# Legislative Record

OF THE

# Seventy-Sixth Legislature

OF THE

## STATE OF MAINE

## 1913

## IN THE HOUSE.

Friday, April 11, 1913.

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

Prayer by the Rev. Mr. Coons of Augusta.

Journal of previous session read and approved.

Papers from the Senate disposed of in concurrence.

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On motion by Mr. Newbert of Augusta bill, An Act to amend Section 11 of Chapter 116 of the Revised Statutes, as amended by Section 1 of Chapter 53 of the Laws of 1905, as further amended by Chapter 183 of the Public Laws of 1907, relating to salaries of officers of the Senate and House of Representatives, was taken from the table.

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

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From the Senate: An Act to amend the act which constitutes the police court of the city of Rockland.

In the House this bill was passed to be enacted, and came from the Senate in that branch indefinitely postponed in non-concurrence.

On motion by Mr. Doherty of Rockland the House voted to recede and concur with the Senate in the indefinite postponement of the bill.

From the Senate: An Act to require certain vehicles to carry lights at night on public highways and bridges.

In the Senate a new draft of this bill was passed to be engrossed; in the House the original bill, as amended, was passed to be engrossed.

Mr. SCATES of Westbrook: Mr. Speaker, there seems to have been some mix-up between the House and the Senate on this matter, and there are two different bills by some clerical error, and I would move in order to straighten the matter out that the House insist upon its action 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. Scates of Westbrook, Butler of Farmington and Swift of Augusta.

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Report of the committee of conference on the disagreeing action of the two branches of the Legislature on bill, An Act relative to the compensation of employes for personal injuries received in the course of their employment, and to the prevention of such injuries, reporting that said bill, as amended by Senate Amendments O, P and Q, should receive a passage, report being signed by Senators Wing, Conant and Bailey, on the part of the Senate, and Messrs. Peacock and Kimball, on the part of the House.

The question being on the acceptance of the report of the committee,

On motion by Mr. Descoteaux of Biddeford the bill was tabled pending the acceptance of the report of the committee.

### Orders of the Day.

On motion by Mr. Marston of Skowhegan the rules were suspended and that gentleman introduced the following joint resolution:

"Whereas the tariff bill now pending before the National House of Representatives makes reductions in the tariff which seriously affected the products of the land, forests and manufactures of Maine, and

Whereas in the opinion of the Legislature the effect of such bill, if passed in its present form, will be to seriously injure the business of the State, and in effect is an unjust and unfair discrimination against its business interests,

Therefore be it resolved that the Legislature of Maine protests against the present rate of reduction in the proposed tariff bill as an unfair and unjust discrimination against the State of Maine and its business interests.

And further resolved that we urge upon our senators and representatives in Congress that they use their best efforts to secure such modification in the proposed schedule as will put the business interests of this State upon

an equal footing with those of all other states affected by the reductions in the tariff schedule.

And further resolved that the Secretary of State be requested to send a copy of these resolutions to our senators and representatives in Congress."

Mr. MARSTON of Skowhegan: Mr. Speaker and gentlemen of this House: I wish to refer very briefly to the purposes of this resolution. It comes to us with the authority of the State Board of Trade, and it has been recommended and urged by a large number of the local Boards of Trade in our cities and towns. The Boards of Trade represent the business and the industry of the State. Their membership include not only the manufacturers and employers, but the merchants, professional men, and the great body of wage earners of our State. All these men are consumers as well as producers. They realize that Maine is a greater producer than she is a consumer, that she produces more than she consumes.

The Tariff Bill now under consideration in Congress was prepared by Southern Democrats for the benefit of their section of the country, New England had no say in its provisions. Her interests were overlooked entirely. Her industries, and her workmen were offered up as a sacrifice on the altar of party politics.

Of all the states in New England, Maine is asked to make the biggest sacrifice. The bill hits a death blow to all our great industries. The food stuffs of the farmer are put on the free list. Can we compete with the cheap labor and cheap land of Canada? How did the farmers of Maine take reciprocity? Did they not rise up in wrath against it. This bill is worse than the reciprocity measure. The products of our forests are put on the free list. 30,000 men get their living in this industry. Pulp and paper for newspapers are on the free list. The more expensive papers are protected. Maine's principle paper product is cheap paper. The textile industry, our cotton and woolen and worsted mills are crippled. We, members of this House know what this means to our constituents.

The report of the non-partisan Tariff Board after an exhaustive investigation of costs at home and abroad showed plainly that Maine cannot live under such a bill as is proposed.

This resolution is a protest from the citizens of Maine against such a bill. I believe and I trust that every member of this Legislature irrespective of party, every member who has the welfare of his State honestly and conscientiously at heart will vote for this resolution.

Mr. SCATES of Westbrook: Mr. Speaker, this surely comes as a matter of surprise to every member of this House at this time, I think, and I would like to ask if there is a member of this House who has ever read the proposed tariff bill and knows what it means. Have you? And if you have not, how can you honestly and consistently vote on something that you know nothing about? Be fair. We have had enough of this horseplay in this Legislature without carrying it any farther; and I move that the resolution be tabled.

Mr. COOK of Vassalboro: Mr. Speaker and gentlemen, I will be very brief in my remarks upon this subject. The freight on potatoes from the provinces where they have ideal conditions to raise potatoes, for one barrel or a thousand, is 20 cents—

Mr. SCATES: Mr. Speaker, I rise to a point of order.

The SPEAKER: The gentleman will state his point of order.

Mr. SCATES: That no debate is allowed on a motion to table.

The SPEAKER: The point of order is well taken. The question before the House is on the motion of the gentleman from Westbrook, Mr. Scates, that the joint resolution be laid upon the table.

A viva voce vote being taken,

The motion was lost.

Mr. Scates then called for a division of the House.

A division being had, the motion was lost by a vote of 31 to 53.

The question then recurred upon the adoption of the joint resolution.

A viva voce vote being taken,

The motion was agreed to, and the

joint resolution was adopted.

On motion by Mr. Morrison of Corinth the House voted to take a recess for five minutes.

**After Recess.**

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 will call the roll of the convention.

PRESENT:—Sen. Allan of Washington, Sen. Allen of Kennebec, Allen of Machias, Austin, Bass, Benn, Benton, Bitner, Boman, Bowler, Sen. Boynton, Bragdon of Sullivan, Bragdon of York, Bucklin, Sen. Burleigh, Butler, Sen. Chase, Chick, Churchill, Clark of New Portland, Cochran, Sen. Colby, Sen. Cole, Sen. Conant, Connors, Cook, Crowell, Currier, Davis, Descoteaux, Doherty, Dunton, Durgin, Sen. Dutton, Eastman, Eaton, Eldridge, Estes, Farnham, Farrar, Sen. Flaherty, Folsom, Gallagher, Goodwin, Greenleaf of Auburn, Greenleaf of Otisfield, Sen. Hagerthy, Hancock, Harman, Harper, Haskell, Sen. Hastings, Sen. Hersey, Higgins, Hutchins, Irving, Jenkins, Jennings, Sen. Jillson, Johnson, Jones, Kimball, Lawry, Leary, Libby, Marston, Mason, Sen. Maxwell of Sagadahoc, Maxwell of Boothbay Harbor, McBride, McFadden, Merrill, Mildon, Sen. Milliken, Mitchell of Kittery, Mitchell of Newport, Sen. Morey, Morrison, Morse, Sen. Murphy, Newbert, Nute, O'Connell, Sen. Packard of Knox, Packard of Newburg, Sen. Patten of Hancock, Peacock, Peaks, Pendleton, Peters, Peterson, Pitcher, Putnam, Quinn, Sen. Reynolds of Kennebec, Reynolds of Lewiston, Richardson of Penobscot, Richardson of Canton, Roberts, Robinson, Sanborn, Sanderson, Sargent, Scates, Skelton, Skillin, Sen. Smith of Penobscot, Smith of Auburn, Smith of Patten, Smith of Presque Isle, Snow, Spencer, Sen. Stearns, Stetson, Stevens, Stuart, Sturgis, Swett, Swift, Taylor, Thombs, Tobey, Trimble, Tryon, Twombly, Umphrey, Violette, Sen. Walker, Washburn, Waterhouse, Wheeler, Winchenbaugh, Sen. Wing, Wise.

ABSENT:—Sen. Bailey, Boland, Brennan, Brown, Chadbourne, Sen. Clark of York, Clark of Portland, Cyr, Donovan, Dresser, Dunbar, Elliott, Emerson, Sen. Emery, Franck, Gamache, Gardner, Gordon, Haines, Harriman, Hodsdon, Hogan, Kehoe, Kelleher of Portland, Kelleher of Waterville, Leader, LeBel, Leveille, Sen. Mansfield, Mathieson, Maybury, Metcalf, Mooers, Morgan, Morneau, Sen. Moulton, Plummer, Price, Ramsay, Ricker, Rolfe, Rousseau, Sherman, Smith of Pittsfield, Sprague, Stanley, Thompson, Yeaton.

The PRESIDENT: A call of the roll discloses the presence of 128 members of the convention. Counsel for the respondent may proceed.

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WALTER A. TRASK, re-called, testified as follows:

By Mr. CLEAVES:

Q. I was asking you, last evening, Mr. Trask, in regard to a seizure at the dwelling house of one Holland. A complaint came to the sheriff's department against that dwelling house? A. Yes, sir.

Q. And upon that complaint did you and Deputy Wood visit the premises? A. We did, sir.

Q. And were you shown by some person connected with the house down into the cellar, and there into a cupboard of some sort? A. Yes, sir.

Q. And you took what there was in that cupboard? A. Yes, sir.

Q. Did you find anything besides that? A. Now the cupboard—

Q. What sort of a place was that? It had a door to it? A. Yes, sir; it was a back room; everything there that we found we took.

Q. Was there anything more than a few bottles of hard liquor? A. There were; yes, there was a box of brandy; I think there was a box also of whiskey, and if I remember right there was one or two barrels that was hauled up from there, the contents of which I do not remember.

Q. Did you search anywhere except in that room? A. We looked through the cellar and that room.

Q. Was your attention very shortly afterwards called to the fact that there was a much larger quantity of liquor upon those counters than you had found? A. No, sir.

Q. Wasn't your attention in any way called to that place? A. Not to my remembrance.

Q. What was the date of that search and seizure at the Holland house? A. I couldn't tell you, sir.

Q. What month was it in? A. I think it was in February, but I wouldn't be sure.

Q. And did you afterwards ever visit those premises? A. No, sir.

Q. Never to make any observation or to go there with a search warrant? A. No, sir.

Q. Was it James P. Holland? A. James P. Holland.

Q. And was the seizure which you made 24 quart bottles of whiskey, 22 pint bottles of whiskey, 10 quart bottles of brandy? A. I should say it was, yes.

