

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Sixth Legislature

OF THE

STATE OF MAINE

1913

HOUSE.

Saturday, April 5, 1913.

The House met according to adjournment and was called to order by the Speaker.

On motion by Mr. Smith of Patten the House came out of executive session.

IN THE HOUSE.

Prayer by the Rev. Mr. Livingston of Augusta.

Journal of the previous session read and approved.

Papers from the Senate disposed of in concurrence.

From the Senate: Resolve in favor of Donald Gates, page to the press room.

In the Senate this resolve was received under a suspension of the rules and was read twice and passed to be engrossed.

On motion by Mr. Cook of Vassalboro, the rules were suspended and the resolve received its two several readings and was passed to be engrossed in concurrence with the Senate.

From the Senate: An Act to regulate the sale of morphine and other hypnotic or narcotic drugs.

This bill came from the Senate amended by the adoption of Senate Amendment B.

On motion by Mr. Boman of Vinalhaven the votes were reconsidered whereby this bill was passed to be enacted and whereby it was passed to be engrossed.

On further motion by Mr. Boman Senate Amendment B was adopted in concurrence.

The bill was then passed to be engrossed, as amended by Senate Amendment B, having previously been amended by Senate Amendment A.

From the Senate: An Act to provide for the appointment of road commissioners by selectmen.

In the House this bill was amended by House Amendment A; in the Senate that branch refused to change its action in passing the bill to be engrossed without the amendment, and

asking for a committee of conference, and with the following committee of conference appointed in that branch: Senators Conant, Colby and Smith.

Mr. Pendleton of Searsport moved that the House concur with the Senate in the appointment of a committee of conference.

The motion was agreed to.

The Speaker thereupon joined as such committee of conference on the part of the House Messrs. Pendleton of Searsport, Jenkins of Wales and Jones of China.

From the Senate: Resolve in favor of the superintendent of public buildings, to provide for a rail in the Senate Chamber.

In the House this resolve was passed to be engrossed, and came from the Senate in that branch indefinitely postponed.

On motion by Mr. Wheeler of Paris the House voted to recede and concur with the Senate in the indefinite postponement of the resolve.

The following order came from the Senate:

Ordered, the House concurring, that the secretary of State be authorized and directed to print and bind in the Acts and Resolves of the 76th Legislature the Acts and Resolves passed at the special session of the 75th Legislature, 1912; also An Act to provide for the nomination of candidates for political parties by primary election, adopted by the qualified voters of the State of Maine at a special election held on the 11th day of September, 1911, and on the 28th day of September, 1911, proclaimed by the Governor, and to take effect 30 days after said proclamation.

On motion by Mr. Smith of Presque Isle the order received a passage in concurrence.

From the Senate: Report of the committee of conference on the disagreeing action of the two branches of the Legislature appointed to consider bill, An Act to regulate the practice of osteopathy, being Senate Document No. 586, reporting that they are unable to agree; report signed by Senators

Stearns, Patten and Moulton, on the part of the Senate, and Messrs. Irving, Rolfe and Marston on the part of the House.

The report was accepted.

Senate Bills on First Reading.

Resolve in favor of the clerk and stenographer to the committee on banks and banking. (On motion by Mr. Irving of Caribou, under a suspension of the rules, the resolve received its second reading and was passed to be engrossed.)

Resolve in favor of Cassie K. Turner, for stenographic services rendered to the committee on salaries and fees. (On motion by Mr. Mitchell of Newport, under a suspension of the rules, the resolve received its second reading and was passed to be engrossed.)

On motion by Mr. Mitchell of Kittery the rules were suspended and that gentleman was permitted to introduce out of order bill, An Act amendatory of and additional to chapter 37 of the Public Laws of 1909, relating to the issuance of mileage books by railroad corporations.

Mr. MITCHELL: Mr. Speaker, because of the fate of the other bill requiring railroads to issue a 500-mile mileage book, this seems to be the only method by which we can obtain legislation at this session; and I move that this bill receive its three several readings at the present time and be passed to be engrossed without reference to a committee.

The motion was agreed to, and the bill received its three several readings and was passed to be engrossed without reference to a committee, under a suspension of the rules.

Reports of Committees.

The report of the committee of conference on the disagreeing action of the two branches of the Legislature on bill, An Act granting to the Knox County Power Company the right to generate and sell electricity in the municipalities of Thomaston and Rockland, together with pole rights therein, reporting that they are unable to agree; the report being signed by Senators Bailey, Hersey and Wing, on

the part of the Senate, and by Messrs. Doherty, Durgin and Boman, on the part of the House.

Mr. Doherty of Rockland moved that the House adhere to its former action.

Mr. Boman of Vinalhaven moved that the report of the committee be accepted.

The SPEAKER: The Chair thinks the motion to accept the report of the committee is in order.

The motion was agreed to, and the report of the committee was accepted.

Finally Passed.

Resolve in favor of F. P. Washburn, secretary to the committee on Indian affairs, for the expenses of that committee in visiting the Penobscot Reservation at Old Town.

Resolve in favor of the Maine State Sanatorium Association to supply free beds and other assistance to needy patients at said institution.

Resolve in favor of Nita L. Goodell for services as stenographer of the presiding and recording officers of the House of Representatives.

Resolve in favor of the Eastern Maine General Hospital for maintenance.

Resolve in favor of aid in the construction of a highway bridge over the St. John River between Fort Kent, Maine, and St. Francis, New Brunswick.

Orders of the Day.

The SPEAKER: As unfinished business, the Chair will lay before the House bill, An Act relative to the compensation of employees for personal injuries received in the course of their employment, and to the prevention of such injuries.

Mr. MOOERS of Ashland: Mr. Speaker and gentlemen of the House, I wish to state that the proponents and opponents of this measure have reached an agreement, and I wish to second the motion of the gentleman from Caribou (Mr. Irving) in the request of a committee of conference.

The question being on the motion that the House concur with the Senate in its request for a committee of conference.

The motion was agreed to.

The Speaker thereupon appointed as **such committee of conference** on the part of the House Messrs. Irving of Caribou, Mooers of Ashland and Dunbar of Jonesport.

On motion by Mr. Chick of Monmouth, Senate Document No. 663, bill, An Act to legalize and confirm the action of the Litchfield Plains Cemetery Association at the annual meeting on the 7th day of December, 1912, was taken from the table.

Mr. CHICK: Mr. Speaker, this bill when it first made its appearance in the Senate was referred to the next Legislature. The House insisted on its former action and asked for a committee of conference; the committee on the part of the House was appointed, but the Senate instead of joining this committee of conference accomplished the purpose for which the committee was appointed, and reconsidered their former vote whereby this bill in the Senate was referred to the next Legislature.

Now, in order to make the record regular, I move that the rules be suspended and that the House reconsider the vote whereby the committee of conference was appointed in the House.

The motion was agreed to, and the vote was reconsidered whereby such committee of conference was appointed in the House.

On further motion by Mr. Chick the rules were suspended and the bill received its three several readings and was passed to be engrossed, without reference to a committee, in concurrence with the Senate.

On motion by Mr. Newbert of Augusta the rules were suspended and that gentleman was permitted to introduce out of order bill, An Act defining the terms "Veterans of the Civil War in the service of the State."

On further motion by Mr. Newbert the rules were suspended and the bill received its three several readings and was passed to be engrossed without reference to a committee.

On motion by Mr. Scates of West-

brook, Senate Document No. 587, bill, An Act to establish the Lincoln Municipal Court, was taken from the table.

Mr. Scates then moved that the House insist upon its action in the adoption of House Amendment A to this bill, and ask for a committee of conference.

The motion was agreed to.

The Speaker thereupon appointed as **such committee of conference** on the part of the House Messrs. Thombs of Lincoln, Nute of Wiscasset and Durgin of Milo.

Mr. Boman of Vinalhaven presented the following order:

Ordered, that the secretary of the Senate be requested to return to the House all papers and the Act relating to inspection of bakeries and confectioneries, the same being House Document No. 481.

The order received a passage.

At this point the Senate came in and a joint convention was formed.

IN CONVENTION.

The convention was called to order by the President of the Senate.

The PRESIDENT: The secretary of the convention will now read the resolve under which the convention has met.

(The secretary then read the resolve in favor of the adoption of an address to the Governor for the removal of Lewis W. Moulton, sheriff of the county of Cumberland.)

The PRESIDENT: The appearances of counsel for the State and for the respondent may be now entered.

Mr. KEHOE of Portland: Mr. President, I suggest the presence of a quorum in the convention.

The PRESIDENT: The presiding officers will state that 110 members of the convention are present, and a quorum is therefore present. Appearances for the State and for the respondent may be entered now.

Attorney General WILSON: Mr. President, with the name of the Attorney General I would ask that the name of B. F. Cleaves of Biddeford may be entered as counsel for the pur-

pose of presenting evidence in behalf of the State.

The PRESIDENT: The secretary will make entry accordingly.

Mr. WILLIAM H. GULLIVER: If the President please I would request the appearance of Hon. William R. Pattangall of Waterville, William H. Gulliver of Portland and Irving E. Vernon of Portland, as counsel for the respondent, Lewis W. Moulton.

The PRESIDENT: The secretary of the convention will make the record accordingly. The secretary will now read the order of procedure adopted by vote of the two branches of the Legislature.

(The secretary then read the order of procedure.)

The PRESIDENT: The pleadings, if any, may be now entered.

Mr. PATTANGALL: Mr. President and gentlemen of the convention, before filing any pleadings we desire to call the attention of the President and the Speaker and the gentlemen of the convention to the nature of the resolve under which we are proceeding, and in which the charge is set forth generally that Lewis W. Moulton, now holding the office of sheriff of the county of Cumberland and who has held such office continuously since the first day of January A. D., 1913, wilfully or corruptly refuses or neglects to perform the duties required of him as such sheriff by section 69 of chapter 29 of the Revised Statutes of the State, as amended by chapter 41 of the Public Laws of 1905, and particularly his duties as such sheriff in the enforcement of the law against the illegal sale of intoxicating liquors and the keeping of drinking houses and tipping shops. And deeming that resolve too general in its nature to be properly answered by Mr. Moulton, Mr. Moulton's counsel filed with the Attorney General who had been directed by an additional resolve to conduct proceedings for the prosecution, the following document:

"To the Honorable Scott Wilson, Attorney General, Augusta, Maine.

In re proceedings against Lewis W. Moulton, Sheriff of Cumberland county.

Dear Sir:—

WHEREAS in an address of the Governor it is alleged "that in the cities of at least five counties it (the prohibitory law) is not fairly or honestly enforced by the sheriffs of these counties and the deputies under them;"

"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 in our statutes;"

"That the liquor traffic is carried on openly and conspicuously without enforcement from any public officer;"

That "the most flagrant and complete case which has been presented to me is that the county of Cumberland particularly in the city of Portland;"

That "liquor is sold in open violation of the law."

AND WHEREAS in House Resolve Number 655 the following charge appears.

"First because the said Lewis W. Moulton, who is now holding the office of sheriff for the county of Cumberland and who has held said office continuously since the first day of January, 1913, wilfully or corruptly refuses or neglects to perform the duties required of him as such sheriff by section 69 of chapter 29 of the Revised Statutes of Maine, as amended."

That said allegations and charges are general, indefinite, uncertain, ambiguous and contradictory.

NOW, THEREFORE, the said Lewis W. Moulton respectfully requests that he be furnished with a specification or specifications of the matters referred to in said address and said resolve, and that the said broad and general charges be made certain, definite and precise so that he may thereby be informed as to the charges which he may be called upon to answer.

(Signed) LEWIS W. MOULTON,

By WM. R. PATTANGALL,
WILLIAM H. GULLIVER,
IRVING E. VERNON,
His Attorneys.

To this communication the attorney general replied as follows:

"Augusta, April 4, 1913.

To Hon. W. R. Pattangall, William H. Gulliver, Esq., Irving E. Vernon, Esq., Attorneys for Lewis W. Moulton:

In relation to the request of Lewis W. Moulton, directed to me as attorney general, that specification or specifications of the matter referred to in House Resolve No. 665 be furnished him, permit me to say that in my opinion the attorney general has no authority whatsoever to in any way add to or take from the causes assigned by the Honorable Senate as the causes for the removal of any public officer.

I am communicating my views to you thus early in order that you may take such steps as you deem proper to procure specifications in relation to said charges from the proper sources, if you so desire.

Respectfully yours,
(Signed) SCOTT WILSON,
Attorney General."

The convention will, I assume, agree with me that this is the first opportunity which the counsel for Mr. Moulton has had to request of the convention that which the attorney general very properly, it seems to me, states that he is unable to give; and we respectfully request that the papers be made a part of the record and that some specification be furnished us as to the charges against Mr. Moulton.

THE PRESIDENT: The request, so far as it relates to the record of these papers, is granted; but the presiding officers feel that the convention has no authority to change the terms of the resolve under which we are sitting.

Mr. PATTANGALL: We will file then the following written motion, in order that the record may be complete, and we would ask this to be made a part of the record:

In re-proceedings against Lewis W. Moulton, sheriff of Cumberland county.

Proceedings in joint convention of the Seventy-sixth Legislature of the State of Maine brought under the provisions of Section 5 of Article IX of the Constitution of Maine, as more specifically appears in House Resolve No. 665, wherein the following charge appears:

"First: Because the said Lewis W.

Moulton, who is now holding the office of sheriff for the County of Cumberland and who has held said office continuously since the first day of January, 1913, wilfully or corruptly refuses or neglects to perform the duties required of him as such sheriff by Section 69 of Chapter 29 of the Revised Statutes of Maine, as amended".

And now comes the said Lewis W. Moulton, defendant in the above entitled action and says that the allegations and charges contained in said resolve and upon which he is now about to be tried are general, indefinite, vague, uncertain, ambiguous and contradictory;

That the said Lewis W. Moulton acting through his attorneys of record have seasonably notified the attorney general for the State of Maine, who appears as attorney of record for the prosecution of these proceedings before the joint convention of the Maine Legislature, to furnish to the said Lewis W. Moulton or his attorney of record, specifications of the matters referred to in said charge or resolve, to the end that the said general, indefinite, vague, uncertain, ambiguous and contradictory charge be made certain, definite and precise;

That it is necessary that he, the said Lewis W. Moulton, be furnished with said specification or specifications in order that he may be informed as to the charge or charges which he is called upon to answer and to prepare his defense in his said behalf, and thereby protect the rights guaranteed to him under the Constitution to demand the nature and cause of the accusation;

That the said attorney of record who appears for the prosecution of these proceedings has neglected or failed to furnish the said Lewis W. Moulton or his attorneys of record with such specification or specifications.

Now, Therefore, the said Lewis W. Moulton moves that the specification or specifications of the allegation upon which he is now about to be tried be furnished to him for the purpose of enabling said Lewis W. Moulton to properly prepare his defense; and further, in support of his motion says

that such specification or specifications are absolutely necessary to him in order to properly prepare his defense and to preserve his rights guaranteed to him as aforesaid; and

That the failure to so provide him with the specifications and particulars relating to the charge in said House Resolve No. 665 is an infringement upon the constitutional rights, as guaranteed to him under the Constitution of the State of Maine, and the Constitution of the United States.

(Signed) LEWIS W. MOULTON.

By WILLIAM R. PATTANGALL,
WILLIAM H. GULLIVER,
IRVING E. VERNON.

The PRESIDENT: The motion is overruled, and will be made a part of the record.

Mr. PATTANGALL: Now, Mr. President, we desire on behalf of Mr. Moulton to raise a further objection to the proceedings as carried on at the present time, and file the following motion:

In re-proceedings against Lewis W. Moulton, sheriff of Cumberland county.

Proceedings brought under the provisions of section 5 of article 9 of the Constitution of Maine and in which proceedings certain rules of procedure have been adopted which are more specifically set out on the records of the joint convention of the 76th Legislature:

And now comes the said Lewis W. Moulton and says that he should not be placed on trial under said rules for that said rules are repugnant to a fair and impartial trial by a jury of his peers or by the law of the land, and that he is liable to be deprived of his property or privileges without due process of law and in violation of the rights guaranteed to him under the Constitution of the State of Maine and under the Constitution of the United States.

(Signed) LEWIS W. MOULTON,

By WM. R. PATTANGALL,
WILLIAM H. GULLIVER,
IRVING E. VERNON.

In support of this motion we call the attention of the president and the convention to Rules No. 2 and No. 4 of the rules laid down governing the trial of this case. By Rule No. 2 the president of the Senate shall preside in the convention, and in his absence or with his consent, the speaker of the House may

preside. Both, when present, shall hear and determine the questions of the admissibility of testimony and any other questions of law that may arise; and their judgment given by the one presiding, or by the other at his request, shall be final and not subject to appeal. Under Rule 4 it is provided that the same rules of evidence shall govern as in the trial of civil matters in the supreme judicial court; all depositions shall be taken forthwith, but no depositions shall be admitted unless it is shown that the deponent is unable to be present; and this especially, "The presiding officer shall decide all questions of the admissibility of evidence, procedure, practice and pleading, and from the decisions given in the manner provided by Rule 2 there shall be no appeal."

Now, if the president please, it is stated that the trial will proceed along lines laid down by the supreme judicial court. Relating to evidence and other matters in general the defendant seasonably filed a motion calling upon the attorney general acting for the prosecution to file specifications of matter to be proved in this action; and it is ruled by the presiding officer that such specifications need not be filed. By Rule No. 11 of the supreme judicial court, under which rule this convention is proceeding, it says, "Specification of matters to be proved in support thereof shall be filed on motion of the defendant within such time as the court shall order." And by Rule No. 9 the defense in civil actions may be ordered to file specifications.

