

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTY-SIXTH LEGISLATURE

OF THE

STATE OF MAINE

1913

Including Acts and Resolves of the Special Session held
in 1912.

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GOVERNOR HAINES' MESSAGES.

STATE OF MAINE.

AUGUSTA, MAINE, EXECUTIVE CHAMBER,

January 29, 1913.

To the Senate and House of Representatives:

Gentlemen:—On Monday, January 20, and for several days prior thereto, my attention had been called, through the public press and otherwise, to a controversy existing between the employees of the B. & A. R. R. and said railroad involving a strike of the engineers and firemen of said road. My attention upon that date was for the first time called to chapter 229 of the public laws of 1909, entitled an act creating a State board of arbitration and conciliation. The first section of said act creating said board provides that its duties “shall be to endeavor to settle disputes, strikes and lockouts between employers and employees.” Also, by section 10 of said act, endeavor to persuade such employers and employees to submit the matter in controversy to a local board of conciliation and arbitration, or to the State board,” and “endeavor by mediation to obtain an amicable settlement.” It also provides that “the State board shall upon the request of the Governor investigate and report upon any controversy, if in his opinion it threatens to affect the public welfare.”

After a careful study of this statute, I concluded that it was my duty as the chief executive of the State, in compliance therewith, to call upon the State board of arbitration and conciliation to investigate the controversy existing between the employees of the B. & A. R. R. and said railroad, and report thereon, believing that the public welfare was involved in said controversy. I therefore issued an order to said board, a copy of which is attached to the report of said board.

The said board has now reported as having made said investigation and I herewith submit their report, which is as follows:

*To His Excellency, Hon. William T. Haines, Governor of
Maine, Augusta, Maine:*

Sir:—Pursuant to your request under date of Jan. 20, 1913, addressed to each of them, the members of the State board of arbitration have conducted an investigation into the controversy existing between the engineers and firemen of the Bangor & Aroostook railroad and said railroad, promptly, as provided for by statute, and according to the terms of your said letter which is of the following tenor, to wit:

STATE OF MAINE.

EXECUTIVE CHAMBER,

AUGUSTA, Jan. 20, 1913.

*To the Hon. Frederick Bogue, East Machias; Hon. Samuel
R. Haines, Pittsfield, and Hon. Alden M. Flagg, Auburn;
State Board of Arbitration and Conciliation:*

Gentlemen:—I am credibly informed that a controversy exists between the engineers and firemen of the Bangor & Aroostook railroad and said railroad, and that said engineers and firemen of said railroad are now on a strike, which threatens to affect the public welfare, particularly in Aroostook county, and in compliance with Chapter 229 of the Public Laws of 1909, I request that you investigate said controversy and report thereon, and that said investigation be made at once, as provided for in said statute.

Very respectfully,

WILLIAM T. HAINES,

Governor of Maine.

and beg leave to report as follows:

On Thursday, the 23d inst., a majority of the board proceeded to Bangor, where counsel, Charles H. Reid, Jr., Esq., was obtained to assist them in the proposed investigation, and arrangements were made for the calling of witnesses to appear before the board immediately and give in their testimony bearing upon the matter in controversy.

At 9.30 o'clock, on the morning of Friday the 24th inst., the board met in session for the purposes above mentioned, at the Penobscot Exchange hotel in Bangor, all members being present, the chairman, Frederick Bogue, Esq., presiding. The following witnesses were sworn and examined that day: Percy R. Todd, president of the Bangor & Aroostook Railroad Co.;

F. A. Gilbert, spruce wood manager of the Great Northern Paper Co.; Alden L. Chase, chairman of the joint board of engineers and firemen; L. C. Griffing, assistant grand chief of the Brotherhood of Locomotive Engineers; P. J. McNamara, assistant grand chief of the Brotherhood of Locomotive Firemen and Enginemen.

After having been in session until 6.15 P. M., the board adjourned until 8.30 A. M., Saturday the 25th inst., when the following witnesses were examined: Herbert E. Bartlett, one of the freight engineers of the Brotherhood; E. L. Cleveland of Houlton, president of the Aroostook County Potato Shippers' Association; Morris Weslosky, of New York City, representing the firm of J. & P. Lippman, large potato brokers of New York City, doing business in Aroostook county, and C. A. Powers of Fort Fairfield, member of the shipping association; Walter A. Danforth, treasurer of the Bangor & Aroostook Railroad Co.; James L. Murdock, vice president of the Brotherhood of Railway Trainmen; S. N. Berry, vice president of the Order of Railroad Conductors; and William K. Hallett, superintendent of the southern division of the Bangor & Aroostook Railroad Co.

The board completed the hearing at 6.15 o'clock P. M. and it thereupon adjourned until 9.30 o'clock A. M. Monday, the 27th inst., for the purpose of preparing a report to be forthwith tendered to your excellency.