Q. And if I have correctly read your returns that was all you found? A. That is right.

Q. And the warrant which I hold in my hand is dated January 16th? A. I was not sure about that.

Q. You never were upon those premises afterwards? A. No, sir.

Q. Now, with reference to your being busy attending to the enforcement or attempted enforcement of the prohibitory law, you had had some cards printed which you put about different law offices, haven't you? A. Yes, sir.

Q. Advertising that you are a deputy sheriff? A. Yes, sir.

Q. And intending by that advertisement to obtain civil business, the service of civil processes which lawyers may put in your hands. That was your intention, wasn't it, in putting your cards around? A. Could I explain that?

Q. I simply ask you if that was your intention? A. It was at that time when I put them out.

Q. When did you put them out? A. At the very first of the administration.

Q. And upon the day or evening, whenever it was, that you blundered into this rum shop down to Brewer for a match and made the seizure, you were then engaged upon the service of a civil process, weren't you? A. I was, sir.

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LINDLEY W. GILMAN, called and sworn, testified as follows:

By Mr. THOMPSON:

Q. What is your name? A. Lindley W. Gilman.

Q. And your residence is Bangor? A. It is; yes, sir.

Q. And you are at present chief of police of Bangor? A. I am, sir.

Q. Whether or not you have been sheriff of Penobscot county? A. I have been.

Q. When? A. From 1903 to 1909, inclusive.

Q. And you have always been a resident of Bangor? A. I have, sir.

Q. Now, Mr. Gilman, tell this convention the conditions in Bangor at the present time from your observation? A. Well, sir, I only went into this office, on the 17th of March last past, and for the past two years have not been very much in touch with affairs of that kind; but since the 17th day of March that crowd of men we have had in—it has been very different from what it used to be, very much quieter, very much less drunkenness, very little rioting such as we used to have, years ago.

Q. Will you tell the convention, Chief, in your judgment how many rivermen and lumbermen there are in Bangor in the spring of the year, at the present time? A. Oh, I should say from 2500 to 3000.

Q. In what part of the city do those men congregate? A. At the present time they are mostly concentrated in the area bounded by Washington street, Exchange street, York street and Oak street. Of course they are scattered all over the city, you understand, but mostly down in there.

Q. Do you know Deputy Sheriff Barker? A. I do, sir.

Q. Where does he live? A. In the town of Exeter.

Q. And is that on the railroad line? A. No, sir.

Q. Where is it? A. It is about 25 miles west from Bangor, I should say 15 to 25, I don't remember exactly.

Q. And reached by team? A. Yes, either from Corinth or Etna or Bangor.

### Cross-Examination.

By Mr. CLEAVES:

Q. These rivermen and lumbermen of whom you speak come in about the first of April? A. No, sir.

Q. What time do they come? A. Well, as a matter of fact the conditions in that line have changed a great deal. Nowadays they don't stay up river as they used to.

A. Come in about what time? A. They begin to come in about the first of March.

Q. And this has been an average year in that respect? A. No, sir; I think the logging broke up quicker this year.

Q. I mean, so far as numbers are concerned? A. I think so, yes.

Q. As far as numbers are concerned

it has been about an average year? A. Yes, sir.

Q. A man by the name of Spratt has been mentioned as one of Mr. Emerson's liquor deputies? A. Yes.

Q. You know him, don't you? A. I do, sir.

Q. And while you were sheriff was he one of your deputies? A. He was.

Q. And for how many consecutive years has Mr. Spratt been a liquor deputy in Bangor? A. Well, I can't say. He resigned in the last of my administration but I couldn't tell you when.

Q. That was about when? A. I couldn't tell you that to save my life.

Q. When did your administration close? A. In 1909.

Q. So that for two years up to the last part he was a deputy under you? A. Yes, sir.

Q. Was he a deputy under your successor? A. No, sir; he resigned during the last—I think it was my last term he resigned.

Q. But during the two years he was a deputy under you he was visiting practically the same places which have been described in Bangor, today? A. I should say so.

Q. And have you seen him here during the progress of this trial? A. I have not.

Q. Mr. Wood was also one of Mr. Emerson's deputies? A. Yes, sir.

Q. Have you seen him here during this trial? A. I have not.

**Q. With the exception of Mr. Trask who has just completed his testimony, have you seen any of Mr. Emerson's liquor deputies? A. Yes, I wouldn't want to say—I don't know the man from Orono, Mr. Davis, but I think he has been here.**

Q. With the exception of those deputies who have testified have you seen any others of Mr. Emerson's liquor deputies? A. Oh, yes; quite a few of them.

Q. There have been quite a number of them here? A. I think so; there is only a few of my old deputies among them; they are men that I don't know, they are new men to me.

Q. But Mr. Spratt and Mr. Wood you haven't seen here at all? A. No, sir.

MR. THOMPSON: Mr. President, the defense now rests.

THE SPEAKER: Is there any testimony in rebuttal to be offered?

MR. CLEAVES: Nothing.

THE SPEAKER: Counsel for the defense may proceed with argument.

The following argument was then made by Judge STEARNS on behalf of the respondent:

Mr. President and gentlemen of the convention, never in all my long life in courts and in this body have I more fully appreciated the burden cast upon me than I do as I rise to address you this morning; nor have I ever in all my life spoken in behalf of one accused who in my opinion so well deserved acquittal. The result of your finding may have the effect of casting from the high place of dignity and honor this sheriff, my neighbor, into the pit of shame, disgrace and humiliation. Had I all the power of pleading of the Holy Men of old, had I all the eloquence of the orators of all the ages, I would give it to save him from such a fate. But, alas, I am but one poor, plain, ungifted man who may not hope to touch your hearts; yet I may hope to appeal to your reasoning, your understanding and that sense of fairness which surely should sway every legislative body in this world.

What has my neighbor done, that he deserves a fate that may be set for him, or what has he left undone that calls for condemnation? He is charged with corrupt or wilful violation of his duty to prosecute, to lead to punishment those violating the prohibitory law of Maine; charged with the corrupt or wilful neglect. Has there been any evidence of suggestion of corruption on the part of this officer? Aye, his detractors have been as silent as were those creatures, detractors from the woman when our Divine Master wrote his message of mercy upon the sand. None has appeared to urge corruption on the part of this sheriff; on the contrary, he stands and has stood before you upon the witness stand clothed with a character as spotless and unimpeached as ever man stood before august tribunal such as this is.

Is it necessary, gentlemen of the convention, to visit punishment upon the head of this man? He is charged with wilful neglect. Is it true? Major Em-

erson recognizes now as in the past, and always will, the binding force of all the prohibitory legislation; he comes not here to attack that legislation to which he has given the support of a life; he recognizes his duty under it, as you all must, but has he violated his duty? This sheriff claims no discretion in the enforcement of the law; he contends not; he has not, nor will he contend, nor will his counsel for him, that he has discretion to prosecute one and leave another; no discretion to decide when and where there shall be prosecution or punishment.

Has he been guilty, gentlemen, of neglect, as charged in this resolve? To settle that question he must be judged by the surroundings, by the circumstances that exist and that have existed; and one of the circumstances to me seems to have such mighty potent force that no judge ever ought to disregard it, that this man has been given the opportunity of but three short months to perform a task greater than ever fell upon the shoulders of any officer probably in this State of Maine. Will you judge of his stewardship by casting him out of office at the expiration of this brief period of three months? Is that the justice that this tribunal, the highest in character, the most solemn in its forms and ceremonies, the most simple and direct in its judgment known to our law? Will you say in this tribunal that a man who has held office but three short months in the county of Penobscot, beset with difficulties as he has been, has been sufficiently tried, and you will now cast him out as an unfaithful servant? I hope there is more of the spirit of fairness, of the sense of justice existent in this great court which I honor than to thus treat this sheriff. I say, he must be judged by the surroundings; you must take note and cognizance of the difficulties which have beset his path; and, first, let us consider the task before him when he took the oath of God that he would execute the law three months ago.

It has appeared plainly enough before this convention that the city of Bangor is probably unique in the cities of Maine, perhaps in New England, possibly in this country, that on its business streets within its crowded areas it has had a system of shops or store or saloon or place, whatever you may name them, that have exited through all administrations, under all vicissitudes, and have been used for the sale of intoxicating liquors. These places are sustained by the vested property interests; land owners, owners of buildings for 50 years have derived an income from the rental of these buildings that have been devoted to this purpose.

So that you see that there is anchored in public sentiment to an extent in the interests of land owners a spirit of life and endurance that the shop should not have in a State where prohibition exists. Yet they have flourished. Raided, broken up, dispoiled one day, they have flourished again. In times of comparative protection—not protection, but in times of comparative immunity which have existed many times and through many years in the last 50, the shops may display its wares and may assume an open character. When seizures come and prosecutions come, the exposed wares are put out of sight and hidden in the ground and in dark places, but the traffic goes on, and the noticeable changes are that instead of the bottle on the sideboard or in the bar, it is taken out of concealment from a man's pocket, from the boot leg, and the guest of the place is served not with a comparatively innocent drink, ale or beer, but with a concoction that should never enter the human stomach.

The shops, as I say, have existed, and they exist now. And to dispoil this traffic in the city of Bangor, to destroy this traffic in the towns and the county, for the duty and the oath of the sheriff covered them all, it was his duty to enter upon that duty with courage, with fairness and hope. Diversions came, other duties pressed upon him, and albeit he had been a deputy years ago engaged in the prosecution of the prohibitory law in the city of Bangor, yet infinitely greater was the task now after the intervening four years of absolute nullification. Entering upon his duty, he appointed deputies. He appointed deputies to enforce the prohibitory law, he appointed other deputies and he gave his deputies their instructions. He commenced to make seizures on the 4th day of

January, four days after his election, and he continued and has continued up to now with all the force that he could command with an honest purpose to enforce the law. He has not succeeded, because despite of the many exaggerations that have crept into the testimony for the State as to the present conditions of Bangor, unhappily, a condition that needs his further corrective force and effort during the whole, at least, of one term as sheriff of Penobscot county.

Let us see. I say that he has not been free to devote his own personal energy to the prosecution of the prohibitory law. Am I right when I say it? Only on the morning of the 18th day of last January there was declared on this great line of our eastern railroad, the Bangor & Aroostook Railroad, the most dangerous strike that has occurred upon railroads in the East in our time. This strike was such as to paralyze practically the whole current of eastern commerce. It was agitated until it echoed into this Chamber and the Chamber above, and filled even the legislators with a spirit of enxiety. That same strike required the energy of this sheriff, his attention and that of 19 of his deputies before it died out, which event happened only a few days ago.

