

MAINE STATE LEGISLATURE

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SEVENTY-FOURTH LEGISLATURE

SENATE.

No. 316

STATE OF MAINE.

To the Governor and Council:

The Committee on Salaries and Fees beg leave to submit to you the following report, with accompanying testimony, under the authority and direction of the Legislature. This authority and direction is derived, first, through the reference to this Committee of a bill entitled "An Act to regulate the purchase and sale of intoxicating liquors by the State Liquor Commissioner and by town liquor agents;" and, secondly, by the general order of the Legislature as follows:

"Whereas this Legislature deprecates investigations of departments and officials merely upon suggestion, but believes in the fullest investigation of any department or officer whose official conduct is criticised or questioned; Therefore be it ordered, the Senate concurring:

That the joint special Committee on Salaries and Fees be authorized and directed to make a full, thorough public investigation of any State officer or department whose official conduct is called in question by any written communication filed with the Committee signed by any member of the Legislature or any reputable citizen of the State. Such Committee to report by bill or otherwise." And on the 27th of March, 1907, it was

"Ordered, the House concurring:

That the Committee on Salaries and Fees acting under joint order of the Legislature passed February 14th, is hereby authorized to meet after the adjournment of the Legislature for the further performance of the duties with which it is charged and to report to the Governor and Council."

This Committee has held steadily in view the responsibility thus imposed upon it. The subject matter which it has had under consideration occupied a large part of the discussions during the last session of the Legislature. The gravest charges were there made, and also by the public press both within and without the State, charges which were calculated to bring into disrepute the agency system and the parties connected therewith, and which it was due the good name of the State, and of these individuals, to disprove if possible.

Heartily concurring in the legislative expression which deprecates investigations on hearsay or suggestions, the Committee has carefully sought to trace to their source the charges referred to, and to weigh them in connection with personal and political relations or commercial rivalries which in one way or another might affect the credibility of their authors.

The Committee has had before it the liquor agent of every agency in the State, the Liquor Commissioner and his assistant, the State Assayer, the treasurers and many of the members of the city and town governments having charge of the agencies, physicians and citizens generally.

Inasmuch as our Committee was directed to report not to the Legislature, but to yourselves, we have not felt it incumbent on us to present herewith any bill, but rather to report on conditions as we have found them, with certain suggestions as to remedies, so that through you, the people of the State, as represented by the law-making branch of the government, may legislate as these facts and suggestions may lead.

AS TO CONDITIONS.

At the outset it should be stated that the Committee is divided as to the continuance of the agency system, but unite in the following report as to conditions existing and remedies proposed if the system is to be continued.

We find in thirteen of the cities and towns of this State a system akin to local option and high license. The only differ-

ence between this system and that which prevails in states which have not the prohibitory law is that here the State and municipalities conduct the business, which under the ordinary system of license is the privilege of individuals. Over \$100,000 worth of liquors were purchased by the State Liquor Commissioner last year, and it is the universal testimony of the agents who have dispensed this liquor that only a minor portion of it was consumed for medicinal purposes, granting to that term the broadest possible construction. At Rockland, the agent testified that not over five per cent of the liquor sold there was for medicinal purposes. In the opinion of the Committee, the proportion throughout the agencies will not average higher than twenty-five per cent. The agents have testified with a frankness as creditable to them as their disclosures have been discreditable to the system under which they operate. It is to be said for them that they place the blame upon the law which suffers them to be imposed upon, and which, excepting in case of special and certain knowledge that the liquor will be put to improper use, leaves them in their opinion no option. "Improper use" appears to have but one construction in their view, and that is, such use as will lead to public intoxication. In this narrow limitation apparently rests the only limitation of their sales, and in some instances even this restraint has not been observed. The agents testify uniformly to the embarrassing and difficult nature of their position. A former agent testified that, on assuming office, he was informed by the city attorney that, according to the law, any citizen is entitled to liquor for medicinal or mechanical purposes, provided he is neither a pauper, a fool or an inebriate. Others testified that to adopt any other course as to sales than the one they had adopted, would make their positions untenable. The imposition of which the agents complain is misrepresentation directly by the party obtaining the liquor or by a third party. Messengers are used to convey the requests of those buying liquor, and a regrettable feature of this is the number of minors and women thus employed.

All classes seem to patronize the agencies. They divide themselves as follows: Those who are sick according to the ordinary interpretation of the word, those who suffer by reason of old age, but who do not become drunk by the use of liquor, those diseased by alcoholism, who depend upon daily stimulants as upon a drug, those who seek liquor for convivial or tipping

purposes, and those who are addicted to its habitual use and abuse, and through it become publicly intoxicated. It is against this last named class that the agents seem to strive especially to be on their guard, but there seems to be no effectual attempt to keep the other classes from purchasing liquor.

The agency law has been in operation for a great many years, and as in the case of most laws of ancient origin, there have grown up under it and become interwoven with it very many vicious and dangerous practices. Later in this report we call attention to some, but we feel they ought in the beginning to be somewhat commented on for the benefit of those who might not care to read the entire report.

Each town and city agent has a limitless discretion in regard to whether he will or will not sell to an individual, and at present it rests entirely with the agent to determine whether an individual comes within his idea of being the proper person to whom liquor may be sold. This not only gives an opportunity for abuse, but has been abused.

Many of the agents testified that they have delivered liquors upon written orders from adult persons to children a dozen years of age. Attention need only be called to this to show the enormity of the offense against public decency. No minor should ever be allowed inside of the agency for any purpose, much less be allowed to carry liquor from the agency to its destination.

Several kinds of beers are carried in many of the agencies, and it appears that they would be furnished to all if any requisition were made. Several grades of whiskey, rum, gin and brandy are carried, while there would seem to be no necessity for so many grades and kinds for medicinal purposes. Several of the agents testified that the very cheapest kind is what seems to be called for in many of the agencies.

In some of the agencies the quantity of alcohol purchased is enormous. Practically none of it is sold for manufacturing or mechanical purposes. It seems clear that a large portion of this is used in making "split" and that a large portion of the rest is disposed of in some way against the provisions of the law.

In nearly all of the agencies very large profits are made, and the State itself is receiving through the Liquor Commissioner's

office a net revenue of from five to eight thousand dollars a year, amounting during the term of the present Commissioner to \$40,000.

