

IN RE IMPEACHMENT OF ALEX\_ARTEMIS, DIREC-  
TOR OF PARKS AND WILDLIFE SERVICE  
ON ARTICLES OF IMPEACHMENT EXHIBITED BY THE STATE  
SENATE

No. 06-06.      Argued September 24, 2022—Decided September 29,  
2022.

Director Alex\_Artemis is the Director of the Parks and Wildlife Service. Director Artemis was impeached by the State Senate on one article of neglect of duty and another of incompetence.

*Held:* Director Artemis is acquitted on both articles exhibited by the State Senate. Pp. 6–14.

(a) Intention is not a necessary requirement to demonstrate incompetence but is needed to demonstrate neglect of duty for impeachment purposes. Pp. 8–9.

(b) The requirements to demonstrate neglect of duty are not the same requirements as to demonstrate neglect of duty for purposes of public recall from office. Pp. 8–9.

(c) The State Senate failed to demonstrate that the Director was personally aware, involved in, or responsible for the actions that they cited as impeachable offenses. Rather, the articles of impeachment gave a number of incidents that revolved around decisions of the department but not decisions taken by the department’s director. Pp. 9–11.

(d) An employee of the government cannot be terminated or face punitive action from such employment for accumulating an arrest or alleged criminal conduct without due process. Pp. 10-12.

Acquitted.

TAXESARENTAWESOME, J., delivered the opinion of the Court, in which BLCKITTY, C. J., and PARMENIONN, JJ., joined.

JUSTICE TAXESARENTAWESOME delivered the opinion of the Court.

Trial by impeachment is an act of political removal on named grounds where the burden to demonstrate such grounds lie upon the political body that charges the public official with such offenses. The process

## Opinion of the Court

dates back to English history in the late 14<sup>th</sup> century when the British Parliament would accuse and hold trial for officials they accused of corruption and misconduct in office. In the State of Mayflower, the process adheres closely to its ancestor but with a number of changes to the fact-finding body. Instead of placing the fact-finder with the political body, the duty falls upon the Court to determine whether there is cause and truth to the accusations levied. It is important to note that there are liberties and rights associated with these processes, and that conviction is not based on public opinion or the attitude of the political body.

Respondent is the Director of the Mayflower Parks and Wildlife Service, an agency under the Government. The State Senate exercised its authority to accuse and impeach the Respondent on an article of incompetence and another on neglect of duty. These grounds are consistent with the requirement of impeachment. See Mayfl. St. Const. Art. XIII, Sec. 2.

The accusations made by the Senate were a slew of numbered events where they assert that the conduct of the Respondent was inappropriate and impeachable. Respondents made a number of legal assertions as to both the consistency of the articles themselves as well as the standards used to examine these articles. This Court is now charged to examine all those events and the evidence provided by the Senate.

## I

Upon first review, it is important that we examine the legal questions presented by the Respondent on how this Court must review the facts presented and to what degree is needed.

## A

Respondent asserted in their brief that the Senate must demonstrate intent on the basis that it is a deprivation of life and liberty and requires due process for such. We disagree.

An impeachment on incompetence need not be intentional, as incompetence itself is not an act that necessarily requires to be done intentionally for it to be accomplished. However, an impeachment on neglect of duty does require intention as neglect requires the intentional lack of reasonable action where one has a duty of care. It should be explicitly noted that impeachment is a political trial done by a body of men politically elected to their office. It is not a criminal indictment, nor should it serve as one.

When an impeachment should require a criminal act, it shall then require the criminal elements be demonstrated beyond a reasonable doubt in a court of law -- such as the first ground of impeachment on the “commission of a felony or misdemeanor by law” that directly ties into criminal law. In such impeachment, intention is required as a criminal element.

## B

The State Constitution allows for a public referendum and removal of elected officials on certain grounds, which includes “neglect of duty” with a specific definition given. See *Ibid* at Art. XII, Sec. 3 (“The grounds for recall are [...] neglect of duties; which shall only apply in a situation where an official has clearly neglected a duty charged upon their office by this constitution or any other lawful document for a period of 15 days or more”). Respondent asserts that this definition is applicable to impeachment and must

## Opinion of the Court

have all elements demonstrated by the Senate. We disagree.

The authors of the Constitution explicitly made a difference between the requirements of recall and impeachment. The definition of one does not apply to the definition of the other, for it is up to the Court to decide whether the Senate has enough grounds to demonstrate plain neglect of duty. The requirements imposed on recall are there because it is a removal by the People, whereas this is a removal by the legislature.

## II

This Court is also charged as the fact-finding body as the court of impeachment. In the Articles of Impeachment filed in this matter, the Senate has made a number of factual allegations that must now be examined by this Court.

## A

Ranger J is an employee of the Mayflower Parks and Wildlife Service that was arrested for conduct unrelated to their duties. Internal policy prohibits the arrest of employees on criminal charges. The typical penalty for such an offense would be termination of employment. The employee intended to contest the arrest and requested that they not be terminated while the arrest is disputed in court. Respondent granted this request and imposed a disciplinary action of a zero-tolerance policy on the employee. The Senate asserted that this was an act of neglecting internal policy and, by extension, their duties.