After as complete and comprehensive an investigation as the board found itself capable of performing in view of the short time it found at its disposal to give to the examination of the controversy, which investigation has resulted in the taking of a very large mass of oral and documentary evidence in stenographic form, which the board believes cannot be transmitted to Your Excellency in completed shape much before the latter part of the next week, the board offers the following as its report of the investigation:

The position of the Bangor & Aroostook Railroad Co., as set forth by its president and as may be supplemented by its other officers who have appeared before the board, appears in the first instance to admit of no arbitration or mediation of the subject matter now in controversy. It bases its position as much upon the principle that its employees are receiving an adequate compensation for the risk, extent and character of the services rendered, as it does upon the proposition, which it asserts to be a fact, that in view of its financial status now and for a long time existing, it finds itself, as it states, abso-

lutely unable to meet any demands from any sources of its various classes of employees for a possible increase in wages; and upon this point it has submitted for inspection copies of the sworn monthly statements of its proper officials to the Department of Commerce and Labor of the United States, as required by law, tending to show its exact financial condition for a period covering the time ensuing since the last annual report of the company for the fiscal year ending June 30, 1912, together with the report of the company for the fiscal year above mentioned, and by the testimony of its president and treasurer given personally before the board.

Much evidence has been introduced by both parties to the controversy bearing upon the cost of operating the railroad, its revenue, their sources, its earnings, or losses, as the case may be, and upon its ability or its inability to meet either as a moral or a business proposition, the demands of the striking brotherhood, and upon the relative conditions attending the work of the engineers and firemen with those obtaining in 52 of the 55 railroads in the eastern territory so-called which contains New England. As the result of concerted action on the part of the engineers, at least, of the 55 railroads above mentioned, a basis of a standard minimum scale of wages was reached by arbitration pursuant to the terms of federal legislation known as the Erdman act, a copy of which will be submitted to Your Excellency with the complete stenographic report of the board's sessions, which standard was accepted by all of the companies included in this territory, saving and excepting the Rutland, whose employees did not present a demand for the standard scale, and the Central Vermont and Bangor & Aroostook railroads, which said corporations did not enter into this standard arrangement.

A quantity of evidence bearing upon phases of the matter in controversy, and with particular relation to the prior attitude of the parties and their attempt to amicably adjust their differences, has been introduced into the record of the board's sessions, but is regarded by the board as collateral to the subject matter under investigation, and it therefore confines this summary of its investigation to a statement of the parties' grievances as they exist at the present moment. The same has already been set forth in the public press and will need no consideration by us at this time.

The position of the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen may be summarized in a claim for compensation according to

the standard minimum wage scale entered into by the 52 railroad companies above mentioned, without particular regard to the financial status of the company as it may exist at this time. The brotherhoods contend that in view of the character of service rendered by them and the working conditions under which the same is performed, as based upon comparative conditions obtaining upon lines of similar character as the Bangor & Aroostook railroad, that they should receive at least an equal compensation. Much evidence has been introduced upon this point in support of this proposition. The brotherhoods believe that the true basis of adjustment of compensation should be an equitable return for services rendered at the market price obtaining for those services, without the special consideration for the capacity of the purchaser to pay. And upon this point it is in testimony that Bangor & Aroostook passenger engineers are paid at the rate of \$3.75 per 100 miles, while Maine Central passenger engineers are paid at the rate of \$4.25 per 100 miles; Bangor & Aroostook through freight engineers are paid at the rate of \$4 per 100 miles, while Maine Central through freight engineers are paid at the rate of \$4.75 per 100 miles; Bangor & Aroostook way freight engineers, \$4.30 per 100 miles, Maine Central way freight engineers, \$5 per 100 miles; Bangor & Aroostook switch and yard engineers, \$3.60 per 100 miles, Maine Central switch and yard engineers, \$4.10 per 100 miles; all other Bangor & Aroostook engineers, \$3.60, all other Maine Central engineers, \$4.75. Firemen get 60 per cent. of the above wages. All of which is based on a rate per 100 miles per ten hour service per day, with overtime extra. These comparisons are based upon what is known as the standard minimum as fixed by the arbitration hitherto referred to on Nov. 27, 1912, and which is maintained by the Maine Central railroad.

In making particular reference to the position of the engineers, the board does not lose sight of the fact that the contentions of the firemen are based along the same lines.

The brotherhoods further contend that regardless of the first proposition as outlined above, and they have offered evidence upon these points, that the Bangor & Aroostook Railroad Co. can afford to, and should, meet their demands, with regard to its financial ability.

The brotherhoods further contend that the working conditions which attend engineers and firemen on the Bangor & Aroostook lines are unfavorable and hazardous as compared with those lines operating under the standard agreement.

The board is satisfied that both parties to the controversy will not seek its assistance as arbitrators at the present time, as the attitude of the railroad company opposes either arbitration or mediation, and the authorized representatives of the brotherhood will consider arbitration only under the terms of the Erdman act heretofore referred to, or under federal regulations, and both parties refuse to accept the State board of arbitration as arbitrators of their difficulties; and the brotherhoods further state that they have been and stand ready to enter into arbitration under the federal law.

The board feels that the situation now existing between the Bangor & Aroostook Railroad Co. and the striking brotherhoods threatens the public welfare. In compliance with the provisions of section 4, chapter 229 of the public laws of 1909, and the spirit of Your Excellency's letter to the board above referred to, the board has made what it considers a fair and comparatively complete investigation into the effect of the strike, and particularly in Aroostook county. To this effect the board has examined representative and prominent business men either of that county or doing business there.