The agents of at least two wholesale liquor houses outside of the State of Maine go with regularity and frequency to the towns where agencies are located, and either by direct solicitation or in a roundabout way prevail upon the town and city authorities to order for their agency goods which can only be purchased of the firm represented by these particular soliciting agents. We have no evidence that improper inducements have actually been offered, but the opportunity for such practices has given rise to criticism, and we think that something should be done to prevent even the opportunity for criticism.

While the Committee has no direct evidence that the State Liquor Commissioner has failed to safeguard the interests of the State in the matter of his purchases of liquor, we do find, however, that nearly all wholesale dealers (all of whom are of equal standing with the firms with whom the Liquor Commissioner has traded) state in positive terms that there is a discount on all alcoholic liquors except alcohol of from ten per cent to twelve per cent in barrel lots, and in larger quantities as high as fifteen per cent. We do not find that the State Liquor Commissioner has ever obtained that discount or ascertained whether or not it could be obtained. We feel that in this respect he has been remiss in his duty, for the reason that he could have very easily obtained this information, and we think secured the discount, although he says he cannot, which would have made a difference to the State of Maine of from nine thousand to twelve thousand dollars a year.

The entire absence of any system whatever in bookkeeping upon the part of a large majority of the agents is not only deplorable, but leaves a decided suspicion of wrong-doing. The system of bookkeeping is such that it is entirely possible for the agent to fail to properly record all of his sales, and leaves an opportunity to put down fictitious names, the quantity of liquor purchased, and the amount received, to the end that the agent himself in consort with dishonest confederates could rob the town or city of considerable sums of money by virtue of an offense very difficult of detection.

It is somewhat surprising to the Committee that with the conditions which have existed in some places where there are

agencies, neither the town authorities nor any citizens have availed themselves of the provision of the Statute in regard to agencies. Section 32 of Chapter 29 provides that upon petition of any single Justice of the Supreme Court, in term time or vacation, or ten or more well known tax-payers, setting forth that an agency is being conducted in violation or evasion of the law creating the same, such court has full authority to investigate the same, and if the facts set forth in the petition are established, the court may order the agency closed. It may be that the people are not generally aware of this provision, but we call attention to it for the purpose of showing that there has been sufficient law by virtue of which the conditions could have been remedied, but no person has seemed to avail himself of the law.

The testimony on file in connection with this matter will bear out the statement that your Committee in its visits to the different towns and cities where liquor agencies are conducted found not only some agencies conducted in a comparatively proper manner and some conducted without reference to law or decency, but all of the intermediate grades between those two extremes. It is not practical to call attention to each agency, nor to all of the good or bad features in each, and this report at most can only be along broad lines, with general suggestions as to evils to be remedied and an occasional suggestion as to the remedy.

DISCRETION OF AGENT.

One of the worst features (and this applies to all of the agencies) is that the agent himself is the one who is to determine whether he will or will not sell the liquor requested by the proposed purchaser. We found that some agents exercised a wise discretion and actually endeavored to restrict their sales to those people who had what the particular agent concluded was a medicinal need for the liquor, but we found several others who, while they claimed to be selling only for a medicinal use, were in the judgment of the Committee indiscriminately selling intoxicating liquors to any purchaser who was not at the time under the influence of liquor or who had not an evil reputation for public intoxication. At some agencies it appears that no questions at all were asked of some purchasers. In others the agent himself would say to the customer, "Of course you want

this for medicinal purposes?" In others the agent would write at the top of each page the words, "For medicinal use," and while it was stated by the agent that he asked each customer, there is room for doubt whether the volume of business done at the agency left the agent any time to ask any questions at all. In many of the agencies the regularity and frequency with which customers purchased would seem of itself to indicate to an agent of average intelligence that the use to which the individual was putting such a quantity of liquor with such frequency was not entirely medicinal. The manifest increase in sales upon Saturday and the days before holidays is of itself considerable evidence that a large majority of customers in most of the agencies buy their liquor for tippling purposes, and that the agent either knows or ought to know it.

From the testimony of several of the agents, it appeared that they fully realized that they owed their position as liquor agent, and their continuance in the same, entirely to politics. Some of them very frankly admitted that if they conducted their agency along the lines suggested by the Committee, that they would not be able to hold their job. Others stated that if they failed to sell to certain individuals they would incur their enmity, and that enmity would be potent from a political standpoint. Then again the salaries paid are so ridiculously small that a man who is absolutely competent to fill so important a position cannot be secured.

As to the remedy. A suggestion which was met with quite frequently by your Committee, coming from citizens in nearly every town, was that the law should be so changed that no person could secure liquor at the agency except upon the prescription of a reputable physician. In several places the Committee endeavored to ascertain how it could be determined who were reputable physicians. In almost every instance the physician of whom the question was asked either point blank refused, or did so by evasion, to admit that there were any physicians who were not entirely reputable. And in every instance where the suggestion of the physician's prescription idea was made we also met opponents to the idea, who suggested first, that the necessity for a prescription would not prevent the disreputable from obtaining liquors, and that it might result in permitting persons to be supplied who, if the matter was left to the discretion of the agent, would be of such reputation that

they could not under the present system obtain liquor. Thus, if the agent was obliged to fill a physician's prescription, it was argued that there were in practically every larger community some physicians who for an extra fifty cents fee to be paid to him would not be at all particular as to whom he delivered a prescription nor whether the individual had any genuine need for liquors. And on behalf of another and better class of practitioners it was testified that to refuse prescriptions thus demanded would be to expose them to the danger of giving offense to the injury of their practice, and that it would be unjust for the State to impose upon them the responsibility of discrimination. Secondly, that it would increase to honest consumers the price of their liquors, and among honest consumers under the law were included that large class of decent people, having no acute sickness and needing no physician, but who daily depended upon a limited use of liquor, to whom the requirements of getting a physician's prescription would be an unnecessary burden of trouble and expense. When was said "daily depend upon a limited use of liquor" was meant those people who are actually unnerved and incapacitated for their work without it. They were to be found in all walks of life and their condition was a matter of common knowledge. They never became intoxicated, paid their bills, took care of their families, and were good citizens. To the extent of their dependence on this habit they were doubtless diseased, and it was argued that they are as much entitled to the small quantity of liquor they regularly consume, and that they can as truthfully say that they need it for a medicinal purpose as those who are suffering from any other malady. Then it was pointed out that there are within the State of Maine a large number of elderly people, many of whom have worked hard all their lives, including the soldiers within the Togus Home and elsewhere, who believe that they require daily a small quantity of liquor, and that these two latter classes would not feel they could afford or that it was necessary to go to a physician and get a prescription each day, or at all. The committee was informed that in the judgment of many of the individuals who came before it, the enactment of the prescription phase of the matter into law would result in individuals sending out of the State, securing a larger quantity of liquor, and it is common experience that

people who use liquor regularly will use more if they have an ample supply on hand in their homes.