A director holds ultimate authority to operate and organize their department as they wish. This Court

will not speculate as to whether such arrest was inappropriate, but will say that the Director had an appropriate reason for their actions. They believed that the arrest was illegitimate and that it should be contested, and that the termination of the employee based on the arrest would be unreasonable.

The Senate argues that the Director and the Ranger did not tell as to why they believed the arrest was illegitimate, but such a request is unreasonable to compel. This Court cannot place fault or determine that the arrest was appropriate simply because the Respondent did not declare their legal strategy or filing before actually filing. As long as they alleged that the arrest was inappropriate, then they gave enough reason for this matter not to be referred to internal action pending an outcome in court. Court

However, this argument falls apart when the employee admitted in a court filing that the arrest was petty and displayed regret for their actions. With the employee admitting fault to their actions, they should have faced appropriate action for their policy violations. The Senate, however, failed to demonstrate whether the Director had known about this.

## B

Ranger S is an employee of the Mayflower Parks and Wildlife Service that was arrested in connection to an attempted robbery that was done unrelated to his service as a ranger. The employee, while not representing the department nor acting in such an official capacity, was arrested by a trooper of the Mayflower State Police. Internal policy prohibits the arrest of employees on criminal charges, even if such conduct that was allegedly unlawful was unrelated to their duties.

## Opinion of the Court

Respondent stated that the Mayflower Parks and Wildlife Service opened an internal investigation as to whether it had cause to terminate the employee on such policy. During the course of the investigation, however, the employee was given an unconditional pardon by the State Governor and all criminal charges related to the incident were dropped. The Senate argues that the Governor's pardon is irrelevant and that disciplinary action should've continued because the arrest, although pardoned, still happened.

It is true that a pardon from the State Governor can only extend to criminal prosecution or arrest. A pardon does not excuse internal action unless it is ordered so separately by the Governor to the department's director, which is not the case we face today. However, when the internal offense relies on alleged criminal action then a pardon of such alleged actions is sufficient.

The only internal action that Ranger S could be internally tried for would be getting a criminal record while employed with the department. Once that record was pardoned, there is no more cause to be acted upon internally. The action related to the arrest was not internally prohibited, but rather the accumulation of the criminal record was.

The Senate's argument would allow for any employee to be terminated from their employment on any arrest regardless if it was pardoned or acquitted latter. In such a view, the mere act of arrest would be immediate grounds for removal. Such a policy would be strictly unconstitutional as the Government removing one's employment and substantial property interest based on a criminal accusation.

A person has an inherent right to the “enjoyment of the rewards of their own industry” under the State Constitution. See Mayf. St. Const. Art. I, Sec. 1. It is plainly obvious from such a statement that the authors of our Constitution intended for a person to have an inherent right to property. Further, one of the most important phrases permanently etched within the State Constitution upholds due process, even in executive investigations. See *Ibid* at Art I., Sec. 5 (“No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed”).

The Senate’s view is offensive on two major grounds against the Constitution.

### C

Ranger R was an employee of the Mayflower Parks and Wildlife Service that was arrested for an incident that neither party can recall. As this Court has repeated *ad nauseam* throughout this opinion, internal policy prohibits employees from criminal activity and accumulating an arrest. In this situation, the department suspended the employee while the arrest was contested. However, the arrest was not contested but rather expunged. We’ve noted that expungement is an admission of fault in the arrest and a waiver of contesting the arrest at a later date. Based on internal policy and the admission of fault at expungement, the employee should have been terminated for criminal activity.

The Senate, however, failed to demonstrate whether the Director had known about this specific incident.

### D

## Opinion of the Court

Ranger A was an employee of the Mayflower Parks Wildlife Service that was hired and given employment while possessing a criminal record. Respondent noted that the employee was hired as part of a program that allows individuals that hold a criminal record to seek employment within the department. The Senate did not dispute or address this at trial. Further, we have already noted previously that a director of an agency under the government has ultimate authority over their department and can administrate it to their heart's content except when given an order by the State Governor. The Senate's disagreement with this hiring decision is rooted in opinion, not lawful basis.

## E

The Senate argued that the Director has shown contempt for jurisdiction rules of the department. In many of the incidents that the Senate presented, none of them demonstrate that the Director knew or had any part in the department's actions or lack thereof. In two of the incidents linked, the Director is present at the incident but acting in another capacity.

It is unreasonable for the Senate to expect the Director to handle the matter at the moment. If action is requested to be taken, then a complaint should be filed with the department instead of pinning the blame on the present director. Notably, at trial, the Senate made an argument that the Director would've acted inappropriately if they had intervened in any internal misconduct investigation and made their own conclusions.

\* \* \*



## Opinion of the Court

As to the first article of incompetence charged by the Senate in their articles of impeachment, this Court *acquits* the Respondent. As to the second article of neglect of duty charged by the Senate, this Court *acquits* the Respondent. This Court orders the Respondent be *discharged* of any suspension or restraint in this matter.

*It is so ordered.*