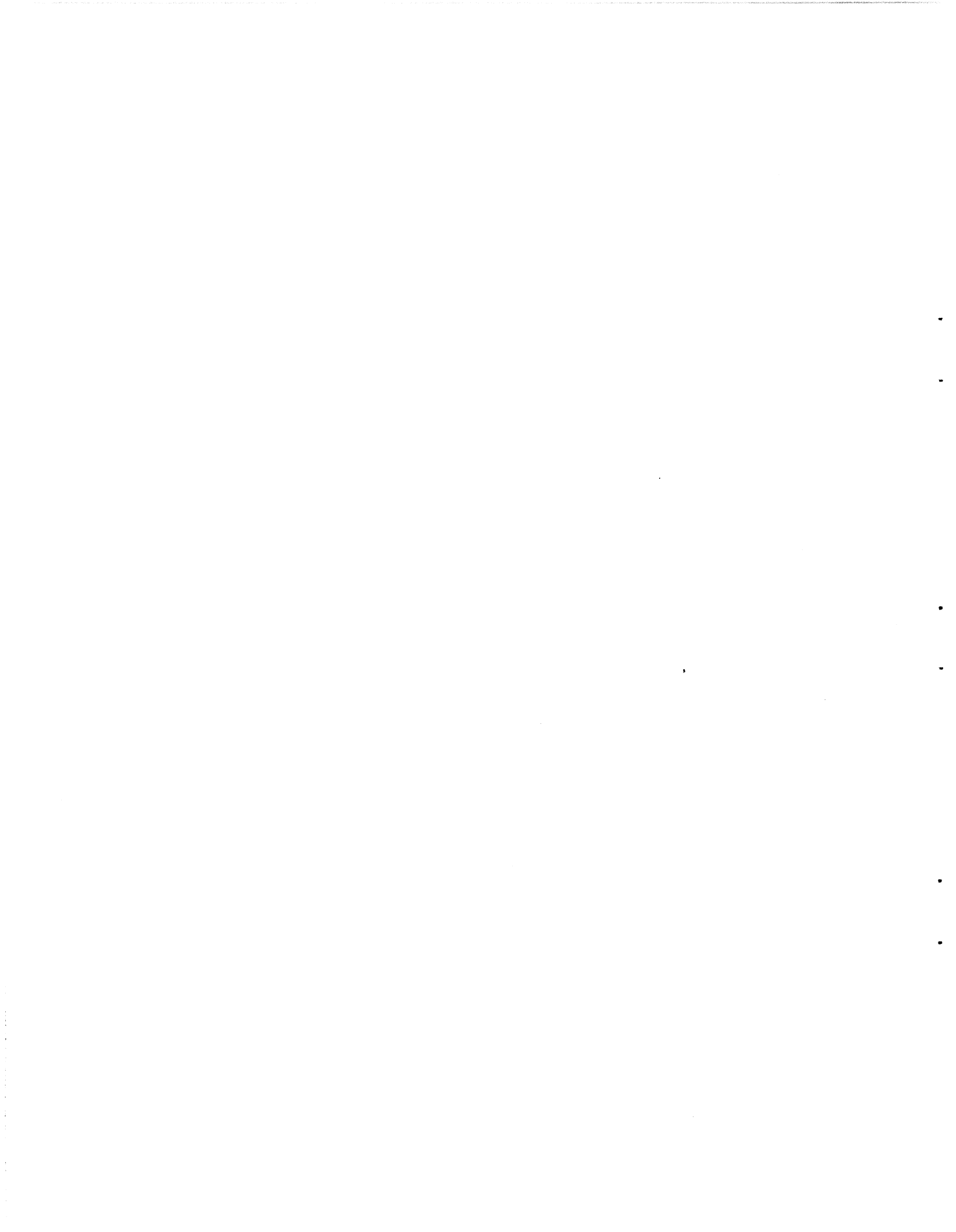
SENATOR MARESSA: Was there any human cry from the public at any time concerning this?

JUDGE BRY-NILDSEN: I never heard anything from anyone, other than the matters that were referred to in the press, which I don't know their origin. The name was withheld.

SENATOR MARESSA: Had you previously at any time had a non-jury of a murder trial?

JUDGE BRY-NILDSEN: No, sir, that was the first murder trial.

SENATOR MARESSA: Have you presided over murder trials before?



JUDGE BRY-NILDSSEN: No, sir.

SENATOR MARESSA: That was your first murder trial?

JUDGE BRY-NILDSSEN: That was the first trial that involved a homicide.

SENATOR HAMILTON: What I think are two objective questions, Judge, do you remember what the maximum would have been on a conviction of second degree?

JUDGE BRY-NILDSSEN: Maximum is thirty years.

SENATOR HAMILTON: Did this defendant have any prior record?

JUDGE BRY-NILDSSEN: Not to my knowledge.

SENATOR GREENBERG: All right, Judge, thank you.

JUDGE BRY-NILDSSEN: He had one pending. It still is pending subsequent to this.

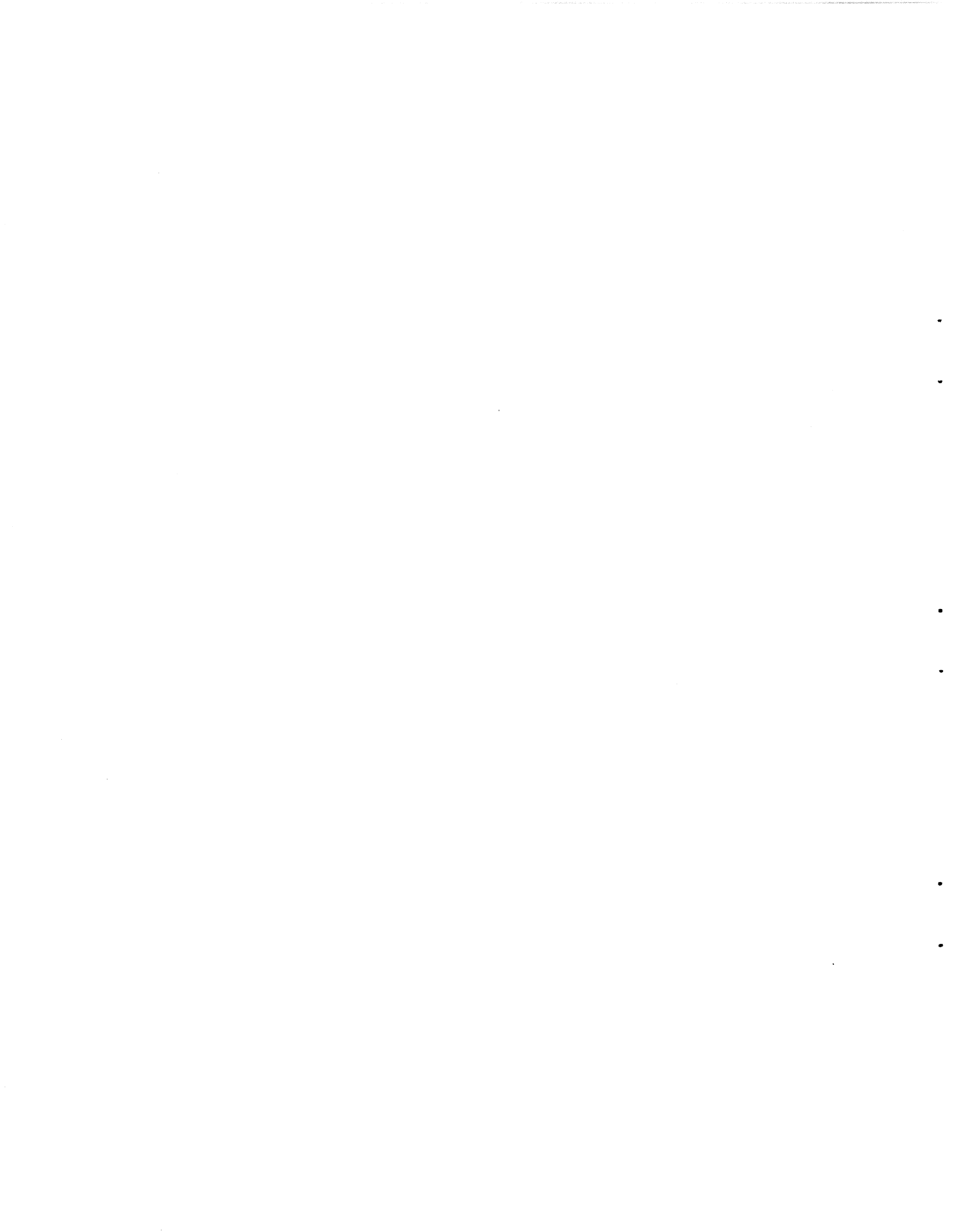
SENATOR GREENBERG: Would you please stay in the room, and we will take some additional testimony.

