

# MAINE STATE LEGISLATURE

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Legislative Record

Seventy-Fifth Legislature

SPECIAL SESSION

STATE OF MAINE

1912

**SENATE.**

Friday, April 5, 1912.

Senate called to order by the President.

Prayer by Rev. E. V. Allen of Jonesboro.

Journal of previous session read and approved.

On motion by Mr. Leach of Hancock, it was

Ordered, That the Senate retire to the Hall of the House of Representatives for the purpose of forming a joint convention.

Thereupon the Senate retired to the hall of the House of Representatives.

The Senate was called to order by the President, at 10.43 o'clock, A. M.

Upon motion, therefor, the Senate then voted to go into executive session for the purpose of considering the charges brought against Charles O. Emery, sheriff of York county.

**In Executive Session.**

The PRESIDENT: Is it the pleasure of the Senate that they now proceed to consider the charges against Charles O. Emery, sheriff of York county, each count separately?

There was no objection and it was so ordered.

The first count was then read:

"First. Because the said Charles O. Emery did, on the 28th of February last, promise one Asa A. Richardson, who was then holding the office of State attorney for the county of York, to pay him a certain sum of money, to wit, the sum of \$50 per week, in consideration whereof the said Richardson was to refrain from prosecuting certain violators of law."

On motion by Mr. Donigan of Somerset, the Senate voted that the vote on the different counts be "Guilty" or "Not guilty."

Mr. SMITH of York: Mr. President, I move that the vote be taken by the yeas and nays.

The motion was adopted.

Mr. STAPLES of Knox: Mr. President: I suppose that the same rule of law would apply in the determination of these two counts as would apply to any other criminal case. That is my view of it, that like a case of

murder, or any other criminal case, when this body is to determine guilt or innocence according to the evidence, or according to whether they are satisfied beyond a reasonable doubt, that the defendant is guilty. And that same rule of law that applies to that other proposition would be this: That if myself or any other member of this body, have a doubt, a well-founded doubt, as to the sufficiency of the evidence to convince beyond a reasonable doubt, then the respondent should have the benefit of that doubt. That, I presume, no one will dispute is the true governing law in such cases.

The PRESIDENT: Those senators who believe that the evidence adduced at the trial proves that Charles O. Emery is guilty as stated in the first count, when their names are called will respond "Guilty." Those who believe the charges have not been sustained will respond "Not guilty."

The roll was called by the secretary and those voting "Guilty" were: Messrs. Blanchard, Boynton, Clark, Donigan, Irving, Kellogg, Leach, Mayo, Milliken, Osborn, Sanborn, Smith, Stearns, Theriault—14. Those voting "Not guilty" were: Messrs. Allen, Clifford, Dodge, Farrington, Fulton, Hanson, Hill, Mullen, Noyes, Reynolds, Staples, Winslow—12.

So the first count was sustained.

The Senate proceeded to consider the second count:

"Because the said Charles O. Emery did, on the 8th day of March last, in pursuance of the corrupt agreement entered into on said 28th day of February between said Emery and Richardson, pay to the said Richardson the sum of one hundred dollars, all of which constituted a violation of the laws of the State and especially of the provisions of Section 5 of Chapter 123 of the Revised Statutes."

The roll was called by the secretary. Those voting "Guilty" were: Messrs. Blanchard, Boynton, Clark, Donigan, Irving, Leach, Mayo, Milliken, Osborn, Sanborn, Smith, Stearns, Theriault—13. Those voting "Not guilty" were: Messrs. Allen, Clifford, Dodge, Farrington, Fulton, Hanson, Hill, Kel-

logg, Mullen, Noyes Reynolds Staples, Winslow—13.

So the second count was not sustained.

The resolve as a whole was then read.

The PRESIDENT: Is it the pleasure of the Senate that the address be presented to the Governor covering the count known as the first count in this resolve? Those in favor of presenting the address to the Governor when their names are called will respond "Yes." And those opposed will respond, "No."

Mr. BLANCHARD of Franklin: Mr. President, I do not fully understand that, and I think others may not.

The PRESIDENT: The Senate had found Mr. Charles O. Emery guilty on the first count. The resolve asks for an address to the Governor, and I will ask the Senate if they desire to vote to have the address presented to the Governor. Those in favor of having the address presented, which address will include the charges in the first count, will answer when their names are called, "Yes."

Mr. MULLEN of Penobscot: Mr. President, I do not know but I am a little bit at sea on this. I don't wish to get the Senate into an inconsistent position. If it is in order I move that that matter lie on the table, at the present time.

The PRESIDENT: The Chair will rule that the Senate has found Mr. Emery guilty under a certain count, but they have not followed out the full idea of the resolve in recommending that the address be presented to the Governor. The Chair will rule that a vote of some sort must be taken upon that matter immediately. Those in favor of having the address presented to the Governor, which address will embody the charges in the first count, will answer "Yes," and those opposed, will answer, "No."

