

RESOLUTION FOR THE IMPEACHMENT OF ARTHUR GORMAN GALLAGHER, ESQ.,  
A JUDGE OF THE COURT OF COMMON PLEAS OF THE  
COUNTY OF OCEAN.

WHEREAS, Arthur R. Smock, a member of the General Assembly of the State of New Jersey, hereby presents the annexed charges against Arthur Gorman Gallagher, the Judge of the Ocean County Court of Common Pleas, alleges that the said Arthur Gorman Gallagher is guilty of the following charges:

1. The said Arthur Gorman Gallagher, Judge as aforesaid, has violated the law of the State of New Jersey while acting as a Judge of the Court of Common Pleas in that

(a) He assisted in causing the casting of illegal votes at the General Election held on November 6th, 1928.

(b) He failed, refused and neglected to hold court at the Court House on Election Day, November 6th, 1928, as required by law.

(c) On said Election Day he held court in various parts of the County and not at the Court House, contrary to the requirements of the law.

(d) He refused and neglected to perform his duty as Judge of the Court of Common Pleas of Ocean County from the 26th day of July, 1928 until November 7th, 1928.

(e) He released prisoners from the common jail without a hearing or determination of the merits of the cause and without legal authority or justification.

(f) He appeared in Court and conducted a cause before a jury in the Ocean County Courts, whereas he is forbidden, by law, to conduct a cause before a jury in the County in which he sits as Judge.

2. He has conducted himself while Judge of the County Courts in an arbitrary and tyrannical manner:

(a) He has ordered litigants ~~to~~ in his court to leave the County and forbidden them to return.

(b) He has refused to allow the Sheriff's Clerk to enter his Court through whim and prejudice.

(c) He has ordered the Sheriff to pay illegal jury fees.

(d) He has directed election boards to assist in the receiving of illegal ballots and has threatened them and intimidated them for their refusal to do so.

(e) He has otherwise conducted himself arbitrarily, tyrannically and illegally.

3. He has otherwise conducted himself in a manner unbecoming a Judge of the Court of Common Pleas.

Therefore, be it

RESOLVED, By the members of the General Assembly of the State of New Jersey, that these charges be examined into forthwith by this House and that a report thereon be made, to the end that, if the charges so made are true, articles of impeachment against the said Arthur Gorman Gallagher shall be presented by the General Assembly to the Senate of the State of New Jersey to the end that such proceedings thereon may be had as are agreeable to the customs, statutes and Constitution of the State of New Jersey in like ~~XXXX~~ matters.

To the Members of the General Assembly of the State of New Jersey:

GENTLEMEN:

In support of the Resolution I have just offered in this matter for the impeachment of Arthur Gorman Gallagher, Judge of the Court of Common Pleas of Ocean County, I offer the following facts:

(a) On Election Day, November 6th, 1928, said Arthur Gorman Gallagher held court in Lakehurst, N. J. and then and there allowed and permitted the casting of votes by the sailors in the service of the United States Navy located at the Naval Air Station, Lakehurst, New Jersey. These men were without residence according to the Constitution and laws passed pursuant thereto; some of them were minors and all of them concerning whom complaint is made were in the naval or marine service of the United States and came directly within the excepted part of ARTICLE II - Section 1 of the Constitution, concerning the right of Suffrage. When these men demanded ballots and were refused by the election board at the proper polling places the said Judge threatened, coerced and intimidated the election board by threatening to put them in prison unless they received the votes. The said Judge, without any authority in law but intending to violate the law himself in aiding the casting of the illegal votes, caused to be prepared appropriate affidavits which he conceived would be required to assist him in the casting of these illegal votes and these affidavits were used by the said Arthur Gorman Gallagher in the furtherance of his unlawful scheme to receive the votes of persons in the naval and marine service of the United States, contrary to the Constitution and the law.

He further assisted in the casting of an illegal ballot, knowing it to be illegal, in the case of the Rev. Mr. Ham. This gentleman is Pastor of the Baptist Church in Toms River, New Jersey. He did not become a resident of the State of New Jersey and of Ocean County until the beginning of

the year 1928. He applied to the Judge for an order registering him as a voter and disclosed to the said Arthur Gorman Gallagher that he had been a resident of the State of New Jersey for less than a year but the said Arthur Gorman Gallagher, with this certain knowledge before him, expressed himself as having the power to make an exception in the case of a minister and ordered his vote to be received and the said Rev. Mr. Ham, pursuant thereto, cast his ballot.

(b) In support of the second specification of charges; the Election laws of this State require the Common Pleas Judge to sit in the Court House at the County Seat on Election Day for the purpose of performing his judicial duties. Nevertheless, Arthur Gorman Gallagher on Election Day, November 6th, 1928, held court in the Court House at Toms River for only an hour or two and thereafter moved from hamlet to hamlet throughout the County holding court in different places, which is contrary to the requirements of the law and the holding of court in the different places of the County, not in the County Seat, was wholly unauthorized.