In the strongest terms Mr. E. L. Cleveland of Houlton, president of the Aroostook County Potato Shippers' association, who has resided and done business in that county for 35 years, and who is an extensive shipper of potatoes to all parts of the county, states that the effect of the strike up to the present time has been of most serious importance to the potato dealers of Aroostook county, to the lumber interests, paper industry, and general business; that idle cars and the inability of merchants and dealers to move their goods over the Bangor & Aroostook lines, so necessary to that movement, has already occasioned them large losses of money and prospective business; that in some instances considerable orders for goods from out of the county have been cancelled, and that a prolongation of the strike will be attended with serious and even disastrous financial results upon the citizens of that county, including the enormous potato growing industry itself. He states that there are yet to be shipped 15,000 car loads of potatoes from Aroostook county, representing about one-half of its annual output. A paralysis, even temporary, of the freight service of the Bangor & Aroostook Railroad Co. must mean, in his opinion, a loss difficult to calculate in figures at this time.

Along this line, and as emphatically, Mr. Cleveland is borne out by the testimony and opinion of other prominent and reputable business men of Aroostook county who are conversant

with its affairs and its needs. These gentlemen state that a present loss not only obtains, but that the future loss of business must necessarily be great, as buyers, if they are unable to have their existing contracts fulfilled within good season, will naturally turn to other markets in the future for their supply.

Mr. Fred A. Gilbert, a life long resident of Penobscot county, and peculiarly familiar with its lumber and pulp industry and that of Aroostook county, regards the strike situation as particularly serious and that a prolongation of it must be attended by large losses of money and great inconvenience to the business industries of the two counties. In the opinion of these gentlemen last above named the effect upon those who depend upon their supplies through carriage over the Bangor & Aroostook railroad into northern Penobscot and Aroostook counties, will be of most serious consequence, attended with financial losses and a much limited ability to transact their business as under normal conditions.

The effect of the conditions existing upon the manufacturing interests of yet another county, Piscataquis, may be shown by a letter addressed to the chairman of this board under date of the 25th instant, signed in behalf of the American Thread Co. by Edwin M. Hamlin, its manager, and of the following tenor :

The American Thread Co., Milo Spool Mills,

Milo, Me., Jan. 25, 1913.

Mr. Frederick Bogue, Chairman State Board of Arbitration and Conciliation, Penobscot Exchange, Bangor, Me.

Dear Sir:—In compliance with your request we herewith confirm substantially the statements made to you over the telephone this afternoon.

We have at various points along the line of the Bangor & Aroostook railroad upwards of 1,000 car loads of timber which should move to our Milo mill within the next 50 or 60 days while sledding lasts. More than half this stock consists of white birch which, if left over a season, is a total loss; a few weeks of hot weather moulding and dozing it so that it is unfit for the manufacture of spools. We have two steam log haulers and upwards of 100 horses engaged in hauling this timber to the several sidings. Since the freight embargo was placed on the 17th instant we have been unloading onto the ground. This will entail heavy expense rehandling and even at that cannot be long continued as the available yard room is limited. We

have in our several camps and boarding houses along the line of the Bangor & Aroostook railroad more than 400 men and we are dependent upon railroad transportation for getting supplies to these men as well as to the horses above mentioned.

At Milo we have a single bar mill operating day and night. Unless we can get birch over the railroad from Patten or Orson siding within the next three or four days, it will be necessary to shut down the mill for lack of stock, in which case we would have to cut cord wood to keep fire under our boilers, the waste from the mill being our source of fuel supply.

The spools and shooks made at our Maine mills are for use in our own thread mills. We do not sell them in the open market. Under present conditions we can make shipment of this finished product only by teaming it a distance of eight miles to the Canadian Pacific railroad.

Enos Sawyer, Jr., Sebois, Me., is under contract to ship us 500,000 feet of green spool bars. He notified us today that the Canadian Pacific Railway Co. had refused to accept freight destined to points on the line of the Bangor & Aroostook Railroad. We are similarly affected by contract with the Merril Mill Co., Patten, Me., who are to ship us 750,000 feet of the same kind of stock this season. In both instances the refusal of the transportation company to accept the goods necessitates piling and re-handling the stock or shutting the mills down until the freight embargo is lifted. Within a few weeks we have paid the Bangor & Aroostook Railroad Co. between \$800 and \$900 for a side track on their Medford cut-off so called, where we were to load about 2,000,000 feet of box logs. There is no other practicable outlet for this timber and no storage place at the siding for it, therefore, there seems to be no alternative but to await settlement of the railroad strike with the grave possibility of having to leave all or a part of the timber in the woods for a season, with a damage, direct and indirect, aggregating several thousands of dollars in addition to the forest fire risk.

In some instances we have been greatly inconvenienced by non-delivery of mill supplies, shipped from Bangor or points west of Bangor just before the embargo was placed. Each item would be of small importance in comparison to the larger matters which we have mentioned although in the aggregate they involve a great deal of expense.

Respectfully submitted,

THE AMERICAN THREAD CO.

EDWIN M. HAMLIN, Mgr.

Evidence has also been adduced tending to impeach the character, ability and skill of men procured by the railroad company to fill the vacancies caused by the striking engineers and firemen, when, on the other hand, the company maintains that the new men are subjected to rigorous examination and must be and are fully qualified to fulfill the duties required of them with regard to the public welfare.

The occasion which prompts the board in submitting to Your Excellency at this time what may be regarded as a rather incomplete summary of its investigation is due to the fact that it feels that it complies best with the spirit of Your Excellency's letter above mentioned and the exigencies of the situation in so far as it affects the public welfare, in rendering you such information as it may be capable of doing at the earliest possible instant.