Who wants to be heard?

JUDGE BRY-NILDSSEN: I said that I don't remember exactly what the pre-sentence was, sir, but it was my impression he had no prior record.

SENATOR GREENBERG: Who wants to be heard on this matter, objecting to the reappointment of Judge Bry-Nildsen. Would you please identify yourselves?

A N T H O N Y J. S C I A S C I A: My name is Anthony J. Sciascia, Sr. I am the father of the deceased boy.



SENATOR GREENBERG: Who else is present and wishes to be heard?

C H A R L E S S T A C H N I K: I am Charles Stachnik.

SENATOR GREENBERG: Are there any others who wish to testify?

MR. SCIASCIA: Senator Greenberg, did you receive a copy of my letter?

SENATOR GREENBERG: I did not. Did you send one?

MR. SCIASCIA: Yes, I did.

SENATOR GREENBERG: As of yesterday, I have not received that letter. Does the staff have a copy? We have not received a copy of that.

MR. SCIASCIA: It could be that the mail has been delayed.

SENATOR GREENBERG: Do you have copies of it?

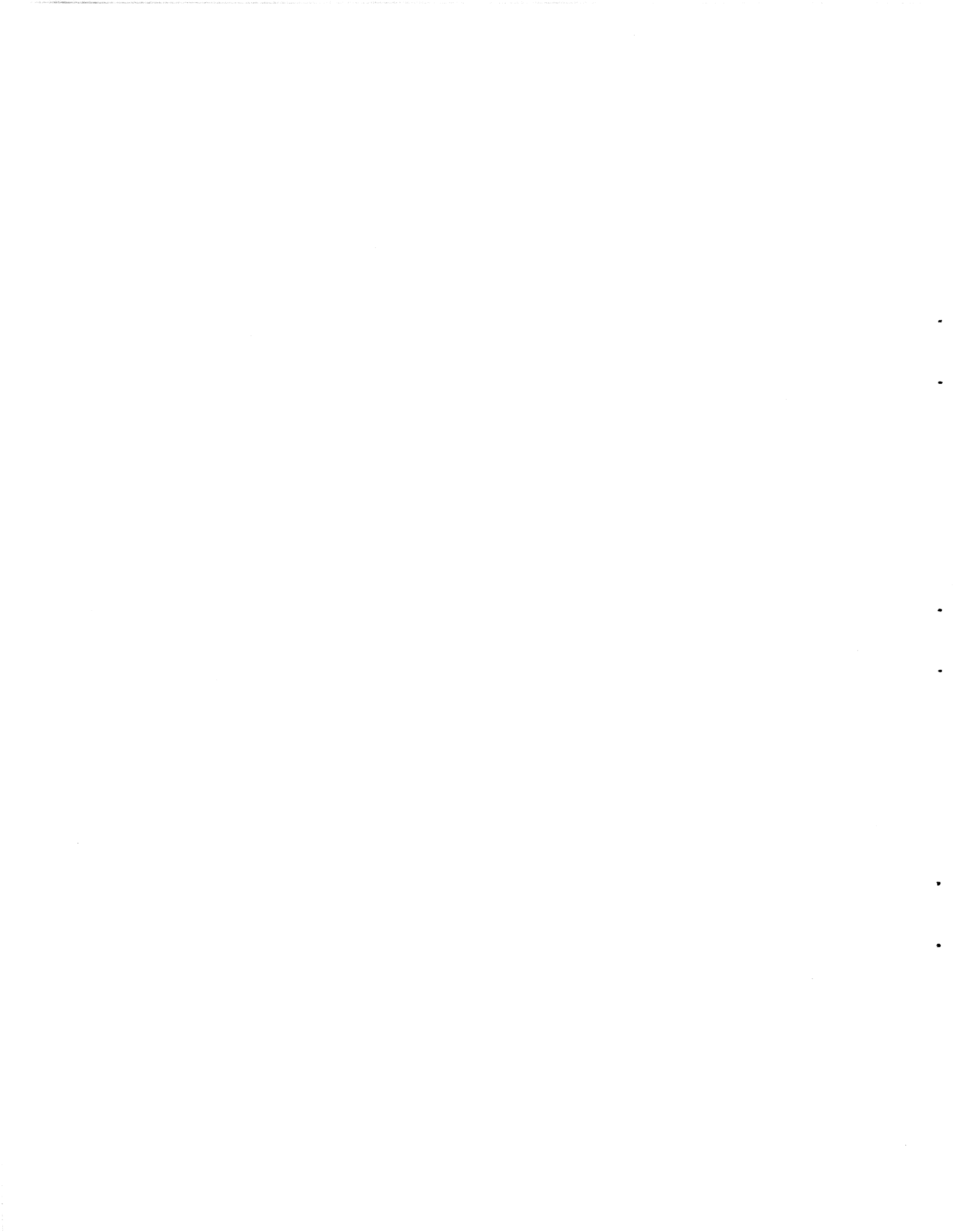
MR. SCIASCIA: I have one.

SENATOR GREENBERG: Then let me read it into the record.

SENATOR PERSKIE: What is the date on that?

SENATOR GREENBERG: March 15, 1978. "It was recently brought to my attention that the Senate Judiciary Committee will meet on Friday, March 17, to confirm the appointment or reappointment of twenty-three county judges.

"In October of 1977, Judge Bry-Nildsen presided at the non-jury murder trial of State versus Stires. The State was seeking a first degree murder charge against



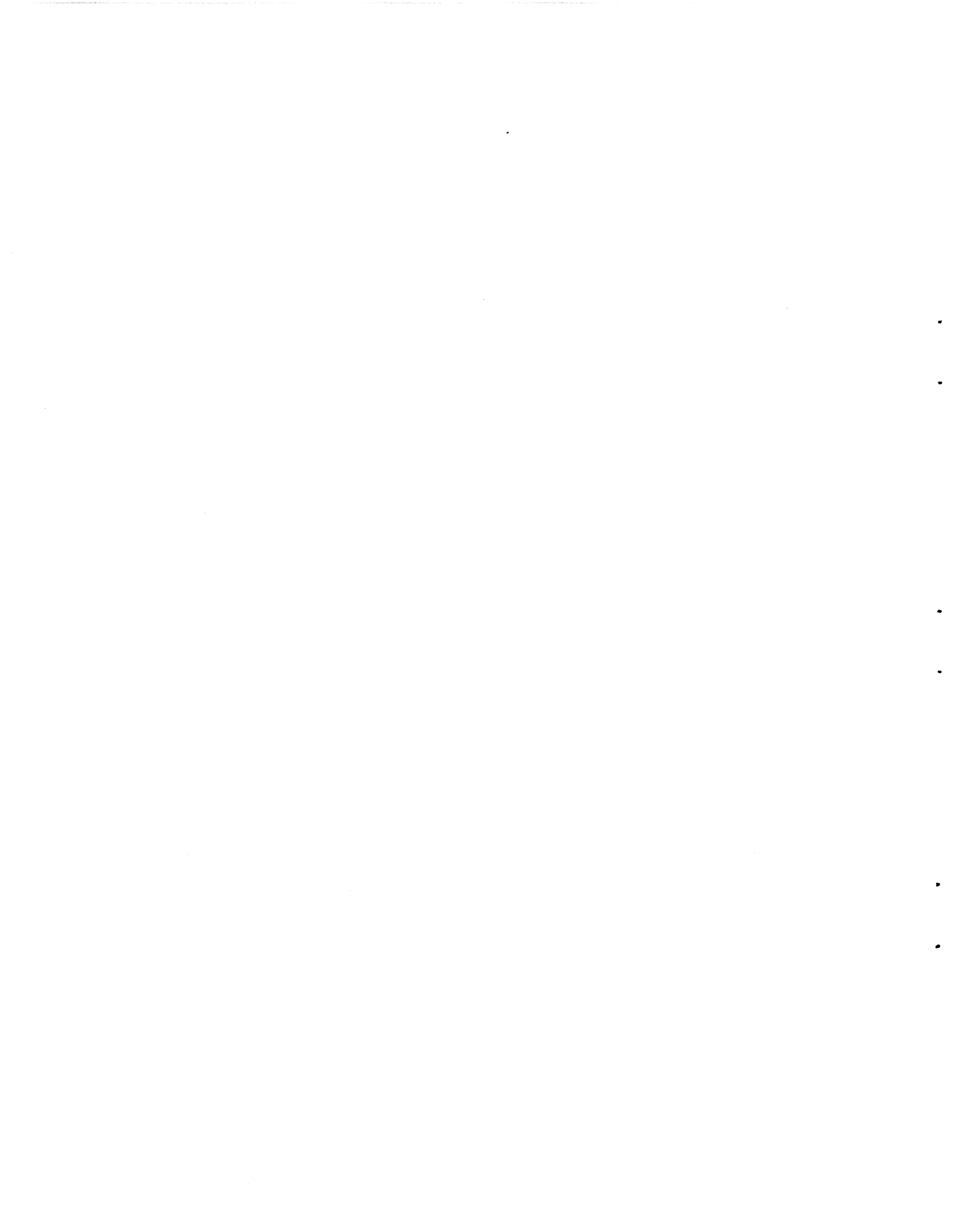
Stanley O. Stires for the killing of Anthony J. Sciascia, Jr. Even though the State presented overwhelming evidence in the case, history shows that the first degree murder convictions are extremely difficult to prove. Therefore, the only other sensible verdict would be second degree murder. The decision handed down by Martin Bry-Nildsen was that of involuntary manslaughter. This controversial decision has stirred public opinion of numerous Warren County residents and has rendered Judge Bry-Nildsen's judicial conduct suspect.