Upon the other hand, an eminent physician and surgeon at Portland stated in substance this, that if an individual had a need of intoxicating liquor for medicine, he was in no condition to prescribe for himself, and to determine the quantity to be taken and the degree of frequency, and that each individual who used liquor for a medicine should be obliged to use that upon the prescription of a physician and in quantities prescribed by him the same as he would strychnine or opium or any other drug. This physician went so far as to say that in his judgment really there was no considerable need of intoxicating liquors for medicinal purposes, and that for the last twenty years of his practice he believed he had prescribed only a very small quantity of spirits of any sort, stating that the advance of medicines in modern times had been such that physicians had found that there were a great many other things that could be prescribed medicinally that would have a better effect than intoxicating liquors of any sort. As to the matter of expense, this authority stated there would be no additional charge if the services of the physician were required at all.

Upon full consideration of these two views, the majority of the Committee recommend that the prescription feature be entirely omitted from any law which may be enacted.

One thing seems absolutely necessary, and in the judgment of the Committee would remedy a great many of the evils which now surround the system. In only a few cases have we found that the selectmen or any committee of the city government take any pains whatever to see whether the agency in their town is being conducted properly or loosely. In most cases the selectmen merely see that the agent has added up his figures right, and get whatever liquor he orders, and take the money which he turns over. It would seem advisable to make it obligatory upon the selectmen in towns and a committee of the city government in cities to visit at least once a week the agency, to make careful investigation of all of the affairs connected with the agency, having particular reference to the people who are purchasing, the quantity and degree of frequency of such purchases, and the habits of the individual purchasers, and the use to which such liquors are put, with authority absolutely in that committee to say to the agent that a certain individual shall not

in the future until further order be furnished any liquor whatsoever. If the State of Maine had probation officers (and we understand a bill is to be introduced calling for such officers) these would seem to be the individuals who would be most likely to know of the abuse which either individual purchasers or the various liquor agents were practicing, and would be the proper individuals to revise the lists of customers to whom the agent would be allowed to sell, and upon his furnishing the agent with any name the agent should thereafterward be absolutely forbidden to sell to persons on such list.

In only a few cases has the agent, or any other individual in authority, made the slightest effort to ascertain whether the individual to whom the liquor was sold for a legitimate medicinal purpose has in fact put it to that use, or has used it for tipping purposes. To be sure, in some instances complaints have come to the agent, and he has thereafterward refused to sell to an individual, but these complaints have at best been infrequent, and the point is that the agent himself has taken no pains whatever to make any investigation. It would not seem to be a difficult matter in the smaller places for this information to be obtained.

RESTRICTING SALES TO RESIDENTS.

We find that in no two of the towns visited is there the same rule with reference to who may purchase. In some places by ordinance the agent is forbidden to sell to anyone except residents of the town or city. In others the agent sells to anybody who happens to come in, and in several instances the books of the agent do not show whether the individual lives in the same or adjoining towns or in another state. Those people favoring the restriction of the sales by the agent to the residents of the town urge that the agent will be acquainted then with each customer and cannot be so readily deceived in regard to the use to which the purchaser proposes to put the liquor. Those opposed to this idea claim that very many people coming from smaller places into a larger center where they do their trading are able to purchase their liquor for legitimate medicinal needs, and for that reason there is no necessity of opening agencies in many of the smaller towns. And some of these people go so far as to say one agency in the largest center of the county would

be sufficient, and that any residents in the county should be allowed to purchase at such agency.

The testimony of several of the agents refer to the agency as "my business." In two instances it will be seen that the agency was located a long distance away from the popular center of the town, in one instance where it seemed to the Committee that it was intended to attract trade from the Soldiers' Home, and in another to afford an opportunity where people could purchase indiscriminately without exciting the attention and notice of people within the town.

METHOD OF KEEPING BOOKS.

Each agent seems to have his own idea of the manner in which he shall keep his books, and the entire absence of any system whatever struck the Committee as being one of the things which could very easily be remedied. We would call attention to the very excellent system in vogue in Portland, which will be readily understood from the testimony on file. In at least two of the agencies we found that the agent kept a pad of paper on the counter, and as he made his sales would put down the name of the purchaser, the quantity purchased, and the price charged. Then each night (if he had time, otherwise as often as possible) he would write these names and the other details in his larger book, so that the book which he exhibited to your Committee was not the book of original entries. In one particular instance we found that every day when the agent counted up the money that he had in his cash draw and compared that with the total of his recorded sales, he would have more money (anywhere from fifteen cents to nineteen dollars) than the total of his daily sales called for. To the mind of your Committee this is not only a ridiculous practice, but in every way reprehensible, for the reason that it opens up too great an avenue of fraud to be countenanced. Assume what is not impossible, that a dishonest man is in charge of the agency. If he has more cash than the total of his daily sales, the temptation would be great to keep it. Also when he comes to copy from his scratch pad to his final book of records there is nothing to prevent him from leaving out ten or fifty sales and pocketing the proceeds, or dividing it with dishonest confederates. Some system should be enacted into law so that this possibility can never become an established

practice. The books or records should be so kept that the committee of the city government or anybody else could at any time go into the agency and ascertain the name and residence of an individual, the kind and quantity purchased, and the price paid, so that by auditing the accounts, comparing them with the liquors purchased and then on hand, it could be told to a practical nicety whether or not the city or town was getting the full benefit of the liquors sold under authority of the Statutes, or whether individuals were profiting by fraudulent practices. In the judgment of your Committee this matter cannot be passed over lightly, and deserves intelligent attention.

NECESSITY FOR DIFFERENT KINDS OF LIQUORS.