(c) I have already related that he failed to hold court throughout the day in the Court House at Toms River as required by the statutes but on that same day he migrated around the County holding court first in one hamlet and then in another including Manahawkin, Lakehurst, Lakewood, Toms River and perhaps other places in the County, all of which was contrary to the law, and voters who had business before the court were unable to have their needs attended to because the Court was traveling throughout the County.

(d) On or about the 26th day of July, 1928, in the midst of the Session of Court, the Prosecutor of the Pleas moved for the imposition of a sentence; the said Arthur Gorman Gallagher, then presiding as Judge over the said Court, announced publicly that he would not impose sentence in that case or any other case, nor receive any pleas', nor hold any court until after election, so that from the 26th day of July, 1928 until

the 7th day of November 1928 the County of Ocean was without a Judge willing and ready to perform his duties, so that the whole machinery of the Court was stopped.

The Fall term of Court opened the third Tuesday in September 1928. The Grand Jury was impaneled, a large number of witnesses were in attendance and the public press reports that there were practically one hundred indictments found but Arthur Gorman Gallagher, whose duty it was to be present and receive the indictments to be returned by the Grand Jury, did not appear, he being at the American Legion Convention, thus fulfilling his announced intentions to not hold court until after the November election.

The week of October 12th, 1928, there was such an accumulation of prisoners to receive sentence, due to said Gallagher's refusal to perform his duties, that Supreme Court Justice Lloyd undertook the imposition of sentences of prisoners brought before him on November 13th, 1928.

(e) He has arrogated to himself the right to discharge ~~xxxx~~ prisoners from jail who have been committed thereto by the different Justices of the Peace throughout the County for violation of offenses over which the said Justices of the Peace have jurisdiction, without any application for appeal or application for review or any proceedings whatsoever but his said actions in releasing any discharging the said prisoners being purely from whim and caprice.

I have before me a copy of a discharge given by the said Gallagher in the case of the State of New Jersey against one Joseph Gavin; it reads as follows:-

"To Hon. Joseph L. Holman  
Sheriff of Ocean County  
or the Warden of the Goal of the County of Ocean.  
Honorable Sir.

It appearing that there is now in your custody one Joseph Gavin there duly confined for a violation of the law, and it further appearing that the said Joseph Gavin has served a part of the sentence under which he is now confined, and it further appearing to the satisfaction of the Court that the necessity of further confinement of the said Joseph Gavin, has passed. You are hereby authorized to release from further custody the said Joseph Gavin, and this shall be your sufficient warrant in law for so doing.

Arthur Gorman Gallagher Judge.  
Court of Common Pleas and  
General Delivery of the Goal  
of the County of Ocean."

Order entered  
Dec. 31, 1928.

It will be observed from the order signed by the said Gallagher that he admitted that Gavin had been duly committed to jail, that he had served a part only of the sentence for which he was confined and that the necessity of further confinement has passed that he then ordered the Sheriff to release the said Gavin from custody, all of which I am constrained to believe, finds its justification only in whim and caprice and is wholly unsupported by law.

I shall be able to prove that there are other cases of a similar character in which the said Gallagher had arrogated to himself the right to over-rule, set aside and annul the decisions of Justices of the Peace although, by law, they have been vested with full authority.

(f) I charge that he has appeared in Court and conducted a case before a jury in the Ocean County Courts during his term as office of Judge contrary to the provisions of an Act of the Legislature passed in 1907 and found on Page 165; the same law is found in the 2nd volume of the compiled statutes of New Jersey (1910) on page 1730 in Section 108. This occurred on June 1, 1928.

2. The said Arthur Gorman Gallagher has conducted himself while Judge of the Court of Common Pleas in the County of Ocean in an arbitrary and tyrannical manner.

(a) I charge that he has ordered litigants to leave the County of Ocean and has forbidden their return to the County although these litigants had their families established in the County and some of them had lived in the County all their lives.

In the case of one Alex Manolt, Jr., the said Gallagher imposed a prison sentence of four months in the common jail at Toms River for the crime of adultery and as a part of his judgment he directed that at the conclusion of his term of imprisonment the said Manold should leave the County of Ocean; to use the exact language of the said

Gallagher - "The sentence that I shall impose upon you is imposed also with the additional term attached thereto, that upon the completion of your servitude you shall forthwith leave the County of Ocean and shall not return except by permission of the Court and that if you do return without the said permission of the Court I hereby instruct each and every officer of the County of Ocean to immediately arrest you and bring you before me to receive a penalty for the contempt that you will be perpetrating in violation of my order".

Manolt was born and raised in the County of Ocean, has lived here his entire life and his Father and Mother are residents of the County. I charge that a man who would make such an order is not a fit person to sit in judgment upon his fellowmen.