"In a later jury trial, State versus Counterman, in which Sussex County Judge Frederic A. Weber presided, the jury handed down a verdict of second degree murder against Frank D. Counterman for his part in assisting his half brother, Stanley O. Stires, in murdering Anthony J. Sciascia, Jr. One might readily note the discrepancies in the two trials and ask the ever apparent question, can one judge on one hand be right, and twelve men and a woman and a judge on the other hand be wrong?

"I respectfully request the opportunity to appear before your Committee, along with several Warren County residents who are willing to express opinions about the subject case, and other cases where Judge Bry-Nildsen has handed down controversial decisions - Very truly yours, Anthony J. Sciascia, Sr."

I would ask you to hold for a second. I must take this call on this subject, and I will be right back.

(Whereupon a recess was taken.)



AFTER RECESS:

SENATOR GREENBERG: We will now reconvene.

Mr. Sciascia, will you be kind enough to tell us what you would like to tell us with regard to your objection to the reappointment of Judge Bry-Nildsen.

If, in the course of your discussion, I feel that what you are telling us is not necessarily appropriate to our considerations, I will interrupt you. So, bear with me. I am trying to keep this hearing on this subject, and not go into an entire history of your relationship with Judge Bry-Nildsen, if any.

MR. SCIASCIA: This will not take long. For the past several years I have been steadily losing faith in the judicial system, simply because---

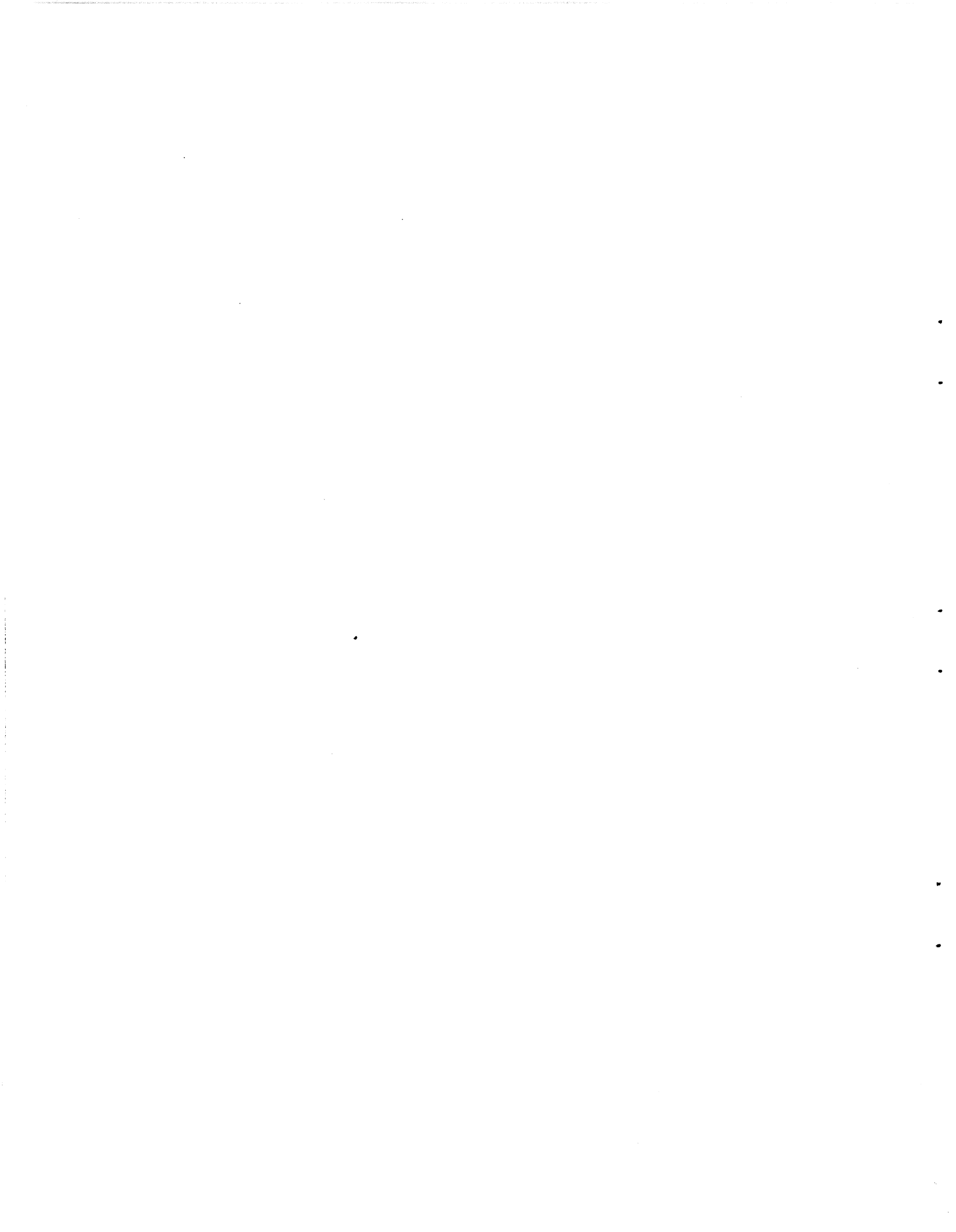
SENATOR GREENBERG: That is what I mean. I would like you to please confine your remarks---

MR. SCIASCIA: --- simply because I have read several accounts about Judge Bry-Nildsen in the local news media, where people come up on charges. State Police have evidence against them and other police and he just sees fit to dismiss or to drop or to reduce charges or whatever you might have there, or suspend sentences. They usually get a little fine and it is all done with. There are very serious cases where a \$1000 fine is nothing.

SENATOR GREENBERG: All right, you are referring to matters you have read in the newspaper.

MR. SCIASCIA: Yes.

SENATOR GREENBERG: Will you please, with that background, tell us about - unless that constitutes



the basis for your objection - your objection to his reappointment, based on your own knowledge.

MR. SCIASCIA: My objection to his reappointment is that I feel that he is a very weak judge. He doesn't render proper decisions. I think he makes mistakes, and I think he is influenced by other people in his decisions. This is my opinion.

