

# MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

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HOUSE

NO. 667

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*House of Representatives, March 27, 1913.*

*Tabled by Mr. Dunton of Belfast, and ordered printed.*

*W. R. ROIX, Clerk.*

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND THIRTEEN.

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*To the Senate and House of Representatives:*

Gentlemen:

In my inaugural address, delivered on January second last, referring to the prohibitory law, I said:

“For many years it has been a subject of political contention. In 1910 it was again submitted to the people, and by a majority vote in 1911, it was again reaffirmed and kept in the Constitution. If the people rule, as I believe they should, this question is settled, and no public officer has any authority but to execute the law against liquor selling in a faithful and impartial manner; and I shall do all in my power, during my term of office, to encourage the honest enforcement of all of our statutes against the liquor traffic; and I ask all good citizens

who have the love of their fellow man at heart to join with me in this undertaking. I especially ask the press of the State, without regard to its political or party allegiance, to help in creating a public sentiment against rum selling and rum drinking. \* \* \* I regard the last election as a special test upon the question of the enforcement of the prohibitory law. No statute should ever require such a test, but the determined efforts of the liquor interest in the State and outside of it for the past few years have made this question so acute in our politics that the vote of the people, giving expression to their sentiments concerning it, is of the greatest value to all charged with the duty of enforcing this law. It seems to me now that, after the long and heated discussion we have had upon this subject, both upon the stump and in the public press, with the vote that has followed, it may now be considered as well nigh settled. No further discussion is necessary. All that remains is for the law officers, especially sheriffs, city marshals, and county attorneys, to do their duty and enforce this law in accordance with the oaths they have taken."

It has now been more than two and a half months since I delivered that message. During this time many complaints have been made to me by citizens of the state to the effect that sheriffs and county attorneys in certain counties were not doing their duty in the matter of the enforcement of this law. I have been asked to call them together and again express my opinion as to their duty in this particular, but I think I have a right to assume that they read my message, as it was pub-

lished in all of the papers in the state, and I do not believe that it is my duty to say anything more to them.

The Executive of this state is not a schoolmaster and the sheriffs, county attorneys and other executive officers are not children to be lectured by other public officers. Also, I think I have a right to assume that sheriffs, county attorneys and other public officers are capable of reading the statutes of Maine.

The Constitution (Article 5, Sec. 1, Part 1) vests the supreme executive power of the state in the Governor. Section 12 of the same Article provides that "he shall take care that the laws be faithfully executed." With these general provisions, the details are left to the law-making power, the Legislature; but no statute is now in force enabling the Governor to secure enforcement of the law when a sheriff refuses to perform his duty; or which gives to the Governor any direct power or authority over that officer, except by Revised Statutes, Chapter 82, Section 9, which provides that he, the Governor, has the right "to order" such officers to perform their duties, but to my mind this right "to order," or the order as given, could have no force or effect upon an officer who does not obey the statutes. Ours is a government of law, not men. The impotence of a mere "order" as a weapon for effective use under such circumstances, in the hands of a Governor, must be obvious to anyone able to read our statutes.

It is true that by what is commonly known as the "Oakes Law" (Chapter 41, P. L. 1905) it is especially provided that

“any sheriff, deputy sheriff or county attorney, who shall wilfully or corruptly refuse or neglect to perform any of the duties required by *this section*, shall be punished by fine not exceeding one thousand dollars or by imprisonment not exceeding one year,” and the duties required by “*this section*” are to “diligently and faithfully inquire into all violations of law, within their respective counties, and institute proceedings in case of violations or supposed violations of law, and particularly the law against illegal sale of intoxicating liquors, and the keeping of drinking houses and tippling shops, gambling houses or places, and houses of ill-fame.”

This statute has no practical method of enforcement, as it is not likely that a county attorney would prosecute himself or the sheriff of his county, especially when the two were of the same political party.

It is true that a Governor would have the right to request an attorney general to go into any county and conduct a prosecution of such officer or officers for not complying with said statute, but there is no statute requiring of the attorney general the performance of such a duty, and it is doubtful if, with the work now imposed upon the attorney general's office and without any provision for assistance, he could find time to conduct such prosecutions.

I understand an amendment to this statute is now before the Legislature, especially requiring the attorney general to do such work, and in case he does not find the time, to request of the court the appointment of some attorney to conduct such

prosecution, to be paid from the county treasury. This seems to me a very reasonable amendment, and it might give to this law a practical working effect.

But such an amendment not yet passed does not cover the present situation. What the people want is the enforcement of the law against the illegal sale of intoxicating liquors, and not the punishment by fine or imprisonment of officers who fail to do that work. They want such officers removed from office and others put in their places who will enforce such laws, honestly and conscientiously. At least, this is my conviction of what our people want. If the last election in this state said anything, it said just that. With this belief, and after a careful examination of the Constitution and statutes in regard to this matter, I see but one way open to me as the chief executive of this state.