The roll was called. Those voting "Yes" were: Messrs. Blanchard, Boynton, Clark, Donigan, Irving, Kellogg, Leach, Mayo, Milliken, Osborn Sanborn, Smith, Stearns, Theriault—14. Those voting "No" were: Messrs. Allen, Clifford, Dodge, Farrington, Fulton, Hanson, Hill, Mullen, Noyes Reynolds Staples Winslow—12.

And the President announced that the address would be made to the Governor.

Sent down for concurrence.

A recess was taken subject to the call of the President.

#### After Recess.

On motion by Mr. Mullen of Penobscot it was ordered that the minutes of the executive session be spread upon the journal and the record of the Senate.

From the House: The resolve in relation to an address to the Governor in the matter of the removal from office of Charles O. Emery, sheriff of York county, came from the House, that branch having rejected each and all counts in the resolve.

Mr. BOYNTON of Lincoln: Mr. President, I move that we now recede and concur with the action of the House.

Mr. MILLIKEN of Aroostook: Mr. President, I suppose that all of us understand that nobody has changed his mind, in regard to this matter, and that everyone would be glad to get the unfortunate matter out of the way. With that understanding I believe I have no objection to anything that the senator from Lincoln thinks is the proper form of action.

There being no objection the President declared the motion of the senator from Lincoln carried, and that the Senate now receded and concurred in the action of the House.

On motion by Mr. Boynton of Lincoln an adjournment was taken until 2 o'clock, this afternoon.

#### Afternoon Session.

Senate called to order by the President.

On motion by Mr. Allen of Washington, the Senate retired to the hall of the House of Representatives for the purpose of holding a joint convention to hear the evidence in the case of Asa A. Richardson.

The Senate was called to order at 11 o'clock P. M. by the President.

Upon motion therefor the Senate proceeded to the consideration of the resolve for the removal of Asa A.

Richardson, county attorney for the county of York.

The first count of the resolve was read by the President, who stated that that count had not been prosecuted, and if there was no objection, it would be dismissed.

It was so ordered.

The second count was then read, as follows:

Second: Because the said Asa A. Richardson did at the September term of the supreme judicial court, A. D. 1911, in and for the county of York procure an indictment against one William L. White for violation of the prohibitory law which said indictment was presented at the said September term and the case against said White continued to the January term of said court at which term the said Richardson requested permission to file said indictment and after the court had refused to grant said permission, said Richardson produced in place of the indictment in question a paper, purporting to be an indictment, which was unsigned either by him, the said Richardson or by the foreman of the grand jury, whereupon the said White went free and that because of said ignorant and corrupt act of the said Richardson the said White was not punished for his said violation of the prohibitory law.

Mr. GOWELL of York: Mr. President, I wish to ask the indulgence of the Senate for a moment. It would not be fitting in me at this time, after the long, protracted hearing and the able discussion concerning this resolve, to ask the indulgence of the Senate, if it did not indirectly, at least, reflect somewhat on the good name and the integrity of the people of York county, the county I have the honor to represent. The people of York county believe in Asa A. Richardson. They have considerable confidence in him as an attorney at law, and always have believed in him as a man. I have personally known him for about 15 years, and know something concerning the condition of affairs in York county, and this is the first time, as I understand it, that I ever heard questioned the integrity of our county attorney.

I do not say this, gentlemen, in a spirit of partisanship. I eradicate all politics in this brief discussion, and my mind goes back about three years to our county convention. Mr. Richardson was opposed by one of the ablest attorneys in York county. He had then been engaged in the work of the law for about 12 years. He had the unanimous endorsement of his town and the surrounding towns, and they said he represented the common people of York county, and that people is in the large majority in all the counties of our State.

We found Asa A. Richardson a young man, dependent largely upon his own resources. He had to work for his living. He had not had the advantages of a liberal education, and when about 32 years of age, while engaged at work in a shoe shop and on the farm, he was appointed collector of taxes in the town of Kennebunk, and while engaged in the work of that office he began the study of law. At that time he held various offices in the town and he had then and still has the confidence of the people.

Now I would like to say just this: Are we in fairness going to impeach Asa A. Richardson, an efficient officer, on the evidence that has been presented at this hearing? In other words, is the evidence that has been presented in regard to the count just read by the Chairman of this body, is it sufficient to convict Asa A. Richardson in a court of law?

If not, should this Legislature, sitting as a general court of the people say that he is guilty of misconduct in office and ask for his removal?

