

State Sen. John Sackett

Following are the remarks of Sen. John Sackett before the Senate at the close of the special session.

Mr. President, members of the Senate:

We have engaged in a matter that none of us have ever had to deal with before — namely to consider impeachment of the governor. Although a difficult task, by-and-large we have done an acceptable job.

I particularly want to acknowledge the chairman of the rules committee; Senator Kelly. I think you did an excellent job chairing the meetings. I disagreed with you from time-to-time, but over all, you handled an extremely difficult situation with sensitivity and fairness. I also want to thank the Senate President for making every effort to ensure that Alaskans had the opportunity to watch and listen to the hearings. This is a matter of grave importance to the State and I have always believed the public had every right to know all the facts of this case — particularly before the Senate makes a final determination.

Before we exercise our constitutional responsibilities in the matter, there are some observations I would like to make regarding DUE PROCESS — and by due process, I mean the right of the accused to face and rebut his accusers and the right to a final decision of guilt or innocence.

The founders of our nation and authors of our federal constitution considered and made a choice between the English and Scottish systems of justice; under the Scottish system there are three possible verdicts: INNOCENT, GUILTY, and NOT PROVEN. Under the English and our system there are only two verdicts — the

absolutes of GUILT or INNOCENCE. Let me repeat myself:

Under our system we find either guilt or innocence —

There is no middle ground. I would implore each of you to remember that — before you vote.

From the outset of these hearings, in fact, since I read the Grand Jury Report, I have had serious reservations about the Grand Jury decision to issue a report that suggested consideration of impeachment rather than indictments. That has bothered me all along and continues to be a source of great concern. Although that issue is not our primary purpose for being here in special session, I would hope the Legislature will give serious consideration to examining our laws relating to the investigative and report-issuing powers of grand juries.

In this instance, a Grand Jury, led in my opinion, by overzealous prosecutors, was UNABLE to find guilt and UNWILLING to find innocence — Instead, it chose to pass the buck and, while it may be terribly unoriginal to say so: The unfortunate fact is — THE BUCK STOPS HERE. The governor has a right to guilt or innocence.

There are many other aspects of this matter that also concern me. I wonder if we convened in special session too hastily?

The Grand Jury issued their report on July 1st — most of us had the following day or two to read it — and by the end of the day, July 3rd the Legislature had decided to convene a special session. We had little legal guidance before making that decision. My "No" vote in terms of holding a

special session was based on my feeling that we had too little information available before making a decision. As we review our actions, I wonder if it would not be wise to consider a waiting period of one or two weeks before we act on future special session requests — particularly in matters of impeachment. By waiting for a short period we might be able to put some distance between the immediacy of the issue and the tendency to react perhaps in a more partisan fashion.

Also troubling were the events surrounding the gathering of a legal team for the Senate. At first, the Senate hired several Alaskan attorneys. Then Mr. Sam Dash was employed along with several assistants chosen by him. Shortly thereafter all the Alaskan attorneys quit or resigned. Reportedly, some of the Alaskan attorneys left because they disagreed with Mr. Dash's conclusion that there was sufficient evidence to warrant impeachment of the governor. I believe this was an important matter that should have been discussed before the Senate Rules Committee.

Even more troubling was the style and manner used by the Senate's legal team once the hearings got underway.

Article 2, Sec. 20, of the Alaska Constitution specifically provides:

"Impeachment shall originate in the Senate.... Trial on impeachment shall be conducted by the House of Representatives."

From the beginning, however, I was left with the impression that the Senate's legal staff was engaged in prosecution of the governor. I, and many others on

this floor, were led to believe that the Senate would consider evidence, hear from the governor's attorneys, question witnesses, and then — much like a grand jury, decide if sufficient evidence existed to warrant sending the matter to the House of Representatives.

Also, Mr. President, it was never my understanding that we, the Senate, was to become an investigative body — and yet some members of the Senate apparently felt otherwise.

While I thought we were to consider the evidence brought before us, others felt it necessary to engage in a form of "arm chair" sleuthing — looking for new evidence that would provide the "smoking gun" to nail the governor.

Particularly objectionable were two late night meetings held by a handful of Senators in concert with the State's Chief Prosecutor, and the Senate's Special Counsel. These late-hour gatherings were held without our knowledge and against your commitment, Mr. President, to conduct all of the Senate's Special Session business in an open forum, before the public.

Before we render a decision on this matter I want to remind the Senate that we adopted a standard, recommended by Mr. Dash, to be used in determining whether an impeachable offense had been committed: that standard is:

"CLEAR AND CONVINCING EVIDENCE."

About the only thing that is clear and convincing is that the governor has a poor memory. But a bad memory is certainly not an impeachable offense.

Having served with all five governors since statehood, I will be the first to agree that the entire lease was handled unacceptably.

Our hearings clearly demonstrate that we need to address ourselves to many aspects of our procurement practices. And it's obvious a code of conduct needs to be developed to assist elected and appointed government officials to properly carry out the responsibilities of

their office. But I can find no "clear and convincing evidence" that the governor willfully or intentionally broke the law. The governor freely admits that the actions of some of his staff were inappropriate. But it is impossible for the governor, or any of us, to always be aware of the actions of our staff.

Indeed — during the course of our hearings we learned that a former staff to one of the Senate members engaged in behavior unacceptable to that Senator. And even though the Senator has stated acceptance of responsibility for that former employee's questionable behavior, I would find it highly objectionable were that Senator considered for impeachment!

Finally, Mr. President, let me emphasize this point....

The votes of Alaska elected Bill Sheffield Governor. I would also remind the Senate that 15 fellow Alaskans, serving as grand jurors, DECIDED NOT TO HAND DOWN ANY INDICTMENTS.

Somehow, I am left with the feeling that the grand jury has "passed the buck." It failed in its responsibilities to the people of Alaska.

During my years in the Legislature I have come to rely on two things common sense, and simple logic. These guidelines have served me well when making decisions. In this matter, these simple guidelines will serve us well. There was insufficient evidence to indict. THE EVIDENCE IS NOT CLEAR AND CONVINCING.

With respect to the Coghill-Faiks resolution forwarded to this body by the Rules Committee on Saturday let me say....

This is the time for an end to this matter. THIS IS THE TIME TO DECIDE GUILT OR INNOCENCE. It is not the time for vacillating — it is not the time for half-way measures.

I, for one, will not be a party to permanently clouding the name and reputation of one NOT PROVEN GUILTY, whether he be the foremost or least among us.

I find for innocence.

Thank you.