A large quantity of correspondence passing between the parties in controversy has been introduced into the record of the board's sessions and will be transmitted as soon as the complete stenographic report of the investigation is ready, which stenographic report is made a part of this report and is expressly as if more fully extended and contained herein.

Respectfully submitted,

FREDERICK BOGUE,
S. R. HAINES,
ALDEN M. FLAGG.

State Board of Arbitration and Conciliation, Bangor, Maine,
Jan. 27, 1913.

You will notice by this statute that practically no authority is given to said board of arbitration and conciliation, unless agreed to by the parties to the controversy, to do anything except to investigate and report. They can, in the language of the statute, I suppose, "endeavor to settle disputes, etc.," but just what these endeavors consist of I cannot quite understand, unless the parties to said controversy submit their differences to arbitration, either before the State board or before some other board, upon which they may agree, as provided for in said statute.

It is very evident that the State board of arbitration and conciliation have performed their full duty as required by law. At least there is nothing more that they can do unless the parties to the controversy desire to submit their differences to the said board for arbitration.

That this strike is very materially affecting the public welfare, especially in Aroostook county, cannot be doubted, and the longer it continues the more serious it will become.

While I have been awaiting the report of the board of arbitration and conciliation, I have taken occasion to look at the last railroad commissioner's report, for my own information, in regard to the relative situation of the B. & A. R. R. Their report is very full and complete about their business and property.

It seems that they are operating 650 miles of road and most of it is in Aroostook county. Their gross earnings for their last business year were \$3,345,240. They have a capital stock outstanding of \$3,198,600, upon which they pay 4 per cent. dividend. The total cash received for that capital stock by that company was \$1,840,500, which at 4 per cent. on its par value gives a net rate of about seven per cent. on what the company received for it.

Their property seems to have cost them \$43,747 per mile and they have a large bonded indebtedness about \$24,500,000, and I find that nearly all the savings banks of Maine are holders of large amounts of these securities, which shows that the people of Maine have contributed very generously toward the building of this road. That the road is operating in a growing and prosperous country, no one can doubt. That it receives what is considered by shippers and the traveling public a large price for its transportation of freight and passengers, is generally believed.

The Maine Central Railroad Co., which operates 1005 miles of railroad in our State, and earns \$10,643,510, annually, and practically does all the railroad business of the State, except that which is done by the B. & A., and the little by the Canadian Pacific and the Grand Trunk, which cross our State on the north and west.

As every one knows, the Maine Central Railroad is a consolidation of a great number of other railroads, which were originally built as individual and local enterprises, as has been the Bangor & Aroostook Railroad. The main line of the Maine Central Railroad may be said to run from Portland to Bangor, with many lines situated like that of the B. & A., running northerly and easterly into the sparsely settled sections of the State, where the traffic is similar to that which the B. & A. has, and which it turns over in a great measure to the Maine Central Railroad at the Northern Maine Jct.

Now, the object of a railroad is to give the best service for the transportation of freight and passengers at the lowest possible price. The cost of this service depends largely upon the operating expenses. The Maine Central Railroad, as I understand it, pays its help what is called and known as standard wages on all the lines it operates. The B. & A. R. R. does not. From this fact alone, undoubtedly, the controversy which now exists between the B. & A. R. R. and its engineers and firemen gets its start.

The report above referred to shows that the engineers on the B. & A. receive an average of \$3.93 a day for the year, while those on the Maine Central receive \$4.49 a day; that the firemen on the B. & A. receive \$2.42 a day, while those on the Maine Central receive \$2.80 a day for the year. Many of these men meet daily at Northern Maine Jct., some of them live undoubtedly side by side in Bangor, and are subject to the same expenses for necessities and comforts of life.

The same report shows that the general officers of the B. & A. receive an average for the year of \$34.34 a day, while those of the Maine Central receive only \$19.19 a day; that other officers of the B. & A. receive \$6.11 a day, whereas the same officers of the Maine Central receive only \$5.39 a day; that the clerks in the offices of the Bangor & Aroostook receive \$2.54, whereas those of the Maine Central receive only \$2.02. These are all published facts by these railroads.

I also find that the salaries paid to the general officers, other officers and clerks of the Bangor & Aroostook amounted to \$196,892.14 whereas the amount paid their engineers, firemen and conductors for the same year, according to said report, amounted to but \$218,737.63. In other words, the general expense for operating the Bangor & Aroostook railroad, according to their own report, in comparison with that of the Maine Central railroad, according to its report for the same period, shows a very heavy burden placed upon the former company from its general operating expenses, considering the volume of business done by it. And it seems a pity that the people of Maine, particularly those of Aroostook county, should have to continue to pay the very high rates which they are now paying for the transportation of freight and passengers, and that the help which does the work should receive wages so much smaller than those paid to the employes who are doing a like kind of work on the Maine Central railroad.

For this condition of affairs, there arises the inevitable suggestion that there is greater economy, and I think as a rule more satisfaction, in a great volume of business done under one man-

agement, made efficient and strong, and consequently by reason of great value more economical.

It seems a complete justification of the consolidations which have been made from year to year, resulting in the present Maine Central system, and of which the public has always been so suspicious and the press so critical.