It may be argued, I have no doubt it will be argued by my Brother Cleaves, the most dangerous of the adversaries on the other side, in his cool, pitiless logic, he may argue that the sheriff notwithstanding he had to see to the strike, notwithstanding that not only commerce was jeopardized, but life and property was in danger, that he still should have found time to have visited personally saloons and shops; but I submit to you in candor and in fairness that it ought to be urged and allowed in this man's behalf that he would have been greater than any sheriff that we know could he have devoted all his attention to the prohibitory law that its warm and zealous advocates would have had, and at the same time discharged the duties that humanity, his oath of office and the law of the land and regard for public safety and public welfare demanded that he should discharge at the time of this great strike.

He had two terms of court. Now it is argued that the duties of the sheriff—it will be argued perhaps, that the duties of the sheriff during the term of court are only ornamental, but we know, in fact, we who have attended court know, that the dignity of the highest court in the land requires and demands in a proper sense all the appreciation and dignity the presence of the first officer of the court, the sheriff can give. I say that the judge sitting on the bench has the right to demand that the court be graced at least at times with the presence of the sheriff, and not be attended by the bailiff or the deputies. Be that as it may, this man, jailor as he is now, had administrative duties to perform in regard to the jail, as they all have. Prisoners must be observed and there are hundreds of duties pressing upon him all the time during the term of court; the long term of January of four weeks, and the February term following of 23 days. Now I see it was noted by my brother, and my brother inquires of the sheriff if he did not know, if he had any hope of enforcing entirely and completely the prohibitory law without his personal attention, and the sheriff frankly admitted that he did not have such hopes. Then it was suggested in questions why he could not run across lots or over streets or in one way and another, make personal examination of those different bars and different shops, while court was in session. I say that it is to the credit of this sheriff of this great county, more than falls to the lot of many sheriffs in the State of Maine that in a period of three months he has made 19 seizures himself. What other sheriff who has deputies has discharged those duties himself? Does this manifest zeal, honor and a desire to do his duty, in this sheriff or the contrary?

These difficulties that interfere with the discharge of his duties were great, yet how has he discharged his duties? Can any gentleman of this convention say that Major Emerson's administration of the office of sheriff of the county of Penobscot has been a failure? Can you say so honestly? Will your consciences approve that? What did he do? He sent his deputies to

Portsmouth, he procured a list of stamps, and he sent them before the grand jury. He caused to be indicted 159 offenders against the prohibitory law. He received as soon as issued capiases; he made search for those offenders and found a few. Now it is his misfortune, but shall it cause his removal or contribute to cause his removal, because the offending rum sellers of this city of Bangor saw fit to escape before the capiases could be served upon them, rather than face the justice they feared in court? Will you hold this sheriff responsible for that, I ask you, gentlemen of the convention?

I judge from the questions put in cold, admirable manner of my Brother Cleaves, that there will be an attempt made to show that somebody might have been apprehended in the town of Harmon. A man might as well hide in Harmon, five miles from Bangor, as in any other place, and the sheriff would not be notified of his hide or mistrust it. The truth is these men escaped for the time being, but you have not forgotten the testimony that they have all been arrested since, that they have given bail and are held for the next term of the criminal court.

Do you expect, would you expect under ordinary circumstances to have found more seizures, more examinations and more searches, than have been made in this period of time? And the convention must bear in mind that the record applies not to visits to these different places which it is complained that the sheriff did not make frequently enough; that no record is kept unless something was found or a warrant was issued. But it is said that there is no justification for this sheriff because vast quantity of intoxicating liquors, including ale and beer, enormous quantities—I think I heard one figure as high as 42,000 gallons brought into the city of Bangor in the last three months. But do not be deceived, gentlemen of this convention; that stuff brought into the city until it was delivered to the consignees actually, under the interstate commerce law was as sacred as the flour in the grocery store. What the Webb law may do for us now and hereafter, I do not know. But I am speaking of the period before the Webb law was passed. While this stuff was undelivered, as I say, coming from without the State, it could not be touched by the sheriff, and my brother following me will be compelled in candor and in fairness to admit that that is so.

Great quantities have come there, I say, too much for the good of the city, and more than will come hereafter under the administration of Major Emerson, if he continue in office.

But I must hasten along in what I still wish to say and present it to your judgment and sense of fairness. There are other towns in Penobscot county where the law was violated and where conditions were bad. You have heard what they are now. There is the testimony in regard to the town of Orono coming from the lips of that venerable man who for nearly one-third of a century presided over the destinies of our institution, the University of Maine. He told you the conditions in the last three months in this university town which is ordinarity more unmanageable than other towns, having proved, so that now it was better than it had been in the past. He showed you how he knew it, verified by his observations and verified by his consensus of observation of other men who had told him and who knew. You heard from the town of Lincoln, about the traffic destroyed. You have heard from the town of Dexter, where the administration of this sheriff caused the absolute extirpation of the liquor business. You heard from Millinocket, from two gentlemen, from the sheriff and from the judge of the court, and you heard from them that in that busy town inhabited by people of foreign origin, by people whose lives had been passed before they went there where beer and ale were freely sold. You have heard from Millinocket because it was smaller and could be overseen, and because it did not have behind of it 50 years of law defiance; you have heard how their traffic is destroyed. You have heard

how the traffic exists no longer in the principal, the proper town of Brewer. You know how the conditions in Old Town are improved, amazingly and perceptibly improved, and all under the administration of this sheriff.

And now because what I foresee from the questions om my astute and learned brother, the amazing pretence that this bettering of conditions in Penobscot county should be urged against the sheriff and not in his favor. Is there any justice in that? Who was the head, who was responsible for the actions of every deputy, Gates and Rackliff and every other deputy but this sheriff? They were under his orders and had he been corrupt or neglectful, the circumstances would not have been as they are. But it will be urged to you and you will be asked to believe that if Gates did suppress the traffic in Millinocket—of course it is not supressed—of course, if he could suppress the traffic in Millinocket, why could not the sheriff enforce the law in the city of Bangor so as to entirely supress the traffic?

Gentlemen of this convention, you know it is common history that sheriffs and deputy sheriffs and Sturgis deputies to a great number, for years and years, periodically at least, have attempted to destroy the traffic in Bangor. It has not been done, and yet it will be argued that this man ought to have done it in three months. See the difference in the problem betwixt the little town of Millinocket with three or four thousand people, and Bangor, sitting at the gateway of all the East, the distributing point of half the State, the greatest lumbering center in all the east, with its three or four or five thousand drifting, floating men, twice a year at least, staying days, weeks, perhaps months in the city, irresponsible, for the most part unmarried, without social obligations, without family ties, with no home perhaps but the boarding house and the grog shop—there is the problem that faces the sheriff of Penobscot county in the city of Bangor.

Give him time. Give him time, gentlemen of the convention, if you would be fair and just, swayed not by politics, moved not by prejudice—give him time.

It does not seem reasonable that this contention ought to be made against the sheriff—that he has fully discharged his duty in a part of his domain and that it should be counted against him rather than for him. Strange notions of justice must a man have who will subscribe to that contention. It ought not to be.

It is suggested that the sheriff might have done more. It is suggested through a question that he might even have rent asunder the marble slabs that formed the bar, that he might have destroyed bars, that he might have pulled them out. That probably may come in the future, but the same spirit of fault-finding, the same zeal of over-zealous people who believe in the execution of one law in preference to another would not be satisfied with the destruction of a single bar. Had he destroyed one or two or three, the same question would have been put to him, why haven't you destroyed all in the city of Bangor? The time had not come, had not elapsed, has not been sufficient for him to have wrought all the effect that should be wrought and to bring the city of Bangor into subjection as the country towns have been. It it can be done, this sheriff will do it. According to his light, according to his judgment, according to an honest purpose and an honest soul, he will do it if he be permitted to continue in the office to which he was elected with the approval of the good citizens of the county of Penobscot and the acclaim of the people who believed in him, believed in his success, and in my opinion, and I speak of the good law-abiding people, they believe in him now.

It is plain, I say, that the sheriff has neglected his duties—or will be urged in argument—in that he has not made more personal visits in the city of Bangor. Perhaps he ought to have made more personal visits. But he exercised his judgment, and unless he has been purposely, wilfully neglectful, you cannot condemn him. He is bound not to be wilfully neglectful.

That is his duty. If with a belief in the law, acting in obedience to the law, he erred in judgment, and sent a deputy where he ought to have gone himself, I say under those circumstances, all the earth would sry out, and should cry out against his condemnation.

There is, when we come to sober facts and sober reason, no special sacredness in the prohibitory law that there should be, when treating of it and considering a man's conduct in regard to it, that we should judge him by a severer standard than when he is acting in the discharge of his duties in enforcing other laws. And yet it is mighty hard in this State of Maine, under the constant demands and the goadings of those people who are over-zealous in this as they would be over-zealous in any other hobby that they had—I say it is mighty hard to resist that influence always pressing upon us to judge by a different standard the man who has to do with the prohibitory law and the man who is charged with the administration of other laws.

Now I grant that the existence of this very thing is tolerable, is possibly justifiable, as it surely cannot be prevented, and I say admitting that, then justice demands the acquittal of this sheriff of Penobscot County.

Granting that you apply the highest standard sought by the stern old Puritans, or at least those people now of the spirit of the Puritans, intolerant and zealous as they are,—giving full force and effect to that spirit, justice would demand, it seems to me, that you should not condemn this man on so short a probation as three months. If you make a mistake, if you condemn him falsely, it will occur to you in the future, it will haunt you in the night, it will be an image walking by your side in the daytime, this spirit of conscience.

Now I have not pretended, gentlemen of this convention, neither have I intended, to argue specially the evidence in this case. I have only touched upon some of the salient features, some of the things that seems to me to be important as having a just right and tendency to influence your judgment and your decision. I see plainly it will be argued by my brother that we ought to have had more deputy sheriffs over here to testify. I suppose it will be apparent to this convention that some officers are still needed in the city of Bangor, with a court in session, with the same prohibitory law still to enforce, with the peace and order of the community to preserve. We have not brought them all. We have brought and had testify before you such as we thought ought to be able to convince your judgment of the justice of the cause of this sheriff.

The condition of Bangor we are not able to approve. I do not ask you to approve it. There have been exaggerations. It is bad but not hopeless. It is bad but it can be made better. At all events the open display, the inviting display of intoxicants and malt liquors can be banished. The doors of the shops cannot close. But at all events a sufficiently vigorous administration will drive out of the city the traffic that seems to be hteful. And all these things, this sheriff expects and hopes to accomplish. Will you give him a chance? Will you give him an opportunity?