And I think - getting back to the case in question - that Martin Bry-Nildsen should have disqualified himself on the Stires matter.

SENATOR GREENBERG: Why?

MR. SCIASCIA: According to the Title III, Disqualification of Judges, it says, "One, a Judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned." And I think it has been reasonably questioned by several people in the county.

SENATOR GREENBERG: Do you reasonably question his impartiality?

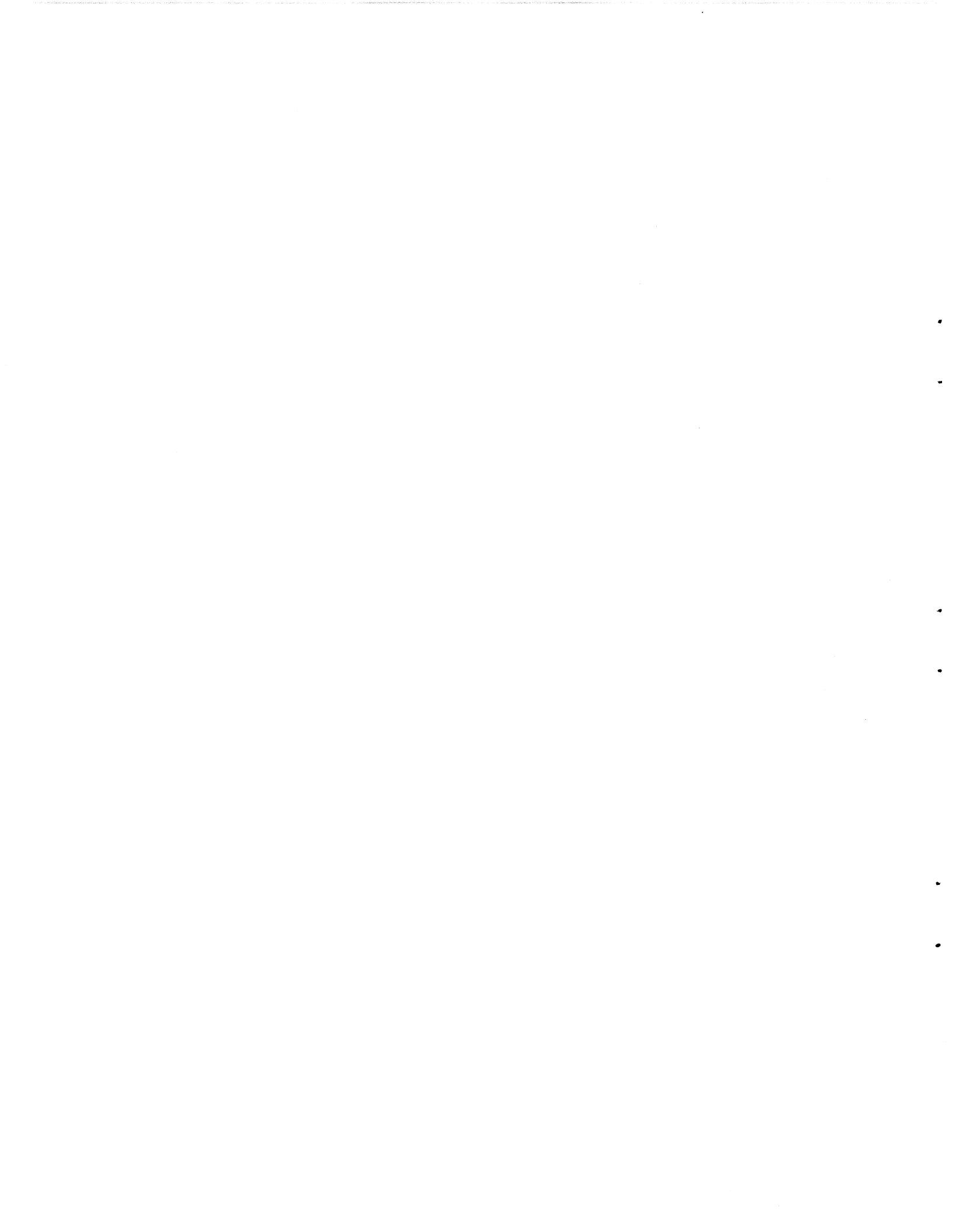
MR. SCIASCIA: Yes, sir, I do.

SENATOR GREENBERG: On what basis?

MR. SCIASCIA: On the basis that the evidence presented in this case was sufficient for a second degree murder conviction. I filed every---

SENATOR GREENBERG: But why do you question his impartiality?

MR. SCIASCIA: I think he was familiar with the family.



SENATOR GREENBERG: Which family?

MR. SCIASCIA: The Stires family.

SENATOR GREENBERG: On what basis do you make that statement?

MR. SCIASCIA: I have seen him talk to them several times in the hallways and so forth.

SENATOR GREENBERG: During the course of the trial?

MR. SCIASCIA: Yes. I have seen him talk or make comments to them. And this is only hearsay, but someone had told me this, that Mrs. Stires was supposed to have sent him a letter prior to the case.

SENATOR GREENBERG: Okay, that is your basis for your allegation of lack of impartiality.

MR. SCIASCIA: Yes. Can I continue with the rule?

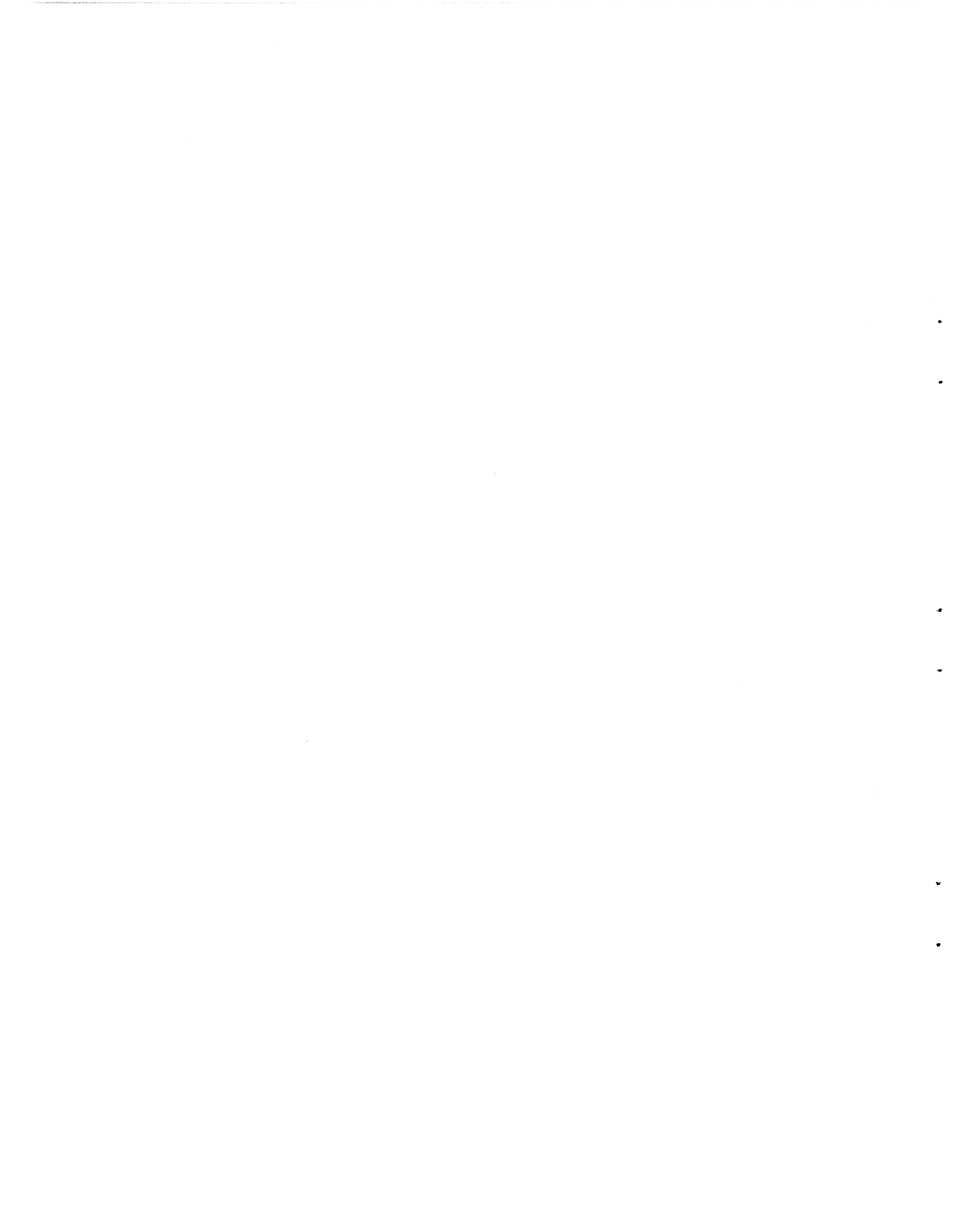
SENATOR GREENBERG: We are familiar with the rule.