I asked in my inaugural address that the Legislature provide a public service commission or court to regulate the affairs of the public service companies, including the railroads. If the Legislature will only give us such an act, full and complete, one that will govern all conditions of controversy and trouble, between the public to be served and the company serving the public, the people may then become complete masters of the railroad situation through a complete and perfect consolidation of the strong with the weak, which in itself is a most natural equalizer of business. The money which the people have contributed for the building of these properties, entitles them to reasonable rates for transportation of both freight and passengers, and a fair return for the capital invested, and a just wage to all who work in such employment. With the laws we have at present I cannot see how anything more can be done, unless the employer and employes can agree to submit their matter in dispute to arbitration. It is evident to me that this should be done at once in this case, in the interest of the public welfare, and I do not hesitate to so declare.

My reason for so declaring is in the interest of public welfare. This is a very serious matter to the public, and instead of growing less so, is growing more so. Neither the wage earner nor the managing officers, in my judgment, have a right to refuse to submit their matters in controversy to arbitration in the case of a public service corporation. The public is too largely interested in the investment in such property, and in its use, for its managing officers who probably have not a dollar invested in the property, and who like the striking employes, are only personally interested in their salaries or wages, to be held up in the ordinary and reasonable use of the same by a strike when the matters in controversy can be arbitrated. There is no question but that an honest court of some kind can be found to settle their disputes and neither party should be afraid to submit their contentions to an honest court. If their contentions cannot stand before such a court, they ought to fail.

Mr. A. L. Chase on the part of the engineers, as reported through the columns of the public press, states that "we (the engineers) will have Judge Knapp and Mr. Neill come here,

you let them go through your books, and then if they will tell you you are not in a financial condition to grant us an increase, we will withdraw our request." President Todd, as I understand, claims that this proposition was made in a different way, but however it was made, it seems to me that it was an honest effort on the part of somebody to bring about arbitration, which the engineers and firemen are contending for. It is true both sides objected to submitting their contentions to the State board. This being the case, they should find some other board or tribunal. Mr. Cleveland's testimony referred to in the report, and Mr. Hamlin's letter, both show the seriousness of the situation to the communities served by this railroad.

I don't know of anything further that the State can do through official action as now authorized by law in the premises. We have certainly exhausted our statute remedy in such a case. Having done this, I submit the whole matter to your future consideration.

WILLIAM T. HAINES.

EXECUTIVE DEPARTMENT.

March 6, 1913.

To the Senate and House of Representatives:

I herewith return bill, "An Act relative to untrue and misleading advertisements," without my approval.

While in full sympathy with legislation against all forms of fraud upon the purchasing public, I am convinced that the bill as enacted is too drastic a departure from the usual type of criminal statutes against fraudulent practices, in that neither fraudulent intent or actual injury to anyone is regarded as an element of the crime which is created.

The cases in which criminal intent may be disregarded in the framing of criminal statutes are those in which imperative public necessity in particular instances overrides the comparatively slight risk of the individual engaging in a particular business or avocation, such as the liquor law, the pure food law, the game laws, and similar instances where the acts are per se injurious to the public and public policy requires the citizen to act at his peril. I cannot believe that public policy requires that the business world should be subjected to this hazard of criminal liability for acts which the most honorable and careful man might occasionally commit without harm to anyone. Every statement of fact, however innocently made, and though made with the

best and most convincing reasons for believing it to be true, if actually either untrue, "deceptive or misleading," is under the ban, however trivial or harmless, and regardless of any injury to anyone.

None of the expressions "knowingly," "wilfully," "maliciously," "with intent to defraud" or "with intent to deceive," all of which are the basis of the most trivial penal statutes against fraud, are included in this act. The statute is aimed at "untrue and misleading advertisements," such as any publication in newspapers, books, notices, postals, circulars or other printed or written matter.

The American people are pre-eminent in their genius for advertising, and it is a natural instinct for all men having merchandise to sell to represent it in as favorable a light as possible, and those who buy generally believe that they are getting a good trade or they would not purchase. Sometimes after purchasing, merchandise looks different to them than before, and the desire to possess it lessens. How natural then to say they were deceived or misled at the time of purchase. They may have been deceived by the seller, and they may have been deceived by their own judgment. It is hard to overcome natural laws by legislative enactment, especially those laws which seem to be instinctive in our nature, and it seems to me most dangerous to undertake to regulate or treat instinct by statutory enactment.

Where could a jury be found that would convict, or a court that would impose sentence—which might be one thousand dollars fine or two years' imprisonment, or both under this statute—for a publication that might be construed as "misleading"?

There is a popular clamor to regulate everything by statutory law, which is very strongly offset by the popular impression that such laws are not to be enforced, or that they are easily nullified. Such legislation has a tendency to weaken respect for all laws.

If this statute is intended to punish everyone who in the earnestness and enthusiasm of his business might advertise in a way that might be claimed to be "misleading," the mercantile part of the community, as it seems to me, would be subjected to all sorts of spite prosecutions; and if the act is really intended to be enforced, I should think it would call for the establishment of a new court in every county, and additions to the jail. If on the other hand, the object of this statute is to punish for fraud and deceit in the selling of goods, I would recommend that the statute we already have upon that subject be examined

and if not sufficient to cover all possible contingencies which may arise, that such an amendment be introduced as will meet all reasonable demands of the community upon this subject.