I have said about all that it occurs to me that I ought to say in defence of my personal friend and my near neighbor. If the evidence and the circumstances do not move your judgment, as I said in the beginning, I can not hope to. But I would like in concluding to put this illustration to some member, any member of this convention. Let him be elected sheriff of the county of Penobscot for a term of two years, then at the expiration of three or four months, on the record that appears, remove him, and will that member say that he has had justice done him, will he say that he has been treated in that spirit of fairness that has been taught by the Saviour, that has been practiced by the honest in all ages?

I don't believe there is a member here but what would have a feeling of rebellion and bitterness and a rankling sense of injustice under such treatment as that. All I ask, gentlemen of the convention, in concluding, is that you do the same justice to this sheriff that

you would have done to you. I thank you. (Applause.)

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The following argument was then made on behalf of the prosecution by Judge Cleaves:

Mr. President and gentlemen of the convention, the only pleasure which I have today or shall have in the performance of the task which has been assigned to me lies entirely in my gratification that the attorney general, who has been asked to represent the State in these matters, has had sufficient confidence in me to feel that I am able and will be able to fairly and fully present to you the views of the State as a result of the circumstances and the testimony which has been adduced before you. All the rest of the performance of my duties is far from pleasant.

My learned friend upon the other side has been kind enough and friendly enough to refer to what I have done in the prosecution of this duty as resulting from cold and pitiless logic. I assure you that it has not been pitiless. Any logic which I apply to the facts now will not be pitiless. I pity Mr. Emerson, as you do, so far as you and I have any right to pity But I do ask you to apply to the circumstances which have been adduced before you the logic of fact and reason, the logic of circumstance and inference.

It impresses me that in the performance of this duty, knowing as I do something of the temper of this Legislature and this convention, a convention composed of men who recently have been sitting 16 hours a day, with no pay and paying their board, that you are not here to hear me or anybody else merely talk. And I shall call your attention for a very short time, as short as I can make it with decency, to some few considerations, some few circumstances, and ask you to apply some few inferences.

In my mind this matter divides itself into four parts, all pointing to the same thing: What was the duty of the sheriff of Penobscot county comes first. What he should have done in the performance of that duty. What did he do in the performance of that duty. And fourth, and last, the question which you are to answer, why.

Now after the third trial of this character is almost concluded it would be a waste of your time were I to ask or answer the question of what the duty of this or any other sheriff is. It has been explained. It is simple, concise, plain—to diligently and faithfully inquire into the conditions in his county, so far as they relate, among other things to the conditions surrounding the enforcement of the prohibitory law or the traffic in intoxicating liquors. What should he have done to have informed himself in regard to those conditions?

Mr. Bro. Stearns has said that he has not had time. He referred earlier in the case to the task as almost equal to that of cleaning out the Augean Stables. But you will remember in that allusion, in that fable, in those tasks which Hercules even was to perform, there was a time limit set within which he should have done something and that time limit for Hercules was one day for each task.

Let us say that the sheriff of Penobscot county, even though it be true that he had been a deputy of a former sheriff, had been upon the liquor squad of a former sheriff, who for almost eight years before he took the oath of office upon January first of this year, had admittedly and in accordance with his own testimony been familiar with almost every one of these places in the city of Bangor, familiar with many of the proprietors by name, familiar according to his own testimony with the character of each one of those places and of the persistency with which they intended and attempted during his former administration as deputy to continue in the liquor business—let us, if we can, forget all those things and if we want to be unusually fair with this man, let us start him on the first day of January as though he never had heard of the city of Bangor, as though he never had heard of the duties of a sheriff or his deputies, and as though upon that day for the first time in his life he stepped into this city, into these

conditions, into the performance of the duties of his office.

Starting with that proposition, let us follow it along and see what he did. We know what he should have done, did he do it?

Upon the 4th day of January, after he had been sheriff of Penobscot county less than five days, he and his deputies swore out four warrants to search four well known places in the city of Bangor. He went in to those four places, and I read to him in your presence, last evening, what quantities and kinds of liquors he seized in each of those places, the receptacles in which they were found, the places within the particular barrooms where they were found, something of the character of the four men, something of the character of these four places. Upon that 4th day of January he and his deputies did what he has told you he did, and whrat the warrants which have been before you and are now open to your inspection show you that he did, and from that time down to today neither the sheriff nor any of his deputies have ever been into either one of those places.

Now for a moment simply let that sink in, if it has not already got in out of sight. Ask yourself, what has the sheriff of Penobscot county done to close up, or to better conditions with reference to the sale of intoxicating liquor in those four places, four places which notoriously were upon that 4th day of January—admittedly upon the 4th day of January, because each one of those men had paid a tax in which he had sworn to a declaration that he intended to engage in the sale of intoxicating liquor—upon that day, with that quantity of liquor exposed as openly as groceries or tea in a grocery store, in such quantities that from some place outside of the State of Maine there was coming into the city of Bangor at least quite a quantity of intoxicating liquor, and if you or I or any other man wanted to actually close up or to benefit the conditions within those places, would we have permitted ourselves, however hard the duties the performance of which we were required by law to perform, to refrain from at least going into those places, two of which were on his way almost from the county jail into town, which certainly he occasionally visited, two of which were within a few minutes walk of the place where from early morning until late at night he was there during his waking hours, and never once according to his testimony and admission has he ever stepped his foot inside of any of those places.

And what are you going to say when you ask yourself, has he diligently inquired, and then, when in answer to that there flashes up before you these four instances alone, and ask yourself the question: "Was that failure wilful?" How can you answer either of these questions other than by saying that he has not inquired, and that that failure to inquire has been absolutely wilful, because diligence, as has been read to you in another case, is such an act as would be performed by an ordinary man who desired to ascertain the truth in the exercise of due care. Did the sheriff of Penobscot county want to know the truth in regard to those places, or was he afraid that he would find out the truth?

Now there are those four instances, typical to a degree, to a large extent, of every other place in Bangor. He knew them all, he says so, and while upon several occasions, five separate days I think constituted the time that he personally gave to these 19 visits that he told us he made, and these 19 seizures in which he participated, all taking place upon five different days, in each of those places he found evidence of an unlawful traffic, of a wicked, open and notorious violation of the prohibitory law, the worst which you have heard so far, worse than any which you can hear, as bad as any which you can conceive of, and never but once in any of those places did the sheriff himself make any effort, either to ascertain conditions, or to remedy and relieve those conditions which he found upon his previous visit. hat is true; it is admitted; it don't have to be proved, but my learned friend upon the other side says that he appointed deputy sheriffs, and that he had a right to rely to a certain extent, and perhaps to a large extent—and you can believe that a sheriff would have a right to rely to a large extent upon

the good faith and the oath of his dep-uties—and that is true, I do not gainsay it—they urge in his behalf and in his favor, and were it not for the facts, today, I should not call your attention to it—you may be sure that if the sheriff had performed his duty when he appointed his deputies, if he had exercised any care or caution whatever in attempting to ascertain whether those deputies were doing anything or nothing-suppose that you have a man charged with the responsibility of performing an important duty which is yours, and you meet that may day in and day out for a period of three months, and you never ask him a single question in regard to how he is performing that important duty and never for a single day go to the place where that duty ought to be performed—and it is your duty, not his, primarily yours—and by and by it is found that that duty has not been performed at all. Could you explain to your business associates, if it was a business transaction, could you make all of your business associates believe that you had been diligent in the performance of the duty and the trust reposed in you, if you had failed so absolutely to do any of the common things which not only decency but caution, to say nothing of diligence, would require of you. I think not. It would not be an explanation that explained anything.

But my Brother Stearns says that these deputies did perform, as well as they could, their duty. You have seen one of them. You have not seen Mr. Spratt or Mr. Wood—Mr. Spratt, who has had long experience as a liquor deputy in the city of Bangor; Mr. Wood, who has had at least three months' experience—and you would like, I have no doubt, to have seen both of those men and heard their story in regard to what they had done and when and how and where they had done it; and my Brother Stearns says that the reason why they are not here is because in that great county of Penobscot there is a ter mof court going on at this time, and there has to be somebody left there to take care of the court and the people. From what you have heard in testimony, during yesterday and today, of the activities of Mr. Spratt and Mr. Wood and Mr. Emerson, doesn't it impress you that the county of Penobscot could spare Spratt and Wood for a half day to come over to Augusta and testify before you. Such an excuse, such a pretense as that the reason they are not here is because they could not be spared, does not appeal to my judgment and intelligence.

I believe that the reason why they did not come was because they were afraid that Mr. Spratt and Mr. Wood might tell you, or in some way expose to you what the facts were. Where is the deputy sheriff whose name was given in the presence of this respondent as the man who, within two weeks of this moment, was drinking in one of the most notorious barrooms in the city of Bangor, which has been such for years, in the daytime, with and in the presence of other citizens of the city of Bangor. Where is he? And I do not stop there with reference to that man, because I ask you if at the end of almost three months under the sheriff of Penobscot county, that man, in the city of Bangor, not only with his oath of office about him, not only with a full knowledge of the character and publicity of the place, went into that place in public, and drank intoxicating liquor over the top of so well equipped and notorious a bar as that. Do you believe he would have done it if he had not felt almighty sure that he knew and understood the policy of his chief and that his conduct in so going publicly into barroom and drinking would not be disturbing to his chief, would be understood and condoned and not complained of? To my mind the absence of that deputy sheriff, concerning whose presence there Mr. Hill testified, concerning whom in your presence that ridiculous attempt to impeach was made, by asking two witnesses if his reputation for truth and veracity was good or bad, when by the simple process of this convention served upon that deputy sheriff he would have been brought here, and he could have told you, not what Mr. Hill's reputation for truth and veracity was, but he could have told you whether he was telling the truth when he said that that man

was there drinking in a public barroom, and his absence is a confession, and that confession is illuminating, and I say again, that in the light of that circumstance, in the light of the undenied and undeniable fact that a deputy sheriff of the county of Penobscot, within two weeks of this time, was publicly drinking in a notorious bar, is more suggestive, more conclusive, of what the sheriff's policy was commonly and well understood to be, than could be the testimony of 10,000 witnesses. No man does that unles he knows that he is not going to be disturbed or criticised, and so I say that the absence of these deputies is, to my mind, practically a confession that they do not do their duty.