MR. SCIASCIA: Okay, it would be Rule 1:12-1.

SENATOR GREENBERG: Thank you.

MR. SCIASCIA: And the fact that Senior County Judge Paul Aaroe is the stepfather of the defense attorney who defended Bill Stires in this case. Bradford Dey is closely associated with Judge Bry-Nildsen. They work together and they are associated with each other, and you have a father relationship with a son defending, and a judge hearing a non-jury trial.

SENATOR GREENBERG: Give me that again. The Senior Judge is the stepfather of whom?



MR. SCIASCIA: He is the stepfather of Bradford Dey, who was the defense attorney. This to me is sufficient reason, if there was going to be any doubt in anybody's mind, that he should have disqualified himself. This could have precluded a fair and unbiased hearing in a judgement, or might---

SENATOR GREENBERG: Can I interrupt you for a second. Are you suggesting that that attorney, who ever he is, is not eligible to practice in the criminal courts of your county?

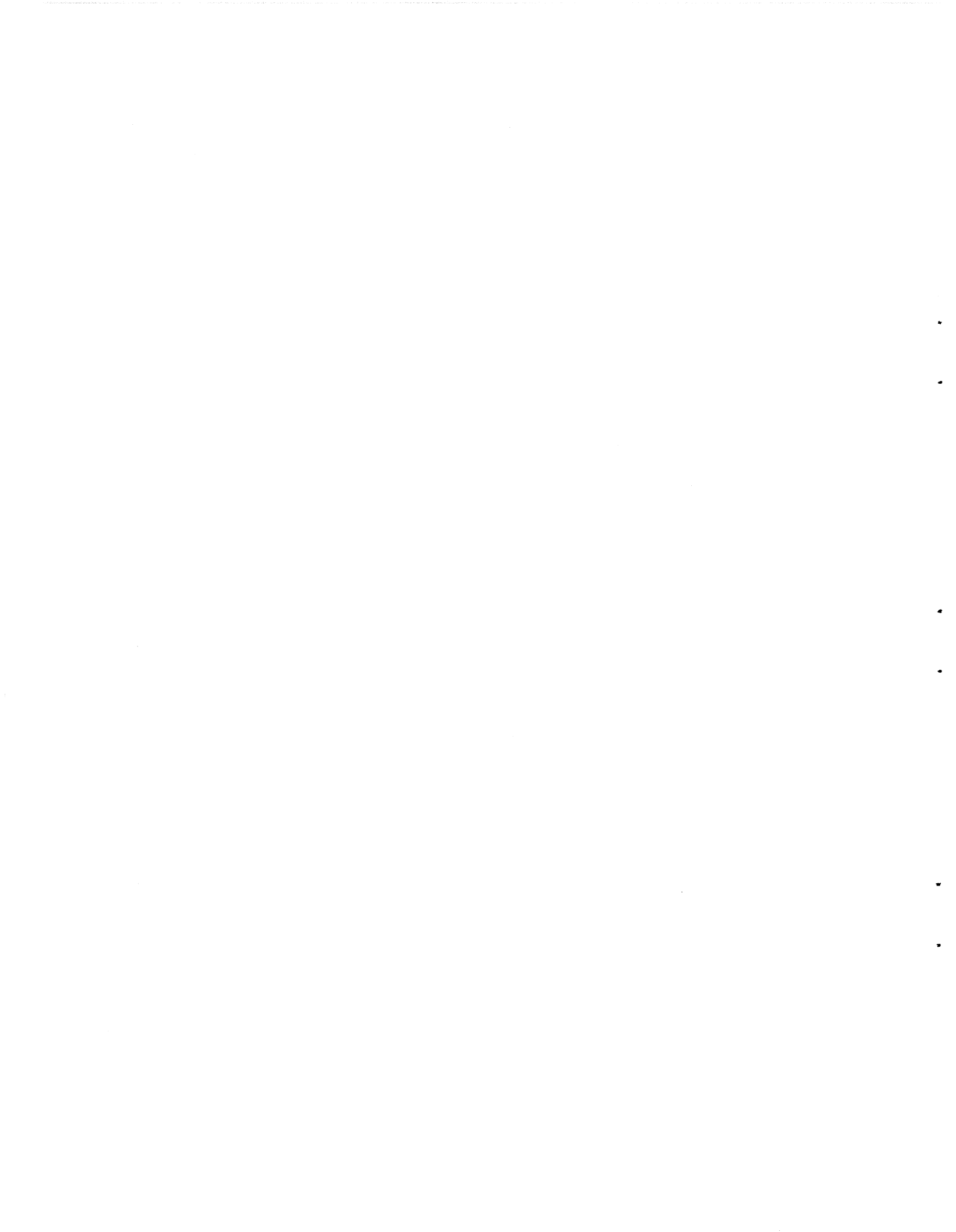
MR. SCIASCIA: No, I am not suggesting that at all.

SENATOR GREENBERG: Why do you pick Judge Bry-Nildsen then as being the Judge before whom he should not appear or, on the contrary, that the Judge should disqualify himself.

MR. SCIASCIA: Only on the conditions of a non-jury trial, which this was. If it went with a jury, I would have no qualm about it.

SENATOR GREENBERG: Okay, go ahead, please.

MR. SCIASCIA: You asked the Judge a question, as to whether anybody objected to this non-jury trial. I myself called the Prosecutor's Office the day the trial was to start. I had severe feelings about the Judge presiding by himself without a jury. And I made these feelings known to the Prosecutor's Office. I asked to talk to Jim Tyrrell, but he wasn't available. He was somewhere in the courthouse.