(Signed) WILLIAM T. HAINES.

EXECUTIVE DEPARTMENT.

March 18, 1913.

To the Senate and House of Representatives:

Gentlemen:—I herewith return to you "An Act relating to the jurisdiction of the superior court in the county of Kennebec, and to fix the salary of the judge thereof," without my approval.

My reasons for this are as follows: I understand there are 52 measures now pending before the Legislature, for the increase of salaries of public officers, all of which have been referred to committees, but upon which hearings have not as yet been held.

Such a situation at this time is unusual, and I do not believe it is possible, within the time that the Legislature is likely to be in session, unless the session is to be prolonged to an unusual length, that these matters can receive proper consideration. It amounts to a very extensive revision of the salary list of public officers. I am willing to admit, as is claimed by many of these officers, that the salary list has not been revised for a number of years and that such a revision is necessary.

By this I refer to the whole list of public officers, both State and county; but if an attempt is made to do this before the present Legislature, in the short time it is liable to sit from now on, in my judgment it will be accomplished only by extensive log-rolling, a most pernicious method of legislation. At the hearings before the committees probably only the parties interested in getting their salaries increased will be represented. The State will have no one there to present its side of the question. That side will be left wholly in the hands of the committee, with little opportunity for obtaining all necessary information.

This is not reason, it is true, why the salaries should not be based on a different schedule for the future; but the matter is one which, in every way, demands much consideration, careful thought and patient work, to determine what is a right and proper remuneration in each case.

If the whole subject is passed over to the next Legislature and a commission or committee appointed to attend to the matter, as above suggested, in the meantime the public will have a chance to be heard, through the columns of the press, on the stump, and in other ways, upon their side of the question.

In regard to the salary which this bill especially provides for, I wish to say, first, in my judgment the present salary is not as large as it should be, but whether it should be increased from \$2700, as it now is, to \$4200, is a question. From 1878 to 1890, a period of 22 years, no less a person than our eminent chief justice was judge of this court. During this time his salary was \$2000, \$1725, and I think for a year or two \$2700, as it is now. During the greater part of this period the court had full concurrent jurisdiction with the supreme judicial court in all civil cases in Kennebec county, except real actions and equity matters; and it had full criminal jurisdiction, including the trial of murder cases. From 1890 to less than two years ago, the Hon. Oliver G. Hall was judge of this court with said salary of \$2700, and with substantially the same jurisdiction which the court now has. The present incumbent has held the position for less than two years and is eminently fitted for it, and without doubt is giving complete satisfaction to the public, and I should be the last man in Maine to detract in any way from the influence and dignity of any of our judicial officers; rather would I strain a point to see them fully paid for their services; but they are public officers and the question of taxation is constantly before us.

A much better method in my judgment would be to pass an order appointing a committee of seven members, three from the Senate and four from the House, and not all of one political party from either branch; to be appointed by the President of the Senate and Speaker of the House, with authority, between now and the next session of the Legislature, to examine into the question of the salaries of all public officers, to recommend such salaries as they deem proper for each, and report to the next Legislature, at the beginning of the session, providing them with such data as they find applicable to each particular case or group of cases.

In this way time can be taken to revise the salary list in a non-partisan, impartial and fair manner, just to the officers and to the tax payers alike.

The question of salaries of public officers is not a party question. Men who occupy these positions are entitled to a just and fair compensation, without regard to their political al-

liances. They are all charged with the performance of public duties which takes their time, and for which they should receive reasonable compensation. Those who are holding these offices at present asked for and accepted them with a thorough knowledge of the amount of present salaries. In most cases a sharp contest was made for each office, and the successful candidates have no right to expect that their salaries would be increased during their term of office. These officers practically made a trade with the State, when they accepted these offices, to perform their duties for the salaries then fixed, and it seems to me that they are in honor bound to carry out their contracts. If any of them should resign or die, so that others would have to be appointed to fill the vacancies, I have no doubt there would be many applicants for each place at the salaries now fixed, and all competent men.

The State treasurer's report for 1912 shows that he paid out during that year for salaries for public officers, including the judiciary, but not including the pay roll of the Legislature, about five hundred thousand dollars. An increase of salary as proposed in this bill, from \$2700 to \$4200, would be an increase of about fifty-six per cent. I have no doubt that many of the fifty-two bills providing for an increase of salary of other public officers referred to, in justice to all, may call for as large a per cent. of increase as does this; and no doubt the public officers who have not asked the Legislature at this session for any increase of salary, in many instances will, in justice, require proportionately large increases. If this percentage of increase is applied to all the officers of the State, it would increase the salary roll two hundred and eighty thousand dollars, which would have to be raised by taxation in some form or other.

Hence I think you will see the justice of having this subject patiently and carefully considered, taking much more time than is possible for the Legislature, at this state of its session to give to this important matter.

If you should feel that there are any special cases among the fifty-two pending, where the salaries are so radically low as to demand an increase for the next two years, I would not be opposed to the same, in case you provide for a commission to re-adjust the entire salary list, whose report may be acted upon by the next Legislature.

I cannot believe but what the distinguished judge of our Superior Court will agree with the position I am taking upon this matter, and would prefer to wait two years for an increase of salary rather than to be subjected to criticism as he might be under the act which you have passed.