Why, see for a moment upon that same line—the sheriff himself has not been into any of those places. The sheriff himself has not asked his deputies in regard to the character of the business carried on in any of those places. He says so himself. Now with his great ignorance of conditions and of facts, what would you expect him to do? He can't tell you anything. He has got five deputies who, if they were performing their duty at all, must have at least gone into some of those places; he leaves four of them at home, and he brings here before you Mr. Trask, who, according to the best information I could get out of him, since sometime in the early part of March, has not been into but few, if any, of the more notorious places in the city of Bangor. He has gone with warrants away out on Third street, he has gone way down somewheres by the Maine Central Fair grounds, not within the limits of the places exhibited by this map. He has gone during the month of March into several places without the semblance of a warrant or a proceeding in form of law which would give him the right to subject the people he visited to searches. He tells you that he went into certain of those places without a warrant to seize, and you all know the difference between a search and seizure warrant and the right which the officer has to search and seize without a warrant where he has a right to seize what there is in sight, but when you go in with a search warrant then you have to take not only what you see but you have to hunt around and see what you can find and take that away, and this man, in the three or four instances in the month of March in which he went in to any of those places, in none of those notorious places did he seize at that time upon or about the bar sufficient evidence of the open traffic in intoxicating liquors, open and defiant, or if not defiant, understood, and he says in none of those places did he ever upon any of those visits conceive of the idea of staying there where he saw that liquor and sending his assistants down to the court room, not over five minutes' walk from each of the places within the limits of this map, and get a warrant by virtue of which he could take what there was.

I am afraid that the sheriff of Penobscot county, soon after he was inducted into office, heard familiar music, and that shortly before the first day of March he had caught the time, got into step, marched to the old familiar strains and the old familiar footsteps and down the same highway and as it seems now, unfortunately, to about the same end, that several of his predecessors had listened to and followed in the county of Penobscot, and, I say it seriously and sadly, that a man who in his anti-election promises seemed destined to make for himself a good record and who promised to make for himself a good record in the county of Penobscot, has so failed his friends and his constituents as this man has failed.

My Brother Stearns says that he wants you to remember, if I touch upon the matter of hauling through the streets of Bangor load after load of barrelled beer—and I think the Uno question went out of this case last night when one of the witnesses testified what you already knew, that when you find hard liquors upon a bar there is no question but what beer, being drawn through the faucets is other than Uno. So I am going to ask you to assume that the beer which was being carried through the streets of Bangor in vanloads was not Uno but rather "They-no".

And my Brother says he wants you to remember that so long as those goods were in transportation and had

not been delivered to the consignee, that under the interstate commerce act they were not seizable under the State laws. That is true. But I ask you to remember also what the sheriff said when he tells you that the old-time red sleds of somebody whose names he mentioned, and I do not now recall, was going through the streets continuously with his own beer. So what becomes of the argument of my Brother Stearns when under the law, which he so well knows, the man with the red sleds who owned the beer went to the depot and got his own beer and that had been delivered to him, and it was his, and so had been delivered to the consignee, and it was no longer in transit; and that is true of every barrel of beer or whiskey that came into the city of Bangor. You do not find any express teams hauling those loads through the streets, you find the men who owned the beer with their own team or teams which they had hired hauling these loads of beer through the public streets of Bangor in the daytime and backing them up to the rum shops and unloading them there; so that they were not in transit, and the sheriff knew it, because upon one occasion, and I think onely one, he gave instructions to one of his deputy sheriffs to seize those teams, or that particular team as I remember it, the red team; and unfortunately this case has developed several misfortunes upon the part of Sheriff Emerson's deputies. The deputy sheriff got into a laundry wagon and the sheriff was sued. That was early in the month of January, and it does not seem to me it can be urged upon you that because the sheriff was sued on account of one of his deputies breaking into a laundry wagon, that that was a reason and an excuse why he should thereafterward permit booze wagons to be openly conducted through the streets of the city of Bangor. Another misfortune, the deputy fell into a barroom down in Brewer when he wanted a match, and came out with a seizure of intoxicating liquors.

Is it not strange that of all the 42,000 gallons of beer in barrels, half barrels and quarter barrels, and that amount does not include a single quantity of beer in cases, only the barrel, half and quarter barrel lots, 125,000 gallons of that kind of commodity so coming in in the three months, that of all those barrels that came in the sheriff and his deputies never thought to trace or trail any of them to see where they were going, to see where was the journey's end, to put a man right there as is done when the law is really meant to be enforced, and find out where the quantity of barrelled beer went, and then leaving a man right there while another man went to the office of the recorder of the municipal court and took out a warrant and went and got it. That is enforcement, and that is decency; the other, you and I know what it is, we don't have to guess.

Is it not strange that of all that quantity that only 24 barrels of those 800 and over that came into the city of Bangor in the month of March last, of those more than 1300 half barrels which came into the city of Bangor during the same time, only 47 were discovered by the sheriff; of the 68 barrels of whiskey, in barrels, not in bottles, not in bottles or jugs or anything else, but in barrels, and of these 68 the sheriff and his deputies never wereable to discover one; although of the hundreds of kegs that came into the city of Bangor during the same time, did he in the exercise of great diligence discover one half full in the haymow of a house he was searching. Diligence, indeed!

The sheriff has undertaken to say, largely through his counsel by a series of questions and later in argument of the chief counsel, that his duties were so great and so onerous and so time-taking that it was impossible for him to give any time or attention to the performance of this particular duty. Now, I do not need to go over that, but I ask you to seriously assume that in the performance of these other duties he did not have all the time that there was. Let us be over fair with him and confine him to the month of March only, at which time the February term of court was all over, at which time the investigation of these several murders, one of which turned

out to be a suicide, were over; when the arson case had become a thing of the past; when all that the sheriff had to do outside of this Bangor strike Bugaboo, and he had 19 men to attend to that for him; when all that he had to do was to at least set down and wonder whether he had performed the duties of his office with reference to this particular feature of the statute. And while you are thinking this matter over just consider and conclude what he did during the month of March and what he knew during the month of March, and how much time he had during the month of March, and then ask yourselves whether he was diligent or not; and if he failed to be diligent, was the result wilfulness.

Now, gentlemen, I have talked longer than I expected to. I have not covered of course any considerable number of the many features which have been brought into the case and brought out in testimony. I have only just a word, and in that word a bit of personal experience which I ask you to apply to your duties here. Do not misunderstand me as reminding you of your duties; do not misunderstand me as attempting in any way to define the scope or limit of your duties. You know better than I do; but inasmuch as my Brother Stearns has alluded to the matter, the matter of your conscience stalking beside you in the night as a shadow, and as an image in the day time, let me remind you of just one thing. Fifteen years ago the people of my locality were so unfortunate as to have me appointed a judge of the municipal court in the city of Biddeford. I was 15 years younger and 15 years less experienced than I have since become. I was flattered and proud because I had received that appointment, and I wanted to do what I then conceived to be the best that I could; and I read the newspapers carefully to see how the members of the press, who ordinarily reflect public opinion, recorded my purposes. I listened carefully whenever I was in the company of people who might be discussing anything that occurred in the municipal court to determine how they felt with reference to what I had done. And those six months were sad, evil months for me, because the newspapers did not always agree with what I had done; even my friends oftentimes criticised me; and I found that this idea of keeping your ear to the ground is all well enough when you are playing the game of politics, but when you have taken an oath of office to perform a certain duty you had better keep your ears up in the air and let the ground take care of itself. At the end of six months I came to a conclusion, and that was that if each day in the performance of my duties I could go home at night and look into the face of Mrs. Cleaves and feel that I had done the best I knew how, I did not care what the newspapers thought about it; I did not care what my neighbors thought about it, nor what my enemies thought about it; and applying that right to what my Brother Stearns has said, it resolves itself finally into a question of satisfying the conscience and judgment and sense of decency of each one of us as individuals. When you have done that, you need not be afraid of the spectre or the shadow that will be by your side day and night; you can go to your homes, and although it may be that it will be with some degree of sorrow that you will remember the performance of a duty, you will remember that you have performed that duty and that it was not of your seeking, and that you were not the one to blame, but that you have simply spread upon the records of this State your sworn opinion of the conduct of a public official. (Applause.)

THE PRESIDENT: Members of the convention all well understand, but for the benefit of others who are present the Chair will state that when the convention is dissolved persons in the rear of the room will remain seated until the Senate has passed out; the Senate will retire to its own room, the Senate and House sitting separately while the proceed to consider the adoption of the address named in this resolve. The purpose for which this convention was formed having been accomplished, the convention is dissolved.

The Senate thereupon retired to the Senate Chamber.

## IN THE HOUSE.

(The Speaker in the Chair.)

Mr. SMITH of Patten: Mr. Speaker, I move that the House do now go into executive session for the purpose of considering the adoption of an address to the Governor for the removal of Wilbert W. Emerson, sheriff for the county of Penobscot.

The motion was agreed to.

### In Executive Session.

THE SPEAKER: The question before the House is whether the House will favor the adoption of an address to the Governor for the removal of Wilbert W. Emerson, sheriff for the county of Penobscot.

Mr. HUTCHINS of Penobscot: Mr. Speaker, I move that when the vote is taken it be taken by calling the yeas and nays.

THE SPEAKER: Those favoring the demand for the yeas and nays will please rise.

A sufficient number having arisen,

The yeas and nays were ordered.

Mr. DUNTON of Belfast: Mr. Speaker, in a matter of so grave importance as this, both to the accused and to the State, it seems to me that we should be sure that a majority of the House are present. I notice a great many vacant seats, and in order to determine that question as to whether a majority is present, I raise the question of a quorum.

THE SPEAKER: Will the monitors return the count to the Chair of the number of members in each division, including themselves?

A count having been made, disclosed the presence of 90 members.

THE SPEAKER: A quorum appears ot be present. Is the House ready for the question? The question is upon the adoption of an address to the Governor for the removal of Wilbert W. Emerson, sheriff of the county of Penobscot. All those in favor of the adoption of an address to the Governor for such removal, when their names are called will answer yes; those opposed will answer no. The clerk will call the roll.

YEA:—Allen, Bass, Benn, Benton, Boman, Bowler, Bragdon of Sullivan, Bragdon of York, Butler, Chick, Cochran, Cook, Dunton, Durgin, Eastman, Farrar, Folsom, Goodwin, Greenleaf of Auburn, Greenleaf of Otisfield, Harman, Higgins, Hutchins, Irving, Jenkins, Johnson, Jones, Lawry, Marston, Maxwell, Mcbride, McFadden, Merrill, Morrison, Morse, Nute, Peacock, Peaks, Peterson, Richardson, Roberts, Sanborn, Sanderson, Sargent, Skelton, Skillin, Smith of Auburn, Smith of Patten, Smith of Presque Isle, Spencer, Stevens, Stuart, Sturgis, Swift, Thombs, Tobey, Trimble, Tryon, Umphrey, Washburn, Waterhouse, Wheeler, Wise—63.