In various cases cited in the brief which we desire to submit the rule that parties on hearing in court, either in civil cases where the writ is drawn, generally the claim for specifications is upheld. In the case of Whittemore vs. Storey, a New York case, it is stated that impeachment proceedings, and this resembles impeachment, are like an indictment and are in the nature of judicial proceedings. It seems to us that it necessarily follows that if the present proceedings are like unto an indictment, the procedure may be carried out along constitutional lines and an indictment must aver all material facts. In the Fifth Maine, page 409, the court, citing a Massachusetts case said, "It is necessary that every material fact constitut-

ing the guilt of the defendant should be definitely alleged."

This Legislature has the power sitting here to act both as a jury and as a court; it decides questions of fact; it has within itself the right also to decide questions of law; and we claim that the Legislature has not the right to delegate that authority either to its presiding officer or to any other person or body. By the rules adopted by this convention the convention has robbed itself of the right to decide certain questions of law, and has given to its presiding officer a greater power than any judge of any court on earth possesses today; it has said that the ruling of the presiding officer, right or wrong, fair or unfair, arbitrary or well reasoned, shall be absolutely binding upon its conscience; no judge on earth has that power. In the wisdom of legislatures, in the wisdom of drawers of constitutions there has always been granted, and probably always will, a right of appeal from the judge presiding over any court to some body of men to decide the question as to whether his decision is right or wrong. We say that the legislature has no right to delegate its authority to decide matters of law to its presiding officer.

We would go further than that, and say that it has no right to delegate that authority to anybody, and that when it adopts Rules No. 2 and No. 4 and robbed itself of the power to decide certain questions of law that arose here, that it placed this respondent, Lewis v. Moulton, outside of the pale of the constitution and took away from him certain rights that belonged to him. Hence, without amending Rule No. 2 or Rule No. 4, we object and protest against these proceedings being carried forward, and desire to have our motion made a part of the record, and that it shall be ruled upon.

The SPEAKER: The presiding officers have considered the matter of the motion of the gentlemen representing Mr. Moulton, and desire to call the attention of counsel and of the convention to the fact that Section 5 of Article IX of the Constitution is the one under which this proceeding is taken. It is clear upon examination of that section that this proceeding is for the purpose of determining whether or not the two Houses or

two branches of the Legislature will proceed to make an address to the Governor asking for the removal of an officer. It is in the nature of an investigation for the purpose of informing itself, that is, the body, as to whether or not it will take certain action. At the same time it is provided that causes alleged for this action shall be entered upon the journal and a copy of the same shall be furnished to the person interested, so that he may appear in his defense, in the language of the section referred to. In that way he is a party, and only in that way.

This is not a criminal prosecution under an indictment, he is not being tried upon an indictment or upon a warrant; he is not here as a party to a civil suit; he is admitted here because the Legislature is deliberating upon removing him from office, and he has under the constitution the right to appear and be heard. We consider that so far as the rules referred to are mentioned in the motion of the gentlemen representing Mr. Moulton, that they should be considered with reference to the nature of the proceedings; that they should not be applied as they would in the case of a criminal prosecution, a trial on indictment or warrant, or even a civil action; and that when so applied and modified by the nature of this proceeding, they appear to us perfectly proper and not illegal, nor do they controvert the Constitution; and the presiding officers overrule the motion of the gentlemen representing Mr. Moulton, and will have the entry made upon the record and all rights preserved that can be preserved by the presiding officers.

Attorney General WILSON: And I will also call the attention of the presiding officers, as I recall the rule, that they do not adopt the rules of practice and pleading; it is only the rules of evidence.

The SPEAKER: It should be mentioned possibly that these rules as a matter of fact follow the precedents, and that in a similar case in the 75th Legislature similar rules were adopted, except that in that Legislature no debate was allowed after the hearing; by this rule debate is allowed in either House after hearing; otherwise the rules follow those of two years ago very closely.

Mr. PATTANGALL: I would suggest

to the presiding officer that if the rules adopted are adopted with the idea that this is a judicial body, we would like to have our objections to those rules appear on the grounds stated, that in no judicial body yet existing, outside of this one, is there a presiding judge from whose ruling no appeal can be taken; if, on the other hand this body sits as a legislative body, we know of no legislative body on earth, except this one, which has fixed the rule which forbids an appeal from the ruling of the Chair; so that either way, whether you sit in a judicial capacity, we would like to have it appear on record that your rules are absolutely unique.

The SPEAKER: Of course all the observations made by counsel will appear on the record; the ruling is that the motion shall be overruled.

Mr. PATTANGALL: Brother Gulliver makes a suggestion, and I think it is of value, and I would like to present it very briefly. Assuming that these proceedings partake of the nature of judicial proceedings, it is suggested that some arrangement should be made, either by rule or by ruling of the Chair or by vote of the convention, by which members of the convention who are not present when the evidence is heard should not vote. In support of that suggestion I would say that if you are sitting in a judicial capacity the absurdity is apparent to lawyers and to laymen, that jurymen should deliberate and decide a case that they had never heard; and I suppose you are sitting at least in a somewhat judicial capacity, and we would suggest not an amendment to the rules because of course we cannot amend them, but that some order of some sort might be adopted by the convention, if the convention yet has power to adopt any order, providing that the vote should be taken by members who are actually present during the trial of the case, and that a record be kept of the attendance so that that matter might be made part of the record.

The SPEAKER: The matter of whether or not members should vote would have to be considered later, either by the convention or by the two bodies separately, and it doubtless will be considered at that time. The matter of a record of attendance is a matter that

the Chair is compelled to confer upon. Does the gentleman (Mr. Pattangall) request that a record be kept now?

Mr. PATTANGALL: Just to preserve our rights upon that particular point.

The PRESIDENT: The presiding officers want to make sure what the request of the gentlemen representing Mr. Moulton was. Is the request that a roll-call be had?

Mr. PATTANGALL: It is, if you please, Mr. President, that a roll-call be had, and that the attendance be noted, so far as it changes from time to time, so that we may be able, in case of necessity, to present to some court somewhere the fact, if it appears that men voted upon this question without having heard the evidence.

The PRESIDENT: The presiding officers are inclined to feel that the request, so far as it pertains to a roll-call of the convention at the present time, should be granted, if insisted upon; and the presiding officers will take all means within their power to see that the attendance is kept up, and that a record is kept of it.

Mr. PATTANGALL: And if you please, Mr. President, merely to preserve our rights, not for anything which I think will be done here,—could a record be kept by some means which the presiding officers might suggest of the going out and coming in during the taking of evidence; I mean, a record that we could have access to. It is not difficult in the case of a jury when you have a case in court, to tell whether they are all there or not.

The PRESIDENT: The presiding officers will take such measures as they can to preserve a record of the attendance during the proceedings. A roll-call will be had now, if requested by counsel.

Mr. PATTANGALL: It is requested, Mr. President.

The PRESIDENT: The secretary of the convention will call the roll of the convention.

PRESENT:—St. Allan of Washington, Sen. Allen of Kennebec, Allen of Machias, Austin, Sen. Bailey, Bass, Benn, Benton, Boland, Boman, Bowler, Sen. Boynton, Bragdon of Sullivan, Bragdon of York, Brennan, Bucklin, Sen. Burleigh, Butler, Sen. Chase, Chick, Churchill, Clark of Portland, Cochran, Sen. Colby, Sen. Cole, Connors, Cook, Crowell, Currier, Cyr, Davis, Descoteaux, Doherty, Dresser,

Dunbar, Duntun, Durgin, Sen. Dutton, Eastman, Eaton, Eldridge, Elliott, Emerson, Sen. Emery, Farrar, Gordon, Greenleaf of Auburn, Greenleaf of Otisfield, Sen. Hagerthy, Hancock, Harman, Harper, Harriman, Sen. Hastings, Sen. Hersey, Higgins, Hodsdon, Hutchins, Irving, Jenkins, Sen. Jillson, Johnson, Jones, Kehoe, Kimball, Lawry, Leader, Leary, LeBel, Leveille, Libby, Sen. Mansfield, Marston, Mason, Mathieson, Sen. Maxwell of Sagadahoc, Maxwell of Boothbay Harbor, Maybury, McBride, McFadden, Merrill, Metcalf, Mildon, Sen. Milliken, Mooers, Sen. Morey, Morgan, Morrison, Morse, Sen. Murphy, Newbert, Nute, O'Connell, Sen. Packard of Knox, Packard of Newburg, Sen. Patten of Hancock, Peacock, Pendleton, Peters, Peterson, Pitcher, Putnam, Quinn, Sen. Reynolds of Kennebec, Reynolds of Lewiston, Sen. Richardson of Penobscot, Richardson of Canton, Ricker, Roberts, Robinson, Rolfe, Rousseau, Sanborn, Sanderson, Sargent, Scates, Skelton, Skillin, Sen. Smith of Penobscot, Smith of Auburn, Smith of Patten, Smith of Presque Isle, Snow, Sprague, Stanley, Sen. Stearns, Stetson, Stevens, Stuart, Sturgis, Swift, Taylor, Thombs, Thompson, Tobey, Trimble, Tryon, Twombly, Umphrey, Violette, Sen. Walker, Washburn, Waterhouse, Wheeler, Winchenbaugh, Sen. Wing, Yeaton.

ABSENT:—Bither, Brown, Chadbourne, Sen. Clark of York, Clark of New Portland, Sen. Cobant, Donovan, Estes, Farnham, Sen. Flaherty, Folsom, Frank, Gallagher, Gamache, Gardner, Goodwin, Haines, Haskell, Hogan, Jennings, Kelleher of Portland, Kelleher of Waterville, Mitchell of Kittery, Mitchell of Newport, Morneau, Sen. Moulton, Peaks, Plummer, Price, Ramsay, Sherman, Smith of Pittsfield, Spencer, Swett, Wise.

The PRESIDENT: A call of the roll shows the presence of 144 members of the convention. The presiding officers desire to impress strongly upon the members of the convention the importance of their remaining in their seats during all the time that the convention is in session; and it is the hope of the presiding officers that no member of the convention will leave his seat during the sessions of the convention unless it is absolutely necessary for him to do so.

Mr. PATTANGALL: Mr. President, I presume the ruling against the motion for specifications on the part of the Chair has been made a part of the record; and in order to make the record complete, counsel for Mr. Moulton desire to appeal from that ruling on that motion to the convention.

The PRESIDENT: The presiding officers feel that under the rules of the

convention they are obliged to decline to enter the appeal; the appeal will be entered upon the record.

Mr. PATTANGALL: As to the motion in regard to the rules, do I understand that the record in there is that the chairman overrules that motion?

The PRESIDENT: Yes, the presiding officers so understand the record.

Mr. PATTANGALL: And counsel for Mr. Moulton respectfully request an appeal to the convention on that motion.

The PRESIDENT: The request is overruled for the same reason, and an appeal will be entered upon the record. Are there any further motion by counsel?

Mr. PATTANGALL: Not at the present time. There might be a general denial entered upon the record.

The PRESIDENT: A general denial may be entered upon the record.

Judge CLEAVES: Mr. President and Gentlemen of the Convention: With reference to the order of procedure in this case and the nature of the charges, I shall not say a word, and I assure you that in presenting the case with reference to Mr. Moulton I shall come as closely to the point and as quickly as possible.

Mr. Moulton is charged in this resolve with wilful or corrupt failure to perform his duty under the statute which has been read to you. The position of the representative of the attorney general's department is that, first, the sheriff had the opportunity to acquire information with reference to the violation of the prohibitory law and the other laws mentioned in that Statute. First, from the source of the United States Internal Revenue Department at Portsmouth where it appears by the record that there are 144 retail liquor dealers' licenses in Portland. About 40 of these licenses relate to drug stores and the balance are straight retail liquor dealers. Of the remaining places there are as we shall show 36 places within the city of Portland alone, which we shall refer to as "Old Timers," places where intoxicating liquors have been sold for

the past 12 years, in some form, and nothing else.

That we say was the first opportunity which the sheriff had for ascertaining what the facts were. We go a great deal further than that, and we shall be permitted under the fairness of the testimony, judging from the fairness of the procedure yesterday it will be permissible, and we shall show that within all those 36 places intoxicating liquors have not only been sold during the last dozen or more years, but during the entire two years of Mr. Moulton's previous administration, which ended on the last day of December, last year. Those same conditions have existed, and it is also true practically of the three months of his present term up to this time.

By conditions we do not mean merely that there has been something like a neighborhood notoriety in reference to those particular places, but that that notoriety has been wide spread throughout the city of Portland, and practically, we think, all over the State of Maine. A notoriety which crystallized into words means that everybody who read or knew anything about it was satisfied beyond any question that there were numerous places in the city of Portland where intoxicating liquors were sold as openly as groceries or drugs, legitimately.

We have described to you several places; we shall have described to you particularly a place spoken of as the Hollywood, and it may be that there is in existence a picture—the attorney general hoped to produce it here—of the interior of this Hollywood place. Anticipating that perhaps we may not be able to obtain it, a little description may not be out of place. This formerly existed as a tenement and later on as a sort of store. Not long ago,—certainly within the last few years, Peter J. Hollywood, who has paid a retail liquor dealers' license for years, put something like \$3500 into fitting up this place at 122 Preble street, and fitted it up so that it could not be used for anything except a bar room for all time. He put in a bar room, which if you have visited such places you can appreciate. He pyramided behind the bar the familiar bar

room paraphernalia, glasses artistically painted; upon the shelves behind the bar he had a varied and ample stock of intoxicating liquors. That perhaps is the best place the city of Portland boasts of, and has been during the two years and three months of Mr. Moulton's administration. There are other places equally effective, and some are scattered along a few streets.

In House bill 667, in the possession of all of you, appears a small portion, and as we shall show, a very small portion of the places which even in the immediate locality are recognized as liquor places, seven as I recall it upon this sheet, and being what I call old timers. We shall exhibit a chart made by a man who knows of 50 odd other places, more or less well known during the last three months, and during the last two years recognized as liquor establishments, the great majority of these places being those which have been run for the last dozen or 15 years.

Now liquor was not during the last three years sold in any manner secretly. You are all familiar with the conditions under fairly close times when the sheriff is expected, even remotely, to arrive during the day or evening, and someone is out at the door or even near the sheriff's office, watching to see when the sheriff or the deputy leaves the office; and during strict enforcement proceedings, watching the sheriff to see if he goes near the court room; watching the sheriff to see where he goes or whence he comes; and those watchers reporting so that the stock in trade can be successfully removed beyond the reach of the sheriff. Nothing of that sort has been in existence in the city of Portland during the last two years and three months of Sheriff Moulton's administration. Stocks of goods have been kept absolutely open in those numerous joints.

In many of the joints during the last three months the stocks of goods have been openly exposed upon the shelves behind the bars, as is the ordinary form of advertising goods legitimately thus exposed. In some instances parties have purchased liquor in fancy receptacles in order to make a better

display for advertising, and some stocks of liquor have been kept in convenient receptacles under the bar for sale in pint or half-pint bottles.

In practically all these places during all this time real beer, not Uno or Lithia or any of those things, has been sold. And while upon that subject there is one thing we wish to call to your attention. Uno or Lithia beer has been hardly known of in Portland during the last three months, and when you do not find it, you know there has been some substitute for it. The beer sold is drawn from wood, and in bottles immediately at the bartender's hand, and in never failing supply until last Monday morning. The bartenders have worn a regular union uniform; they have had their white aprons and coats, and dress in strict compliance with the rules when on duty.

We shall show you that during the last three months that has been the absolute rule of the Bartenders Union in the city of Portland. They never have appeared upon duty without their uniform. There have been numerous places where there was but one bar tender, numerous places where there were two or three, and numerous places where four bartenders were on duty. We shall show you that up to last week when this Legislature began at least to discuss these proceedings and later formulated those discussions in the various resolves, one directed against Mr. Moulton, in which his name was somewhat prominently mentioned; up to last Saturday at six o'clock, those conditions of which I have spoken prevailed very generally throughout all those places. Last Monday morning a man would have to have been something of a sleuth in the city of Portland to have found much of anything in the line of intoxicating liquor in any of those old time places, they having gone into the more remote and secretive places.

We had a man about the city and observe conditions, not only upon Monday but upon Tuesday and Wednesday and Thursday, and we found those places that two years and three months had hardly had their

doors closed within union hours,—and by the way, all those places close promptly at 10 o'clock at night, and on holidays have not been permitted to be open and were not open; upon certain occasions when so directed they closed at 6 o'clock, one being the Saturday night before Easter Sunday and another being the Saturday night two weeks ago tonight, but for what particular reason I am not sure about for other occasions. For those occasions I am sure.

Anticipating that the sheriff may call your attention to the fact that numerous searches and seizures of intoxicating liquors have been made during his incumbency of the office, including the last three months, and that various indictments, or dispositions of cases appealed from the municipal court of Portland, have been disposed of during this past week to have furnished to the attorney general an exact list of all the dispositions which have been made of cases through the sheriff's department in the city of Portland during the three months prior to January 1st; also a record of appealed cases and indictments instituted under the prohibitory law in the superior court of the county of Cumberland.

For the September term, 1912 and the January term, 1913, which are the two terms immediately prior to this date, and as I say to anticipate that as part of the defense of the sheriff, he may cause it to be stated in your presence that the number of seizures, and the apparent liquor activities in his department is sufficiently large to cause you to consider. I have taken pains to analyze them in order that you may understand the testimony before you as it comes in, not only witnesses for your Body but those representing the sheriff. I want to state briefly what the analysis of these liquor activities show. Prior to January 1st there were issued by the municipal court on matters by complaint made by the sheriff 119 different matters. Ninety of those matters were libels. Attorneys understand what that means. Let me briefly state that before intoxicating liquor

can be seized there may be issued a warrant, under ordinary circumstances. After liquors are seized upon a warrant they are taken into the custody of the officer whose duty under the statute requires and compels him to file before some court a paper in which he asks that this liquor be remanded and considered contraband.