In compliance with the promises which were made by implication, at least, to the people of the state in the last campaign, by myself and others in my behalf, and in behalf of the party I represent, and also in accordance with the oath which I took when I assumed the office of Governor, I feel that I should submit to your honorable body, for removal from office, such officers as have failed to comply with their oaths of office by neglecting and refusing to follow the mandates of the statutes they were elected to enforce.

I am informed that the so-called prohibitory law is fairly well enforced in eleven counties of the state; that it is partly enforced in two or three other counties in the state, in the rural

sections; but that in the cities of at least five counties it is not fairly or honestly enforced by the sheriffs of these counties and the deputies under them. I am further informed that in some of the counties, the county attorneys have not only failed, but neglected, and, in some instances refused, to perform their duties as clearly expressed by our statutes.

Personally I know nothing of these matters, but this information comes to me from what I consider reliable sources,—from citizens whose statements I am bound to credit. It comes by petitions, accompanied by charts showing localities in cities where the liquor traffic is carried on openly and conspicuously without interference from any public officer. These assertions are accompanied by affidavits, and witnesses are anxious to go before your honorable body and testify to the actual conditions of things in this regard in different localities of the state. These petitions, statements, and affidavits are coming to me daily, and it seems to me that I would be recreant in my public duty did I not give heed to them.

The most flagrant and complete case which has been presented to me is that in the county of Cumberland, particularly in the city of Portland. Accompanying this message I submit a statement stating the number of places, and designating the streets where liquor is sold in open violation of the law, also a chart showing a number of places in the vicinity of two public schools where this nefarious traffic is carried on openly, the existence of which should be known to any sheriff and deputies in the exercise of ordinary intelligence and diligence in the prosecution of their official duties.

This being the case, I first present to you for removal from office, as provided by the Constitution and laws of the State, Lewis W. Moulton, Sheriff of Cumberland County, and ask you to proceed before your adjournment with such case, in a due and regular manner.

If he shall be found guilty and removed from office by your honorable body, it is my purpose to appoint someone who will enforce the so-called prohibitory law in Cumberland county and the city of Portland.

Following this case, and, for the same reasons as given in this communication, I shall probably submit to you, for removal from office, other cases from other counties, against other officers, when the evidence promised has all been filed with me in each case sufficient upon which to base such a proceeding.

You will understand that I have no legal authority to investigate the truth of these charges, or even to procure evidence for my guidance, but the source and nature of these complaints and facts which have been brought to my attention lend too much color to the charge to permit of their being ignored by any one having a duty to perform in the premises, and I can see no other way but to turn them over to you.

Under the Constitution I can see but one adequate remedy for this situation, and that is to proceed to remove from office any and all public officers who fail to perform their duty and become thereby guilty of misfeasance in office. Under our statutes this may be accomplished either by impeachment or address. Your honorable body is the only court open to the



Executive under the circumstances to which this matter can be referred, and with the accompanying papers, I respectfully refer to you, at this time, the said case of the Sheriff of Cumberland County. Accompanying this message will be found a list of witnesses in this case, together with some petitions and plans, and I have further affidavits which can be furnished your honorable body upon request.

WILLIAM T. HAINES.

Hon. W. T. Haines,  
Governor of Maine.

Dear Sir:

We the undersigned citizens of Cumberland County would most respectfully call your attention to what appears to be an open and notorious violation of the "Prohibitory Law" in Cumberland County. We believe that such conditions could exist only with the knowledge and consent of the Sheriff.

We realize that you have no power to compel enforcement.

We believe, however, that you should insist upon enforcement, and that if the Sheriff fails to give proper enforcement, you should present the facts to the Legislature for such action as may be warranted.

Geo. H. Babb, Portland.

Linus Seely, Portland.

E. R. Leighton, Portland.

Wm. H. Morton, Portland.

Guy Calderwood, Portland.

C. L. Waite, Portland.

C. E. Roby, Portland.

Joseph F. Pierce, Portland.

Christian Madsen, Portland.

W. A. Allen, Portland.

Fred B. Estes, Portland.