In the case of one Eugene Saunders: Saunders does not have such a reputation for upright life that much can be said for him. He came before the Court on a charge of violating the prohibition law, sentence was suspended but he was ordered to leave the county within five days. This occurred about December 1927, but Saunders, it appears, had a family in Ocean County and some time in January 1929, he returned to Ocean County to visit ~~the~~ his family. Judge Gallagher received notice of it and he brought him before the Court. In passing judgment on him the said Gallagher said "Saunders I wish I could take an axe and wield it around your neck." "The Newark Call won't like it if I send you to Monmouth County. They criticized me for sending you to Burlington county and now they will have something else to say."

In the case of one William E. McIlheny who was indicted and convicted for carnal abuse, Judge Gallagher in imposing sentence said "I wish I could send you to the gallows and I could spring the trap."

(b) The Sheriff of Ocean County has in his employ a Clerk by the name of John Burdge who has served as a Clerk in the Sheriff's office for about four years. Formerly he was a newspaper writer. A newspaper article criticizing Judge Gallagher appeared in some of the newspapers. Gallagher charged that Burdge had written them and as a consequence

Judge Gallagher directed the Sheriff that he must not again permit the said Burdge to come into his court room.

When another newspaper writer reported the extravagant language of the Judge delivered from the bench he threatened to commit the reporter to jail for contempt of court.

(c) The fee for jurors is definitely fixed by statute at \$3.00 per day, each, and that has always been construed to mean a legal day of 24 hours but Judge Gallagher, in order to curry favor with the jury, ordered the Sheriff of Ocean County to pay the jury three times the usual daily fee on the grounds that they were not supposed to work more than eight hours, evidently attempting to conduct his court as though they were on a union scale of wages and hours.

3. I charge that Judge Gallagher has been guilty of conduct unbecoming a Judge.

Of course this depends a great deal upon the way in which ones fellow men look upon the judge. I quote herewith some of the articles appearing in the local papers concerning the Judge's conduct.

From the Toms River Sun of August 10th, 1928.

"The bodies of the late Judges VanSycle, Martin, Carmichael and Jeffrey must have turned in their graves the past week to witness the manner in which the dignity of the Ocean County Courts is being dragged in the dust by Judge Arthur Gorman Gallagher in his tour of Ocean County with his political 'medicine show'.

Judge Gallagher's favorite method of addressing the voters of the various municipalities he inflicts with his presence, is to remove his coat, vest, collar and tie, and then snapping his suspenders, announce that he is one of the plain citizens of the county. In his speeches or wandering remarks - for he does not make a connected address - he calls upon God to witness that no Ocean County office holder has ever been born who cannot be supplanted. He follows this up with a choice collection of cuss words, which he evidently believes will help put over his point." \*\*\*\*

"Never before in the history of jurisprudence in Ocean County has a Judge of the Court made such a ridiculous spectacle of himself as did Judge Gallagher at Toms River Friday night, and at other points in the County on other nights. His general appearance and actions gave his hearers the right to wonder if the Judge had not been affected by the heat - or something" \*\*\*\*  
"But the sad part of it is, the ring master of the medicine show is not lending any dignity or prestige to the Courts of the County. This ridiculous conduct on the part of the Judge of the Court, taken with his recent utterances that "there will be no more criminal cases heard, or sentences imposed until after election," does not place Ocean County in a very enviable position."



The Camden Courier, speaking Editorially, said;

"Although the reports appear too detailed for an error to have occurred, we hope that the newspapers, which quote Judge Arthur Gorman Gallagher as announcing that no prisoners will be sentenced in his court until after election day, have in some way misunderstood him". \*\*\*\*\*

"An announcement that no sentences would be imposed in his court during the next three months therefore caused even more than ordinary astonishment.

The construction to be placed upon the announcement by the judge's political foes can be easily foreseen."

From the Toms River Sun, July 27th, 1928:

"NO SENTENCES UNTIL AFTER NOVEMBER ELECTION"  
GALLAGHER.

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Sentences in the Ocean ~~County~~ County Common Pleas Court have been dispensed with until after election, it was announced by Judge Arthur Gorman Gallagher at the court session Wednesday morning.

A number of sentences were due for that day, among which were the five men taken last Saturday in liquor raids conducted by the prosecutor's office. All five of the violators waived indictment on possession of liquor and were arraigned for sentence this morning.

The judge's statement came at this time.

He has heretofore insisted that he desired the calander cleared of cases before the next term of court and has been sitting more than forty days this term, getting cases and sentences out of the way, and the Prosecutor and Court attaches expected this practice would continue until all cases were cleared up".