Upon that petition there is issued a libel for the condemnation and confiscation of the liquors. So that you will see in the analysis of these different cases, if 90 were libelled then necessarily the proceedings on those libels and on this number of activities prior to January 1st, there must have been some warrants upon which they were seized. It is only fair to eliminate the number of libels prior to January 1st, or 63. Of the 63 libels more than one-third of the proceedings were against women; in some instances against Italian women. In no one of the proceedings prior to January 1st and from October 1st was the same person proceeded against twice. That is, if the name of Angelina April was proceeded against in the lower court by reason of the sheriff's activities, her name never appeared as the defendant in a liquor warrant from that time afterward. That is universally and absolutely true with reference to every one of the warrants which have been issued by the municipal court of Portland in the six months from October 1st to April 1st in behalf of the sheriff or his deputies. That means to the attorney general—and before I explain what I think the meaning is, during that same period of time there were all these holders of United States Internal Revenue taxes for the sale of intoxicating liquor under the retail liquor dealers' tax, which does not mean malt liquors and it eliminates drug stores,—all those notorious places were all that time in full blast, but in order to make these seizures, these Italians and Irish women appeared but once.

It was necessary for the sheriff or his deputies in order to make these seizures to go to a place almost bang up against those places that were notorious.

That means to the attorney general that those places that were being run and run openly, notoriously, and as we say with the full knowledge and acquiescence of the sheriff, those places so running have to be protected, as we hear the word used, and in order that they might be protected it was necessary to put immediately and finally out of business anyone who had the audacity to open up in the city of Portland, and in the vicinity of those places a liquor shop. Hence the activities of the sheriff and his deputies during that six months from October 1st to April 1st were directed solely, with seven exceptions, to putting these people out of business and they were successful. Those 63 people who prior to January 1st were complained against,—and so successful were they that never but once did any of those names against whom they complained appear on the dockets of the court. The scheme was absolutely perfect, and in the meantime, with seven exceptions, those other places were all running.

In reference to the record of the superior court for the two terms, the great majority of the cases on that docket came through appeals by people against whom complaints had been made, and there were at the last term of court some 30 indictments, and of those 30 indictments solemnly returned by the grand jury at the last term of court under a statute which compels sheriffs to furnish their evidence to the county attorney, of the 30 indictments but three were of those who had paid a retail liquor dealers' license, and not one of those who were old timers, who for twelve years have been either personally selling intoxicating liquors or have been the successors of those who have been selling.

We shall show by various testimony and facts and circumstances that these conditions existed in the city of Portland.

In regard to Westbrook, we shall call attention through testimony to the conditions that existed there during Mr. Moulton's administration, up to the time when certain citizens got

busy and discovered and brought about things which witnesses will tell you.

With reference to the situation in Brunswick, I will not go into that in detail except to say that we expect to have witnesses, or they are present, who will give you testimony in reference to that city, showing not so widespread a condition in Brunswick and in Westbrook as in the city of Portland, but equally showing, illustrating we think, the policy of the sheriff's office, to drive out those that they do not think belong in and to openly and willingly if not wilfully allow the conditions which I have described.

C. E. Owen, being first duly sworn, testified as follows:

Direct Examination by Mr. Cleaves.

Q. Name, C. E. Owen? A. C. E. Owen.

Q. Residence Waterville? A. Waterville.

Q. And you are an officer of the Civic League of Maine? A. I am.

Q. One of its secretaries? A. Yes sir.

Q. Have you before you an examined copy of the payment of United States Internal Revenue Tax, for business of a retail liquor dealer within the county of Cumberland? A. I have.

Q. Will you read such portion of that record as relates to the payment of that retail liquor dealer tax within the city of Portland?

Mr. PATTANGALL: And we object of course.

The SPEAKER: Cannot it be proved by a person who has examined and who can testify from his own knowledge?

Q. Did you examine the copy yourself? A. I did.

Q. And how recently? A. March 17th.

Q. And is the copy which you have in your hand, the copy at that time so examined? A. Yes, sir.

Mr. PATTANGALL: We still object.

The SPEAKER: For what reason?

Mr. PATTANGALL: If your Honors please, it is but yesterday when

I offered to recall Mr. Owen to the stand and ask him in regard to licenses in Maine, and when the Presiding Officer ruled me out of order, I said that Mr. Owen had testified to licenses in one county, and he said to me "without objection." I presumed the inference was that if I had objected I would have had some rights, else the Presiding Officer would not have said that.

The SPEAKER: The Chair understood that counsel meant the manner in which the evidence was presented, the scope. The Chair understood that the reason for the introduction of the evidence yesterday, was to cover the county in question. The Chair ruled that evidence as to other counties was inadmissible, and will still make the same ruling today. As to Cumberland County, the Chair rules that evidence as to licenses in Cumberland County is material; for other counties, as far as appears, it is immaterial.

Mr. PATTANGALL: I assume that the remark of the Chair to me, that it was "without objection" was a jocular remark.

The SPEAKER: It was not intended as a jocular remark, it was intended to be perfectly serious.

Mr. CLEAVES: Bro. Pattangall entirely mis-recalls the situation. At the time when he wanted to introduce a record of the payment of the liquor taxes in other counties the suggestion was made by him that Mr. Owen had already testified that there were twelve hundred licenses in the State of Maine. That was the time when the Presiding Officer asked if it was objected to, and it was stated no. It didn't have reference to the objection to the introduction of the payment of the liquor license tax in the County of Sagadahoc, and the record will bear me out in that.

Mr. PATTANGALL: I think the Speaker's recollection will agree with mine that it was on cross-examination that the matter of twelve hundred licenses in Maine was brought out. Of course I would not object to my own question.

The SPEAKER: The matter so far as it relates to yesterday is immateri-

al, except as it is a precedent for today's proceedings. The Chair does not understand that the situation is any different or that the ruling is any different than it was, yesterday.

Mr. PATTANGALL: Then I misapprehended entirely the suggestion of the Chair when I was asked if Mr. Owen's testimony didn't go in without objection.

The SPEAKER: Counsel inferred that if it had been objected to it would not have been admitted?

Mr. PATTANGALL: Oh, certainly.

The SPEAKER: The suggestion by the Chair had reference to the manner in which the testimony was introduced and did not go to the nature, scope or purpose of the testimony, but to the manner of its introduction. He testified from a copy without testifying as to an examination by him personally.

Mr. PATTANGALL: Of course the Speaker will bear me out in saying that that phase of the question was not discussed by me or him directly.

The SPEAKER: It did not appear to be necessary at that time.

Mr. PATTANGALL: And the objection is entered, of course, on the record.

The SPEAKER: Of course, all objections are entered.

Mr. PATTANGALL: We ask for an appeal.

The SPEAKER: The same ruling will be made that was made before, that under the rules established by the Legislature the Chair has no power to entertain an appeal.

Mr. PATTANGALL: And the refusal of the appeal will appear on the record?

The SPEAKER: Certainly.

Q. Mr. Owen, proceed with the reading of the list of the payment of the retail liquor dealer tax within the city of Portland, from the examined copy that you hold before you, examined by you personally, upon March 17 of this year.

A. Burton, James E., Windsor hotel, 49 Plum street; Bragdon, Frank J., 659 Congress street; Bennett, John F., 269 Congress street; Bohemian Association, 68 Plum street; Buckland, W. H., 97-99 Elm street; Brownrig, Thomas A., 45 Commercial street; Boston & Portland Dispatch Express Co., 42 Cross street; Cook, Everett & Pennell, 137-141 Mid-

dle street; James E. Cragin, 141 Forest avenue; Colcord & Washburn, 211 Spring street; Chapman & Wyman, 553 Deering avenue; John J. Conley, 51 India street—that, however, is a malt liquor dealer; Val M. Canavan, 14 India street; Thomas A. Currier, 43 India street; Cavello, Samuel, Hotel Imperial, 104 Oak street; Thomas F. Carey, 255 Congress street;—I have read across two pages in the preceding, Samuel Cavello, is 270 Fore street; S. Christopher—Thomas Coleman, rather, 344 Fore street; Harry Clancy, 66 India street; William F. Crummett, 954 Congress street; R. A. Conway, 179 Fore street.

Q. Just a moment, Mr. Owen. The suggestion is made that Mr. Owen in the reading may mention the places paying the tax, and afterward upon introduction of the paper let the reporter copy the names, it will save time.

The SPEAKER: I see no objection.

Mr. PATTANGALL: I think, unless counsel desire all the places read we would waive it informally, and let Mr. Owen give the number and put the paper in the record, and then call attention to such places as you desire, as a matter of saving time. That would not, of course, effect our objection to the substance of it.

Mr. CLEAVES: We would rather have the places read.

ATTORNEY GENERAL WILSON: It is quite important to get the numbers and the streets.

Q. Read the places—the number and the streets. A. Connolley and Mulloy, 27 India street; Dudley-Weed Drug Co., corner Pierce and Brackett street; Thomas F. Devine, 112 Ocean street; Deering Drug Co., 1175 Forest avenue; James H. Donovan, 251 Danforth street; William W. Davis, 332 Fore street; Bernard Devine, 127 Commercial street; Davis & Co., Hotel Imperial, 104 Oak street; Geo. W. Dunbar, 247 Federal street; Wallace Dickinson, Grand Trunk Hotel; Thomas Eagan, 28 India street; William F. Eagan, 68 Washington avenue; Eagle Associates, 46 Pleasant street; Elks Club, 92 Free street; Bartholomeo Erasme, 253 Fore street; Edw. L. Foss, 653 Congress street; Lyman C. Fowler, 108 Congress street; Falmouth hotel, 212-214 Middle street; William

Flaherty, 90 Middle street; Foley & Ross, 108 Preble street; Stephen A. Foley, 517 Fore street; Edw. S. Feeney, 51 Free street; Franklin Drug Co., 244 Fore street; Mrs. Marey Foley, 216 Fore street—excuse me, that is a malt liquor dealer tax; William J. Flannigan, 107 Portland street; P. H. Flaherty, 21 Free St.; C. H. Guppy Co., 463 Congress St.; Samuel B. Gammage, 507 Washington Ave.; Gray and Sullivan, 475 Congress St.; J. E. Gould & Company, 201-203 Federal St.; M. E. Goodrich, 139 Free St.; Frank J. Gallagher, 108 Congress St.; H. H. Hays Sons, 594-598 Congress St.; H. H. Hays Sons, 258-262 Middle St.; John P. Handton, 127 Commercial St.; Heselstine and Tuttle, 387 Congress St.; John E. Harrigan, 413 Commercial St.; John W. Healy, 54 Free St.; Charles M. Hawkins, 14 Monument Sq.; James Holloran, 65 Commercial St.; Peter J. Hollywood, 518 Danforth St.; Francis J. Holland, 167 Fore St.; Fred D. Harvey, 68 Oxford St.; John H. Hamel, 1 Portland St.; Hammond Drug Company, 640 Congress St.; William G. Hurlburt, 940 Congress St.; J. E. Hollywood, 102 Preble St.; William A. Holland, 78 Washington St.; Ingalls Bros., 36 Plum St.; James P. Ingraham, 416 Fore St.; H. J. Jackson, 41 Danforth St.; Stephen Joyce, 15 Pleasant St.; Michael Joyce, 555 Fore St.; Daniel A. Kalen, 97 Center St.; Michael Kirke, 247 Federal St.; John B. Keefe, 205 Middle St.; John W. Kenigan, 91 Oxford St.; William H. Lowry, 13 Temple St.; J. F. Lawrence, 29 Pearl St.; Edward A. Lacey, 242 Washington Ave.; Antonio Leo, 56 Middle St.; Charles J. Linde, 196 Federal St.; George W. Merrill, 271 Middle St.; E. H. McMenantin, 362 Fore St.; Thomas F. McGee, 40 Washington Ave.; Louis J. McGuire, 377 Fore St.; John H. Mulkern, 10 India St.; Frank D. McCarthy, 47 India St.; Edward C. McDonough, 355 Congress St.; Murdock & Foreman Co., 7 Franklin St.; Thomas E. Malone, 30 Washington Ave.; P. J. Murphy, 29 Free St.; John McBrady, 59 Center St.; Maine Distributing Company, 41 Customs House Wharf; D. J. McMonagle, 9 Exchange St.; J. H. McGlinchy, 266 Federal St.; William H. Maley, 37 Summer St.; W. E. Maher, 50 Danforth St.; Edward Nixon, 121 Forest Ave.,

Park Hotel; Richard J. Norton, 518 Fore St.; J. C. Otis, 789 Congress St.; C. E. Odiorne Bottling Company, 62 Cross St.; John J. O'Brien, 30 India St.; Frank E. O'Leary, 20-22 Temple St.; Owls Associates, 82 Union St.; Martin O'Hare, 50 Pleasant St.; John W. Perkins Company, 94-96 Commercial St.; Carl Drug Store Inc., corner Franklin and Congress Sts.; Portland Power Boat Association, Holyoke Wharf; Frank H. Power, 221 Congress St.; Portland Bottling Company, 434 Fore St.; Victor Pelosi, 244 Fore St.; O. J. and F. R. Pride, 336 Allen Ave.; Frank E. Robbins, 931 A Congress St.; George E. Rush, 469 Commercial St.; George W. Rankin, 107 Congress St.; Patrick Sullivan, 541 Commercial St.; Simmons and Hammond, 633 Congress St.; 575 Congress St.; Sullivan and Carroll, 545 Commercial St.; Smith & Bros., 489 Congress St.; John H. Shaw, 34 Myrtle St.; John P. Sullivan, corner of Free St., and Center St.; S. R. Seeley, 17 Temple St.; Henry L. Stimson, 28 Brackett St.; Charles Seavey, 71-2 Pleasant St.; Frank J. Scully, 187 Fore St.; John M. Stevens, 669 Forest Ave.; Frank Sherman, 340 Fore St.; James T. State, corner York and Pleasant Sts.; H. M. Taylor, 455 Fore St.; George P. Thomas, 236 Federal St.; United Bottling Company, 228 Fore St.; Martin J. Walsh, 450 Fore St.; Charles E. Wheeler, 107 Exchange St.; Frank L. Winship, 474 Stephens Ave.; John P. Winters, 251 Fore St.; James Walsh, 1 Pleasant St.; William Walsh, 51 Commercial St.; William Wolf, 319 Fore St.; West End Drug Store, 800 Congress St., that completes Portland.

Q. Will you tell us whether Thomas A. Brownrig at 45 Commercial street holds both a wholesale and retail liquor dealer license. A. He holds wholesale malt liquor dealer license.

Q. No, retail liquor dealer. A. He holds the retail liquor dealer and also wholesale malt.

Q. Will you look and see if the same is true with reference to Patrick Sullivan, at 541 Commercial street? A. The same is true.

Q. Now have you the same kind of an examined copy with reference to the payment of the tax at Brunswick? A. Yes, sir, the whole county.

Q. How many places in Brunswick were holding a retail dealer liquor license during the first three months of the present year? A. Nine.

Q. In the city of Westbrook, how many held a similar license during the same time? A. Fourteen.

Cross-examination by Mr. Pattangall.

Q. Mr. Owen, you have been asked by counsel how many had license in different towns in Cumberland county during the first three months of this year and you have answered. What do you mean by holding them during that time? A. I mean that the liquor taxes are paid from the first of July till the 30th of June of the following year.

Q. So that the record which you read embraces all those who took out a liquor license, paid a liquor tax in Cumberland county on the first day of last July, or since that time, is that it? A. They paid the tax at different times, but as a rule they went back to the first of July, but not always.

Q. Does your record show when the tax was paid? A. Yes, sir.

Q. Now in a very large majority of the cases, without bothering you to go over them in detail, the tax was paid on the first of July or about that time, wasn't it? A. No, I think not. Q. Well, about what time in the majority of the cases? A. Some were paid before the first of July.

Q. Taking the range of a month, one way or the other from the first of July last, wouldn't that embrace a majority of the cases? A. I should hardly think so.

Q. Just begin and read down a dozen? A. June, four in July, October, July, September, July, October, October, July, July, October, December, then half a dozen in July, August, August, September, September, August, July, June, June, six in July—that covers two pages.

Q. That will give the Convention a very fair idea of the matter. Of course the document itself goes in evidence. Are you familiar enough with such matters to know that a license, a stamp paid for the year, is not cancelled, even if the man goes out of

business? A. I do not understand that it was cancelled.

Q. Remains on the record? A. Yes, sir.

Q. So that when you speak of looking up the record, on March 17th, you would not want to have the Convention infer from the evidence which you have there that your experience in the matter would lead you to believe that necessarily all those people were in business March 17th? A. No sir, some of them might be in jail.

Q. Certainly, and might have left the State? A. Yes.

Q. And you have examined cases so that you know that this is sometimes the case—Mr. Owen, in looking up these records, you looked up the records of other counties? A. Yes, sir.

Q. And the March issue of the Civic League Record, published the list for some six or seven counties of the State—and are you connected with the publication of that paper. The Civic League Record? A. I am not the editor.

Q. Are you sufficiently connected with it to know that the list which the March issue of the Civic League Record contains was a correct list? A. Yes sir, it didn't contain all the counties.

Q. But such counties as were mentioned there had the list as you made it up? A. The list is to be continued next month.

Q. Yes, I know that, I think it embraces some six or seven counties, doesn't it? A. Yes, sir, I think so.

Q. Now Mr. Owen, are you familiar enough with conditions in Cumberland so that you could say what places among those that you have read from your list are engaged in the liquor business, or aren't you? A. No, sir.

Q. You have not made any examination? A. No, sir.

Q. You are familiar enough with such conditions—I think you have answered the question generally—so that you will not desire the Convention to infer that a list of people in any county having paid the United States Tax would indicate to you that they were

now in the liquor business? A. Not necessarily.

Q. In fact in making your lists from the records, which were published in the March issue, you published the list for Kennebec county? A. Yes, sir.

Q. And are you familiar enough with conditions in Kennebec to know that that list contained a considerable number of names of men who are not now in the liquor business? A. I couldn't say.