We found in practically every agency from two to five grades of whiskey, several grades of rum, gin and brandy, Bass's Ale, Dublin Stout, Porter, Schlitz, and various other beers, two kinds of champagne, port, sherry, wines, and in one agency a quantity of assorted cocktails. It seemed to be the intelligent opinion of a large majority of people with whom your Committee conversed and is the opinion of the Committee, that there is no necessity for having this large variety of liquors for the legitimate purposes contemplated by the State. In the Lewiston agency alone from the first day of December, 1907, to the last day of November, 1908, 676 dozen quart bottles of Schlitz beer were consumed for "medicinal" purposes. And in addition to these, quantities of Bass's Ale, Providence Ale and Lager, Dublin Stout, etc. If liquor is to be dispensed under our law for even broad medicinal purposes, there would seem to be no necessity of having so many grades and prices. The attorney of your Committee and several members of the Committee have talked with various wholesale liquor dealers who produce their own particular brands, and the following seem to be the facts of the matter. A dealer takes as a base a certain quantity of whiskey three years old. That whiskey is distilled from twenty per cent. to forty per cent. grain, and the balance corn, with occasionally coloring matter. That is very likely to be an excellent whiskey. With it are mixed whiskeys of other grades and ages, containing varying percentages of grain and corn, and by virtue of the services of an expert there is produced a whiskey which is more or less palatable according to the vary-

ing tastes of the consumers. Each dealer claims that his goods are the best. But when asked with reference to the medicinal value, with hardly an exception they answered that a whiskey three years old of good quality contained all of the medicinal properties that any scientific, palatable blend could contain. But allowing for local tastes, it is the opinion of the Committee that there is no necessity for carrying more than two grades of whiskey, and those to be of good quality, and one of rum, gin and brandy. With reference to alcohol there is an undoubted medicinal necessity for this liquor. But in scarcely an instance has your Committee been able to discover any purchases at any agency for mechanical or manufacturing purposes. If a manufacturer needs alcohol, he ordinarily buys it in barrel lots and has no need to employ the agency. It would seem wise therefore to entirely cut out of the Statute the mechanical and manufacturing clause.

Verification and light upon this statement can be obtained from the testimony on file. Without doubt very many people purchase alcohol from which they make some sort of a beverage, and it may be that no way can be devised to prevent this absolutely. But we believe that by keeping only a limited number of the higher grades of alcoholic liquors, it will have some tendency to restrict the sales to legitimate medicinal uses.

PROFITS.

One of the practices under the law as it exists which has received condemnation by a great many who appeared before your Committee is that of allowing the various municipalities to make large profits out of the legalized medicinal sale of intoxicating liquors to its patrons. The agent at Portland stated that they calculated to sell at a profit of forty per cent, and in some other places it was as high as sixty per cent, in one instance 74 per cent, and between the two will be found the average. For illustration, the town of Randolph during the year 1906 purchased \$6,416.08 worth of intoxicating liquors, upon which it made a profit of \$3,584.37. The testimony on file will show profits secured in other places, and there will be filed with this report a detailed statement with reference to Lewiston and Bath,, showing the profits made upon each article and the net profit actually turned over to the municipality. The reasons for

selecting these particular places are, first, that it would be an interminable task to figure out each of the thirteen places where agencies are located; and second, it seems to the Committee that at Lewiston the amount of profit upon each article sold was hardly in keeping with the amount actually received by the city as profits. Bath was selected as the other city to be figured out in detail for the reason that it was the home of the Chairman of the Committee, and it seemed fairer to take that as the other place. The State itself is making from five thousand to eight thousand dollars a year through the office of the State Liquor Commissioner upon the sale of intoxicating liquors. This practice may or may not seem out of keeping with the enlightened conscience of the people of the State. And as to the town agencies themselves it would seem wise to in some way provide so that there should be no such excessive and uneven profit. In one or two instances we found that the profits from the liquor agency paid almost fifty per cent of the running expenses of the town. The Committee feels that it might be unfair to say that the several municipalities should sell at their agencies the liquor at exact cost. It will be seen from the testimony that in many places the agency supplies the medicinal need of quite a large territory embracing many towns other than the one where the agency is located. It would therefore seem unfair to have the citizens of one town bear the expense of maintaining the agency. But it is equally true that there should not be an excessive profit, and the profit at the various agencies should be uniform. In the judgment of the Committee it should not exceed 25% above the price of the liquors as charged by the liquor commissioner. In nearly all of the agencies we found that the percentage of profit on each article was about the same, yet at no two agencies was yielded the same percentage of profit. Your Committee fails to see why, if every particle of liquor received is sold and accounted for at practically the same margin of profit, and there is no dishonest practice possible under the law as it exists, the percentage of profit in all the agencies should not be practically the same. But the following table will show how great is the dissimilarity. We have taken the municipal year 1907-8 in each instance. With reference to Rockland, the Treasurer stated that he would be unable to give the Committee the gross purchases and sales, etc., without a great deal of labor. It seems that the system of keeping

the Treasurer's books at Rockland has not been such as to afford any considerable light upon the matter. With reference to Portland, we took the eight months next preceding the date of our hearing, for the reason that they had had difficulties with the former agent, which rendered any figures valueless:

	Amount purchased of	Gross	%
	Liquor Commissioner.	profits.	profit.
Wiscasset	\$3,740.06	\$2,777.12	74%
Bath	14,646.92	5,397.45	37%
Lewiston	31,596.21	5,408.89	17%
Auburn	16,653.65	6,346.80	38%
Chelsea	2,103.06	1,436.64	68%
Randolph	5,882.14	3,204.59	54%
Gardiner	4,527.50	1,420.27	31%
Portland (8 months) ...	10,971.00	2,736.26	25%
Bethel	3,515.17	688.70	21%
Greenwood	1,929.97	948.78	50%
Farmington	3,972.04	1,952.96	49%
Phillips	1,427.55	795.62	55%

In the agency of the City of Lewiston we found indications which, in the opinion of the Committee, point strongly to financial mismanagement of some kind. Our attention was first attracted to the fact by the evidence which appeared in testimony showing that the profit to the City of Lewiston from its agency is less than half what would be expected from the volume of sales. Following out this point we figured the gross profit on each and every separate item of liquor purchased by that agency for a year by subtracting the known cost in each instance from the selling price as shown by the testimony before the committee. The grand total of these amounts for the year was something over fifteen thousand dollars. The apparent profit to the City of Lewiston, however, was less than six thousand dollars. It appears in testimony that the expenses of running the agency in Lewiston are small, certainly not over two thousand dollars per year.