In the second place, if we should eliminate from this case all politics and all partisanship, I say in all sincerity, if we eradicate that from both these cases, would we have very much left? I pretend to be a fairly good Republican. Possibly I may be partisan, but I have never so far lost my manhood, as I would if I should vote upon a question of this kind to impeach the integrity of my fellow-men upon the evidence presented to the Committee in this case. As I understand the issue, we are asked to

find Asa A. Richardson guilty of misconduct in office, because of his failure to sign a single indictment in a liquor case, which he says was an oversight and a clerical error, and I believe, gentlemen, when he makes that explanation that he tells the truth, and there is no evidence to the contrary.

There are two propositions which we as members of this Legislature might well consider.

Now without entering into the merits of the first case, I would submit to the members of the Senate, if it is consistent to exonerate that official, when there was some considerable evidence presented in regard to his guilt, and with this official say he is guilty. I would ask if it would not be fair to send both of these officials home to the people of York County, exonerated by this general court, and let the people there attend to their case later on.

I hope, Mr. President and gentlemen, that in treating this case, as I believe you will, that you will treat it fairly and honestly. If we do err, let us err on the side of humanity and on the side of right.

I hope, gentlemen, when this vote is taken, that the county attorney will be exonerated and adjudged not guilty.

Mr. KELLOGG of Penobscot: Mr. President, I do not feel competent to make any remarks on this proposition, but as long as the Senator from York has seen fit rather to lay down on us, I am going to bring this into politics. He is laying down on the Democratic party in this case. This forenoon we voted on the Democratic sheriff, and if you look over the record you will find all the Republicans voted "Guilty." I do not think it is fair for the Senator from York to rise up here and try to influence this decision in a political way. If he had left that out altogether, I think it would have been better.

Mr. GOWELL: Mr. President, I fear the Senator misunderstood me. I tried to consider the case in a general way, and in all fairness, and if I have indulged in anything of a po-

litical nature, I did not so intend. What I said would surely apply to one party as well as the other.

Mr. MILLIKEN of Aroostook: Mr. President, I suppose I am correct in the belief that it is impossible to amend this address in any way?

The PRESIDENT: I think that is right.

Mr. MILLIKEN: And that Senators must vote guilty or not guilty upon the whole charge in this part of the address?

The President: I shall so rule.

Mr. MILLIKEN: I do not think it is necessary to add anything to the discussion, except to say that personally I think I have been severe in my judgment of the respondent in this case from the beginning. I think I have sought a chance to vote against him, if possible. I will put it as strong as that, and if I could find a chance in this count to express my feeling that he was not a thoroughly competent official, I should vote against him, but I cannot on the evidence presented here vote that he is guilty of corrupt intent to substitute a bogus indictment for the real indictment.

Mr. SMITH of York: Mr. President, I move that the vote be taken by the yeas and nays.

A sufficient number having arisen, it was so ordered.

The PRESIDENT: Those in favor of sustaining the second count when their names are called will respond "Guilty." Those not in favor of sustaining the count will vote "Not guilty."

The roll was called by the Secretary. Those voting "Guilty" were: Messrs. Allen, Boynton, Clifford, Dodge, Donigan, Farrington, Fulton, Hill, Kellogg, Leach, Mullen, Noyes, Osborn, Reynolds, Sanborn, Winslow—16. Those voting "Not guilty" were: Messrs. Blanchard, Clark, Gowell, Irving, Milliken, Smith, Stearns, Theriault—8.

And the President declared the count sustained.

The third, fourth and fifth counts were then taken up. These counts not having been prosecuted, upon motion therefor, were dismissed.

The PRESIDENT: Is it the pleasure of the Senate that an address be sent to the Governor embodying count two in the resolve?

Mr. MILLIKEN: Mr. President, I think we better not have any more misunderstanding about a unanimous vote. I see the papers have it today that we reached a unanimous agreement. I ask for the yeas and nays.

The PRESIDENT: The question is, shall the address be sent to the Governor? The address would be in this form:

**"STATE OF MAINE.**

**75th LEGISLATURE.**

**Address to the Governor.**

The Senate and House of Representatives in Legislature assembled present this address to the Governor for the removal of Asa A. Richardson, county attorney for York county, for the following cause:

(The cause is count No. two, as given above.)

A roll call was ordered.

The PRESIDENT: Those in favor

of the address will answer Yes, and those opposed will answer No.

The roll was called by the Secretary. Those voting Yes, were: Messrs. Allen, Boynton, Clifford, Dodge, Donigan, Farrington, Fulton, Hill Kellogg, Leach, Mullen, Noyes, Osborn, Reynolds, Sanborn, Winslow—16. Those voting No, were: Messrs. Blanchard, Clark, Gowell, Irving, Milliken, Smith, Stearns, Therjault—8.

And the address was given a passage and sent down for concurrence.

**In Regular Session.**

On motion therefor it was ordered that the minutes of the executive session be spread upon the journal and record of the Senate.

A recess was taken subject to the call of the President.

**After Recess.**

Called to order by the President.

On motion by Mr. Boynton of Lincoln, adjourned until tomorrow morning at 9 o'clock.