NAY:—Austin, Bither, Bucklin, Clark of New Portland, Connors, Crowell, Doherty, Eldridge, Harper, Jennings, Kimball, Leary, Mitchell of Kittery, Mitchell of Newport, O'Connell, Packard, Pendleton, Peters, Putnam, Quinn, Reynolds, Robinson, Snow, Stetson, Taylor, Twombly, Violette, Winchenbaugh—28.

ABSENT:—Boland, Brennan, Brown, Chadbourne, Churchill, Clark of Portland, Currier, Cyr, Davis, Descoteaux, Donovan, Dresser, Dunbar, Eaton, Elliott, Emerson, Estes, Farnham, Franck, Gallagher, Gamache, Gardner, Gordon, Haines, Hancock, Harriman, Haskell, Hodsdon, Hogan, Kehoe, Kelleher of Portland, Kelleher of Waterville, Leader, LeBel, Leveille, Libby, Mason, Mathieson, Maybury, Metcalf, Mildon, Mooers, Morgan, Morneau, Newbert, Pitcher, Plummer, Price, Ramsay, Ricker, Rolfe, Rousseau, Scates, Sherman, Smith of Pittsfield, Sprague, Stanley, Swett, Thompson, Yeaton—60.

THE SPEAKER: Sixty-three having voted in the affirmative and 28 in the negative, the motion prevails and the address is adopted, in concurrence with the Senate.

Mr. Smith of Patten moved that the records of the executive session be spread upon the records of the House.

The motion was agreed to.

Mr. Smith of Patten then moved that the House do now go out of executive session.

The motion was agreed to.

## IN THE HOUSE.

On motion of Mr. Smith of Patten the House voted to take a recess until 25 minutes past 2 o'clock this afternoon.

### After Recess.

The House was called to order by the Speaker.

On motion by Mr. Irving of Caribou the rules were suspended and that gentleman was permitted to introduce out of order bill, an act to empower the counties of Penobscot, Hancock and Aroostook to aid in the construction of the Eastern Maine Railroad through said counties, and to acquire and hold pre-

ferred stock of such railroad as security therefor.

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

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On motion by Mr. Mitchell of Kittery unanimous consent was given and that gentleman introduced out of order the following committee reports:

Mr. Mitchell from the committee on appropriations and financial affairs reported "ought to pass" on resolution in favor of appropriating money to assist in freeing Portsmouth Bridge.

The report was accepted, and on further motion by Mr. Mitchell the rules were suspended and the resolve received its two readings and was passed to be engrossed.

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On motion by Mr. Peacock of Readfield, unanimous consent was given and that gentleman introduced out of order report of the committee of conference on the disagreeing action of the two branches of the Legislature on bill, an act to amend Chapter 195 of the Public Laws of 1911 entitled "An act to extirpate contagious diseases among cattle, horses, sheep and swine," reporting that they are unable to agree, the report being signed by Messrs. Peacock, Tobey and Boynton.

The report was accepted.

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From the Senate: Communication from the Governor in respect to resignation of Hewitt M. Lowe from the office of sheriff of Androscoggin county.

The communication was ordered placed on file in concurrence with the Senate.

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From the Senate: Ordered, the House concurring, that whereas Hewitt M. Lowe, sheriff of Androscoggin county, having resigned his said office, which resignation has been accepted by the Governor, that the proceedings now pending for his removal be indefinitely postponed.

On motion by Mr. Smith of Patten the order received a passage in concurrence with the Senate.

From the Senate: An act to appropriate money for the expenditures of government for the year 1914.

In the Senate this bill received its two readings and was passed to be engrossed under a suspension of the rules.

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

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 will read the resolve under which the convention is formed.

The secretary then read the resolve in favor of the adoption of an address to the Governor for the removal of William H. Hines, county attorney for the county of Androscoggin.

THE PRESIDENT: Appearances may now be entered.

ATTORNEY GENERAL WILSON: For the purpose of presenting evidence in support of the causes assigned, there may be entered on the records the name of the attorney general and the name of W. B. Skelton, of Lewiston.

HON. W. R. PATTANGALL: There may be entered as counsel for Mr. Hines the names of W. R. Pattangall and George S. McCarty.

The PRESIDENT: The secretary will read the rules under which the proceedings are had.

Mr. PATTANGALL: Mr. President, if there is no reason why it would affect the proceedings, so far as Mr. Hines' counsel are concerned and he, we would have an entry made but we waive the reading the rules.

The PRESIDENT: Without objection, the reading of the rules will be waived. Is it the desire of counsel that a roll call be had?

Mr. PATTANGALL: I do not care for it. It is very obvious that at the present time there is a quorum present.

The SPEAKER: The secretary will make an entry that a roll call is waived.

Mr. PATTANGALL: I assume from former talk and rulings that if at any time either side desires a roll call to ascertain in regard to the presence of a quorum, we would have the right to ask it, but there is obviously no reason for it at this time.

The PRESIDENT: Do you desire to have any answer entered upon the record?

Mr. PATTANGALL: Mr. President, there is just one word I would like to say before having the entries made of general denial, which will be made in any event, and that is this: I believe that some action ought to be taken in regard to this resolve. I realize that it cannot be taken by the attorney general or the presiding officers or by the convention as such; and I also realize that I have not any opportunity to address the Legislature, except sitting in convention. I want to make this suggestion, and I want to ask the convention believe me when I say that I do not make it for delay, because I have already saved the convention as much time as they would have used in carrying out the suggestion I made. Any of you who have read the resolve, House Document No. 698, will see that it follows the wording of the resolve which you have already tried, in which a certain officer is accused of having wilfully or corruptly refused or neglected to perform certain duties. Now, that sentence involves four charges; there is a difference between wilfully neglecting to do a thing and wilfully refusing to do a thing; there is a difference between corruptly neglecting to do a thing and corruptly refusing to do a thing. As the case stands, when you vote you vote in such a way that it is absolutely impossible to tell from your record whether you are accusing an official of corruption or not; and that record stands for all time.

I believe that by making such a record, provided you do find any charge sustained against a man, by making a record that involves all of the charges you do a gross injustice. I spoke of that in the former case, but too late for it to be rectified. I believe in decent fairness toward this respondent, if respondent is the proper word to use, this convention ought to take just recess enough to divide those charges. I will agree on the part of Mr. Hines and his counsel that if that is done we will have an entry made waiving service, or acknowledging service and covering any other possible technical legal point that the Speaker or the President or any other gentleman in the convention can suggest. I simply ask that in decent fairness that if by any chance you should find what I believe you won't find—but I have got to protect against all emergencies—any neglect, any official neglect, that you should not be forced to put a vote upon your record from which nobody could determine in the future whether you found corrupt refusal or corrupt neglect. I make that suggestion, and I hope it will be received in the spirit in which it is made.

The PRESIDENT: The members of the convention have heard the suggestion made by counsel and of course are aware, as counsel has suggested that there is only one method of bringing this about, and that is by taking a recess for the purpose of permitting the House and Senate sitting separately to amend the resolve if they see fit. The presiding officers of course will entertain a motion for a recess for that purpose, if any member of the convention desires to make the motion. The motion if made must be decided without debate.

Mr. SCATES of Westbrook: Mr. President, I make a motion that the convention do now take a recess for 15 minutes.

The question being on the motion that the convention take a recess for 15 minutes,

A viva voce vote being doubted,

A division was had and the motion prevailed by a vote of 64 to 47.

The Senate thereupon retired to the Senate Chamber.

## IN THE HOUSE.

Mr. WHEELER of Paris: Mr. Speaker, I move that a committee of five be appointed from the House to meet such committee as the Senate ay designate, for the purpose of conferring in relation to a change in House Document No. 698, relating to proceedings for the removal of William H. Hines, county attorney for Androscoggin county.

The motion was agreed to.

The Chair thereupon appointed as members of such committee on the part of the House Messrs Wheeler of Paris, Smith of Presque Isle, Dunton of Belfast, Smith of Patten and Newbert of Augusta.

On motion by Mr. O'Connell of Milford the House voted to take a recess for five minutes.

### After Recess.

Mr. Wheeler of Paris from the committee appointed to confer with a committee from the Senate on the matter of proceedings for removal of William H. Hines, county attorney for Androscoggin county, offered the following order:

Ordered, the Senate concurring, that House Document No. 698, being a resolve in favor of the adoption of an address to the Governor for the removal of William H. Hines, county attorney for the county of Androscoggin, be amended by striking out the words "or corruptly" in the ninth line thereof.

On motion by Mr. Wheeler of Paris the order was adopted.

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

### In Convention.

(The President of the Senate in the Chair.)

The PRESIDENT: The Chair announces to the convention that in the recess of the convention the following joint order has been adopted by the Legislature, this order originating in the House:

"Ordered, the Senate concurring, that House Document No. 698, being a resolve in favor of the adoption of an address to the Governor for the removal of William H. Hines, county attorney for the county of Androscoggin, be amended by striking out the words 'or corruptly' in the ninth line thereof."

The presiding officers understand that the effect of this is an amendment of the resolve under which this convention is operating and that any objections, if there may be any such, are waived and any notice that might be required is waived by counsel; and the answer may be entered now, a general denial.

Mr. PATTANGALL: Mr. President, if the secretary may make any entries necessary in regard to service being waived and notice waived—I do want in just one word to call the attention of the convention again to the fact that the charges as now stated in the resolve, the causes for removal as stated in the resolve are in the opinion of Mr. Hines and his counsel not specific and too general to properly conform to the Constitution. I do not feel it is necessary to file any written motion in regard to that matter; I call attention of the convention to that fact, and at this time would like to have entered on the record our objection to the convention proceeding to a hearing without the causes of removal being stated more explicitly and definitely and in detail in the resolve.

The PRESIDENT: The objections may be entered upon the record; also the usual entry of the objections overruled.

Mr. PATTANGALL: And that an appeal is asked for.

The PRESIDENT: The secretary will make all the entries.

Mr. PATTANGALL: Now if the secretary will enter a general denial on our part; and I want to say further that if the prosecution desires that any general admission of facts will be of any avail to save detailed testimony we will be ready to make it as the evidence proceeds; and at that time if Brother Wilson will call my attention to it we will work as speedily as we can in that respect.

Opening statement for the prosecution, by William R. Skelton, Esq., of counsel for the State.

Gentlemen of the Convention:

This proceeding is the first in the series which you have had referring to the office of county attorney, and while generally speaking that office is

very different from the office of sheriff, I desire to call your attention at the outset to the fact that so far as it applies to the special statute fixing the duties which you declare, or are asked to declare, that Mr. Hines has failed to perform, there is no difference in the responsibility resting upon the two officials. The only difference is a difference of the method in carrying it out.