It seemed to the Committee that in fairness to the City of Lewiston this large apparent discrepancy ought not to be reported without a further examination of the agent's books and a thorough search for a possible explanation. The only possible meth-

od of arriving at an exact solution seemed to be to add up from the agent's sale book the total quantity of each kind of liquor sold for the year, and compare the totals so obtained with the totals purchased during the same period from the State Agent. This task, involving an immense amount of labor, the Committee prepared to undertake in part at least and sent a sub-committee to Lewiston for the purpose.

The unfortunate absence of the Lewiston agent and the refusal of the City Government to furnish access to the books either to the sub-committee or to the whole committee have prevented us from making this examination.

We can only report then in general terms that the methods in the Lewiston Agency are extremely loose and such as would not be tolerated by any ordinary business firm and that there is apparently a large discrepancy between the actual profit made by the city and the profit which should come from the amount of business done in the Agency.

AS TO THE STATE LIQUOR COMMISSIONER.

By the terms of the Heselton bill which was referred to the Committee, it is proposed to have all liquors purchased in the open market upon competitive bids, the purchase to be made by authority of a committee of the Governor and Council, or by the Liquor Commissioner himself, and the liquors so purchased to be paid for by the State rather than by the Liquor Commissioner. The reasons urged for and against this proposed change cannot all be set forth in this report. Some of them are as follows: It appears from the testimony that during the year from Dec. 1st, 1907, to Nov. 30th, 1908, George F. Hewett & Co. of Worcester furnished liquors to the State Commissioner to the value of \$53,649.91, plus \$5,468 62, this last being for alcohol; Reuben Ring & Co., \$25,358.26, for alcohol \$10,209.49; F. W. Hunt & Co., \$7,015.81; these being out of a total purchased by the Liquor Commissioner for the year of about \$104,000.00. Reuben Ring & Co. and Hewett & Co. each have a traveling salesman who frequently goes about from place to place in the State of Maine, and it appears from the testimony of the various agents that either Mr. Whitney, who is said to be Hewett's man, or Mr. Reed, who is said to be Ring's man, goes into the town and makes suggestions in

regard to various brands of liquors. From the testimony of the Liquor Commissioner and his clerk (and the agents very generally corroborate the statement) it appears that each liquor agent sends in his written order and therein designates certain brands of liquors which he desires sent. At Lewiston during the last two years practically all of the goods ordered have been such as could only be obtained from Reuben Ring & Co. And in all of the other agencies the brands designated were largely those which could be purchased only of George F. Hewett & Co. It would therefore seem as though these two concerns not only had exceptionally good salesmen, but that under the law as it exists an opportunity is offered for liquor drummers to solicit orders for their houses, which solicitation is expressly prohibited when applied to private individuals. See Revised Statutes, Section 38, Chapter 29. If there was any doubt as to the constitutionality of this statute or one more drastic such as is suggested, because of conflict with the rights of citizens to engage in interstate commerce, that doubt has been removed by the passage by Congress of the Wilson Act, and the interpretation of that act by the Supreme Court of the United States. In the case of *Delamater v. S. Dakota*, 205 U. S., it was held that the owner of intoxicating liquors in one state cannot under the commerce laws of the constitution go himself or send his agent into another state, and in defiance of its laws, carry on the business of soliciting proposals for the purchase of liquors.

The practice seems to be pernicious, and those who advocate a change urge that if the State itself through competitive bids determines in advance just what liquors shall be furnished during a year and no other liquors be allowed in any agency except those, this soliciting upon the part of these agents, with all the iniquitous possibilities which go as the companion of such solicitations, will be done away with. The suggestion is made that if two grades of whiskey and one of rum, gin and brandy and alcohol are to be sold, that it will be entirely feasible to have an outside wholesale liquor house furnish samples of each, and a bond given that the supply furnished shall be in exact accord with the samples, and under this system no temptation can be placed by soliciting agents before any of the various agents throughout the State. In this connection it is well to call attention to that portion of the Heselton bill which pro-

vides that all liquors shall come into the State in original packages convenient for dispensing by the various agents, and having the Liquor Commissioner's seal upon them, and then that only pure unadulterated liquors furnished by the wholesaler in accordance with his sample and his bond can be dispensed in the State of Maine. In connection with this phase of the proposed change in the law it is said that it will necessitate the employment of more clerks in the Liquor Commissioner's office to unpack, label, and repack the various liquors. But it is also said by those in favor of the change that, if the liquors come in bottles in half pint, pint and quart sizes, that the same cases can be used for reshipment to the various town agencies, and in unpacking only the covers of the cases will be spoiled. It is also urged upon the Committee that under this proposed purchase by competitive bids the State will get far better terms than it has been getting under the present system. One wholesale dealer, who was interviewed, stated to the attorney of your Committee in substance this. The State of Maine is purchasing practically \$100,000.00 worth of liquors each year. The individual who furnishes such liquors is absolutely sure of his money. The Liquor Commissioner testifies that he purchases on from thirty to sixty days' time. The dealer runs no chance of having to bring a suit and the defendant interposing the statute which prevents him from collecting a liquor bill under some circumstances in this State. The State of Maine, it goes without saying, should get the best possible terms obtainable for purchases of such large amounts and on such high credit. And it seems to the Committee that under the circumstances the State should get a discount at least equal to that received by a purchaser of a smaller amount and of a weaker credit, for cash. This would mean a discount of practically ten per cent. Furthermore, that some dealers at least are charging more to the State of Maine than they are to other smaller customers outside of the State of Maine. This last suggestion appeared to the Committee to demand an investigation, and the services of an assistant of undoubted credibility were employed to make an investigation. This assistant under date of Dec. 17th made his first report, which related entirely to the firm of Reuben Ring & Co. From this report it appears that the case goods have been sold to the State of Maine at the same price that other customers paid. There are so many names given to the

various whiskeys that it is difficult to determine with exactness whether the particular whiskey sent into the State of Maine under one name is the same that is being sold to other customers under perhaps another name, so that in only two instances do we find the same name upon the whiskeys furnished to the State Liquor Commissioner as are also furnished to outside customers. We refer to "Private Stock" and "Monogram." Reuben Ring & Co. have been charging the State Liquor Commissioner for their Private Stock whiskey \$4.00 per gallon, and have been selling to outside customers Private Stock for \$2.15 per gallon. They have been charging the State Liquor Commissioner for Monogram whiskey \$3.35 per gallon, and outside customers \$2.15 per gallon. We cannot say that it is the same whiskey, but the assistant reports that whiskey under the same name is being furnished for the above prices, and whiskeys of the same name have been sold to the Liquor Commissioner and sent to the Lewiston agency for the advanced price above quoted.

