

Maurice A. Deane School of Law at Hofstra University

Scholarship @ Hofstra Law

Documents from Making Habeas Work: A Legal History (monograph)

Supporting Documents for Making Habeas Work

12-7-1816

Collection of Personal Papers, Document Case 5035, Folder 37, New Hampshire State Archives - Letter from William Merchant Richardson to Josiah Butler, Dec. 7, 1816

Follow this and additional works at: https://scholarlycommons.law.hofstra.edu/making_habeas_work_mono



Part of the [Legal History Commons](#)

Recommended Citation

"Collection of Personal Papers, Document Case 5035, Folder 37, New Hampshire State Archives - Letter from William Merchant Richardson to Josiah Butler, Dec. 7, 1816" (1816). *Documents from Making Habeas Work: A Legal History (monograph)*. 30.

https://scholarlycommons.law.hofstra.edu/making_habeas_work_mono/30

This Letter to the Editor is brought to you for free and open access by the Supporting Documents for Making Habeas Work at Scholarship @ Hofstra Law. It has been accepted for inclusion in Documents from Making Habeas Work: A Legal History (monograph) by an authorized administrator of Scholarship @ Hofstra Law. For more information, please contact lawscholarlycommons@hofstra.edu.

Portsmouth Dec. 7. 1816

Dear Sir.

I have been requested to state to you such facts as fell under my observation relative to Capt Isaac Hodgdon's case, which is now before the Legislature. I was not originally counsel in the case, but first appeared at February Term 1815. The facts then stated to me were as follows. Hodgdon had been stationed by the government on the borders of Canada, with directions to stop all intercourse between the Canadians & us. His orders will probably be laid before you. They perhaps too broad, but that was not his fault. Like a good soldier he thought it his duty to obey them. In pursuance of his orders two or three persons were arrested. An application was made to Judge Loomis, for a habeas corpus, not by the men arrested but by certain characters, who thought it not for their interest to have the intercourse with Canada checked. A habeas corpus issued, & Hodgdon returned that the men were not in his possession, or something of the kind. I knew little only from recollection of what was stated to me & cannot be certain I recollect correctly. In consequence of the return a writias issued & Hodgdon was brought before the court at Dover. Sept Term 1816. I was required or he supposed to appear at Feb. T. 1815 but in fact to appear at Nov. Term. In consequence of this misapprehension he neglected to appear at

Nov. term & his recognition was obtained
forfeited. A scire facias issued returnable at the
Term 1814 & at that time I appeared for him.

He produced the affidavits of all his counsel at
Sept term, that they understood him to have
been recognized to appear at the term & Mr
Moody, who acted for the state, being satisfied
that the reason why he did not appear at
Nov. term was owing to a misapprehension
agreed that upon his paying the costs of the
scire facias & agreeing to come in & answer
to the capias, the proceedings should be stayed.
upon the scire facias. But the court refused to
stay proceedings upon this agreement, unless the
prosecutors expenses were paid. The case was
continued to notify the prosecutor to tax his
costs. Nathaniel Hodgdon now myself then who the
prosecutor was, but as Charles Boe was active
in procuring his arrest, I supposed him to
be the man & I accordingly formally notified
Mr Boe. to appear & tax his costs. At September
Term however the court said Boe was not
the prosecutor, but did not state who he was,
& I have never known who he was, but

Have understood it was one of Boies associates
in the upper part of the state. I hope it will
be ascertained who this prosecutor is, & what
is his character, before H. is doomed to pay
him any thing. I have no doubt H. has been
hardly used & that it is proper for the legislature
to interfere. I have never doubted that he intended to
act honestly & justly, but his situation was
a difficult one. I was his counsel, but was so
well convinced that his conduct was correct
& his case a hard one, that I have taken no part
nor do I ever intend to take any. I hope you
will look into his case, & exert yourself on
his behalf as far as is proper. I intended to
come to Concord this week, but fear I shall
not be able to come conveniently. Mr Burrier
& his Bail will be there & you would confer a
favor upon me by telling him I have
written to you & may let him have ~~this~~ letter
if it can be of any service to him.

I am with much respect

your friend

W. M. Richardson

Hon. Josiah Butler

Esq

New Haven Conn