Q. You don't know anything about it? A. No, sir.

Q. You have read the list? A. Yes.

Q. But you have not sufficient familiarity with the actual conditions here to know whether the list included or not men who are now out of business? A. I have no doubt there are men published in that list who are not now in the liquor business in Kennebec county.

Q. Living in Kennebec, you know conditions here in a general way, better than you would in Cumberland of course? A. Yes.

Q. Do you remember how many liquor taxes were paid in Kennebec county? (Objection.)

The SPEAKER: It seems to us immaterial, the licensing in other counties.

Mr. PATTANGALL: Simply, if you please, Mr. Speaker, as bearing upon the proposition of whether a list made such as this would have any evidential value as to the present condition.

The SPEAKER: It is not offered necessarily for that purpose, as I understand.

Mr. PATTANGALL: I don't grasp just the purpose for which it is offered. I neglected to ask the attorney general.

Attorney General WILSON: We don't offer it for the purpose of showing that they are now in the business.

Mr. PATTANGALL: For what purpose, if you please?

Attorney General WILSON: I think we will state simply for the purpose of showing the sources of information that were open to the sheriff from which he might obtain evidence as to conditions for whatever it might be worth; not that it was an absolutely reliable source.

Mr. PATTANGALL: Of course my purpose in the inquiry I had in mind was to show the entire worthlessness of such a list as to conditions now existing.

Attorney General WILSON: We don't claim that.

The SPEAKER: That can be shown, of course, but is the question now under consideration adapted for that purpose, legitimately, legally?

Mr. PATTANGALL: My point was this, Mr. Speaker. Mr. Owen has said he does not know enough about conditions in Cumberland so as to state even in an indefinite way whether that list fairly represents present conditions in Cumberland or not. Now he has got a similar list for Kennebec, the county with which he is more familiar, and I desire to show by him that his list in Kennebec county would be, if presented to a convention as even indicating conditions in Kennebec—would be an utter misrepresentation.

The SPEAKER: Of course any evidence bearing upon the list in Cumberland county to minimize the force of any testimony, or clear up any possible conclusions from that testimony, is perfectly proper in evidence to conditions. The value of lists in Kennebec county appear to us to have no bearing upon this question as to the list in Cumberland county. For that reason we regard it as immaterial.

Q. Now, Mr. Owen, does your list from Cumberland county include druggists? A. Yes, sir.

Q. Do you know how many, or approximately how many? A. I think there are about 60 druggists in Cumberland county, and eight or nine of them, or 10 or a dozen of them, who do not pay the tax.

Q. Leaving perhaps some 50 who do? A. I should think so.

Q. Does it include patent medicine concerns? A. I don't distinguish between patent medicine concerns and—I don't know anything about any patent medicine concerns. I didn't look them up as distinguished from druggists.

Q. Now you have on your list an establishment at the corner of Franklin and Congress streets. Do you know what that is, what sort of a place it is? A. Could you give me the name?

Q. George C. Frye. A. I don't find George C. Frye on the list.

Q. I may have had the wrong name. You were giving numbers and I took the name from Mr. Gulliver. Do you know whether or not that includes people in Portland who are handling non-intox-

icating beer—I would say, perhaps, beer that is not contraband—what we speak of soft beer? A. I don't know about that.

Q. Do you know that that business is carried on in Portland? A. I presume it is. I have no personal knowledge of it.

Q. Have you on your list Matson Brothers? A. Yes, sir.

Q. And do you know that they are engaged in bottling and wholesaling beer that is not contraband? Do you know the nature of the goods they handle? A. I don't know so that I could give testimony.

Q. As one of the officials of the Civic League, with others, have you made a report, either in writing or by word of mouth, concerning conditions in Cumberland and other counties to the Governor? A. I have not.

Q. Were you present when any report by word of mouth or in writing was made to the Governor by any of the officials of the Civic League? A. No, sir.

Q. Have you made any personal investigation of conditions in the county of Cumberland within the last three months? A. No, sir.

Q. Your branch of work is not in the line of investigations in the actual field? A. I am the office secretary.

Q. And your work is confined to that? A. Not necessarily confined to the office.

Q. Well, largely confined to that? A. Yes.

Q. Can you state how many retail liquor dealers' licenses are held in the city. (Objected to)

Mr. PETERS: It may have a bearing, the Chair thinks.

Mr. PATTANGALL: I should not say licenses—we use that word carelessly—how many people pay the United States liquor revenue tax in that State of Maine? A. I couldn't give the exact number, and I only now the totals approximately, the totals of retail liquor dealers, retail malt liquor dealers, wholesale malt liquor dealers, and brewers, altogether.

Q. Will you give them, please? A. Approximately 1200, I should say something under that, something less than 1200.

Q. That would be as near as you could give it, would it? That is, it

would be approximately 1200? A. Yes, sir.

Q. And how many do you say in the county of Cumberland? A. The total number of liquor taxpayers in Cumberland county is 265.

List of liquor taxpayers, marked "State's Ex. No. 1," offered in evidence. (Objected to.)

JUDGE CLEAVES: If there is any objection to the paper as having evidentiary value, we will withdraw the offer and use it as a matter of argument.

(Offer withdrawn)

Mr. PATTANGALL: We agree that the reporter may copy the names as if Mr. Owen had read them.

EDWARD H. EMERY, called for the prosecution, sworn, in answer to questions by Judge Cleaves, testified as follows:

Q. Your name is Edward H. Emery? A. Yes, sir.

Q. And your residence Sanford in York county? A. It is.

Q. And you are one of the field secretaries of the Maine Civic League? A. Christian Civic League.

Q. Last year, 1912, did you make any personal investigation with reference to the sale of intoxicating liquor in the city of Portland? A. I went through the city of Portland.

Q. At what time, last year, or about what time? A. The last that I remember was in September, 1912, that is, referring to the year 1912, it was September 1912.

Q. How thoroughly and in what parts of Portland did you make your investigations? A. It wasn't very thoroughly. I didn't attempt to cover the city but went through several of the streets and visited several of the bar rooms.

Mr. PATTANGALL: As the resolve under which we are proceeding reads, it seems to counsel that any evidence of conditions existing prior to January first, if admissible at all, could only be admitted after the basis had been laid by showing conditions after January first, or between January first and the commencement of these proceedings. I think it is fairly well settled law that no official could be removed from office for acts of any other office or during another term of the

same office, and I suppose the only purpose for which such evidence could be admitted, if at all, would be to show a continuing course of conduct, or a knowledge from which intent might be inferred after a new term of office started. I think at this stage of the proceedings, at least, we should object to this evidence of anything prior to January first.

JUDGE CLEAVES: If the order of procedure is disturbing to counsel upon the other side we will follow that suggestion, which is well taken. We have simply put Mr. Emery on at this time because in the order of procedure we desire to put him on and he simply comes in out of order, and I apprehend that we could proceed the same as we do in court, and upon the assurance of counsel, if necessary, that as to conditions between the first day of January and the present time evidence will be offered, that is, it should be taken de bene.

Mr. PETERS: Under some circumstances, for some purposes, it might be admissible at this time, but here may be an objection that is well taken, unless by agreement it is to be submitted later, or otherwise not used. Of course any act to sustain these charges must be between the first of January and the beginning of these proceedings. There is no question about that. As one of the charges relied upon is wilful neglect to perform a duty, that includes, not only the neglect which comes in deeds, but a state of mind called wilful. Now as bearing upon that state of mind it is conceivable to the Chair that conditions existing before the first day of January, if brought to the attention of the officer or of such a nature that they must have been known by him, and that it is further shown that these conditions continued to the present time or within three months, it may be admissible. Of course the condition of mind of the officer would be presumed to continue, but the illegal condition would not be. They must be shown in evidence. If not shown this would not be admissible, but if it can be stated by the attorney general that he will offer such evidence it seems to us admissible.

Mr. PATTANGALL: The only difficulty with that would be that the con-

vention would have hard work—the evidence might now be offered, and the attorney general—unquestionably in good faith—would later attempt to connect it, but if by any means he fails to do so, we are not quite in a position we would be in court; no judge can exclude it.

Mr. PETERS: That is very true, and as stated, the Chair will exclude that evidence, if the counsel desire it, but we desire to state that we can conceive that under some circumstances it might be admissible.

Mr. PATTANGALL: We do desire it.

Mr. PETERS: The question is excluded.

Q. Since the first day of January, this year, have you been in the city of Portland? A. I have.

Q. Will you state fully to the convention what you did, where you did it, and what you found? A. On the 17th of March, I visited Portland in company with Mr. Berry, the superintendent of our League, and visited quite a number of places, and observed a large number of places, and the way they were carrying on the business. We arrived in Portland somewhere near noon time, I don't know the exact time, and went from the Grand Trunk station, because we came in on the Grand Trunk train, or a train on the Grand Trunk Railroad. We went to the corner of Fore street and India street, where we entered a well furnished bar room and saw men drinking at the bar. There appeared to be beer on draught. There was this regular battery of faucets from which different kinds of beer can be drawn. There were several men drinking at the bar, and the bartender behind the bar.

Q. How dressed? A. He was dressed in ordinary clothes.

Q. If at any time Mr. Emery in your description you recall places where the bartender had any distinctive uniform, will you mention it as you go along, that is, as you mention these places if you found a place where the bartender was dressed other than in ordinary clothes, just mention that. A. I will as I remember them or recall them. We went fur-

ther back onto Commercial street and passed several places that Dr. Berry and I agreed—(objected to)

Q. What did you say? A. I saw places that looked like saloons, and I suggested that we—(objected to)

Mr. PETERS: The objection is sustained and you must not say what others said.

Mr. PATTANGALL: Nor what he said himself.

Mr. PETERS: Certainly not.

Witness: I went in to several places. The first that I recall, after leaving this one at the corner of Fore street and India street, was the one at the corner of Franklin and Commercial streets. This was a regular bar room, finished as the others were, that is, it had a partition back a few feet from the street door and doors opening through this partition into the bar room, which in many cases could not be seen, but in some cases could be seen from the street, that is, the bar room could be seen from the street, you could see into it. In this particular case I think you could not; but going into this bar room I found—I think it was seven men at the bar, and walking up to the bar as soon as the bartender got through waiting on customers, one of whom was consuming something from a large long necked bottle, which looked like a whiskey bottle—but I don't know what the substance was,—he set that bottle on the bar, and I called for a half-pint of whiskey. I said I didn't know what it was but I do, for he filled the half pint of whiskey from that same bottle which I have at the office now. I paid him 25 cents for it, and walked out. My presence there was as a stranger, as I had never been there before, but it didn't seem to excite any—(objected to)

Mr. PETERS: Leave that out. Describe what you saw.

Witness: I understood that from counsel, to tell what I did see; I will try to avoid anything of that sort.

Mr. STAPLES: Might it not be proper for the witness to state upon his arrival or during the time that he was there whether the bartender or the person he was behind exhibited any emotion, such as fear?

Mr. PATTANGALL: Or affection?

Mr. PETERS: Of course to describe the thing as a fact it might be admissible. He must not bring in any inferences. Counsel will guide you so that you will be in the correct channel, no doubt.

Q. In this place where you have just testified that you saw a long necked bottle on the counter, and at which place you purchased a half pint of whiskey, when you went in there, or at any time while you were there, did the bar tender show any exhibition of fear? A. He did not.

Q. Any exhibition of surprise? A. None whatever.

Q. When you called for the liquor did he hesitate or ask any questions before he delivered you the package and received your money? A. Only long enough to see that I had the money.

Q. Now you may proceed Mr. Emery and if there is any further facts in that place, state them. If not, proceed to the next place. A. I don't think there was anything further that I would be permitted to tell.

Q. Proceed to the next place. A. We went further up Commercial street from there, that is, coming toward the Maine Central station, and saw a number of other places that tallied with these that I have described, that is, having a partition back from the street entrance and swinging doors cut through the partition.

Q. That is that partition was high enough so that a person from the street could not see through? A. It was, yes sir.

Q. And the swinging doors made in this blind arrangement in some instances? A. I think they may have been in some instances but in most of the instances they were made solid doors, two doors swinging that way, or one door as the case might be.

Q. Did you notice any instances where they had one door to go in and one to go out so that loaded jiggers could keep to the right in passing? A. There is one on Preble street where there is a door at each end of the bar room.

Q. Now you may go on. A. We

went up onto Fore street and visited the Gaff Topsail. Here was another regular bar room, with a bartender, and this bartender had on a white jacket—a white coat, and was waiting on the men who were drinking at the bar. From there we went back onto Commercial street and made one call in at a place where they were not selling liquor or had any suspicion that they were selling, then came back onto Fore street and at the corner of Union and Fore streets we visited another bar room, fully equipped with swing door, but this had no partition; we entered directly into the bar room from the street without having entered a front room to get there. Here was another bartender waiting on a number of people—I don't remember how many—several. From there we went up to Center street and examined conditions there. On Center street there were some more of these places like those I have described, but we didn't go into them at that time. Then we went and got some dinner and after that we went, to Preble street, No. 102 Preble street.

Q. Is that the place that has been referred to as Hollywood? A. Yes sir.

Q. Will you describe that place—A. This is a large bar room having a floor of mosaic work of some kind, a magnificent bar, plate glass mirrors behind the bar; arranged on the shelves were glasses of different kinds, with little napkins stuck into them, such as I have seen in a licensed city, and I think a bar that would average better than those that I have seen, averaged to see in licensed cities. I suppose it must have cost several thousand dollars to fit up, that is my judgment. It was a bar and nothing but a bar and couldn't be used without being changed over for anything but a bar. There wasn't even lunches or anything of the kind served there.

Q. How, if at all, was a passer-by prevented from looking in to see what was going on? A. There was an entrance at each end of the building. The entrance went into other ways, one of which had a stairway up, and the other of which turned sharply to the right and went into a bar room. From either of these entrances the bar room could be

entered. There was a middle door, or what looked as if it might have been but it was boarded up with common boards on the outside, but on the inside sheathed up in such a manner that the common boards didn't show.

Q. And couldn't passers-by from the street, without opening one of these doors, see in and observe what was going on? A. I don't think it would be possible. The windows were covered with something like whiting or soap, something rubbed on so that you couldn't see in clearly enough to see what was going on, but it didn't exclude the light.

Q. What, if any, evidence of the presence of intoxicating liquors in that place at that time did you observe? A. I saw on the left-hand end of the shelves, near which a gentleman was seated, the shelves behind the door, two long necked bottles and on the bar could be seen, as we sat in front of it, there is a shelf right in behind the bar, below, and standing against the bar you could see the necks of the bottles that were standing on this shelf. I don't attempt to say what was in the bottles.

Q. At that place were there any beer faucets? A. There was a whole battery of them.

Q. Upon this occasion whether or not any others than yourself and Mr. Berry visited the place? A. There were four men drinking something that looked like beer, and one other man, who was seated, I don't know what relation he had to the place, whether he was a customer. He came out and went up the street with us.

Q. Whether or not some one behind the bar was serving these people who were there? A. There was.

Q. And in any of these places to which you have now referred, did you hear any call while you were in there by any person for any particular article to drink, by any person other than you or Mr. Berry? A. I don't recall distinctly enough to testify.

Q. Now did you upon this same day visit any other places? A. I did.

Q. Go on. A. From there we went up Preble street and down on Center street to the old Jim Welch place, that has been notorious for years as a saloon. I, is the Jim Welch place, I understand he is dead, but the place still retains his

name. We went into the bar room. Mr. Berry and I together, he going to one end of the bar, the further end of the bar and I turned to the first end of the bar as I went in the door. There were a number of men drinking in this place. I called for a half pint of whiskey, which was immediately handed to me by the bartender, who was behind the bar, and I saw Mr. Berry do the same thing. Then we left the place.

Q. Go on to the next place. A. My recollection is that that was the last place that we went into; it is possible there were others.

Q. You have for several years engaged in field work for the Christian Civic League, have you? A. For about seven years.

Q. And in some of those years, in some counties, have you observed conditions where in front of the places where you knew liquor was being sold that watchers were looking for the approach of somebody? A. It is quite the universal thing to have watchers when it isn't real easy.

Q. At any of these places did you see any watchers or any evidence of any watchers? A. None at all.

Q. Did you find any locked door? A. No sir.

Q. When next within the first three months of this present year, if at all, did you make any observation in the city of Portland? A. Last Monday.

Q. That was since the newspaper announcement of these proceedings—(Objected to.)

Mr. Staples: Simply as locating the time.

Mr. Gulliver: Let him fix the time and show the rest in another way.

Q. Prior to last Monday had you seen in the Portland papers printed notices that these proceedings were either pending or contemplated? A. I had seen them in the Portland papers and Biddeford papers.

Q. Upon Monday morning at what time did you start to make your observation? A. At about noon time, a few minutes after twelve.

Q. Did you go into the same places during that time that you have already mentioned as being visited earlier in the month of March? A. That day and the

next day I visited, I think, all of them and several others.

Q. At that time did you make any requests for the purchase of liquor? A. I think I did in every place that I went in to. May I qualify that last statement? I went to the Commercial House and didn't find the bar, and didn't ask for anything. I went to the Grand Trunk Hotel and was told that the bar had been removed. At the others, I think in every case, I asked for something.

Q. In those other places did you find someone apparently in charge? A. Yes sir.

Q. Did you observe any traffic in intoxicating liquors going on in any of those places? A. None whatever.

Q. Did you receive various replies—quest for liquor? A. I did.

Q. And if the counsel for the defendant from the persons in charge for your report desires those replies you will give them? A. I don't think I could give them off hand, but by referring to some notes, if I am permitted to do it, I think I can give the substance of the reply in every case.

Q. Now I ask permission to inquire of Mr. Emery as to his observations last September.

Mr. Peters: In connection with the same places?

Judge Cleaves: Yes.