Under date of Dec. 18th the same assistant reported that W. H. Jones & Co. at the corner of Hanover and Blackstone Streets purchase G. O. Blake whiskey at \$9.00 per case. The State Liquor Commissioner is being charged \$9.35. The same concern was being furnished Hunter's Special at \$10.50 per case, and the State Liquor Commissioner was paying \$12.00. Usher's Scotch Special Reserved was being furnished at the same price as the Liquor Commissioner paid, namely, \$11.00 per case. The same concern was being furnished Hermitage Rye for \$9.00 per case, and the State Liquor Commissioner was being charged \$9.25. The assistant at Worcester interviewed Michael Heffern, who for twenty-five years had been with George F. Hewett & Co., and with the following exceptions the prices which he gave were the same prices charged the State Liquor Commissioner: Hewett's Malt, the regular price is \$9.00 per case; the State Liquor Commissioner is being charged \$9.50. Monogram Bourbon, regular price \$11.00; the Liquor Commissioner is being charged \$9.25 per case.

Under date of December 21st, this assistant reports that several wholesale dealers in Boston stated to him that there was a general discount ranging from ten to twelve per cent, and upon occasion fifteen per cent on barrel orders, according to the size of the order, this relating entirely to whiskeys, gins, brandies

and wines. As we stated earlier in our report, the State Liquor Commissioner seems to be in entire ignorance of this matter of discount. It seems to be quite generally understood in the trade, and we believe that the Commissioner not only could, but in the performance of his duty should have ascertained this fact and seen to it that the people of the State got the benefit of this twelve per cent. But your Committee has no definite information and makes no charges. We simply call attention to the fact that we believe the discount could have been obtained and was not.

From the foregoing reports it will be seen that there is certainly an opportunity under the present system for the State to be charged more for its liquors than are customers outside of the State, when as a matter of fact it seems that the State should be getting the most favorable terms. It is urged for the foregoing and various other reasons that the State should safeguard itself and its servants so that there can be no possibility of any inducement to purchase being offered by any concern or accepted by any individual in authority.

Mr. Leavitt, the Commissioner, states that he has no particular objection to the State purchasing upon competitive bids, but thinks it would be a bother to have to advertise for bids on so many different kinds of liquors. It will be seen that the reason why there are so many different kinds is entirely due to the custom permitting the different agents through solicitations or otherwise to designate so many different brands of alcoholic liquors, and if the State were to determine that only one or two kinds were necessary, then bids upon only one or two kinds would have to be obtained. The adoption of the competitive bid system would necessitate some changes in the methods under which the State Commissioner operates. At present he is a borrower of \$10,000.00, and the State allows him interest upon that sum. Under the system we suggest the State would be the owner of the liquors, and by paying cash would be able to get a substantial discount, which the Commissioner seems to feel he is unable to obtain under the present system, and which he asserts none of his predecessors secured.

If it should be urged that the town authorities themselves be allowed to purchase their own liquors, there will readily occur several answers and objections to that proposition. First, the

towns purchasing smaller quantities cannot get as good terms as can the State purchasing the larger quantity from a very few individuals or dealers. Second, if the towns purchase, there is the opportunity for collusion between parties in the towns and the agents of liquor houses.

Testimony of the principal witnesses accompanies this report marked Exhibits I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX and XX.

SUMMARY OF NEEDED CHANGES.

Direct purchase by the State.

Competitive bids.

The keeping of only two grades of whiskey, one of rum, gin, brandy and alcohol.

Entirely cutting out beers, malt liquors, except stout and porter, and all cordials, cocktails, and alcohol for mechanical purposes.

Doing away with the profit to the State, and making profit to municipalities of uniform rate.

Fixing a manner in which the record of sales shall be kept.

Making it obligatory upon some official to regularly visit the agency, giving him power to revise the lists of persons to whom sales may lawfully be made.

So changing or enlarging Section 38 of Chapter 29 that there will be no doubt as to this section applying to solicitations of the various town agents. Of course if the competitive bid feature appears in the law, there can be no such solicitation.

Changing the law so that all liquors shall come into the State in half-pint, pint and quart bottles, corked and sealed by the contractor outside of the State, and be in accordance with his samples furnished under a bond, which he shall be required to give. Then having the State Liquor Commissioner place over the mouth of each bottle a paper in accordance with the Heselton bill. And of course make it unlawful to have any liquors except those so marked in any agency in the State.

Abolishing the office of State Assayer, the present occupant of which has performed most efficient service, and imposing

his duties on the Analyst at the State Laboratory at Augusta, with the object of saving to the State the amount of the salary now paid the former.

HAROLD M. SEWALL,
LINDLEY M. STAPLES,
CARL E. MILLIKEN,
W. T. REYNOLDS,
E. E. NEWBERT,
A. J. SKIDMORE,
S. C. STEVENS.

Augusta, Maine, January 5, 1909.

I dissent from that provision of the report of the committee which condemns the physician's prescription as a restriction of the discretion of the local agent. The proposition is not that the agent shall be obliged to sell on the prescription of a physician, but that he shall be forbidden to sell without it, retaining the discretion and right to refuse even the prescription if in his opinion the person presenting it will make an improper use of the liquor so obtained. The prescription should be kept on file with the record showing the sale on the agent's books and any physician convicted of issuing prescriptions except in cases of bona fide illness should be subjected to heavy penalties including the loss of his right to practice his profession within the State.

The only justification for the Liquor Agency Law in Maine is the need of stimulants in the sick room, the sudden and urgent need, that brooks no delay and can not safely be supplied from remote sources outside the State. Any other need for intoxicants, if it exists, can be supplied, under present conditions, from sources outside the State. The hardships attending the enforced purchase outside the State for all other purposes are trifling compared with the dangers and inconsistencies of loosely controlled sales within the State, especially by the municipalities themselves.