W. R. Read, Portland.

E. R. Nickerson, Portland.

J. G. Ross, Portland.

H. C. Marsden, Gray.  
Ross L. Stevens.  
Freeman F. Lamb, Portland.  
M. W. Smart, Portland.  
Albert Curtis, Portland.  
J. F. Ridlon, Portland.  
Judson B. Bryant, Portland.  
Frank H. Freese, Portland.  
Wesley C. Freese, Portland.  
C. E. Collins, Portland.  
H. S. Johnson, Portland.  
Fred H. M. Witham, Portland.  
Chas. E. Sayward, Portland.  
John W. Turner, Portland.  
E. F. Ridlon, Portland.  
F. W. Covey, Portland.  
Ralph E. Rowe, Portland.  
E. L. Walker, Portland.  
J. L. Best, Portland.  
Loren N. Hawkes, Portland, Me.  
Will W. Johnson, Portland, Me.  
H. J. Gilman, Portland, Me.  
Clarence L. Johnson, Portland, Me.  
Sumner W. Johnson, Portland, Me.  
Frank C. Brown, Portland, Me.  
Delbert F. Cousens, Portland, Me.  
P. L. Roberts, Woodfords, Me.

L. V. Gooden, Woodfords, Me.  
C. E. Knight, Woodfords, Me.  
C. W. Morton, Woodfords, Me.  
A. H. Goudy, Woodfords, Me.  
Thos. W. Hawkes, Woodfords, Me.  
C. P. Wescott, Woodfords, Me.  
A. H. Small, Woodfords, Me.  
A. A. Browne, Woodfords, Me.  
Amos Mann, Windham.  
H. H. Sturgis.  
G. B. Pendexter.  
H. C. Welch.  
A. C. Leadbetter.  
Alexander T. Laughlin.  
Franklin M. Lawrence.  
A. P. Howard.  
Frank H. Plummer.  
Charles A. Plummer.  
Herbert L. Berry.  
Clifford E. McGlauffin.  
Louis A. Goudy.

PLACES WHERE IT IS CLAIMED INTOXICATING  
LIQUORS ARE SOLD IN VIOLATION OF LAW IN  
THE CITY OF PORTLAND.

Congress St. ....	477-935-947-972
Federal St. ....	196-238-259
Middle St. ....	196-220-234
Fore St. ....	179-187-202-207-222-242-255-270-251-253 319-320-328-332-340-344-348-356-358-360 372-420-436-450-455-505-517-518
Pleasant St. ....	1-50
Commercial St. ....	45-49-51-63-65-73-125-127 407-413-431-469-545
Free St. ....	14-23-29-51-55-137-52
Washington Ave. ....	30-40-50-54-68-78-240
India St. ....	14-16-22-28-30-39-43-47
Pearl St. ....	29
Monument Square ....	15
Temple St. ....	13-15-22
Center St. ....	59-71-89-93
Preble St. ....	104
Danforth St. ....	17-41-48-518
Elm St. ....	97

The following is the text of the resolutions passed by the Portland Methodist Preachers' meeting at its meeting Monday relative to the lax enforcement of the prohibitory law in this city, and calling upon the Church Federation of Portland and

South Portland at its annual meeting on March 31 to take action in harmony with these resolutions, and urging that such action by the federation "go further than mere and oftentimes meaningless resolutions:"

Resolved, that we view with alarm the increasing and unchecked violation of our prohibitory law in this city, and note with shame that the properly constituted authorities, duly sworn to enforce this law, make but puerile efforts to do so, if any.

Resolved, that we recognize in this reign of lawlessness a definite peril to all our moral life and growth, as well as a deadly menace to the security of all our cherished institutions.