That part of the act which changes the jurisdiction of the Superior Court for Kennebec county and the Superior Court for Cumberland county, in both civil and criminal matters, in my judgment is not of such importance that the administration of justice in either county will be in any practical way hindered or delayed for the next two years on account of my veto of this act, for the reasons above given, but I do not know that I have any serious objection to such amendments or changes in the matter of jurisdiction, as are proposed by this measure, but I think they should come to me in a separate bill from that in which the salary of the justice of the Superior Court for Kennebec county is fixed, especially as it includes the jurisdiction of two different courts in two counties of the State and applies to the salary of only one of the judges of said court.

I trust that you may act upon the suggestions herein contained, rather than present to me for approval the fifty-two measures for increase of salaries, or any considerable part thereof, at this session of the Legislature.

(Signed) WILLIAM T. HAINES.

EXECUTIVE DEPARTMENT.

March 27, 1913.

To the Senate and House of Representatives:

Gentlemen:—In my inaugural address, delivered on Jan. 2, 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 re-affirmed 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 men 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 statutes should ever require such a test, but the determined efforts of the liquor interests 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 not been more than two and a half months since I delivered that message. During this time many complaints had 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 published in all of the papers of 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 school master 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, Section 1, Part 1) vest the supreme executive power of the State in the Governor. Section 112 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; all 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 affect 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 \$1000, 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 in his 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, where 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 mandate 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 of 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 liquors are 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 anyone 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.

(Signed) WILLIAM T. HAINES.

EXECUTIVE DEPARTMENT.

Mar. 28, 1913.

To the Senate and House of Representatives:

Gentlemen: In compliance with House Order No. relative to the non-enforcement of the prohibitory law by sheriffs and county attorneys in the different counties of the State, I herewith submit to you all that I have bearing upon this subject with reference to any county.

ANDROSCOGGIN COUNTY.

1. Three Bulletins, No. 1, No. 2 and No. 3, naming places where liquor is sold in said county.

2. The following names of persons given to me as witnesses who will testify relative to the alleged failure of the County Attorney, W. H. Hines, to prosecute violators of the so-called prohibitory law, namely:

Rev. C. E. Owen, Waterville.

F. X. Belleau, Auburn.

(Clerk of Courts of Androscoggin County.)

(With the criminal dockets of said county for the April and September Terms, 1912, and the January Term, 1913.)

John L. Reade, Esq., Lewiston.

Rev. F. A. Leitch, Auburn.

Rev. George E. Kenney, Auburn.

3. The following names of persons given to me as witnesses who will testify relative to the alleged failure of sheriff, H. M. Lowe, to prosecute violators of the so-called prohibitory law, namely:

John L. Reade, Esq., Lewiston.

Capt. Wood of the Salvation Army, 166 Holland Street, Lewiston.

Rev. F. A. Leitch, Auburn.

Rev. George E. Kenney, Auburn.

Mr. H. L. Whitney, Freight Agent, M. C. R. R., Bates Street, Lewiston.

Mr. H. E. Emery, Sanford.

Mr. F. X. Belleau, Clerk of Courts, Auburn.

Rev. C. E. Owen, Waterville.

Rev. W. F. Berry, Waterville.

4. Two letters hereto attached.

This is all I have with reference to conditions in Androscoggin County.

PENOBSCOT COUNTY.

1. I have had presented to me, as witnesses who would testify against Sheriff W. W. Emerson, with regard to his alleged non-enforcement of the so-called prohibitory law, the following named gentlemen:

Rev. C. J. Brown, Bangor.

Rev. C. E. Owen, Waterville.

W. A. Danforth, Treas. B. & A. R. R., Bangor.

Mr. E. H. Emery, Sanford.

Mr. F. W. Phelps, Old Town.

J. E. Gibbons, Freight Agent M. C. R. R. Co., Bangor.

A. H. Bennett, Agent Am. Express Co., Bangor.

R. J. Plummer, Freight Agent M. C. R. R. Co., Old Town.

F. J. Stowe, Agent American Express Co., Old Town.

Rev. W. F. Berry, Waterville.

2. Two letters which I have received from Penobscot County relative to this matter.

This is all I have with reference to conditions in Penobscot County.

KNOX COUNTY.

With reference to Knox County, I herewith enclose letters, petitions, etc., which I have received regarding both county attorney and sheriff of said county.

This is all I have received with reference to the non-enforcement of the so-called prohibitory law in Knox County.

I have received no evidence, petitions or statements in my official capacity with reference to the enforcement of the so-called prohibitory law in any other county in the State.

WILLIAM T. HAINES.

EXECUTIVE DEPARTMENT.

April 1, 1913.

To the Senate and House of Representatives:

I understand a resolution will be offered appropriating money for the aid and relief of the people of Ohio and Indiana suffering from the results of the late storms and flood in those states.

I sincerely hope that you will appropriate a sum of money to aid the people of those states in their time of need and distress. The people of Maine will approve such action on your part, in my judgment.

Remember that charity is the greatest of all virtues.

WILLIAM T. HAINES.

EXECUTIVE DEPARTMENT.

April 2, 1913.

To the Senate and House of Representatives:

Gentlemen:—I am in receipt of House Order, asking for any further information that I have in my possession with regard to the failure of any sheriff or county attorney to enforce the so-called prohibitory law in any of the counties of the State.

