

HOWARD *v.* STATE.

Opinion delivered July 2, 1904.

OFFICER—INDICTMENT—REMOVAL.—An officer indicted for a felony should be suspended, but not removed, from office during the pendency of the indictment; but where conviction follows the indictment, an error in the form of the judgment in this respect will not be prejudicial.

Appeal from Mississippi Circuit Court.

ALLEN N. HUGHES, Judge.

Affirmed.

*W. B. Flannigan, W. J. Lamb and J. T. Coston*, for appellant.

*George W. Murphy, Attorney General*, for appellee.

WOOD, J. In this case the order of the court removing appellant from office upon the filing of indictments for embezzlement and misdemeanor in office was erroneous, as, under the Constitution, art. 7, § 27, and the act of March 9, 1877, only suspension from office follows upon the filing of the indictment. Removal follows upon conviction. But doubtless the court meant suspension instead of removal in his order and we will so construe it, since it is clear that, in view of the decision in *Howard v. State, ante*, p. 586, no prejudice results.

Affirm.

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