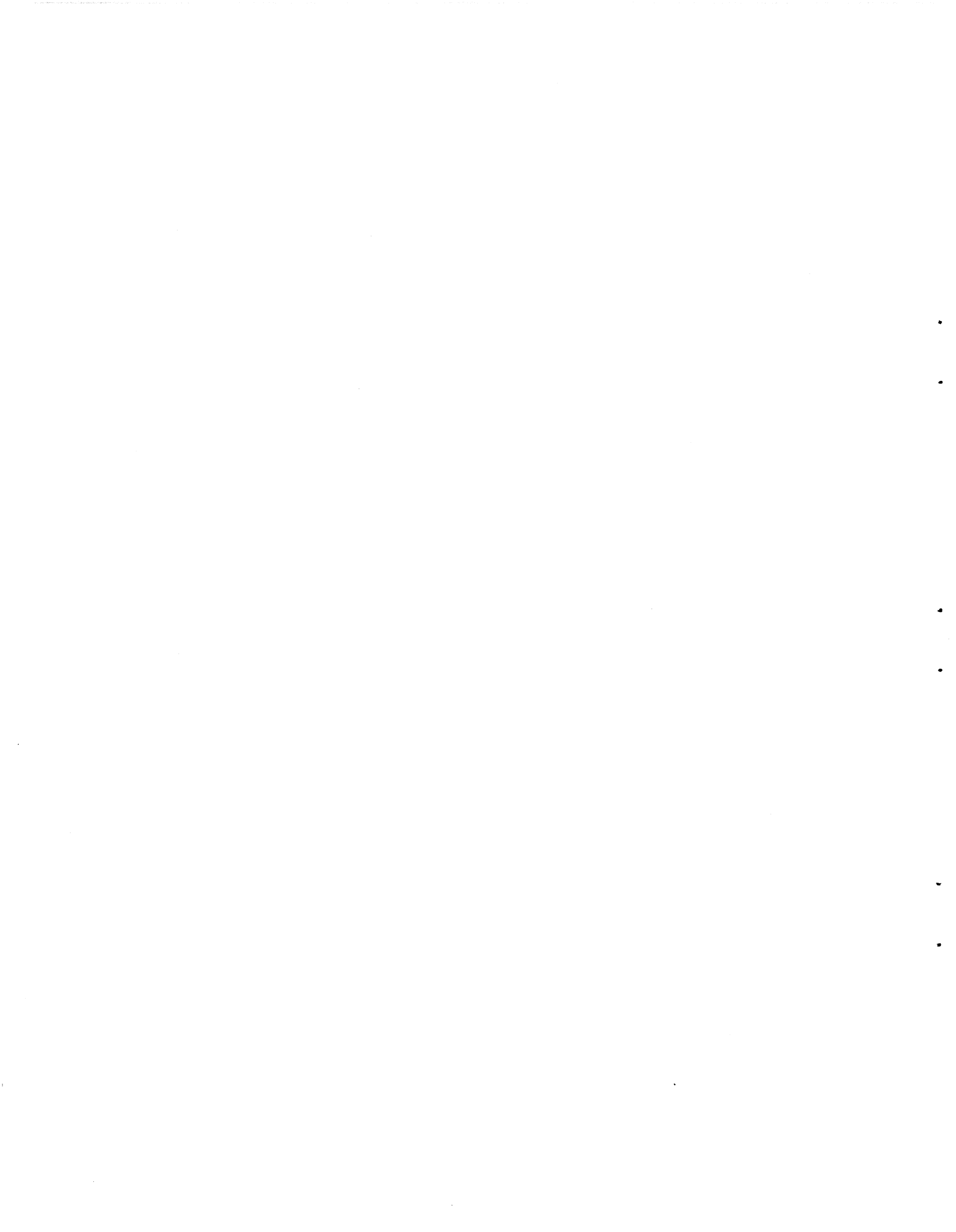


So they let me talk to Detective Rockefeller, who is his Assistant. And he informed me that I shouldn't have feelings like that because the Judge would be able to handle the case very readily and I shouldn't have to worry about anything.

I was also told by the State Police, after the trial started, that the State had a very strong case against the Stires and the Countermans and there could be no question about the outcome of the trial in their minds. I guess this is the way just about everybody in Warren County feels. After this decision was made, it stirred a considerable amount of public opinion. And I am sure--- Regardless of what happens here today, I intend to go further and take this to the residents of Warren County in the form of a petition.

SENATOR GREENBERG: Would you kindly limit your testimony to what this Committee can do.

MR. SCIASCIA: The second point, I think the decision handed down by Judge Bry-Nildsen was in no way consistent with the evidence presented by the State. His decision was contrary to New Jersey State Statute, where it claims that a murder charge cannot be reduced to manslaughter when such a murder occurs without the heat of passion. And it was proven here that there was no heat of passion. These people went away from the scene. They were gone for three quarters of an hour, and they had time to do whatever they wanted to do - to make



their plan is what transpired here.

In his closing remarks, Judge Bry-Nildsen said, "We are looking at a classic case of manslaughter." Can you define a classic case of manslaughter? I can't. These were Judge Bry-Nildsen's words. "We are looking at a classic case of manslaughter, and the whole case boils down to whether or not the accused could see what he was shooting at," and in his opinion, they could not. Counterman made a statement to the police that as he drove down the road ---

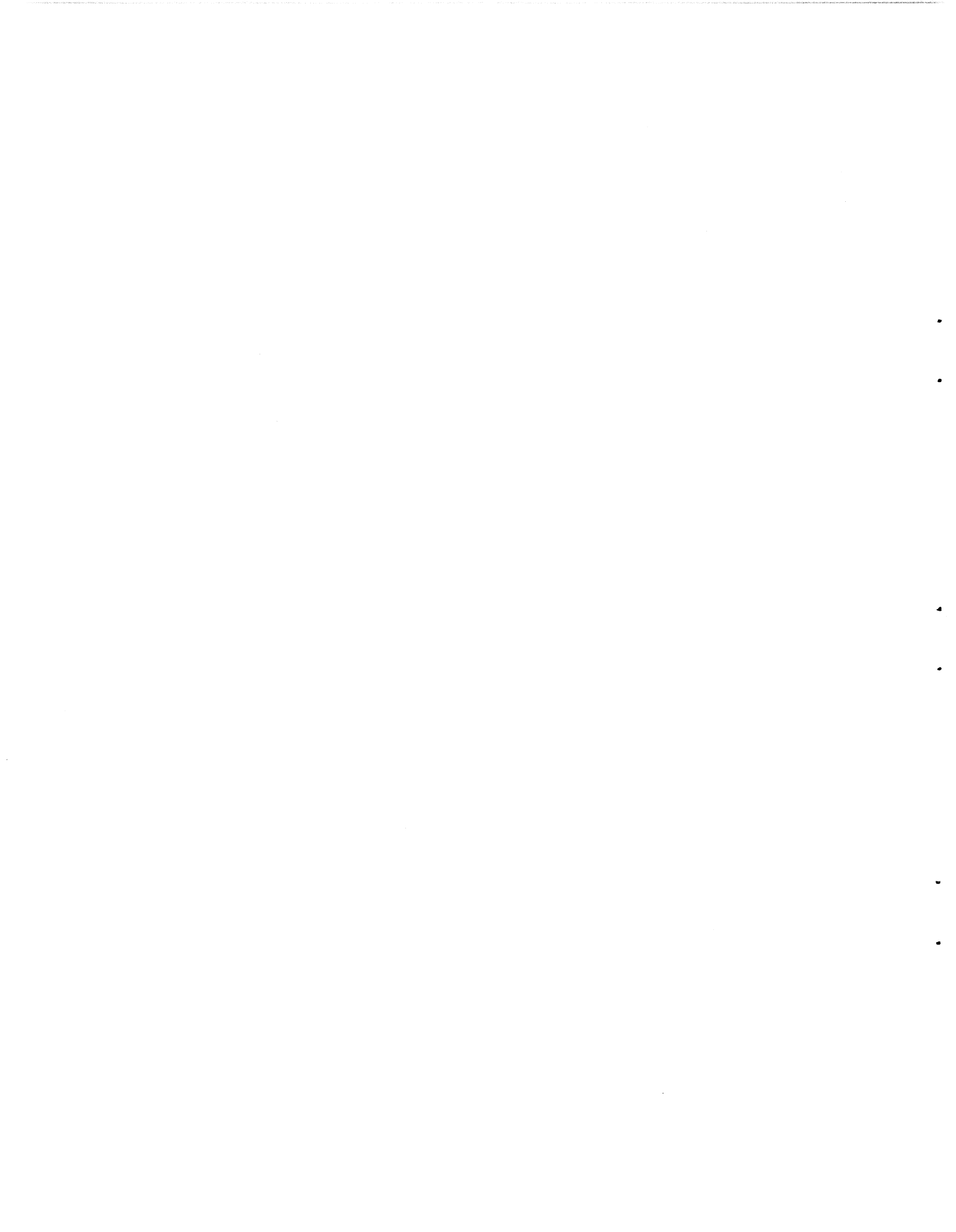
JUDGE BRY-NILDTSEN: Just one minute.

SENATOR GREENBERG: Judge, you are going to have an opportunity to come back. Go ahead.

MR. SCIASCIA: Counterman stated that as they drove down the road he saw two people standing in front of the car. As they approached, he saw one of them - he heard a shot and saw one of them fall. He heard another shot, and the other one fell.

SENATOR CAFIERO: Excuse me, this testimony wasn't in this particular trial.