Mr. Peters: I think it would be admissible if the same places are referred to only.

Mr. Gulliver: We renew our objection, if it please the court.

Mr. Peters: Certainly.

Q. In September last, did you visit any of the same places concerning which you have just testified? A. I did.

Q. In September last did you visit any of the places to which you have testified? A. I did.

Q. Now confining yourself to those same places, will you tell the convention what you observed?

Mr. GULLIVER: In order to save time I suppose it is understood that objection is made to this whole line of questions.

The SPEAKER: The record will show it together with your remarks.

A. I went to the Hollywood, and it was practically the same there as I have already testified; the place was

running and the bartender was present; the fittings were not quite as complete as they were when I was there last; of course they were still working upon the building; there were shavings upon the floor—and I don't know whether I am allowed to testify to this or not—

The SPEAKER: I don't know what you are going to say. A. May I tell you?

The SPEAKER: No, it is not necessary. You are not to give hearsay testimony, but only what you observed and saw.

Mr. CLEAVES: Only what you saw in that place.

A. What I saw indicated that the place had not been fully completed, or finished; the finishing wasn't complete, and the shavings and sawdust indicated that they were still working upon the place.

Q. Were they doing business? A. They were.

Q. What kind of business? A. They had quite a large number of men drinking at the bar, and from my observation I should say that they were doing an illegal business.

Q. In intoxicating liquors? A. In intoxicating liquors. You understand, I didn't purchase any at that time.

Q. Upon that occasion did you observe any bottles? A. Yes.

Q. On or behind the bar? A. There was more of a display of bottles at that time than there was at this last visit; that is, there was no display at this last time. The first visit, in September, 1912, there was a considerable display, and when I called for some ginger ale—because I don't drink anything intoxicating—when I called for some ginger ale, in order to mix it he called for some ice, and there was an opening behind where the bartender was standing, and they put the piece of ice up from the basement up through this opening, and looking through that opening it is my judgment—

Mr. GULLIVER: Not your judgment. State what you saw.

A. I will state what I saw, as much as could be hauled in an ordinary jigger of bottles of different kinds of liquor.

Mr. CLEAVES: Now what with reference to any display of liquor upon,

around or behind the bar, other than what you have stated? A. There was liquor upon the bar and upon the shelves.

Q. Describe the kind of bottles, whether they were what we call long-neckers or other kinds? A. They were long-neckers—what I usually regard as—what I regard as distilled liquors are kept in display bottles and those are long-neckers, quart bottles usually.

Q. And those were the kind you saw? A. Those were what we saw, different kinds, and different names of whiskey.

Q. Labelled? A. Yes, labelled, and turned over the tops of them were the little silver caps that are used on bottles after they are opened.

Q. And labels of different kinds or different brands of intoxicating liquors? A. I couldn't testify to what the different kinds were.

Q. But were there different kinds? A. Yes.

Q. Were the glasses pyramided or arranged at the time of that September visit as they were later? A. Not such a display of glasses; more of a display of liquor at that time.

Q. In September were there any persons served with liquids of any sort? A. They were served with liquids, but I didn't know what the liquids were.

Q. Did you see any served from any of these bottles, these long-neckers that you spoke of? A. I can't recall.

Q. Upon that occasion did you observe any watcher anywhere about the premises? A. No, sir.

Q. And was there any difficulty in getting in there from the street? A. No, sir.

Q. Were you a stranger to the bartender? A. I would have to assume—I don't know whether he knows me or not. I don't know him.

Q. Upon your going into that place or while you were in there did the bartender exhibit fear or surprise at your presence? A. He was very cordial.

Q. And if the counsel for Sheriff Moulton desire the conversation or acts upon which you predicate that cordiality you are willing to give it to them? A. Why, that took place, in September, and of course I would be willing to give—

Q. That is, the best you could?
A. Oh, certainly.

Q. Did you visit the Gaff Topsail, in September? A. I didn't go into it; no, sir.

Q. Did you go by it? A. I did.

Q. What observations did you make with reference to conditions there? A. Well, it had the general—I started to say that wrong, and of course they would object to that. It was like those places which I have described as bar-rooms, having the door and the arrangements that the bar-rooms have

Q. And the same arrangement so far as you observed that you noticed, in March, of this year, when you were there? A. Yes; the outward appearance was identical as far as I can remember.

MR. CLEAVES: Mr. President, if an adjournment is to be taken, this would seem to be a convenient place for me, because I shall be unable to complete the examination of this witness for some little time.

THE PRESIDENT: The Chair will state that the intention is to adjourn the afternoon session in time for the trains going east and west, at about half past 6 or 7 o'clock, and in time for departure by any who may wish to take those trains.

On motion by Mr. Smith of Presque Isle, a recess was taken, until half past 2 o'clock in the afternoon.

After Recess.

THE PRESIDENT: Would counsel representing Mr. Moulton desire to have a roll-call at this time?

MR. PATTANGALL: Yes, please, Mr. President.

PRESENT:—Sen. Allan of Washington, Sen. Allen of Kennebec, Allen of Machias, Austin, Sen. Bailey, Bass, Benn, Benton, Bland, Boman, Bowler, Sen. Boynton, Bragdon of Sullivan, Bragdon of York, Brennan, Bucklin, Sen. Burchleigh, Butler, Sen. Chase, Chick, Churchill, Clark of Portland, Cochran, Sen. Colby, Sen. Cole, Connors, Cook, Crowell, Currier, Cvr, Davis, Descoteaux, Doherty, Dresser, Dunbar, Dutton, Sen. Dutton, Eastman, Eaton, Eldridge, Elliott, Emerson, Sen. Emery, Farrar, Gordon, Greenleaf of Auburn, Greenleaf of Otisfield, Hancock, Harman, Harper, Harriman, Sen. Hastings, Higgins, Hodsdon, Hutchins, Irving, Jenkins, Sen. Jillson, Johnson, Jones, Kehoe, Kimball, Lawry, Leader, LeBel, Libby, Sen. Mansfield, Marston, Mason, Mathieson, Sen. Maxwell of Sagadahoc, Maxwell of Boothbay

Harbor, Maybury, McBride, McFadden, Merrill, Metcalf, Mildon, Sen. Milliken, Mooers, Sen. Morey, Morgan, Morneau, Morrison, Morse, Sen. Murphy, Newbert, Nute, O'Connell, Sen. Packard of Knox, Packard of Newburg, Sen. Patten of Hancock, Peacock, Pendleton, Peters, Peterson, Pitcher, Putnam, Quinn, Sen. Reynolds of Kennebec, Sen. Richardson of Penobscot, Richardson of Canton, Ricker, Roberts, Robinson, Rolfe, Rousseau, Sanborn, Sanderson, Sargent, Scates, Skelton, Skillin, Sen. Smith of Penobscot, Smith of Auburn, Smith of Patten, Smith of Presque Isle, Sprague, Stanley, Sen. Stearns, Stevens, Stuart, Sturgis, Swift, Taylor, Thombs, Tobey, Tryon, Twombly, Umphrey, Violette, Sen. Walker, Washburn, Waterhouse, Wheeler, Winchenbaugh, Sen. Wing.

ABSENT:—Bither, Brown, Chadbourne, Sen. Clark of York, Clark of New Portland, Sen. Conant, Donovan, Durgin, Estes, Farnham, Sen. Flaherty, Folsom, Franck, Gallagher, Gamache, Gardner, Goodwin, Sen. Hagerthy, Haines, Haskell, Sen. Hersey, Hogan, Jennings, Kelleher of Portland, Kelleher of Waterville, Leary, Leveille, Mitchell of Kittery, Mitchell of Newport, Sen. Moulton, Peaks, Plummer, Price, Ramsay, Reynolds of Lewiston, Sherman, Smith of Pittsfield, Snow, Spencer, Stetson, Swett, Thompson, Trimble, Wise, Yeaton.

THE PRESIDENT: The Chair desires to announce again that no person, except members of the convention, are expected to occupy seats in the convention, other than counsel and witnesses and officers of the convention. The roll-call shows that 137 members of the convention are present.

ED. H. EMERY, re-called, testified as follows:

By MR. CLEAVES:

Q. As I recall it, this forenoon at adjournment you were stating facts about a visit to Portland in September last, and I think you had stated that of the places you visited in March of this year, two of them you visited in September last, the Hollywood and one other. Now, if there were any others that you visited in September which were the same as you visited in March of this year you may describe what you saw there? A. I don't recall any that I visited this year, any that were visited at that time.

Q. Did you make any investigation in Portland after September last year? A. Not in 1912, that I recall.

Q. Was September the only inves-

tigation you made in 1912? A. The only one that I recall; yes, sir.

Q. And but one this year? A. Two, this year.

Q. That is, one in March and then last Monday and Tuesday? A. Yes, sir.

Cross-Examination.

By Mr. GULLIVER:

Q. Now, as I understand it, Mr. Emery, you went to Portland in September of 1912? A. I did.

Q. And what part of the month was it? A. It was just prior to the election.

Q. What election? A. The September election.

Q. The county election? A. Yes, sir.

Q. And was the fact that an election was approaching one of the inducements which caused you to go there? A. Yes, sir; I was to speak and wanted to know the condition.

Q. You were to speak in the campaign? A. I was.

Q. Did you speak in the campaign? A. I did.

Q. In Cumberland county? A. I did.

Q. And as a result of this investigation what did you do, if anything, other than speak in the campaign? A. You mean, did I take any action?

Q. Yes. A. None.

Q. Then your purpose in getting the information that you did get was to use it in a political campaign? A. That was my purpose in September.

Q. You didn't call it to the attention of the September Grand Jury in Cumberland county? A. I did not.

Q. Or to the Grand Jury which sat in January? A. No, sir.

Q. Nor did you call it to the attention of Sheriff Moulton or any of his deputies? A. Only in public; not personally.

Q. Not personally? A. No, sir.

Q. Was it your purpose then not to secure the enforcement of the law but to disclose the non-enforcement? A. My purpose was to disclose the non-enforcement of the law.

Q. Isn't it your business not only to disclose the non-enforcement of the law but to procure, so far as is pos-

sible, the correction of criminal conditions? A. I would be glad to do anything I can to secure a correction of criminal conditions.

Q. What did you do, if anything, to cure the criminal conditions which you discovered at this time? A. Revealed them to the people.

Q. To the people? A. Yes, sir.

Q. And not to any legally constituted authority? A. I have told you I did not.

Q. In the past is it not a fact when you have come to Portland and secured evidence of violation of law that you yourself have secured complaints? A. I don't recall ever having made a complaint in the city of Portland to secure a warrant.

Q. Not in respect to so-called gambling machines? A. I don't recall ever having made a complaint against a gambling machine or a gambling place in the city of Portland.

Q. Then so far as your recollection goes, and as far as the city of Portland is concerned, you have never in your seven years made any complaints to the constituted authorities? A. No, sir.

Q. Of the State? A. No, sir I don't recall any.

Q. And you have been there during several administrations? A. Yes, sir.

Q. Republican and Democratic alike? A. Yes, sir.

Q. What has been your practice in the other cities of the State in respect to making criminal complaints? A. In some of them I have made complaints and in some of them Mr. Pringle usually looked after Portland.

Q. Mr. Pringle was one of your associates? A. He was.

Q. Where is he now? A. In Washington.

Q. Was there any particular reason why you should act differently in some cities than you did in Portland? A. I don't recall any except that the officers may have been more friendly to the enforcement of the law.

Q. That was the only reason? A. I don't recall any other reason.

Q. If you believed it wasn't it then more your duty to call it to the attention of the grand jury than in coun-

ties where you believed the officers were enforcing the law? A. Very little you can get out of the grand jury if the officials were hostile.

Q. Have you ever tried it in Cumberland county? A. No, sir.

Q. Then you are guessing as to that? A. I am not guessing as to that statement, for I have tried it in other places.

Q. Have you ever tried it in Cumberland? A. No, sir.

Q. And do you say because you haven't succeeded in other grand juries you didn't think it worth while to present your evidence in Cumberland county? A. I say that because of my experience in presenting evidence to grand juries where the officials were hostile, that I didn't think it worth while to try it in Portland.

Q. Did you consider County Attorney Bates hostile to the enforcement of law in Portland? A. I think County Attorney Bates is a very good county attorney; yes, sir.

Q. So that was not the reason why you didn't present it to the grand jury in Portland? May I have an answer? A. My reason for not presenting it to the grand jury I have stated, that I hadn't had very good success in attempting to present it to grand juries where the officials were hostile.

Q. Now, as I understand it in September you made several purchases? A. No, sir; I didn't make a single purchase in September, and I never so testified.

Q. Your purchases were in March? A. They were in March of this year.

Q. And you made several purchases? A. Yes, sir.

Q. Which you understood would constitute a single sale? A. Yes, sir.

Q. You didn't present that evidence to the lower court in Portland? A. I have not; no, sir.

Q. And do you wish to say that you think the court officers were also hostile? A. I haven't said so, and don't wish to say so.

Q. Then will you state why you didn't present that evidence to the judge or the recorder of the municipal court? A. I was securing evi-

dence of the condition of things in Portland.

Q. For your speech? A. No, sir; I wasn't making any speeches in Cumberland county at that time; in September I was getting that.

Q. Then what were you collecting it for in March? A. Collecting it for in March?

Q. Yes. A. To know the conditions in the city of Portland.

Q. Did you disclose any of the conditions which you discovered in March to any of the constituted authorities of Cumberland county? A. I disclosed it to the attorney general.

Q. But not to any of the constituted authorities of Cumberland county? A. No, sir; this is the first disclosure I have made of it in public that I can remember of.

Q. Now you have said that in September some of the bars were so conspicuous that you could see from the outside just what was going on inside. Now, won't you tell us just what you mean by that? A. I don't remember that I said so in September; I said, I think it was in relation to our investigation in March.

Q. That related to March, did it?

A. That was true in March.

Q. Do you think that was true? A. Yes, sir.

Q. What place was that true of? A. I don't now recall the particular place.

Q. Without recalling the particular place will you so describe the premises and what you saw that we can tell whether you could see what was going on inside or not? A. I can't now recall any place where we saw that; but I recall the fact that we did see it.

Q. What did you see then? A. We saw places from the street, some of them where the doors were left ajar and some were arranged, quite a number were arranged so that in the front there might be cigars for sale and they were so arranged that a person could go from behind the cigar counter in sight of the street in behind the bar which is in behind the partition.

Q. If they didn't drop the curtain? A. They have in some places, and I have seen, if they did not close the door

behind them, you could see into the place beyond.

Q. And I presume if the sides of the building were out, you could see better? A. A great deal better.

Q. I don't want any suppositions. I want you to state what you did there. A. I did state.

Q. You stated what you could see under certain conditions. What did you in fact see? A. I saw way by in the room bars from the street.

Q. What did you see in the bars? A. I do not recall—I recall the fact that we could see into the bars from the street.

Q. What you mean to say is this: That you could see into a shop which you assume was a bar room? A. Yes, sir.

Q. You could not see any liquors exposed from the street? A. I do not recall any case in the city of Portland where I saw liquors exposed from the street.

Q. I understood your testimony, this morning, to be that the conditions were so open that they could be observed from the street. That is not so, is it? A. That is so. You could observe the conditions; you could see the men inside and see that it was a bar room, if you could not see there was liquor there.

Q. Do I understand that because you saw men inside you assumed it was a bar room? A. No, sir; not that alone. But when you see the building next to the street vacant, the doors that swing both ways, and a passage from behind the cigar counters into another part it is fair to assume that it is a liquor shop.

Q. That is what I am getting at, you were assuming. How much did you actually know? A. I am telling you all I actually know. I assume places like that were liquor shops, and in every case where I went in, it was that.

Q. Was there any reason why you could not have confirmed your reasoning by entering these places, rather than to bring us assumptions? A. No reason whatever. I went in 17 and every one of them proved to be that way.

Q. You did not think it was worth while to make a complaint about any of the 17? A. No, sir; I didn't. Please do not understand that as reflecting

on the county attorney. I was not getting after the county attorney.

Q. I am not making any reflection on the county attorney. A. I am not.

Q. Now you stated that at O'Donnell's place you saw how much liquor through a hole in the floor? A. At O'Donnell's?

Q. I mean Hollywood. A. I saw as much liquor as could be hauled safely on a jigger.

Q. Would you describe what you saw? A. We stood in front of the bar and the bartender stood behind, and there was a place open behind the bar down into the basement, and he called for some ice. As they passed the ice up, I looked in and there were cases piled up from the floor of bottled goods.

Q. Do you know what was in the cases? A. Yes, sir; bottled goods.

Q. How do you know? A. We saw the bottles.

Q. Do you mean to say that all the cases piled up there were open? A. No, sir.

Q. You saw some bottled goods and you saw some open cases, that is true? A. Yes, sir.

Q. You are assuming what the other cases contained? A. I think we saw bottles enough to have made a good load for a jigger stood right up in there. I don't know whether that is a bottling house or not.

Q. Describe how these bottles were, that were enough to fill a jigger. A. They were stacked about the basement behind the bar and the door was wide open enough so that we could see them there.

Q. Do you mean to say that there were sufficient bottles removed from the cases to fill a jigger? A. No, sir, but open in sight.

Q. Do you mean to say that a sufficient number of cases were open and in sight containing bottles enough to fill a jigger? A. Yes, sir, I think so.

Q. This was in the cellar? A. I don't know where it was the cellar or basement. I don't know how the land lays behind there.

Q. It was so light in that cellar that you could perceive all those things? A. It was light enough there so that men were working there and passed up the ice.

Q. Those were men that were working? A. Yes, sir.

Q. That is all? A. That is all I saw.

Q. Is it not a fact that in all the places you visited you could not observe any men drinking from the street? A. I do not recall having seen a single man drinking from the street, and I have not said that I did.