The most serious feature of the agency system at present is the utter failure to confine the sales to the proper medicinal use of intoxicants. The other evils, serious as some of them are, involve only the danger of financial fraud in various forms and punish principally the communities where the agencies exist. The indiscriminate sale of liquor, however, is not confined in its evil effects to those communities where it exists under the present law. Such flagrant violation of the spirit of the Prohibitory Law concerns the State as a whole and presents the startling spectacle of the State government and various municipalities engaged in a business, which, as at present conducted, is inconsistent with the Prohibitory Law.

If the agency system is to be continued, some further restriction must be devised to confine the sales within proper medicinal uses. The discretion of the agent has been proved insufficient for this purpose. The strictest agent is embarrassed

by the difficulty of refusing prospective customers except upon positive evidence of the intention to make improper use of the liquor. The complaisant agent, under the guise of "medicinal use" may make his shop an open bar where liquor may not be consumed upon the premises to be sure, but is furnished to practically every reasonably respectable applicant.

I know of no safeguard but the prescription of a physician which will supply this needed restriction. No other method of restricting sales has been proposed to the committee except supervision by a probation officer, and this could only apply to those prospective customers who were known to have a court record or be guilty of intoxication. This restriction, even under the most favorable administration, could not effectively shut out the tipplers and moderate drinkers who form a large per cent of the regular customers at many of the agencies at present. The man who could persuade himself of his need of stimulants would still consider himself a proper customer and the agent must take his word for it in the absence of conclusive evidence to the contrary.

Three objections have been pointed out to the requirement of the physician's prescription.

(1) *The expense, involving a hardship especially on the poor.* This is well answered by the uncontradicted testimony of various physicians that in cases where stimulants are needed the physician is nearly always already in attendance and makes no extra charge for the prescription.

(2) *The danger of abuse of prescriptions by unscrupulous physicians.* This danger would be guarded against by severe penalties on the physician and by the discretion of the agent allowing him to refuse even the prescription if he has any reason to suspect collusion.

(3) Some physicians object to the responsibility involved and consider it a hardship that they should be obliged to choose in some instances between issuing prescriptions not actually needed or offending clients and thereby losing practice. This objection is unworthy of the best traditions of the profession and is hardly worthy of serious consideration. The same line of argument would apply to prescriptions for morphine, cocaine and other drugs.

Finally, the physician's prescription is not merely the only effective restriction yet presented to the committee, but it is

the logical and natural criterion of the medicinal use of liquor as of any other drug. No man is sick enough to require stimulants for medicinal purposes is competent to diagnose his own case and prescribe the remedy. Any emergency requiring such use of alcoholic liquors would be recognized by any physician in the ordinary practice of his profession.

CARL E. MILLIKEN.

Augusta, Maine, January 5, 1909.

Augusta, Maine, January 5th, 1909.

*To His Excellency, William T. Cobb, and the Honorable
Council:*

Gentlemen:—As a member of the Committee on Salaries and Fees, to which was submitted bills for the investigation of the methods of the State Liquor Commission and city and town agencies, I beg leave to state, that I have attended practically all the meetings held by the Committee and as I understand it the people, regardless of party, in all places, seem to be all of the opinion that so long as the prohibitory law is in force that the liquor agencies should be continued. While perhaps some of the methods need to be regulated, on the whole I see no reason to make any change. It seems to be that the dissatisfaction comes about from the jealousy of persons not in office, and those who sell goods to the State.

As the Committee needs more time in which to complete their report, and as Mrs. Giddings is very ill, and needs my presence at home, I beg leave to submit my views as above stated.

Respectfully submitted,

FREDERICK A. GIDDINGS.

To the Governor and Council:

So far as it treats of conditions, possibly the report of the Committee on Salaries and Fees, submitted to your honorable body, leaves nothing unsaid. No language, however, is too strong to characterize the liquor business which flourishes in a few communities in this State under the protection of law.

While concurring in general with the findings of the committee, we must dissent in certain particulars, and beg the indulgence of our colleagues if we re-state a few points on which there is little difference of opinion.

CITY AND TOWN AGENCIES.

As now existing, the whole agency system is morally and economically impossible, inconsistent with even easy standards of decency and a travesty of law and order. As a moral or economic proposition we submit that the State has no right to continue in the liquor business, nor should it permit a municipality to do so.

That the agency system is neither an answer to a demand nor the corollary of a need is shown by the fact that out of all our municipalities only thirteen maintain agencies. Is it not significant that there is not an agency in the counties of Somerset, Piscataquis, Waldo, Penobscot, Hancock, Washington, Aroostook; that Knox county has but one; Cumberland one; Lincoln one; Sagadahoc one; Androscoggin two; Oxford two; Franklin two; while the three agencies in Kennebec, located in Gardiner, Randolph and Chelsea, have their sole excuse for being because of their nearness to the Soldiers' Home at Togus?

Southern Kennebec with its three agencies within a very limited radius, is neither more virtuous nor afflicted with more frequent epidemic of disease than central or northern Kennebec, whose people not only have no agency neither will tolerate one. Portland has an agency, which up to within a few years annually sold \$78,000 worth of liquors, presumably for medicinal purposes. Is it logic or good sense to argue that Portland has a need that Biddeford does not share? Or that Portland perceives a duty that Augusta, Waterville, Belfast or Bangor fails to recognize among its municipal obligations?

In the light of the fact that there are only thirteen agencies in the whole State, ministering to the wants of a very limited number of our citizens, is there left a shred of the argument that an agency is a necessity?

We would further suggest that it is beneath the dignity of the State to enter upon a traffic which it stigmatizes as illegal. The State has no right to conduct a business which it brands as a crime. The \$40,000 profit accruing in the past six years to the State from the liquor business dishonors the people of Maine, while the \$500 internal revenue tax which the State pays as a wholesale liquor dealer shows how inconsistent is the attitude of the State when, under the prohibitory law, the payment of such a tax by the individual citizen is *prima facie* evidence of guilt punishable by imprisonment.

Under no color of rhetoric or logic or sophistry or political expediency can this false position of the State be maintained in the light of an intelligent and conscientious citizenship.