The Newark Call in an August issue said:

"Recently Judge Gallagher announced that he would impose no more sentences until after the November election. Just what this means has been the subject of much surmise and discussion in Ocean County. Even among Democrats, however, there seems to be an uneasy feeling that for a man holding a judicial position Gallagher is showing an undue amount of activity in partisan politics".

Toms River Sun October 12th, 1928:

"Grand Jury Cools Heels For Judge Gallagher  
is away.

Rumor has it that Hague "Yanked" him from the County.

While an Ocean County Grand Jury sat around cooling its heels waiting for a County Judge to appear to receive the indictments the Grand Jury had found, report was made to that body that the Judge was in Louisanna. It was rumored he was on a political speaking tour at the behest of Frank Hague.

When the Grand Jury was ready to hand up its indictments there was no judge to receive the indictments; no Judge to issue Bench Warrants; no Judge to receive pleas when the warrants had been served.

Nearly 100 indictments have been found by the Grand Jury and the Sheriff's office is waiting to serve papers on those indicted but there was no papers, for the Judge is "way down South in the land of cotton."

Prosecutor Davis is anticipating the trial of criminal cases on October 17, but he doesn't know whether he will have a Judge to hear cases on that date and the attorneys

~~for the~~

for the defendants are not sure their cases will be tried that day".

Asbury Park Press, July 20, 1928:

"OCEAN JUDGE IS BITTER AT STORY, MAY BAR WRITER.

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Gallagher and Burdge, who fought Farmers Appointment, at odds over charge of jury discord.

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Reporter denies he is author of the article.  
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Toms River, July 20. - As a result of a news story appearing in a number of state papers on Wednesday night, an open breach today appeared between Judge Arthur G. Gallagher of Lakewood and John L. Burdge, former Secretary of the Democratic county executive committee.

The story told of ~~an~~ alleged differences between Judge Gallagher and the present jury panel. Judge Gallagher took exceptions to the story and wired one newspaper a telegram demanding to know the name of the reporter who furnished the story. The newspaper did not divulge its correspondent's name, but told its correspondent to interview Judge Gallagher.

Judge Gallagher is said to have communicated with Sheriff Joseph L. Holman of Ocean county, and told him that Burdge, who is chief clerk in the sheriff's Toms River office, had sent out the story. The judge, it is reported, informed the sheriff that he did not want Burdge to appear in his court room again, and if he did enter and disobey the order, he would hold him in contempt of court".

The Newark News of July 27th, 1928, says:

"JUDGE GALLAGHER FOR SMITH.

Ocean County, though laved by the cooling waters of the Atlantic is all heated up. Or two distinguished citizens and officeholders of that shire are. They are County Judge Arthur G. Gallagher and Sheriff's Clerk John L. Burdge, and you'd be surprised at what mean things they are saying about each other.

It seems that Judge Gallagher and Mr. Burdge, while both Democrats, are not unanimous in their liking for Governor Smith. The Judge is for him; Burdge is not. The learned jurist is devoting his leisure hours to forming Al-Smith-for-President clubs about the county, while Mr. Burdge is equally diligent in organizing anti-Smith groups. Yet not so long ago the latter was secretary to the Democratic County Committee.

Each is entitled to his opinion - of ~~the~~ Governor Smith and of each other. Mr. Burdge has been forbidden to enter Judge Gallagher's court-room; Mr. Burdge meditates, his friends say, an invasion of those sacred precincts to discover what may happen. The learned court's backers think that if he does Judge Gallagher will commit him for contempt. It is all very stimulating, even though the weather is warm for such exchanges.

The judicious may grieve - as usual - at observing a county judge abandoning that cool detachment, that impartial attitude, that disinterest in mere politics, sometimes associated with adornments to the state bench. From Judge Gallagher's performances it seems once again that Governor Smith has as much to fear from some of his so-called friends as from his open enemies".

The Courier, a newspaper published at Toms River, N. J., one of the conservative weekly's of the State, had the following to say about Judge Gallagher:

"THE JUDGE'S DUTY.

There has been so much said about Judges in politics

of late, that I listened with more than usual interest recently to a political speech by Judge Gallagher. In his efforts to persuade Republicans that they ought to vote the Democratic ticket this fall, he said that Prohibition is not enforced and blamed the Republican party. He also said that his hearers knew and he knew where intoxicants could be obtained within a short distance of where he stood". \*\*\*\*

"But such a statement should be considered from a broader standpoint than partisan politics, when made by a Judge. If the Judge knows, as he said he did, where the law is being broken, it is surely his duty to inform the Prosecutor and Sheriff.

These officers by frequent arrests and frequent raids have shown that they will act if information is given them.

The duty of the Judge ~~xxx~~ in such a case seems plain - if he knows the law is being broken, it is his bounden duty to uphold the law - and he is the presiding judge of the county courts."

Respectfully submitted,

*[Handwritten signature]*  
Wesley F. [unclear]  
510 [unclear] P. O.

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