Q. I did not say you had. I was simply getting your evidence. You have said there were no watchers outside of those places. Do I understand that there were no persons outside of those places? A. In no single instance did I see a man who acted as though he was a watcher or there for that purpose. There were absolutely no watchers.

(Question read by the reporter.)

A. There were persons outside of the places but they were passing back and forth about their business.

Q. Passing back and forth? A. Yes, sir.

Q. You do not know whether they were watchers or not? A. They were not watchers. I know how they act.

Q. Watchers have a certain way of acting, do they? A. Yes, sir.

Q. You can tell them as far as you can see them, can you? A. Yes, sir. You can tell them as far as you can see them. They are stool pigeons and you can tell them as far as you can see them.

Q. Do they have any signs on them? A. Not letters. They have other signs that people who are initiated can read.

Q. Have you ever discovered whether those watchers can by some such sense tell a spotter when they see him? A. Some of them can, for I have had them give the tip that I was coming when I was going to get something myself. I assume when I go to buy liquor that way that I am classed as a spotter.

Q. You do not wish this convention to understand, Mr. Emery, that you can tell a man who may be passing up and down or passing by whether he is on watch or not? A. Yes, sir. You can tell by their actions.

Q. In all cases? A. I have never seen one that I could not.

Q. At least you think you have never made a mistake. That is as far as you would go, is it not? A. I would not go as far as that, for I saw a man standing

at the Sherman corner and I thought he was a spotter. Later on I found that he was not.

MR. PATTANGALL: You do not mean a spotter? A. Yes, sir, I do; a spotter for the liquor sellers.

Q. Then it is all one brotherhood? A. Yes, sir; it is all one.

MR. GULLIVER: You would have the convention understand that when you were there in March and September there was no person outside those places who could give the alarm? A. Not until last Monday.

Q. I say in March and September? A. Last Monday there were many people.

Q. I am speaking about March and September. A. Wasn't last Monday March?

Q. I mean your visit there in the first part of March? A. There was apparently not one person I saw who appeared to be in any way a watcher or watching, not one.

Q. What do you say as to September? A. I do not recall a single one as to September, and I think that is one of the things we stated over and over, that they were so easy there were not watchers.

Q. That is your opinion about it? A. Yes, sir; that is my opinion.

Q. To whom did you make your report of the conditions found in Portland? A. There was no necessity for report for the superintendent was with me, and he was the one to whom I would have reported.

Q. Whom do you mean by the superintendent? A. Wilbur F. Berry.

Q. Do you know if he made a report to anybody? A. No, sir; I do not.

Q. Now in the second instance? A. I talked it over with the State's attorney.

Q. When? A. After I had made the second investigation.

Q. How long after that? A. The same day—no, I talked it over with the attorney general on Monday morning, and then went out for an investigation and same back with his associate, Judge Cleaves.

Q. By whom were you directed to make the second investigation? A. I offered to make it to Judge Cleaves. I said I would go and see what the conditions were.

Q. Have you seen the Governor's mes-

sage to the Legislature in respect to the conditions in Cumberland county? A. I read it but I could not recall what he said.

Q. Do you know that in many instances the places named in that report are incorrect? A. I know that in several instances the number is incorrect.

Q. And were those numbers furnished by you? A. They were not and I do not know who they were furnished by.

Q. Did you make any report to the Governor? A. No, sir. I did not, nor did he to me.

Q. Did you make any report to the attorney general in writing? A. I did not.

Q. Simply a verbal report? A. It was.

Re-Direct.

By Judge CLEAVES:

Q. You spoke about speeches you made in Cumberland county, last September. How many of those speeches, if any, were made in the city of Portland? A. None.

Q. How many near the city of Portland? A. My recollection is that most of my speaking was in the upper part of the county, Bridgton—

Q. Did you go up to the sheriff's home town? A. No, sir, I didn't go to his home town.

Q. I understand you that outside of one jigger load of liquor there was no other liquor around the Hollywood place that you saw? A. I said there was some in September.

Q. But only one jigger load in March? A. That was in September.

Re-Cross Examination.

By Mr. PATTANGALL:

Q. What time in September did you make an investigation? A. Just prior to the election, a few days.

Q. Can you tell how many days prior? A. I cannot.

Q. A week before? A. I don't remember the date. I think it was in September just prior to the election; it was then.

Judge CLEAVES: If the presiding officer please, Mr. Gately is the clerk of courts for Cumberland county, and it is quite necessary that he should be there on Monday, and the recorder of the municipal court must be there as the judge, as I understand, is to be

here, and we are putting them on outside of the regular order by understanding with the other side.

Mr. JAMES H. GATELY, having been duly sworn, testified as follows.

Examination by Judge CLEAVES:

Q. Your name is Thos. H. Gately? A. Junior.

Q. You are clerk of the superior court for the county of Cumberland? A. Deputy clerk of courts for Cumberland county, acting in the superior court.

Q. Will you turn to the criminal docket of that court for the September term, 1912, No. 2871. A. I have it. That is a liquor matter, State vs. Edward Burrett, appealed case from the municipal court.

Q. No. 2876. A. That is State vs. George Cliff, appellant.

Q. 2878. A. State vs. James Cummings, appellant.

Q. 2880. A. State vs. Walter Dean, appellant.

Q. 2882. A. State vs. Angela D'Fazie, appellant.

Q. 2883. A. State vs. Joseph S. Dow, appellant, Westbrook.

Q. 2884. A. State vs. George W. Dunbar, appellant.

Q. 2885. A. State vs. Delia Dunlap, appellant.

Q. 2886. A. State vs. Winnie Foley, appellant.

Q. 2888. A. State vs. Thomas Fortin, appellant.

Q. 2889. A. State vs. Frank Foster, appellant.

Q. 2890. A. State vs. Prosper Gallant, appellant.

Q. 2894. A. State vs. James Holoran, appellant.

Q. 2898. A. State vs. Anthony Joyce, appellant.

Q. 2899. A. State vs. Margaret Joyce, appellant.

Q. 2900. A. State vs. Thomas Kelley, appellant.

Q. 2901. A. State vs. Guiseppe La Fara, appellant.

Q. 2902. A. State vs. Henry P. Larose, appellant.

Q. 2905. A. State vs. Edward M. Logan, appellant.

Q. 2906. A. State vs. William E. Meaher, appellant.

Q. 2909. A. State vs. Vincent Porcewski, appellant.

Q. 2911. A. State vs. Catherine Quirk, appellant.

Q. 2913. A. State vs. William T. Rush, appellant.

Q. 2914. A. State vs. Potri Sarappi, appellant.

Q. 2915. A. State vs. Stephen Stanton, appellant.

Q. 2918. A. State vs. Peter Seluk, appellant.

Q. 2919. A. State vs. Morris Vinick, appellant.

Q. 2921. A. State vs. Sarah Wilson, appellant.

Q. Now the records from which you have so far read were all appealed cases, men with cases that have been in some form heard by one of the courts of the county, and from the sentence the individual named has appealed to the superior court? A. Yes, sir.

Q. And each one of those matters so read relates to some complaint for a violation of the liquor law? A. They do.

Q. And are there any other matters upon your September docket on appeal from any lower court in Cumberland county? A. For any other offences?

Q. Have you now read all the liquor appeals upon the September docket? A. Yes, sir. All the liquor appeals have been read.

Q. What is 2927? A. That is an indictment against Fred Bouthlett.

Q. For what offence? A. Nuisance.

Q. 2929? A. That is an indictment against Edward Burrett, nuisance.

Q. 2933? A. That is an indictment against George Cliff for nuisance.

Q. 2937? A. That is an indictment against James Cummings, nuisance.

Q. 2947? A. That is an indictment against Thomas Fortin, nuisance.

Q. 2948? A. Indictment against Frank Foster, nuisance.

Q. 2951? A. Indictment against James Hallaran, alias Holloran, nuisance.

Q. 2968? A. Indictment against William E. Meaher, nuisance.

Q. 2974? A. Indictment against Catherine Quirk, nuisance.

Q. 2975? A. Indictment against William P. Rush, nuisance.

Q. 2980? A. Indictment against Peter Suluk, nuisance.

Q. 2984? A. Indictment against Morris Vinick, nuisance.

Q. 2986? A. Indictment against William Welch and Patrick O'Malley, nuisance.

Q. Those records which you have read include all the indictments which in any way relate to the violations of the liquor law as returned by the grand jury at the September term, last? A. You mean that were found by the grand jury at that term?

Q. Yes, A. That is all that were found by the grand jury at that term.

Q. Will you now take your January docket of this year and turn to No. 2999 and read the total of the record and the offence charged? A. 2999. State vs. Angelina April, appellant, unlawful possession of intoxicating liquors.

Q. 3000? A. State vs. Henry L. Baldwin, appellant, unlawful possession of intoxicating liquor.

Q. 3001? A. State vs. Fred Bouthlett, for same, appellant.

Q. 3002? A. State vs. Fred W. Brown, appellant, for same.

Q. 3003? A. State vs. Sewall A. Brown, appellant, for same.

Q. 3004? A. State vs. Patrick Callan, illegal possession.

Q. 3005? A. State vs. James Cassidy, same offence.

Q. 3006? A. State vs. Thomas Coleman, appellant, same offence.

Q. 3007, Forza Goscitta, same offence? A. Yes, sir.

Q. 3008? A. State vs. Elizabeth G. Conley, same offence.

Q. 3009, this is the same respondent and the same offence? A. Yes, sir.

Q. 3010? A. State vs. John Conroy, same offence.

Q. 3012? A. State vs. Mary Crook, appellant, same offence.

Q. 3013? A. State vs. John Curran, \$100 and costs paid, unlawful possession.

Q. 3014? A. State vs. Thomas Currier, appellant, same offence.

Q. 3015? A. State vs. Sarah De Rossi, appellant, same offence.

Q. 3016? A. State vs. John Dizion, appellant, same offence.

Q. 3017? A. State vs. William Donovan, appellant, same offence.

Q. 3018? A. State vs. Antonio Fantaceo, appellant, illegal transportation.

Q. 3019? A. State vs. Louis Feury, unlawful possession, appellant.

Q. 3020? A. State vs. Michael Flynn, appellant, same offence.

Q. 3022? A. State vs. Winnie Foley, appellant, same offence.

Q. 3023? A. State vs. Rozino Germano, appellant, same offence.

Q. 3024, that is the same respondent and the same offence? A. Yes, sir.

Q. 3025? A. State vs. Mark Gould, appellant, same offence.

Q. 3028? A. State vs. James Green, appellant, same offence.

Q. 3030? A. State vs. John J. Griffin, appellant, same offence.

Q. 3031? A. State vs. John H. Hammond, appellant, same offence.

Q. 3032? A. State vs. James Hanlon, appellant, same offence.

Q. 3035? A. State vs. Patrick Hernon, appellant, same offence.

Q. 3036? A. State vs. John J. Higgins, appellant, same offence.

Q. 3037? A. State vs. Peter J. Holloywood, appellant, same offence.

Q. 3038? A. State vs. Frank Illsley, appellant, same offence.

Q. 3039? A. State vs. Catherine Jennings, appellant, same offence.

Q. 3040? State vs. Charles W. Johnson, appellant, same offence.

Q. 3041? A. State vs. Annie Joyce, appellant, same offence.

Q. 3042? A. State vs. same respondent, same offence.

Q. 3043? A. Same as the two preceding.

Q. 3044? A. State vs Michael Kearney, appellant, same offence.

Q. 3045? A. State vs. Charles Kearns, appellant, same offence.

Q. 3046? A. State vs. Charles Kearns, appellant, same offence.

Q. 3047? A. State vs. James Kerrigan, appellant, same offence.

Q. 3048? A. State vs. Gordon Larose, appellant, same offence.

Q. 3050? A. State vs. Constantino Mastrolucco, appellant, same offence.

Q. 3051? A. State vs. Tomassa Menervano, appellant, same offence.

Q. 3055? A. State vs. Hannah McDonough, appellant, same offence.

Q. 3057? A. State vs. Franw Napolitano, appellant, same offence.

Q. 3058? A. State vs. Martin A. Norton, appellant, same offence.

Q. 3059? A. State vs. Richard J. Norton, appellant, same offence.

Q. 3060? A. State vs. Martin O'Donnell, appellant, same offence.

Q. 3061? A. State vs. Robert Olssen, appellant, same offence.

Q. 3062? A. State vs. Rosa Pacillo, appellant, same offence.

Q. 3063? A. State vs. Rosinna Pesio, appellant, same offence.

Q. 3064? A. State vs. Petro Pita, appellant, same offence.

Q. 3067? A. State vs. Mary Riley, appellant, same offence.

Q. 3068? A. State vs. Pietro Sarappo, appellant, same offence.

Q. 3078? A. State vs. Cangetta Tirabassi, appellant, same offence.

Q. 3079? A. State vs. Joseph Vacchino, appellant, same offence.

Q. 3080? A. Same respondent, appellant, same offence.

Q. 3081? A. State vs. John Walsh, appellant, same offence.

Q. 3082? A. State vs. John P. Winters, appellant, same offence.

Q. Do those names which I have read and which you have stated appear upon your docket, constitute the record of the superior court for the January term of this year, of all liquor appealed cases coming from any lower court in Cumberland county to the superior court—A. They do.

Q. Now will you turn to 3118 and see if I correctly read the list of cases of State vs. the Respondents, whose names I will read, and in each instance the offence charged against each is a liquor nuisance. 3118, Alvin Allen; 3119, Fred W. Brown; 3120, Patrick Callan; 3121, James Cassidy; 3122, John Conroy; 3123, John Curran; 3124, Thomas A. Currier; 3125, John Dixon; 3126, Joseph L. Dow; 3127, James Durant; 3128, Louis Feury; 3129, Michael Flynn; 3130, Michael Foley. Sewell A. Brown; 3131, John Foster; 3132, Louis Fournier; 3133, Angus Gallant; 3134, J. Cyrus Gallant; 3135, Rosina Gernano; 3136, Edw. Gilman; 3137, John Girard; 3138, James Hanlon; 3139, Annie Joyce; 3140, Charles E. Kearns; 3141, James Kerrigan; 3142, Gordon Larose; 3143, Martin J. O'Donnell and John A. Wold; 3144, Peter S. McDonald; 3145, Robert Olson; 3146, Joseph Vacchino; 3147, John Walsh.

Do those names that I have last read

constitute the list of indictments returned by the grand jury sitting at the January, 1913, term of the superior court, and the full list of liquor indictments? A. For the crime of nuisance, yes sir.

Q. Were there any other liquor indictments returned except for nuisance? Do you recall that counsel and yourself went over the docket within a few days to ascertain that fact? A. No, I didn't.

Q. Didn't someone go over the docket within a few days? A. No.

Q. Wasn't you present? A. I was present when Mr. Bodge made some examination of the docket, but I neither verified nor had anything to do with what he did, other than to talk with him on what he was doing.

Q. Do you find any other indictments for infractions of the liquor law returned by the grand jury sitting for the January term 1913, except these thirty nuisance indictments I have just read? A. I do not.

Mr. CLEAVES: The understanding is that while the papers themselves of course, are offered, nor will they be admissible, they can be mutually used by counsel at any time.

Cross-examination by Mr. Gulliver.

So that it may be plain to the convention, Mr. Gatley, please tell the number of appealed cases entered in the superior court, 1911, relating to intoxicating liquors? A. Well, I should have to add them up, on the docket. My recollection is there were eighty-four.

Q. Eighty-four appealed cases? A. Yes, appealed for all causes.

ATTORNEY GENERAL WILSON: You mean 1912?

Mr. GULLIVER: Yes, 1912.

The WITNESS: I shall have to count these as I go along. I have made no examination of these dockets along these lines.

Q. I didn't know but they were numbered in such a way you could tell the number.

It is agreed between counsel that at the September term of the superior court there were entered 28 appeals in liquor cases, and there were found 13 indictments, and that at the January term, 1913, there were 63 appealed cases relating to intoxicating liquors and 30

indictments found for infringement of the liquor law.

Q. Have you made up a list of the fines imposed in liquor cases at the January term, 1913, Mr. Gatley? A. I have.

Q. Will you tell the total of fines collected at the January term, 1913? A. In liquor cases?

Q. Yes. A. There were collected for fines and costs in liquor cases six thousand six hundred and ten dollars and seventy cents.

Q. And will you give the convention the same information in respect to the September term, 1912? A. At the September term, 1912, there were collected in fines and costs in liquor cases, \$2217.83.

Q. Mr. Gatley, is it a fact that your duties as clerk of the superior court require your attendance in court, each day, when criminal cases are disposed of? A. Each minute.

Q. And the fines are paid over to you directly? A. They are.

Q. Can you tell the convention whether or not, having particular reference to liquor cases, the evidence produced in court and before the grand jury is almost invariably offered by Sheriff Moulton's deputies? A. I should say so, yes.

Mr. CLEAVES: I suppose if he is in the superior court, he does not know exactly what is going on before the grand jury?

Q. As a matter of fact you settle the fees of witnesses who attend before the grand jury? A. No, I don't settle them; what do you mean by that—if I pay them?

Q. Do you see the list of witnesses? A. I do, I make up the costs.

Q. And in making up the costs you know who the witnesses are who appear before the grand juries at the several terms? A. I do.

Q. Have you anything there that will enlighten the convention as to the number of cases in which Sheriff Moulton's deputies appear, the number of liquor cases at the two terms we have been speaking of? A. All I have is the memoranda that is furnished me by the county attorney at the close of each term, and this is for the September term, 1912, showing the names of the

respondents, and the witnesses who testified in each case, and their fees.

Q. Let me examine it a moment, please? A. That is for the September term.

Q. And are all the cases mentioned on here liquor cases? A. All classes of cases are there.

Q. Won't you take the time to look that over and then answer my question as to the frequency that the deputies of Sheriff Moulton appear before the grand jury in liquor cases?

Mr. CLEAVES: The frequency at the September term?