The duties referred to in the resolve are stated in Chapter 41 of the Public Laws of 1905, which is an amendment of the original section found in the Revised Statutes, and to show you how the law contemplates that the duties of these two officials travel along together with respect to the enforcement of the prohibitory law, I desire to read a few lines from that chapter.

"Sheriffs and their deputies and county attorneys shall diligently and faithfully inquire into all violations of law within their respective counties, and institute proceedings in cases of violation or supposed violation of law, and particularly the law against illegal sale of intoxicating liquors, and the keeping of drinking houses and tippling shops, gambling houses, or house of ill fame, either by promptly entering a complaint before a magistrate and executing the warrants issued thereon, or by furnishing the county attorney" —and this latter clause apparently refers to the sheriffs, and is the only one that makes that position different from that of the county attorney—"or by furnishing the county attorney promptly and without delay with the names of alleged offenders and of the witnesses."

So you will see that we are now proceeding under the same statute, with relation to the same subject matter, and along lines that require in a large degree the same class of testimony as in the cases which you have already attended to. The resolve itself as now amended differs in one respect, to be sure, from those in which you have acted, in the previous investigations, because it strikes out the word "corruptly." It stands, however, susceptible now of the same proof which we had intended to offer before this change was made, a change which I think I may properly say was made with the full consent and approval of the attorney general's department. It is needless for me to say that any evidence of corruption would necessarily be evidence of wilful failure or neglect, but I wish to say frankly that so far as the popular acception of the term is concerned, the receiving of money or of something of value or what is more popularly called "graft," I am not making any such charges or offering such evidence.

Our claim will be, and we think we shall be able to produce testimony to substantiate it, that through some general understanding the county attorney has wilfully failed to proceed as he is required to do under the provisions of this Statute. We shall show and introduce for your consideration testimony showing in the first place—and necessarily, because there could be no failure if there were no violation of the law—testimony tending to show conditions as they have existed in Androscoggin county, and particularly in the city of Lewiston, since the first day of January, 113. We shall undertake to show that the prohibitory liquor law has been openly, persistently and practically uninterruptedly violated. In order to do that we shall show the number of holders of special stamp receipts, usually called liquor licenses, from the United States internal revenue department. We shall show that they are generally scattered through the business and the more thickly settled parts of the city, and I call your attention at this time to a chart which we have had prepared and drawn to scale, 100 feet to the inch, showing the location of places represented by these special liquor tax stamps. They are marked in black on this chart. I regret that a part of it does not appear more distinctly, but I think you can all locate them.

I call your attention in the first place to the location of the Androscoggin river, with the city of Auburn, as you know, on the west side, Main street, the general thoroughfare leading from Auburn into Lewiston up to Lisbon street, the principal business stret of the city, and you observe these places, about which testimony will be offered more in detail, along the side of this

street, between the Androscoggin river and Lisbon street.

Then we come to Lisbon street, the principal business street, as I said, and I ask you to observe the prevalence of these black patches along this street, and especially want you to observe below Pine street, which is here (indicating) and on which the city hall is located. Lincoln street—another important business part of the city, leaving Main street at the point indicated, and following down here (indicating)—you will observe the black spots along the two sides of that street.

I call your attention further to Park street. Here is the location of the Park Street Methodist church. There you observe, perhaps not over 200 feet from that church, one of the black spots, and two on the other side.

I call your attention particularly to Middle street, because there will be voluminous testimony offered as to the amount of business being done at one place in particular on that street, and you will observe, right where my pointer now rests, one of the largest school buildings in the city of Lewiston, the Oak street school, and Intermediate school and training school for teachers, with Middle street leading directly from Main street, and the place that I indicate for the pupils to pass by.

We shall show an immense quantity of liquor coming in to the city since the first day of January. We have taken some pains to examine the records of shipments, and I have witnesses here to prove the results. As you probably all know, there are two railroads leading into Lewiston, the Maine Central and the Grand Trunk. We have had an opportunity to examine the records of the Maine Central only, not that we were treated any different by the other road, but for lack of time we were unable to make a detailed analysis of those at both roads, but at the Lewiston station of the Maine Central Railroad—and we have the freight clerk here with the original records to substantiate that statement in due course—at the Lewiston station of the Maine Central Railroad we found that in the month of January, 1913, they received large quantities—I will not undertake to read them in detail now, that will be placed before you later—but among other things, 535 barrels, 51 kegs and 46 cases of ale, 1251 barrels, 80 kegs and 378 cases of beer, 81½ barrels, 18 kegs and 230 cases of whiskey, and so on, the hard liquors of course in smaller quantities.

In the month of February they received 388 barrels of ale and 978½ barrels of beer, and in the month of March 338 barrels of ale and 978½ barrels of beer. In other words, this one railroad, exclusive of the Grand Trunk, brought into the city of Lewiston during the three months under consideration, 247 barrels and odd kegs and cases of whiskey, 39 barrels of rum, 1261½ barrels of ale, 3161 barrels of beer, besides the gin, wine, alcohol, brandy and miscellaneous liquors.

That is the record of one road for the three months. Now we shall show not only that, but we shall show that one dealer received 90 barrels of beer and ale, and 10½ barrels of hard liquors; another dealer received 53 barrels of beer and ale, and a similar quantity of hard liquor; another received 137 barrels of beer and ale, and 3 of hard liquor; another received 363½ barrels of beer and ale and 27 barrels of hard liquor; another received 148 barrels of beer and ale and 21 of hard liquor; another 325 barrels of ale and 37 of hard liquor, and so on through what might be made an extended list.

This place that I have referred to near the school buildings on Middle street starts in January first with this record at the Maine Central station alone, and has a continuous record of receipts of intoxicating liquor amounting to 346½ barrels of beer and ale and 16½ barrels of hard liquors, this one place, within a few hundred feet of a large school building for young people to which I have called your attention.

Now, gentlemen, we are going to undertake to show you not only that these tremendous quantities of liquors have been coming in there day after day and week after week, but we must show you that there has been no attempt to stop it, because of course if the sheriff's department stopped it, the county attorney would not need to act. If the sheriff's department didn't stop it, the statute makes it the clear duty of the county attorney to try to do something himself towards stopping it.

We find, so far as raids by the sheriff's department were concerned, and this must be the excuse of the county attorney for taking no hand whatever, if there is any excuse—we find that during that three months, out of the 3161 barrels of beer, they succeeded in seizing 106 gallons; out of the 1261 barrels of ale they apparently didn't find a drop; of the 247 barrels of whiskey they got 18 gallons and 13 quarts—that would be 21 gallons and one quart. We will give you the figures more in detail before we get through with them.

We find, referring to these particular places that I have mentioned, that a seizure was made on January 23rd at the place of Romuel Currier, one of those places that I have called your attention to on Main street between Auburn and the head of Lisbon street, our principal business street. As I have said, it appears that he had received 90 barrels and one case of beer and ale and 10½ barrels of hard liquors. The deputy sheriffs went here on January third, and what do you suppose they found? They found 6 pints of beer, and 7 quarts of hard liquor, and they haven't been there since that time. There is a place on Main street, Nay & Co., or Patrick Nay, where they received 53 barrels of beer and ale and a barrel of hard stuff, and the officers went there on January 3rd and found 4 pints of beer and 5 quarts, and a pint and a half of hard liquor. George Paul's place on Park street, about which we shall introduce some testimony, is licensed as a retail liquor dealer and as a wholesale dealer in malt liquor. He received 137 barrels of beer and ale and 3 barrels of hard stuff since the first day of January, and the officers haven't found one single identical drop. Stanislaus Moreau has a retail liquor dealer's license for 27 Chestnut street and a wholesale license for the rear on Lincoln street. He has had 363½ barrels of beer and ale and 27 barrels of hard stuff in three months, 120 barrels of beer and ale per month, and they haven't found a drop or looked for it.

James Radigan has had 148 barrels of beer and ale and 21 barrels of hard stuff. They haven't found a drop of anything in his name, or apparently looked for it.

Thomas McNamara has received 325½ barrels—and he is on this Main street—325½ barrels of beer and ale and 27 barrels of hard liquor. They found 10 pints of beer there and 16 quarts of hard liquor.

Now I am not going through the entire list of these things. The testimony will show, gentlemen, that the sheriffs made a few seizures, in the early part of January. It will show what they were. What I have read to you are fair samples. The last one was reported into the Lewiston municipal court, on the 20th day of January, and from the 20th day of January to the 24th day of March, two months and four days, with this amount of business going on, not one single search was made or drop of liquor received.

There is something more significant about these seizures. For instance, I find a libel dated January 16, for a seizure made presumably the day before, at a place on the north side of Main street licensed to Nay & Company, Patrick Nay and James T. McDonald. This seizure, I presume, was made the day before, but the libel is dated the 16th of January. They got 48 pints of beer and 3 quarts of whiskey. I find that on the 15th day of January, the day before the libel was returned, they received by the Maine Central Railroad 4 half barrels of whiskey and 10 barrels of beer. I find that a seizure was made, returned into court, on January 6, at the place that I have referred to on Middle street, near the school building, Jerry Breen of J. W. Breen, they got 12 pints of beer and six quarts of hard liquor. On the 4th day of January, that concern received five barrels of beer and five casks of whiskey, and on the 6th day of January, the day that this libel was returned into court, they received 40 barrels of beer and 13 casks of whiskey, and on the 17th day of January, the very next day, they got 40 more barrels of beer. Now I am not finding any fault that on the 5th day of January they didn't seize the 40 barrels that was received on the 6th and the 40 barrels that was received the 7th, but our theory, gentlemen, is, and it will appear that no further search has been made, our theory is that when the seizure was made on the 5th day of

January, if the dealers didn't understand that they were safe from molestation by the criminal prosecuting authorities, the sheriff's department and the county attorney's department, they wouldn't get 40 barrels the next day and 40 more the day after and take the chances of a second seizure.

Now then, to substantiate our theory that the county attorney is cognizant of these matters, that they are carried on with his wilful connivance, that he isn't doing what the law requires of him in the prosecution of these places we shall offer certain specific testimony. It will consist of witnesses, who will state their own experiences, and of the records of the court, and in the first place as to the witnesses.