MR. SCIASCIA: No, it was not. I would offer in conclusion that Judge Bry-Nildsen's opinion was totally wrong. He arrived at his opinion, even though testimony of witnesses claimed you could see without light at the dam. I would take this point a little bit further, I did not fully believe this myself, so I along with the



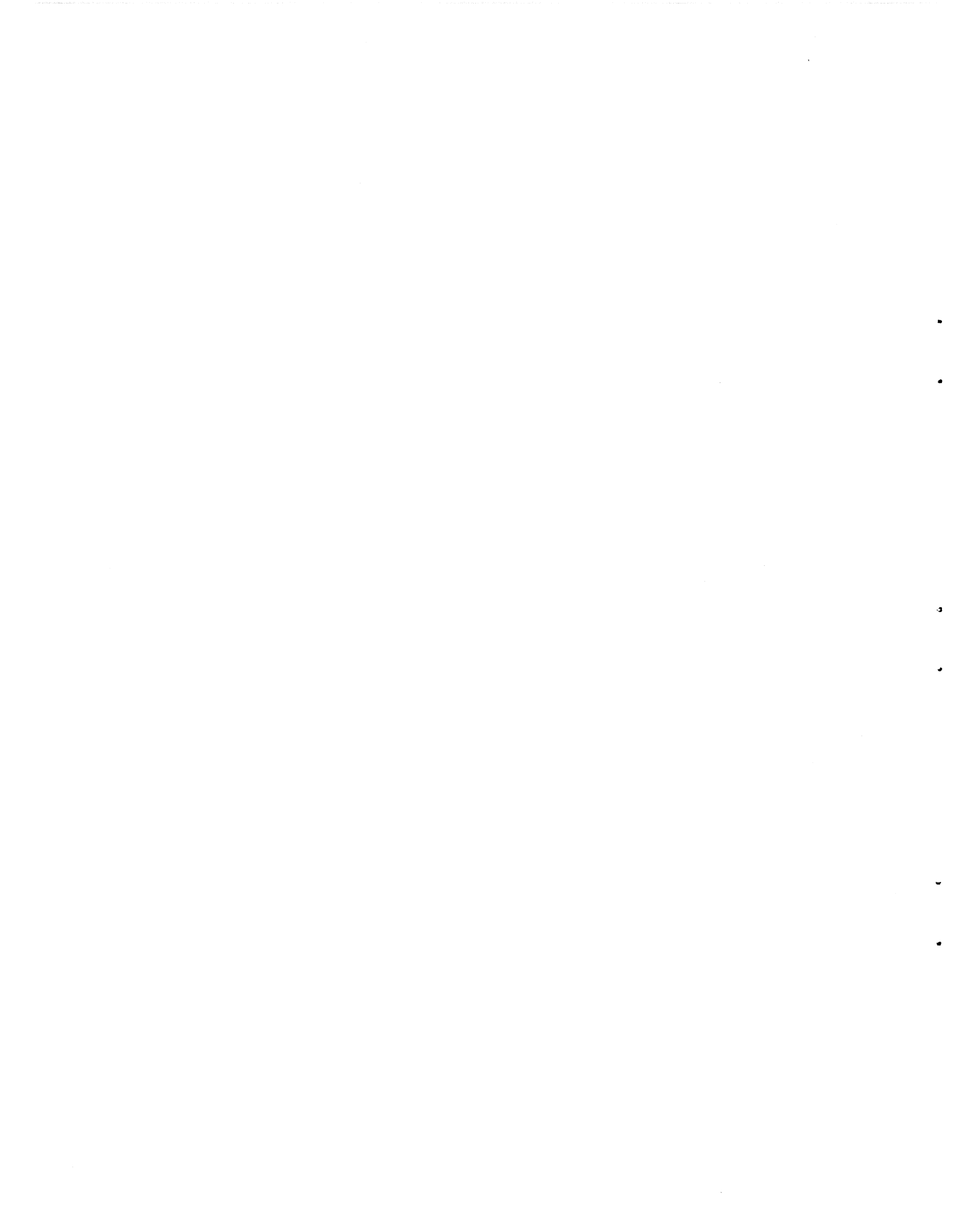
other father of the wounded girl went up to the dam sight--

SENATOR GREENBERG: Okay, hold it a second. You are not being cut off, but I want to do something now that I want to speak to the Committee about, and I am going to ask you to excuse us. You will come back in here. I am not going to cut anybody off. I appreciate your position here. I know the intensity of your feelings, just as I can understand Judge Bry-Nildsen's feelings. Would everyone who is not a member of this Committee kindly excuse us for a moment? We are going into Executive Session.

(Whereupon a recess was taken.)

AFTER RECESS:

SENATOR GREENBERG: Gentlemen, there are people in this room whose appearance the Committee feels is essential in order for a disposition of this matter to be made. We have a desire to hear from the Prosecutor; we have the desire to hear from the Assignment Judge, as well as to permit you to continue to testify and complete your testimony and permit Judge Bry-Nildsen to respond, if he chooses to do so. Therefore, we are going to adjourn this matter today, and I am going to seek from the President of the Senate his consent to calling another session of the Senate between now and April 1st, which is the date on which Judge Bry-Nildsen's term expires. Unfortunately this is necessary because of the late notice that we received

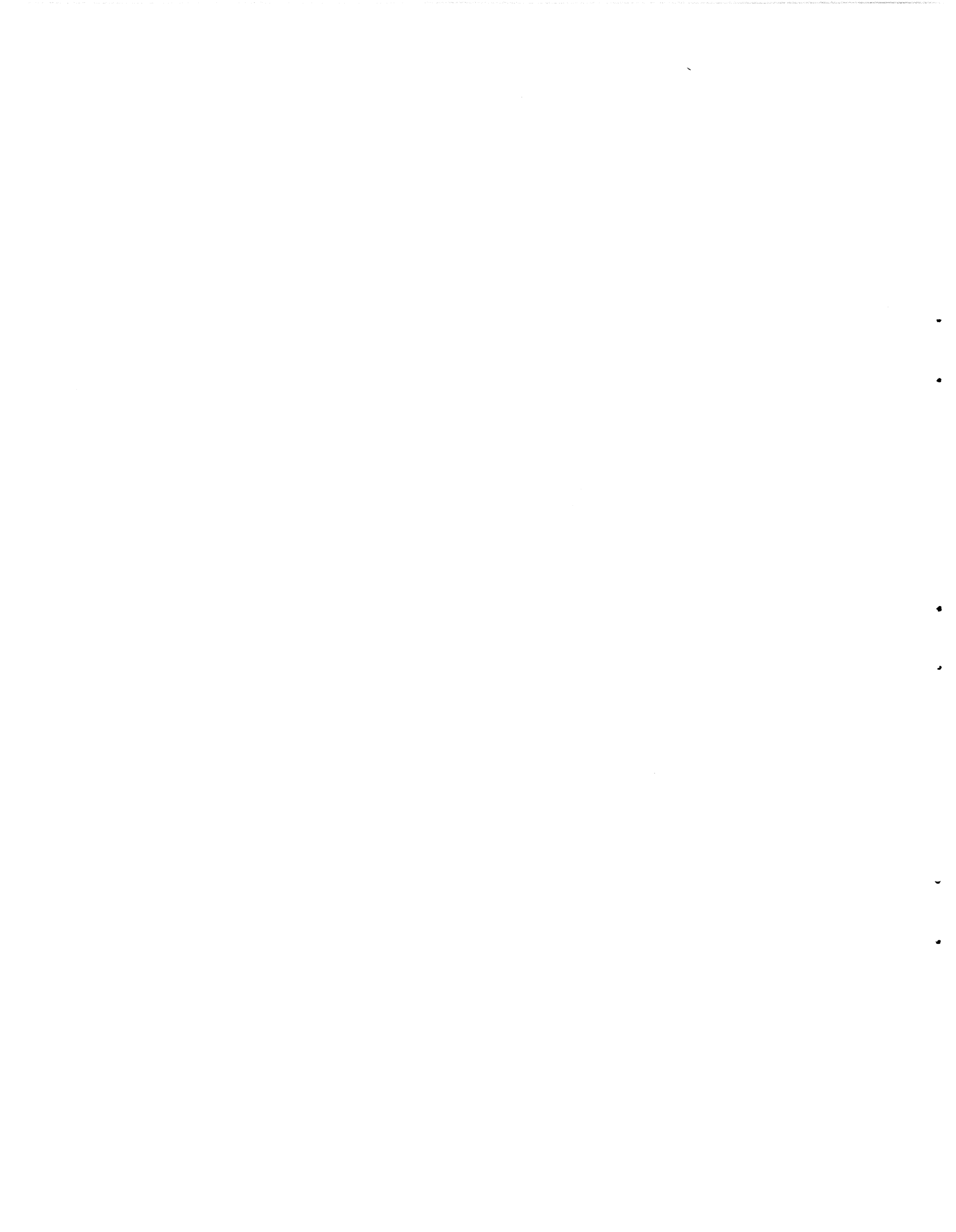


with regard to your letter. I am not blaming you. It is just a fact. The people whose testimony is required are not here, and we don't have the time today, because of the pendency of other matters to give it the time, even if we had them here.