Mr. GULLIVER? You have taken that as a specimen term. I am willing to apply it to that in January as well, or, if you wish, we will go back for three or four years. A. I am prepared to say that in every nuisance indictment found at the September term, the witnesses therein, before the grand jury, were the so-called liquor deputies of the county of Cumberland, Sheriff Moulton's.

Q. And Mr. Gatley, without requiring you to look at your records, but from your general information and observation in that court, whether or not the same statement is practically true for the past two years and three or four months? A. It is true since Sheriff Moulton has been in office, I can safely say that.

Q. You have not with you, as I understand it, your docket showing the administration of the liquor law in the superior court during all of Sheriff Moulton's term? A. I have it for the three terms in 1912 and this term just past, the January term.

Q. Will you tell me the number of indictments found at the January and May terms, 1912, and the number of appealed liquor cases? A. Well, I would have to compute them, add them up.

Mr. GULLIVER: Well, then, perhaps, counsel will agree that Mr. Gatley may do that, and that he may submit further data which we may read to the convention and save time.

Attorney General WILSON: Under Mr. Gatley's signature—that is all we require.

Mr. PATTANGALL: I suppose that would apply to any information we would like to get.

Attorney General WILSON: Will you state now just what you would like to produce, or give us notice of what you will require? We might want something more if we knew what you were going to ask for.

Mr. GULLIVER: I think we are safe in giving notice to counsel on the other side that we shall introduce evidence covering the enforcement of the law as appears by the court records during all of Sheriff Moulton's incumbency.

Attorney General WILSON: Particularly what you want him to produce, I meant.

Mr. GULLIVER: Well, we propose to show it by his records, we will ask him to produce that.

Attorney General WILSON: I understand you do not want to give us notice of what you are going to ask him?

Mr. GULLIVER: I have just given you notice.

Attorney General WILSON: The items you want.

Mr. GULLIVER: How can I be more particular? I propose to show the number of persons indicted, the number of appealed cases, with amounts of money paid in as fines during that whole term.

Attorney General WILSON: That is all right.

The WITNESS: May I produce that, Monday?

Mr. CLEAVES: You can mail it. You need not come down, mail it to Mr. Gulliver.

CHARLES L. DONAHUE, first being duly sworn, testified as follows:

Direct Examination by Mr. Cleaves.

Q. What is your name? A. Charles L. Donahue.

Q. And you are the recorder of the municipal court of the city of Portland? A. I am.

Q. At request of counsel representing the attorney general, have you examined typewritten sheets containing a list of those cases originated in the municipal court of the city of Portland by Sheriff Moulton or any of his deputies relating to liquor matters between the first day of October, 1912, and the last day of December of that same year? A. Eugene L. Bodge, who assumed to represent the attorney general, submit-

ted to me a list of abstracts that he had made from the dockets of the municipal court between Oct. 1, 1913, and the 31st day of March, and asked me to verify the same, and I have done so.

Q. Now those are in two separate sheaves of sheets, are they, one from Oct. 1st, 1912, to the day of December, the next from the first day of January, to the last day of March? A. They are together here, but they can be readily separated.

Q. Are they separated by titles at the top of the sheet? A. Yes, separated, by titles.

Q. Have you compared those type-written sheets with the docket of the municipal court of the city of Portland, and are they correct as abstracts? A. They are correct.

Q. And do those two sheets, or two sets of sheets contain all of the liquor matters whether complaints, warrants or libels, which have in any way been originated in that court by Sheriff Moulton, or any of his deputies? A. They contain every separate docket entry that is made, as to complaints against persons or libels against liquors.

Q. Whether originated by the sheriff or anybody else? A. There were not any originated by anybody else.

Mr. CLEAVES: Now, I understand counsel to agree that we need not go over this entire list with Bro. Donahue, and this is introduced as though a certified copy of his records, to be used as evidence. That is, unless this paper could be introduced we should have to go over the whole matter with Bro. Donahue, so then I will have these sheets marked exhibits 1 and 2, and offer them.

(Exhibits marked "State Ex. 1," and "State Ex. 2.")

Cross-Examination by Mr. Gulliver.

Q. Have you made a summary, Mr. Donahue, covering the matters contained in the two exhibits offered? A. As to the number?

Q. Yes. A. No, I haven't made any summary. I have a copy of the libel, the amounts of liquor seized and which have been libeled in court, without reaching any totals.

Q. Can you give the convention the total amount of liquor seized as appears by the records of your court from Jan-

uary 1st? A. Not in entirety. I can give it to you in any separate case that you may require. I have not summarized any of this.

Mr. CLEAVES: We will do the same in regard to this, if you wish, Bro. Gulliver.

Mr. GULLIVER: Then we will identify this as Respondent 1 and put it in as a part of our case later on.

Respondent 1 is from October 1, 1912, to January 1, 1913, and Respondent 2, which we mark for identification only, at this time, shows the quantities of liquors seized since January 1st, 1913.

A. Copies of the amounts entered on the libels.

Q. How long have you been recorder of the municipal court, Mr. Donahue? A. Since January, 1911.

Q. And whether or not you have been in court every court day since? A. On almost every court day, yes.

Q. And whether or not you have made certain observations and discoveries as to persons brought before you for intoxication? A. Well, you might particularize, Bro. Gulliver.

Q. Well, I will. Whether or not in the number of arrests made for intoxication the facts have disclosed that the men were arrested at the steamboat landings, at the Grand Trunk and Union Station, and that the evidence has disclosed that many of these men were intoxicated when they reached Portland? A. That is true at particular portions of the year.

Q. What particular portions do you have reference to? A. It is particularly true at this time of the year.

Q. Won't you explain to the convention more fully what you mean? A. I have had occasion myself, within the last month, in examining persons arraigned before the municipal court for intoxication, to inquire of the officers and also of the respondents themselves as to what their condition was when they reached the city, and in a very large number of cases these people have been arrested at the request of steamboat officials, train officers, station agents, etc., and sometimes picked up by the policemen stationed at the boat, and the railroad stations besides. And we account for that, and look for that

influx of intoxicated persons at this season of the year, by reason of the fact that men are coming off the ice, and out of the woods. That is the invariable explanation offered by perhaps two-thirds of the persons arraigned for intoxication in the municipal court at this season, and the same is true at the time they are going into the woods or on to the ice, although not to so great an extent.

Q. And isn't it true too, in a less marked degree, as to all times of the year, that a considerable proportion of those arrested are arrested at the stations or about the stations and the steamboats? A. Well, there is always that element present among the persons arrested for intoxication at all seasons of the year, because Portland is a railroad and steamboat center and naturally there is an appreciable percentage of the intoxicated persons there who are of the character you suggest; but the larger percentage, or a very extensive percentage I should hesitate to say, but that element is always present.

Re-direct Examination by Mr. Cleaves

Re-direct examination by Mr. Cleaves.

Q. Would you say Bro. Donahue that as many as one in four of those persons arraigned before the municipal court for intoxication were arrested at either the steamboat company's property, or at the railway station, having got off from the train at that point, or a less percentage than that? A. I couldn't say that exactly, but I would say that one in four, or perhaps one in three, is a migratory citizen on his way through who has either been picked up at the station or as on his way from the station to the boat, or at the boat.

Q. And day you know without investigation whether the number of arrests for intoxication since first day of January, including the last day of March, in the city of Portland has been 1218. A. I have no way of knowing. That is a matter wholly within the knowledge of the police department.

Q. Now when you send back to Mr. Gulliver, the data, if any, that he wants you to send him, will you take the paper which I hand you contain-

ing what purports to be a list of the arrests, day by day, and also in the right hand column a list of the number which was brought before the municipal court, and verify it from your records, and if it is not correct make such changes in ink as will make it correct, and mail it to the attorney general? A. I can verify it only as to the number presented to court. As to the number of arrests of course I have no information or any way of getting at it.

Q. Yes, but as to those brought before the court—make any corrections, in accordance with the fact, in ink, and mail it with your O. K. and signature to the attorney general? A. I will do so.

JAMES H. McDONALD, called for the prosecution sworn, in answer to questions by Judge Cleaves, testified as follows:

Q. Your name is James H. McDonald? A. Yes, sir.

Q. Are you one of the county commissioners of the county of Cumberland? A. Yes, sir.

Q. For how long have you been such commissioner? A. Eight years.

Q. During the present year did Sheriff Moulton come to you or to your office and in your presence make any requests in regard to special assistance with reference to any place at Boothby square? A. He did.

Q. About when was that? A. That I couldn't say; I don't remember just what date it was.

Q. Sometime during this year? A. During this year.

Q. And who besides yourself and Sheriff Moulton were present? A. The other two commissioners, Mr. Meade and Mr. Pillsbury, and there were some others present, I don't know just who they were, in the office at that time.

Q. Will you state to the convention, Mr. McDonald, just what Sheriff Moulton said to you at that time, and what, if anything, you said to him?

Mr. PATTANGALL: Just a moment, I suppose what Sheriff Moulton said to him would be pretty likely to be admissible, but what this witness said to Sheriff Moulton might or might not be admissible. It might be a statement of fact on the part of Mr. McDonald, it

might be an expression of some opinion, it certainly would not be admissible simply because he said it to Sheriff Moulton.

JUDGE CLEAVES: Suppose it were an expression of opinion; suppose that there was no truth in the statement, and it was stated to Sheriff Moulton, and had to do with the enforcement of the prohibitory law, why would that hurt you?

Mr. PATTANGALL: Suppose Mr. McDonald or some other man should have said to Sheriff Moulton: "I don't think you are fit to be sheriff," or "I think you are a splendid sheriff." I don't think either statement would be admissible simply because it was said to Sheriff Moulton. He might have said: "I think you are enforcing the law" or "I don't think you are enforcing the law." A good deal of conversation might be made.

The SPEAKER: The trouble is that the fact that that possibility exists ought not to preclude the admissibility of the evidence.

Mr. PATTANGALL: Certainly not. Mr. Speaker, if the question was asked in such a way as to give any intimation of the conversation.

The SPEAKER: The Chair sees no reason why the ordinary question of the conversation with a defendant is not admissible. If the conversation as given develops irrelevant or improper matters, it could be stopped or struck out. The Chair sees no objection to that question of the conversation.

Q. Will you proceed Mr. McDonald. The question was what, if anything, Mr. Moulton, the sheriff, said to you, and what, if anything, you said to him. **A.** Sheriff Moulton came into the office and he asked the privilege from the commissioners to bring one of his deputies in from outside, from the county outside of the city of Portland to try and close a certain rum shop on Fore street. I don't know what the names were, I didn't know the parties, and I asked him if there was that one in particular; he said yes, that was what he wanted that particular deputy to go on, and I said no, he couldn't have the man.

Q. What further, if anything, did

you say in regard to a hundred men, if that recalls anything to your mind?

A. Well, I said if he needed help to close up all of the rum shops I would give him a hundred men if necessary.

Q. And that you feel sure was some time during the present year? **A.** I feel sure it was; I think in January.

Cross-Examination by Mr. Gulliver.

Q. Did I understand you to say that the sheriff asked for a deputy, a special deputy, to come in from the country? **A.** Yes, sir.

Q. And did he say to you at the time that his own deputies were unable to get evidence against the place because they were known to the proprietor? **A.** He did.

Q. And that was the reason why he wanted a special deputy? **A.** That was the reason given.

JAMES C. MEADE, called for the prosecution, sworn, in answer to questions by Judge Cleaves, testified as follows:

Q. Your name is James C. Meade? **A.** It is.

Q. Are you one of the county commissioners for the county of Cumberland? **A.** I am, yes, sir.

Q. How long have you been such commissioner? **A.** Four years and three months.

Q. At some time during the present year did you hear a conversation between Sheriff Moulton and Mr. McDonald, to which he has just testified? **A.** I did, sir.

Q. Has he stated it in substantially the way you recall it? **A.** He has, yes, sir.

Cross-Examination by Mr. Gulliver.

Q. Mr. Meade, hasn't there been some little reluctance on the part of the county commissioners at times to approve some of the bills which these liquor deputies and other deputies have incurred against the county? **A.** Why, to a certain extent, yes.

Q. And isn't it a fact that on one occasion in particular when the sheriff advised the county commissioners that he had received telephonic communication of an Italian riot a short distance out of Portland, that they hesitated to furnish him with an automobile so that he could bring his officers there?

A. That is possible, but I don't recall.

Q. Do you recall anything about the incident? A. I do, yes, sir.

Direct Examination Resumed.

Q. And during the entire three months of the present year, have there been under pay four special liquor deputies for the city of Portland alone? A. There have.

Cross-Examination Resumed.

Q. Do you not know as a matter of fact Mr. Meade, that these so-called special liquor deputies practically take charge of all criminal offences of any consequence outside of the city of Portland? A. I wouldn't say yes to that.

Q. How large a proportion should you say that they gave their attention to? A. I don't consider myself prepared to answer that.

Q. You are not prepared to answer. As a matter of fact do you not know that it requires practically the entire time of one deputy to keep the records? A. I don't know it, because I will state here that a very few times have I ever been in their office.

Q. You are aware, are you not, from approving their accounts, that the four deputies in Portland are frequently called to other parts of the county? A. I do know that; but I wouldn't state how often; I do know that they are called.

Q. So that they are not able to devote their entire time to the rum situation in Portland—that is true, isn't it? A. I am not in position to answer that.

Q. You know that they are obliged to do other work? A. Certainly, what time they are doing other work they cannot do their work in the city.

Q. Were you aware that these liquor deputies went to the town of Bridgton only last week and made two liquor seizures? A. I am.

Direct Examination Resumed.

Q. But the four per diems for the enforcement of the prohibitory law have been going on all this year? A. Yes, sir.

Cross-Examination Resumed.

Q. Do you remember the services which they recently rendered in finding the Cammett body outside of Portland? A. I have no knowledge of it in connection with the liquor deputies.

Mr. GULLIVER: We will offer that in connection with other witnesses.

Mr. McDonald recalled:

Q. (By Mr. Gulliver.) Mr. McDonald, are you familiar with the fact that the so-called liquor deputies in Portland do work outside of the city proper? A. Oh yes; I understand they go about the county, and are called upon for liquor and other purposes.

Q. And that their services are frequently required? A. Quite frequently, yes, sir.

Q. And you know that from the approval of their expense accounts? A. I do.

HENRY T. SKILLINGS, called for the prosecution, sworn, in answer to questions by Judge Cleaves, testified as follows:

Q. Your name is Henry B. Skillings? A. Yes, sir.

Q. Where do you live? A. South Portland.

Q. How long have you been familiar with the liquor situation in the city of Portland—how many years? A. Oh, 11 or 12 years.

Q. You formerly held what position that brought you in contact with the traffic? A. Deputy sheriff.

Q. For how many years and what years? A. Two years.

Q. What years? A. 1900 and 1901, I think.

Q. And since that time have you kept in touch with the same places that you were in touch with during your service as a deputy sheriff? A. I have.

Q. Now during the present year 1913, have you visited, made any investigation in any liquor saloons in the city of Portland? A. I have.

Q. And did you make a record from which you could refresh your recollection? A. I did.

Q. And as you testify, if you care to, you may refresh your recollection from that record at any time. Now will you state when first during this year you made any investigation? A. I can't state exactly but the first that I recollect of was about March 5, along March 5 or 6.

Q. Will you state where you went and what you saw? A. I was passing along Fore street, passing the north-

west corner of Fore and Union streets, and I saw a young man, a little more than a boy, well dressed, going into this corner store, and I knew what was in there, and I thought I would like to know if that young man was going in there to drink. I knew that there was drink inside, and so I followed him in. He was standing by the stove, back up by the stove this way (indicating); I passed some tracts, as I usually do, to those who are inside—there was a half a dozen or more in there—and then I went to this young man and I said (objected to). Another man came out from the back part of the shop, and I spoke with him, and he said this young man was his son. They went up to the bar and the elderly man called for a half pint of whiskey, and was given a half pint of whiskey, paid for it, and put it in his pocket, inside pocket, and then he called for two glasses of beer, and they both drank the glasses of beer. That is what I saw in that shop; I don't remember just the date. I went up to the sheriff's office—I think the same day—and made complaint there. The sheriff, I think, was in Washington; I didn't see him but I made complaint to the young lady in the office and told her what I had seen.

Q. Not what you told her, perhaps, not just now, Mr. Skillings. You went to the sheriff's office and made your complaint? A. I made complaint.

Q. After that time did you make still other investigations? A. I did.

Q. Before you began the record that you have? A. Why, about the time I began the record.

Q. What further did you do? Where did you go, and what did you say? A. I visited—the first place, I think, was 13 Temple street. There a man came in and called for whiskey and was served. Another man came in and called for lager beer and was served. I don't remember how many barkeepers there were, one or two, and I think one at least had on a white coat. From there I went to 22—

Q. Just a moment—what evidence did you see that any quantity of liquor—where did the liquor come from that was served to the people? A. It came from under the bar, back of the bar.

Q. Where did the beer that was

served, where did that come from? A. I couldn't say whether that was drawn from a faucet or turned from a bottle; I couldn't say as to that.

Q. Now was that place which you have just spoken of one of the places that was a rum shop back in the time when you were a deputy sheriff? A. Yes, sir.

Q. Has it continued to be such during each year since? A. Yes, sir.

Q. And the first one that you spoke of, where you saw the boy come out, was that a place that was a rum shop during your service as a deputy sheriff? A. No, sir.

Q. For how long a time to your knowledge has it been such? A. I couldn't say, but not a year, I don't think. It was a tailor shop, a new building.

Q. What other places did you go in? A. I went to 22 Temple street. I saw no sale there. I saw whiskey, or bottles that looked like whiskey in the closet behind the door and one bottle on the bar and several men in there drinking.