The discredited agency system is not worth reforming. There is no demand for it. The need does not exist. The only rational and honest disposition of the question at issue is the immediate repeal of the agency law, which, under the most favorable conditions, is bound to prove economically bad, morally wrong and socially unfit.

STATE LIQUOR COMMISSIONER.

The State Liquor Commissioner is appointed by the Governor and receives a salary of \$1500. All expenses of his office including a clerk, who receives a salary of \$1200, are paid by the State.

The Commissioner buys or is supposed to buy all liquors which he dispenses to the several liquor agencies. Section 15 of Chapter 29 of the Revised Statutes reads in part as follows:

“The Commissioner shall keep in stock, at all times at his said place of business in this State, a sufficient stock of liquors to supply the demands of all duly authorized town and city agencies of this State for not exceeding two months, and all such agencies shall be supplied from said stock so kept at his said place of business in this State, and from no other source and in no other manner.”

According to the testimony, both of Commissioner Leavitt and Mr. Charles Whitney, the latter representing the liquor firm of George F. Hewett & Co., the Liquor Commissioner does not purchase his stock for the State. He does not keep such a stock to be supplied to various town and city agencies. Rather he permits agents of certain liquor firms to drum the trade, not from himself but from the local agents or town and city officials. As a result of such solicitation orders are sent to the Commissioner's office naming particular brands of liquors and often indicating the firm to be patronized. Mr. Whitney testified that he has done this business, generally holding his trade with the majority of agencies, for about twenty years. No considerable amount of liquor is purchased by the Commissioner except in the manner stated. The principal duty of his office seems to be to approve these orders and forward them to the wholesaler. The Commissioner has but an indifferent conception of his duties as a State official. He renders no service to the State in any sense commensurate with the salary he receives, nor does he appear to have any grasp of the details of the business of which he is officially the head.

On his own testimony, Mr. Leavitt does nothing to protect the State as to the prices or the quality of the liquor dispensed. He does not know why he pays \$4 for one brand of whiskey or \$2 for another brand, nor whether the liquors which he supplies to the agencies is as good as can be bought for the prices charged. He does not go into the market to determine for himself whether the interest of the State could be best served by purchases made by himself direct. He has never consulted wholesale houses as to prices nor taken a step to satisfy himself that he was not being imposed on or was doing well by the State in continuing the reprehensible practice of approving orders obtained by liquor solicitors. He appears as ignorant of the business to which he has given six years of official life as a child is innocent of transgression. His denial of knowledge of ordinary trade discounts in the liquor business is self-condemnatory. During his whole term of office, in which time he has dispensed nearly three-quarters of a million dollars worth of liquors, not once has he availed himself of the ordinary 10% to 15% discount which the committee is advised wholesale liquor houses allow the trade. It is a

conservative statement that, during his term of office, he has lost to the State on this account alone more than \$100,000.

Further we believe it is a fact susceptible of proof that prices for liquors dispensed to the town and city agencies are exorbitant. The Commissioner testified that he charges only the prices he pays. If this is true, we are satisfied that he pays more for his stock, though a purchaser to the amount exceeding \$100,000 a year, than the small retailer who buys to supply a saloon trade. We are satisfied that much of the bulk whiskey, for which the local agencies pay \$4 a gallon, can be duplicated in the market at from \$2.15 to \$2.50.

It is not strange that the fact invites comment that the firm of George F. Hewett & Co. should have held a practical monopoly of the agency trade for twenty years. And is it not suggestive of question just why the present Commissioner and his immediate predecessors have fallen in with the way of thinking and the method of business of this particular liquor firm? Indeed, is it too much to say that it should occur to the Liquor Commissioner to investigate for himself to see if he is doing as well with Hewett & Co. or with Reuben Ring & Co., as he might do with other well known liquor firms? Last year the agency business involving a purchase of \$103,000 was so divided that Hewett & Co. and Reuben Ring & Co. sold to the State about 90% of the total amount. Of this 90% Hewett & Co. sold about 70%. Who are George F. Hewett & Co. and Reuben Ring & Co. that either firm or both should be permitted a monopoly of the liquor sold to the State of Maine? Especially is the question pertinent when it is remembered that their prices are exorbitant and that, on the testimony of Mr. Leavitt and Mr. Whitney, though practically controlling the trade with the State, they do not allow the ordinary discount which the average saloon keeper knows enough to demand and is shrewd enough to get.

In defense of good business methods we raise the question: What inducements are offered by these firms and to whom? Or what is the consideration to those who insist on a purchase of particular brands of goods carried by these firms regardless of the high prices or the quality of liquors sold?

Not only does the law make it an offense for solicitors to drum the trade from town and city agencies, but the Commissioner violates at least the intent of the statute in approving

this monopoly of the State's liquor trade by practically two wholesale liquor firms and adopting it as the settled policy of his office. That the Commissioner exposes himself to the severest censure follows from the fact that he could, if he would, end this reprehensible practice, while going himself into the open market for the direct purchase of a stock of liquors, as the law contemplates, sufficient in amount and of good quality for the medicinal needs of the people.

As to whether the trade discount is unknown to the Commissioner or the prices for agency liquors are as low for the same class of goods as could be had in the open market, we leave to the thoughtful consideration of practical men.

The office of State Liquor Commissioner dishonors the State. It serves no moral or economic purpose. Though it returns a financial profit, the money comes from the pockets of the people who must pay the exorbitant prices charged for low cost liquors. It is common knowledge that this office is a sinecure, a political job with large emoluments. Scandal attaches to its history, while its baneful influence is widespread throughout the State.

Generally discredited, and honeycombed from top to bottom with graft, we submit that the liquor agency system is not only impossible under the present law, but that it is not worth continuing under any conditions. The dignity and honor of the State and the good name of our communities demand that it be abolished.

ELMER E. NEWBERT,
ALBERT J. SKIDMORE.

January 5, 1909.

STATE OF MAINE.

IN SENATE,

March 2, 1909.

Report of Joint Special Committee on Salaries and Fees authorized by the Seventy-third Legislature, on the matter of the investigation of the State, city and town liquor agency system. Tabled for printing—without the evidence—on motion by Mr. MILLIKEN of Aroostook.

F. G. FARRINGTON, *Secretary.*