Therefore, you will be notified by the Judiciary Committee with regard to the new date, if any, as soon as it occurs. We have your addresses. Judge, that is the determination of the Committee. You will be advised of the time and the date. Thank you very much for appearing.

(Whereupon hearing was adjourned.)

* * * *



92 Fairview Ave.
Phillipsburg, N.J. 08865
March 15, 1978

The Honorable Martin L. Greenberg
Senator - District 28
100 Evergreen Place
East Orange, New Jersey 07018

RE: APPOINTMENT OF COUNTY JUDGES

Dear Senator:

It was recently brought to my attention that the Senate Judiciary Committee will meet on Friday, March 17, to confirm the appointment or reappointment of twenty-three County judges.

I wish to go on record, at this time, as vehemently opposing any confirmation by the Judiciary Committee concerning the reappointment of Warren County Judge Martin Bry-Nildsen, Jr.

In October of 1977, Judge Bry-Nildsen presided at the non-jury murder trial of the State vs. Stires. The State was seeking a first degree murder charge against Stanley O. Stires for the killing of Anthony J. Sciascia, Jr. Even though the State presented overwhelming evidence in this case, history shows that first degree murder convictions are extremely difficult to prove. Therefore, the only other sensible verdict would be second degree murder. The decision handed down by Martin Bry-Nildsen was that of involuntary manslaughter. This controversial decision has stirred public opinion of numerous Warren County residents, and has rendered Bry-Nildsen's judicial conduct suspect.

In a later jury trial of the State vs. Counterman, in which Sussex County Judge Frederic A. Weber presided, the jury handed down a verdict of second degree murder against Franklin D. Counterman for his part in assisting his half brother, Stanley O. Stires in murdering Anthony J. Sciascia, Jr. One might readily note the discrepancies in the two trials and ask the ever apparent question...can one judge, on one hand, be right, and twelve men and women and a judge, on the other hand, be wrong?

I respectfully request the opportunity to appear before your Committee, along with several Warren County residents who are willing to express opinions about the subject case, and other cases where Judge Bry-Nildsen has handed down controversial decisions.

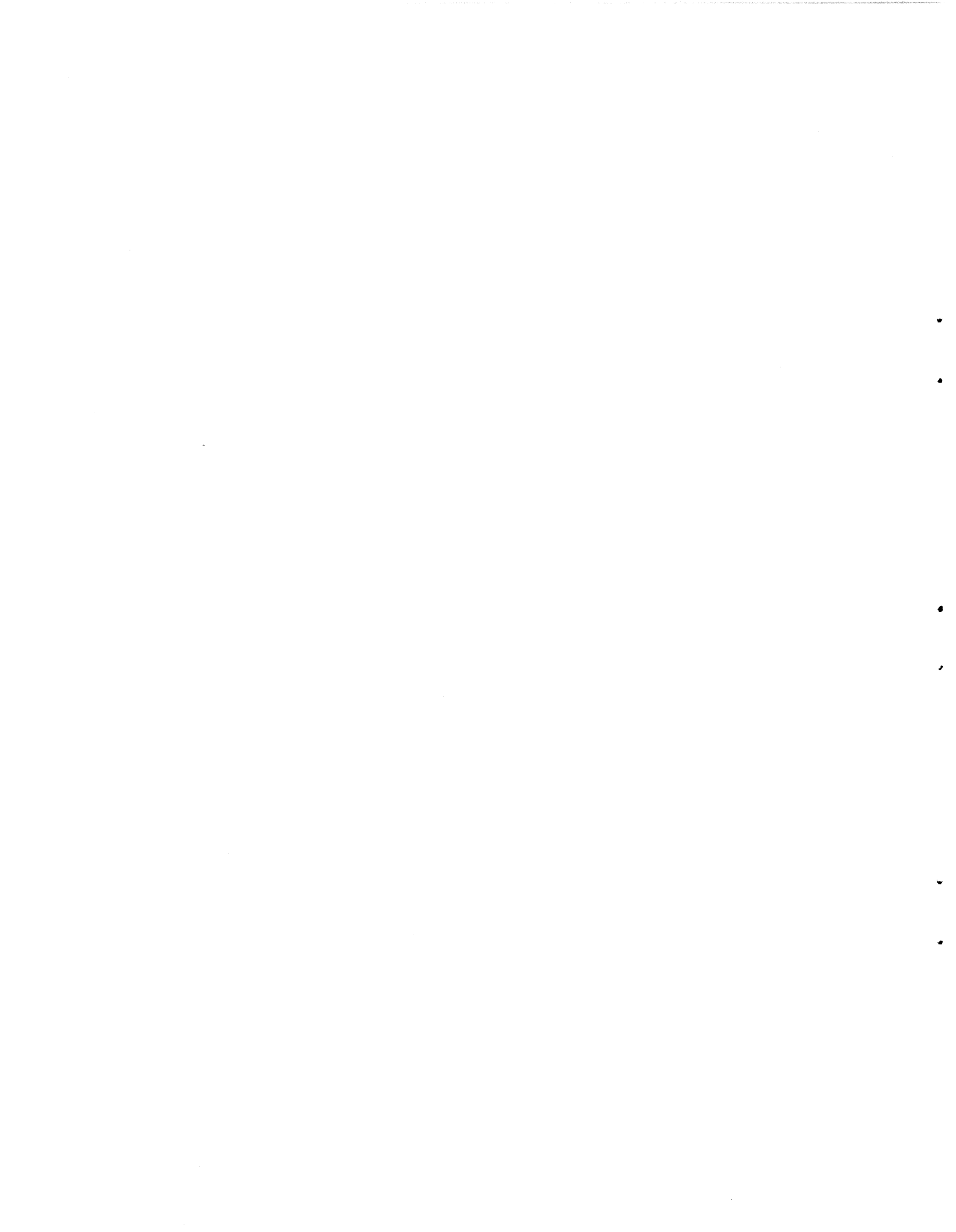
Respectfully yours,

AJS:lbn

cc: James S. Cafiero
Steven P. Perskie
Joseph A. Maressa
Barry T. Parker
John F. Russo

Anthony J. Sciascia, Sr.

William J. Hamilton	Walter M. Sheil
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March 14, 1978

Honorable Martin L. Greenberg
Senator 28th District

Dear Senator:

It is my understanding that the Senate Judiciary Committee will be meeting on Friday, March 17 to act on the confirmation of the appointments and re-appointments of Judges.

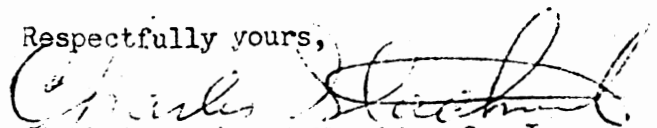
As you are Chairman of the Senate Judiciary Committee, I would like, at this time, to go on record stating that I am very much opposed to the confirmation of a second 5 year term for Warren County Judge Martin Bry-Nildsen, Jr.

In my own court appearances against him I have found him to be very prejudiced and bias and also at times, completely ignores state statutes as enacted by the Senate and General Assembly.

He has most recently presided over a non-jury murder trial. The Judge's verdict in this case, created quite a controversy here in Warren County. Anthony Sciascia, the father of the slain boy, immediately filed a complaint to the Administrative Director of the Courts with a copy to Judge Muir, assignment Judge for Warren County. The final determination - to lengthy to describe here - is still unresolved.

I am respectfully asking to appear before your Committee along with James Bianchi, Phillipsburg Town Councilman; Raymond Stem, Warren County Freeholder and several other prominent Warren County citizens who feel the same as I do about the judicial behavior of Judge Martin Bry-Nildsen, Jr.

Respectfully yours,


Stachnik Lumber & Wrecking Co., Inc.
Charles Stachnik, President



JUN 27 1985