Q. How was the bartender there dressed? A. There were two barkeepers dressed in white.

Q. And was that place a liquor saloon back in the time you were a deputy? A. Yes, sir.

Q. And has it continued to be such each year since that time? A. Yes, sir.

Q. What other places did you discover? A. 241 Federal street.

Q. State what you saw there? A. I saw a number of men talking and having a social time, and one elderly gentleman came in and went up to the bar and called for good whiskey, and the barkeeper had on a white coat—I don't know whether he had a white apron on or not—and he served him to a glass of whiskey from a bottle marked "Old Crow."

Q. Did you observe anything more in that saloon? A. Not there only what I saw of the men drunk. There was some eight or 10 men drunk, one or two soldiers.

Q. What that a place that was a liquor saloon during the time you was a deputy sheriff? A. Yes, sir.

Q. Has it continued to be such during each year since? A. Yes, sir.

Q. During the two years last past

has it been run openly? A. I couldn't say as to that. I don't know but what I did wrong to say that it had been a liquor saloon as from personal knowledge.

Q. You may withdraw that statement then. During the last two years, have you observed that place at all until you went in? A. I have; I have been in before.

Q. How many times during the last two years? A. I couldn't say, perhaps twice.

Q. More than once? A. I think so, twice perhaps.

Q. And upon either or both of those occasions, what did you see with reference to intoxicating liquor? A. I saw bottles arranged right behind the door on the shelf, right around, all kinds of whiskey.

Q. Were there one or more barkeepers on duty at that time? A. Yes, sir.

Q. And how were they dressed? A. I think they were dressed in white, white coat, at least one of them.

Q. Now about that place at any time during the last two years when you have visited it have you seen or observed any watchers of any sort? A. Not that I have noticed.

Q. And in the days when you were a deputy sheriff you became somewhat familiar with watchers, didn't you? A. I did.

Q. What other places did you next go into, or perhaps not next, but that you went into at any time during this year? A. Well, I went into the house on the northwest corner of Free and Center streets.

Q. That is the place that is depicted upon House Document No. 667, and which I show you, and marked with a cross—is that the place? A. The northeast corner, this building here (indicating).

Q. The northeast corner, which would be upon the right hand side of Center street, at the corner of Free, as you look at this picture? A. Yes, sir.

Q. Describe what you found there? A. There I saw a number of men drinking at the bar, apparently drinking beer. Two men came in and was served to small glasses of liquor and

they immediately took two glasses of water, a glass of water each.

Q. Now at that place was there any display of liquor upon the shelves behind the bar? A. No sir, not at that time.

Q. Where apparently did the bartender or person in charge get the liquid that was served in the small glasses followed by a glass of water?

A. I couldn't say where, but it wasn't from any shelf in sight. It was either back of him or in front under the bar. He didn't go out of the room.

Q. Was the beer on draught at that place or not? A. I couldn't say.

Q. Was there more than one bartender? A. I couldn't say to that without refreshing my memory.

Q. You will refresh your recollection at any time, Mr. Skillings, from memoranda. A. I have got so much here it will take some time. I am quite sure that there was but one bartender.

Q. And was he arrayed in white? A. I couldn't say, I don't remember.

Q. Was that place a liquor saloon in the days when you were a deputy sheriff? A. Yes, sir.

Q. And are you able to state whether it has continued to be such ever since? A. Well, yes.

Q. And during the last two years have you observed it at all? A. Yes, sir, I have.

Q. Where else did you go? A. I went to 360 Fore street.

Q. And what did you observe there? A. I saw a man come in and call for a half pint of whiskey and I saw him get the half pint. He took it, and was given two glasses; he divided it between the two glasses, and another man that was with him drank one glass, and he drank the other; and I saw a man come in and a man say that he asked for whiskey; I don't remember whether I heard him ask for whiskey or not, but the bartender set out a long necked bottle on the bar, it had no label on it at all. The man turned out a small glass of liquid and drank it. Of course I had my inferences.

Q. Did any money change hands by that transaction? A. I didn't see

that part of it; I couldn't say that I saw him pay for it.

Q. Was this a liquor saloon during the time that you were a deputy sheriff? A. I hardly think it was; I am not sure, but I don't think it was.

Q. For how long a time have you known it as a liquor saloon? A. For four years certainly.

Q. Where else did you go? A. I went into 40 places. I think those were all the places where I saw them sell whiskey. Out of the 40 places I should say that in half of them, or perhaps 17 or 18 of those places, there were drunken men, men more or less under the influence of liquor, and I can give you the places if you wish. I jotted them down: I would go into three or four places, and then I would go into some place and just jot down what I saw.

Q. Now in those 17 or more places that you saw drunken men, were any of those places liquor saloons in the days that you were a deputy sheriff? Are you able to state from your record? A. Well, most of them were.

Q. And how many of them, what proportion of them have been liquor saloons during the last two years? A. Well, the most of them, I should say at least 30.

Q. Now did you make any investigation at 35 Franklin street, or the building on that same corner, 251 Fore street? A. No, sir, I did not.

Q. Did you make any investigation at 179 Fore street? A. No, sir, I did not.

Q. Did you at 181? A. I think that was the place that I went into the front room and there was one man there, there was no bar, just a room with a table in it and a few chairs, and I asked a man if that was a boarding house and he said it was.

Q. Now at the corner of Fore and India streets, No. 191 on Fore and 27 on India, did you make any investigation at that place? A. I don't think I did.

Q. Will you point out on this map the place where you did make the investigation? A. Here (indicating).

Q. That would be at the corner of India and Fore street, No. 202. A. As far as I recall.

Q. Have you given testimony with

reference to that? A. I have not.

Q. Will you do so at this time? A. I went in there and the proprietor was behind the bar.

Q. Do you know who the proprietor was? A. Andrew Eagan.

Q. How long has Andrew Eagan run a liquor place at the corner of India and Fore streets? A. For at least 13 years, 12 years perhaps.

Q. Now you may go ahead and state what you discovered there. A. It was very quiet there; there was only a half a dozen men there, and I believe I didn't see any one drinking there, they were doing nothing but talking.

Q. Had you observed that same place at any other time during this year? A. No, sir.

Q. Had you observed that same place at any other time during the last two years? A. I think I have been in there but I couldn't say what time or what I saw.

Q. What other places did you go into? A. I was into 10 and 14 India street.

Q. Now were those liquor places at the time you were deputy sheriff? A. Yes, sir.

Q. And have they been such during the last two years? A. I don't know, I couldn't say that they had been open shops for the last two years.

Q. What did you observe in either of these places this year? A. I saw men in there, a number of men drinking what appeared to be beer and I saw a bottle on the bar with several glasses, empty glasses with a little liquor in them, marked "Kentucky Club Whiskey."

Q. Was there a bartender there? A. Yes, sir.

Q. Did he have his uniform on? A. I couldn't say sure, but I think not.

Q. What other place that is depicted upon this sketch did you visit? A. I went in there (indicating)

Q. The corner of Franklin and Fore streets numbered 242 and 4? A. The corner building, but not the corner shop.

Q. The corner shop is a drug store, isn't it? A. It is a drug store I think.

Q. And the next one northerly from that was the one that you went into? A. Yes, sir.

Q. And what did you observe there? A. There were a number of men in there; I don't remember that I saw any one drinking but there was a man asleep, apparently in a drunken stupor, in the back part of the shop.

Q. Has that place been known to you as a liquor place during the last two years or is it a new one? A. I couldn't say positively.

Q. Now, upon the opposite corner of the same street did you make any investigation? A. I did not.

Q. Or in the building next above the corner? A. No, sir.

Q. Where else did you make any personal investigation? A. I was in all these places on the —

Q. That is, on Commercial street? A. The four places shown upon this sketch.

Q. And are you able to state what numbers they are? Or, first, directing your attention to the one at the corner of Franklin and Commercial streets, have you already testified in regard to that? A. No, sir; I have not.

Q. Will you state what you observed there? A. There was a bartender behind the bar with a white coat on, but there was no drinking in there. I saw no drinking in there; there were only three or four men in there, and they were very quiet.

Q. Have you observed that place at other times this year? A. No, sir; I haven't been in there.

Q. Has that been a liquor place for any considerable length of time? A. It has.

Q. For how long a time? A. Well, in different ways for at least 12 years; there was an express office there at one time.

Q. Do you know the proprietor of the place? Do you know his name? A. Yes.

Q. What is it? A. Thomas Brownleg.

Q. And is he the Thomas A. Brownleg who was testified about this morning by Mr. Owen as having a retail liquor dealers' license at that place and also a wholesale license, malt license at that same place? A. Yes.

Q. The next place southerly of this corner, depicted on the plan and marked

"75" on that plan, did you visit that place? A. Yes, sir.

Q. And is that an old-time place? A. It is an old-time place.

Q. Been a liquor saloon for how long? A. Oh, for 12 years at least.

Q. What, if anything, did you observe there? A. I observed quite a number of men drinking, one man. I think behind the bar, and he was dressed in ordinary clothing, and the men were drinking beer, and there were quite a number of them, and they were intoxicated, they appeared that way, and especially one young man whom I had known ever since he was born; and I was talking with him quietly and was calculating to get him out of the place and get him away, and the barkeeper came out from behind the bar and began to push him out and said he didn't want him contradicting this man, and he resisted and another man stepped up and struck him in the face, and I got between him and the other man and gradually got him out towards the door, and finally got him away and got him out and got him up to the mission and he went to sleep.

Q. Now the building next northerly or next southerly of there upon this plan, did you visit there? A. No, sir.

Q. The one next northerly of that, No. 65 on the plan? A. Yes.

Q. Is that an old-time liquor place? A. Yes, sir.

Q. For how many years has it existed as such? A. Well, 12 years at any rate; probably more than that.

Q. What did you observe in relation to that place, this year, I mean? A. There was one young man behind the bar dressed in ordinary clothing, and several men—well, eight or 10 in there, some of them drinking beer, and some intoxicated.

Q. What other places shown here? A. 127.

Q. You mean 127 Commercial street? A. Yes, sir.

Q. And who is the proprietor of that place? A. Bernard Devine.

Q. And is that an old-time liquor place? A. Yes, sir.

Q. And has Bernard Devine been there some years? A. Yes, sir.

Q. Ever know him to be engaged in any other business than the liquor busi-

ness there or anywhere else? A. No, sir.

Q. What did you observe in regard to that place this year? A. The first thing I observed was the odor outside, the smell out on the street, the beer, it smelled so strong; and inside, I didn't see anything, no whiskey sold there, but there were men in there drinking beer and some of them intoxicated, as usual.

Q. What about the bartender or bartenders there? A. I couldn't say how that man was dressed, or whether there were two or more.

Q. Going up onto Fore street, between Pearl? A. I have my memorandum here. There were two barkeepers there.

Q. Two barkeepers at No. 127 Commercial street? A. Yes, sir.

Q. And in uniform, or don't you recall? A. I don't recall, but I think not; I rather think not; I have made a memorandum here, "strong odor of beer on the street; men drinking beer, one or two quite drunk."

Q. Now at the corner of Pearl and Fore streets, at Boothbay square, did you go into that place, No. 320 Fore street? A. Yes.

Q. What did you observe there in regard to liquor? A. It was very quiet there. I don't think I saw any drinking there; only three or four men there.

Q. Did you go into No. 328? A. No, sir.

Q. No. 332? A. No, sir.

Q. No. 340 or 342 on the corner of Fore and Silver streets? A. I beg your pardon, I thought when you pointed here it was this place, but that is the place I was referring to, and that is the place I was describing. (Showing on sketch.)

Q. At the corner of Fore and Silver streets? A. Yes, that is the place I was describing, where it was quiet and where they weren't doing much business; I don't recall that I saw anyone drinking there.

Q. Is that an old time liquor saloon? A. It is, yes.

Q. Do you know who the proprietor is? A. The proprietor at the present time is Thomas Coleman.

Q. Thomas H. Coleman? A. I think so.

Q. Are you able to state how long

Thomas Coleman had been there? A. No, sir.

Q. Do you know whether he is the Thomas Coleman who pays a retail liquor dealer's license at that place? A. I don't.

Q. But that is his name? A. That is his name.

Q. Now, did you go into any other places? A. I went into the Gaff Topsail.

Q. And the Gaff Topsail is on the northeasterly corner of Silver and Fore streets? A. Southeasterly corner of Silver and Fore streets.

Q. Why do they call that the Gaff Topsail? A. Because when they first started in they had a gaff topsail rigged up on the top of the building.

Q. How long ago was that? A. I couldn't say how long ago that was; that was quite a number of years ago.

Q. Do you mean further back than you can remember? A. No, perhaps four or I should say three or four years ago.

Q. And previous to that time what business was carried on at that same place? A. I couldn't say as to that. The proprietor of this place used to be at No. 332 Fore street, and I couldn't say whether there was a shop on the corner there or not.

Q. In what business was the proprietor of the Gaff Topsail in at No. 332? A. Selling intoxicating liquors, and he kept a boarding house too, sailors' boarding house.

Q. Down at the Gaff Topsail is there a bar? A. Yes.

Q. Describe the place and tell what you saw upon your visits there, this year? A. It is quite a nicely furnished place, quite a long bar and mirrors behind the bar and glasses stacked up and ornaments, and there were at least a dozen men in there I think drinking beer. I saw one man served with what I thought was whiskey.

Q. What made you think so? What did you see? A. Well, the color of the liquor and the manner in which it was served, the size of the glass—or I would like to withdraw that.

Q. You may do so. A. Yes, I have made a mistake. I have a record here

of 6 or 8 men drinking beer, all more or less drunk.

Q. That is at the Gaff Topsail? A. And they were under the influence of liquor—yes, and I could tell that by their talk and their appearance, but I saw no sale of whiskey in there.

Q. Was the proprietor, Mr. Coleman, there? A. Frank Sherman is the proprietor of that place—no, sir.

Q. Anybody behind the bar? A. There were two bartenders.

Q. How were they dressed? A. I don't remember; I couldn't tell you that; I think, and still I don't know as it is any use to say what I think, but I think they had on white coats, but I won't be sure about that.

Q. Now at No. 29 Pearl street did you make any investigation? A. I went in there; yes, sir.

Q. And did you see any evidence of the sale of intoxicating liquors or its use there? A. I saw the bar and the man behind the bar; and that is quite nicely fitted up with mirrors behind the bar, with the usual amount of glasses and ginger ale, but no liquors in sight that I thought were intoxicating.

Q. Did you see anything drunk there? A. No, sir; I didn't in that place; but I have been in that place after the saloon stopped business.

Q. That is, this week? A. Yes, sir.

Q. What day this week? A. I think it was April 2nd.

Q. It was this week anyway? A. Yes, sir.

Q. Now, No. 9 Exchange street. Do you know anything about that place? Have you investigated it at all? A. Yes, I have spoken of that place I think. No, I haven't yet, No. 9 Exchange street, I have been in there.

Q. How recently, this year? A. Oh, yes, this year.

Q. What did you observe in regard to the use of intoxicating liquors in that place? A. I saw a man serving whiskey there; that is, what I took to be whiskey.

Q. Any bartender there or bar? A. Yes.

Q. How is that place fitted up at No. 9 Exchange street? A. Fitted up with a bar same as usual, quite nicely fitted up with mirrors back of the bar

and glasses and ornaments and ginger ale and faucets.

Q. Now, you have mentioned upon the little sketch which is marked House Document No. 667 the two places, one on each corner of Center and Free streets, and the other place depicted upon this sketch, have you visited them this year? A. That one there. (Indicating on sketch).

Q. That is the one at No. 518 Fore street? A. 518 Fore street, yes.

Q. Whose place is that? A. I couldn't say. There was a man in there that I thought might be the proprietor.

Q. You don't know who runs that place? A. No, sir.

Q. And did you see any evidence of the use of intoxicating liquors there? A. Well, the usual evidence, a bar and some bottles behind the bar.

Q. Was there anything served while you were present? A. No, sir; there were some men playing cards.

Q. At the corner of Fore street and Cotton street did you make any investigation? A. Yes, sir.

Q. What did you observe there in regard to intoxicating liquors or fittings? A. This place isn't fitted up very nicely. I don't remember whether there were any mirrors behind the bar or not, but they have a bar and there were men in there drinking, and apparently drinking beer. That is an old-time place, and all three of these are old-time places.

Q. That is the place at the corner of Fore and Cotton streets, and on both corners of Center and Fore streets, they are old-time places? A. Yes, sir.

Mr. PATANGALL: What is the one beside the two on the corner of Center and Fore streets.

Mr. CLEAVES: The one on the corner of Cotton and Fore streets.

Q. Now, did you go into either of these on the corner of Center and Fore streets? A. I did not.

Q. Now, taking the one on the right hand corner of the picture as we see it. What did you find there and what did you observe there? A. There were men in there talking and drinking beer. I don't remember, I don't recall how many men were behind the bar.

Q. Were there any behind the bar?
A. Yes.

Q. Was there at least one bartender?
A. Yes, there was at least one bartender.

Q. And was there any display of liquors or liquids?
A. Yes, sir; there was a display behind the bar, and I think there were mirrors and glasses and ornaments.

Q. Now, upon the opposite corner, did you visit that place?
A. Yes.

Q. What did you find there in regard to furnishings and liquor?
A. It was about the same as the others, and that young man had a white coat on; the bartender there had a white coat on.

Mr. CLEAVES: Mr. President, I think I have now reached the point where I go to another branch of Mr. Skillin's testimony.

The PRESIDENT: The Chair desires to state before putting the motion for recess that the House and Senate will each have a session immediately after recess, and when the recess is declared persons in the rear of the hall are requested to remain seated until the Senate passes out, and the Senate will retire to its own Chamber and the House will hold its session in this hall.

On motion by Mr. Smith of Patten the convention took a recess until Monday forenoon, April 7th, at 10 o'clock.

The Senate then retired to the Senate chamber.

IN THE HOUSE.

On motion by Mr. Doherty of Rockland,

Adjourned until Monday, April 7th, 1913, at nine o'clock A. M.