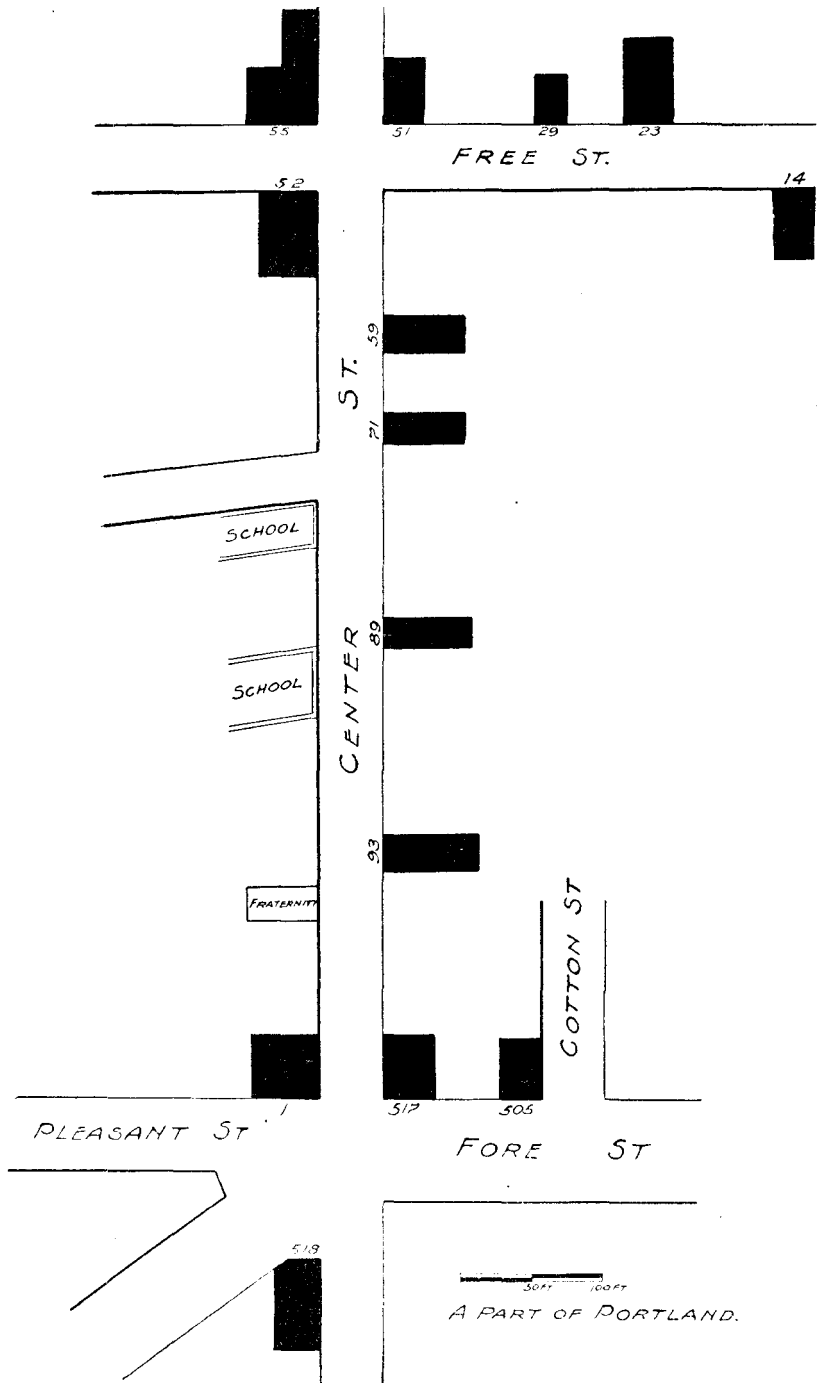
Resolved, that we should discount as of small value the raids made periodically by the sheriff's department of this county upon defenceless women and small dealers, while keepers of hotel bars and other politically favored illegal places of sale go entirely unpunished and unafraid.

Resolved, that we on all this account call upon the Governor of this State to early make some attempt in this city looking to the redemption of his campaign pledges of enforcement, and that we pledge him active co-operation to this end.

Resolved, that we call upon the Portland Church Federation at its approaching annual meeting to take such action as shall be in harmony with these resolutions, and that such action in our opinion should go further than mere and oftentimes meaningless resolutions. We recognize that the federation as the mouthpiece of the united Protestantism of this city, may properly act with boldness in this matter and will be condemned not unfairly for non-action.

Resolved, that we commend the action of Senators Johnson and Gardner of this State in voting originally for the Webb interstate shipment bill, and especially for their vote to pass said bill over President Taft's veto. Likewise such Maine congressmen who so voted.

Resolved, that the secretary of this meeting be empowered to convey news of this action to such bodies and individuals as are directly involved in its execution, and that so far as possible this action be made public by insertion in the city newspapers.





NAMES AND RESIDENCES OF WITNESSES IN THE  
CASE OF LEWIS W. MOULTON, SHERIFF OF  
CUMBERLAND COUNTR.

Isaac C. Johnson, Portland, Maine.

Isaac H. Johnson, 511 Stevens Avenue, Portland, Maine.

J. M. Arters, 35 North St., Portland, Maine.

Franklin K. Bean, Portland, Maine.

Linus Seely, 71 Rackliff St., Portland, Maine.

James W. Brown, Portland, Maine.

C. E. Owen, Waterville, Maine.

W. F. Berry, Waterville, Maine.

E. H. Emery, Sanford, Maine.

Walter H. Dresser, Portland, Maine.

Agent of Freight Dept. for the City of Portland, of B. & M.

R. R. and Eastern Steamship Co.

L. H. Colby, Brunswick, Maine.

George W. Townsend, Brunswick, Maine.

City Editor, Portland Evening Express, Portland, Maine.

City Editor, Portland Daily Press, Portland, Maine.

William E. Kimball Portland, Maine.

Henry T. Skillings, 35 Plum St., Portland, Maine.

Neal D. Winslow, 90 Preble St., Portland, Maine.

Louis A. Goudy, 95 Fessenden St., Portland, Maine.

Chas. A. Maxwell, 67 West St., Portland, Maine.

William E. Watson, 113 Stevens Avenue, Portland, Maine.