In reply thereto, I will say again that I have nothing further than what I have already furnished you as indicated in my message, House Document No. 693, and wherein I said:

“I herewith submit to you all that I have bearing upon this subject with reference to any county.”

In my original message, I stated “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 counties of the State in the rural sections, but in the cities of at least five counties, it is not fairly or honestly enforced by the sheriffs of those counties and the deputies under them.”

When I wrote that message, I was informed by word of mouth that the so-called prohibitory law was not fairly enforced in the city of Bath, and I was promised a list of witnesses, with affidavits to what they would swear to concerning the same in the city of Bath, but that list has not been furnished to me or any other statements except what I have seen in the newspapers with reference to the city of Bath in this matter, and when I submitted to you my first message upon this subject, I felt that as it amounted to an indictment against a public officer for not complying with the mandates of the statute that I should not make such indictment upon hearsay testimony, or at least that which was not backed by the names of witnesses who would testify to certain things of a positive nature with reference to the matter, and nothing of that kind did I have in my possession about the city of Bath.

(Signed) WILLIAM T. HAINES.

EXECUTIVE DEPARTMENT.

April 3, 1913.

To the Senate and House of Representatives:

Gentlemen:—I return herewith “An Act to Regulate and Establish Mileage Rates for the Conveyance of Passengers over the Steam Railroads within the State.”

My principal reason for doing this is that I have just approved "An Act to Create a Public Utilities Commission, Prescribe Its Powers and Duties, and Provide for the Regulation and Control of Public Utilities." Had this last named act not been passed, I should have approved the act to regulate and establish mileage rates, but if I understand the matter right, the bill creating a public utilities commission was enacted for that very purpose, that is, the control of public utilities coming within the scope of that bill, and particularly the regulation of rates and fares of railroads.

The act creating the public utilities commission will go into effect in September next, and the act to regulate and establish mileage rates does not go into effect until July. Without going into any extended discussion of the merits of the question of the regulation and establishment of mileage rates and the issuing of mileage books by the legislature, or by the public utilities commission, under the authority conferred by the act referred to, I think it is important that all such matters, with reference to public service companies, should be left to the commission. It is a proper part of their work. Before such a commission opportunity can be given both to the public and to the public service companies, railroads included, to be heard upon all sides of such questions, and the fullest and most complete justice can be done to all concerned, and after the creation of such a public utilities commission as has been provided for by this legislature, it seems to me inconsistent to follow it with an act regulating specifically public service companies in a particular manner, like that of the act referred to.

WILLIAM T. HAINES.

"AUGUSTA, MAINE, April 12, 1913.

To the Senate and House of Representatives:

Gentlemen:—I herewith transmit a list of the Acts and Resolves passed during the present session of the Legislature and approved by me, numbering 462 Acts and 369 Resolves.

I wish at this time to extend my appreciation of the splendid service you have rendered to the people of the State. You have appropriated money generously, but not extravagantly, for our common schools, academies, normal schools, the State University and all other educational interests—for our hospitals, and many other charities—for the relief of the sick and unfortunate—for the blind and the deaf. You have aided the

towns, cities and counties in the building and maintenance of bridges across our great rivers, and in many other ways which tend to equalization of taxes and the relief of local and municipal taxation. You have met all just and honest claims presented against the State with proper appropriations for their final settlement. And with all this you have kept the tax rate nine and one-half mills for the two years, 1913 and 1914, which is one-half mill less than the tax rate for the years 1911 and 1912. No citizen of the State after a careful examination and complete understanding of your work can claim that you have been guilty of extravagance.

You have passed many measures, which have long been neglected, for the regulation and control of the business interests of the State. Of these, I wish to mention in particular the bill providing for the regulation of all public service companies by a public service commission or court, a new highway measure, the teachers' pension act, and the bill for the regulation and control of investments, popularly known as the "blue sky law," which are among the most modern and progressive of American legislation.

I wish to say further to you, and to the people of the State through you, that for over 30 years, during which time I have been familiar with the work of the Maine Legislatures, I have never known a session in which its members worked so many hours and did so much hard work, collectively or individually, or more conscientiously and with a higher regard for the public good than has this 76th Legislature.

Neither can I refrain from giving you my most sincere thanks as a citizen of the State for the noble manner, during the last days of the session, when exhausted from overwork, you have stood at your posts in behalf of morality and the enforcement of law.

I feel compelled to add that your failure to try Sheriff Tolman of Knox county upon the charges which have been made against him by your honorable body on account of the claim made on the part of his attorneys that he is quarantined by reason of alleged exposure to smallpox, is a mistake. I believe that this claim is an artful subterfuge gotten up to prevent his being tried at this session of the Legislature, on account of your desire to adjourn before the quarantine against him can be raised. Also, that the health officers of this State have been deceived, or have wilfully misrepresented the need of his quarantine. I say this advisedly from information which I have obtained from Rockland in regard to the situation there with

reference to Sheriff Tolman, from such source as I believe to be reliable. I do not say it, however, in any sense of criticism of your action; but if complaints continue to come to me of nullification of the law, particularly of the failure to enforce the so-called prohibitory law on the part of the sheriff of Knox county or the sheriff or county attorney of any other county, I may feel compelled to call you together again for the purpose of giving you a chance to try such officers for a failure to perform the duties of their office as required by our statutes.

I also regret that you failed to pass a workmen's compensation act.

(Signed) WILLIAM T. HAINES."