We shall show you in the first place or among other things that an association was formed in Androscoggin county, a year or more ago, to try and secure a better condition of affairs, one of entirely reputable makeup. President Chase of Bates College was president of it. George M. Twitchell of Auburn, Dr. Twitchell, known to most of your personally, or by reputation, was vice president. John L. Reade, Esq., of Lewiston, was secretary, and J. W. Stetson, treasurer of the Androscoggin County Savings Bank, was treasurer. The executive committee was made up of Henry W. Oakes, C. S. Stetson, master of the Maine State Grange, and other citizens of excellent standing. In April, 1912, after they had completed an investigation, they caused the results to be published, giving detailed information about a large number of places that were openly violating the prohibitory law, and stating that they had the evidence to convict these places that was at the disposal of the county officials. This was not only published in the Lewiston Journal, of local as well as State circulation, but a copy of it was sent by the secretary to the county attorney, among other county and city officials, so that he had that information so that he could use it, not only in 1912, but if for any reason he couldn't use it conveniently, in 1913.

We shall introduce a reputable citizen of Auburn, who will testify that he visited various places in Lewiston on one or more occasions, last summer, and found a widespread and open violation of the law, and that night he went to the sheriff, who lived across the street from him and asked him to go with this person and visit the place himself and see what they were doing. The sheriff told him he had deputies for that purpose, and after a considerable argument offered to send his deputies with Dr. Leitch, who was the party that had made the investigation. They went to the court house to find a deputy and two of them came along and Dr. Leitch told them that he was going with them. They jumped into a wagon and as they started off Dr. Leitch asked them to wait, but they told him that they had got to go and serve a wararnt, and they drove off in the direction of Lewiston, and after some considerable delay another deputy was secured and went with Dr. Leitch and found the places all closed and the curtains down.

Now to bring this home to the county attorney, at the September term of court, while the grand jury was in session, opening on the third Tuesday of September, Dr. Leitch and another clergyman went to the county attorney and told him what evidence they had, what efforts he had made to get the sheriff to do something about it, and asked him for an opportunity to present this testimony to the grand jury, both against the violators of the law and against the sheriff himself, under the so-called Oakes law. The county attorney told him that he was very busy at that particular time and would telephone him when he got ready. The next thing that Dr. Leitch heard was that he read in the papers that the grand jury had adjourned. He will testify that he then went to the court house and saw the county attorney and called his attention to the interview and the county attorney finally told Dr. Leitch or words to that effect: "I am in a hard place; I might as well tell you that I wasn't elected to enforce the prohibitory law." We have had another term of court since January 1st, since the time covered by the present incumbency of office, and Dr. Leitch will testify that he has had no indication to appear before the jury at that time,

and of course he knew it would be useless to ask for such an opportunity.

I want to call your attention briefly to the court record as bearing on this same contention that it is all a part and policy to be as easy as possible with liquor dealers. I will refer to the January term of 1913 because that term comes directly within the time covered by this resolve. Now in the January term of 1913, there were 71 continued criminal cases on the docket brought over from previous terms. I want to be perfectly frank with you. It is everybody's experience that has any knowledge of court practice that there is gradually with any system an accumulation of old cases that cannot or need not for one reason and another be prosecuted, where sentences have been imposed for one reason or another, so that I am not going to give especial stress to those 71 cases except to say that nothing whatever was done with a single one of them. Those were continued cases. There were 39 new nuisance indictments found at the January term of court. I need not say to you that under the statute which you are proceeding under itw as the duty of the county attorney to prosecute diligently those 69 new nuisance indictments that had been secured upon seizures made prior to that term of court.

Now let us see what was done with them, what the evidence will show. Out of those 69 nuisance indictments, not one single man appeared to have been brought into court. Every one of those cases were defaulted in the regular course on the 10th day of the term. The term continued for 21 days, so that there were eleven days still left for the county attorney to have brought these respondents into court. Justice Savage who presided ordered scire facias suits upon all of them.

I want to explain briefly to those of you who are not attorneys what is meant by some of these terms. When a bail bond is defaulted you do not get an execution to go and collect the money, but you have to bring suit against the principal and his bondsmen. That is called a scire facias suit. Obviously it is the duty of a prosecuting attorney to bring scire facias suits if there is a default and the party does not appear. But for some reason and we shall ask you to draw your own conclusion, the presiding justice found it necessary to make a special order upon the docket that scire facias sits should be brought. Those suits would be returnable if brought promptly on the first Tuesday of April, and would have been served by the first Tuesday of April. But out of those 69 special orders of Justice Savage to bring those suits.

We shall show that the county attorney has disobeyed every single order. In other words, not one suit has been brought. What else might he have done? As I have said, at the January term the defaults were entered on the 10th day. There were still 11 days for the judge and jury to stay there and take care of those cases. The county attorney might have taken out bench warrants, had those parties arrested and brought into court, but the docket does not show that a single bench warrant was taken out as I recollect. There were two indictments for keeping houses of ill fame which were defaulted at the same time and scire facias suits ordered at the same time and have not been brought, so far as we are able to learn.

There were 80 search and seizure cases, appealed cases from the lower court, defaulted. And while mittimuses have been issued to arrest those parties since the term, Justice Savage specially ordered scire facias suits there, but they have not been brought. In other words, at the January term of court, out of 69 nuisance indictments, not a single person was brought into court and took what the law provided as coming to him.

Now what has transpired since then? And it is material because it shows a continued policy in following this class of criminal cases. I find at the January term of 1912 there were 63 new nuisance indictments found For some reason or other, these respondents did not care to come into court. Three of those 63 cases were disposed of. It will appear, I think,

that those three were persons who were under arrest because they were not able to give bail, and they had to be disposed of. The other 60 were simply defaulted and continued to the next term without issuing a single warrant to try to bring one of them in. No scire facias cases were brought to compel their bondsmen to produce them. At the April term, Judge Cornish found those cases on the docket with nothing done with them, and he made a special order that scire facias suits should be commenced against the bondsmen. Not one of those people were brought into court during the April term of court. They went forward to the September term, and the judge ordered in every one of those 60 cases the county attorney to bring scire facias suits.

At the September term there was a cleaning up of the docket and of those 60 cases, 33 of them were simply nol prossed. 15 were nol prossed on payment of $110, and nothing was done with the other 12. 33 were nol prossed without any penalty; 15 were nol prossed on the payment of a sum of money, and out of the whole 60 cases, every man of them was able to get out of court without getting a criminal record, and I think the records of the court will show that it was not that those three were persons who to have an attorney enter his appearance upon the docket to secure his continuance and look after his interests.

I do not say that attorneys did not appear, but it was not necessary to do the business in court. There were no convictions. There were no sentences. It was simply a matter of fixing up and saving them from a criminal record and to clean the docket.

That is the January term of 1912. Now at the April term, 1912, out of 66 consecutive numbers of new entries, 55 were liquor nuisances. This was the same term at which Justice Cornish presided and ordered scire facias to sue on those continued cases from January. Those 55 were defaulted. Not one of the 55 were broken into court. Not a bench warrant was taken out, so far as the docket shows, by the county attorney to force one to come into court. They were all simply continued. Not one case where the bondsmen sued by scire facias process to compel them to bring them into court. Two out of that 55 did plead guilty. On what terms? Their cases were placed on the special docket without any punishment of any sort.

Now to show you that it was not impossible for the county attorney to get respondents into court if he tried to, there were 11 indictments for other offences than liquor offences, and out of those, six were disposed of at that term of courts receiver their sentences, or one case was placed on probation.

At the September term for 1912, 13 search and seizure cases were nol prossed on payment of money, and all of the new indictments that term were nol prossed without anything—I mean nuisance indictments, two were nol prossed on $110 payment, and one plead nolo and received a sentence of $100 or 30 days. So that for the year 1912, to recapitulate briefly, the 63 indictments at the January term, three of them got consideration that term, and the rest to the September term. 33 were then nol prossed without anything 15 nol prossed on payment of $110, and not one single one of those 60 got a criminal record. Out of 55 indictments, nuisance indictments, of the April term, two were placed on the special docket, 17 were nol prossed for nothing, two were nol prossed on the payment of money, not one got a criminal record.

Of the 60 indictments in September, one plead nolo, eight were nol prossed on the payment of money. So that we have a record for the year of no convictions except two on the special docket, and one plead nolo. And all the rest of those new indictments, amounting to about 150 were nol prossed or continued without any final disposition.

We shall show from the testimony that some of those which were nol prossed were some of the most persistent offenders and that they are among those receiving these enormous quantities of liquor since the beginning of 1913. Many names that were simply nol prossed without any record whatever, or without having to go into court during the year 1913. And of those new indictments hardly one even found it necessary during the three terms of court to even have an attorney appear for them on the

docket of the court. As I have said, they did not have to go into court.

We shall take the ground that this condition of affairs shows conclusively the wilful neglect and failure, if you put it in no other way, of the county attorney, to deal in any reasonable manner with his criminal docket is wilful disobedience to the orders of the justice of the court to sue defaulted bail, and is all within the statement that he made to George Leach that he was not elected to enforce the prohibitory law, and that it is consistent with the present wide open conditions which the facts show exist and it would not exist without his connivance.

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Witnesses for the State called and sworn.

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Mr. OWEN was called to take the witness stand.

Mr. PATTANGALL: Mr. Speaker, in the matter of the parties holding United States licenses, counsel can put in the list and if counsel desires to read the whole list, I do not care about it.

Mr. SKELTON offered the list of those holding liquor dealers' licenses, and read a few of the names. It was then agreed that the whole list should be incorporated in the record.

Vincent Bottling Works, W D M L, Auburn, 15 So. Main St.; Vincent Bottling Works, R L D, Auburn, 15 So. Main St.; T. F. Buckley, R L D, Lewiston, Middle St.; Cyrille Bedard, R L D, Lewiston, 195 Lincoln St.; Audre Belleveau, R L D, Lewiston, 193 Lincoln St.; H. L. Bailey, R L D, Lewiston, West Side Main St.; Ernest Baucher, R L D, 400 Lisbon St.; Martin Bergin, R L D, Lewiston, 330 Lisbon St.; A. I. Bryant, R L D. Lewiston, 95 Main St.; Cyril Bedard, R M L D, Lewiston, Fair Grounds; John Breen, R L D, Lewiston, 47 Water St.; Victor Beaudelle, R L D, 151 Lincoln St.; Emevilde Berube, R L D, Lewiston, 259 Lisbon St.; J. W. Breen, R L D, Lewiston, 102 Middle St.; Romnald Carrier, R L D, Lewiston, 133 Main St.; Auguste Charpentier, R L D, Lewiston, 19 Hines Alley; J. J. Crosby, R L D, Lewiston, 8 Park St.; Alfred Chevalier, R L D, Lewiston, 148½ Lincoln St.; Estelle H. Cole, R D M L, Lewiston, 74 Lisbon St.; Emile Chartrand, R L D, Lewiston, 79 Chestnut St.; Colonial Club, R L D, Lewiston, 36 Lisbon St.; George Cote, R L D, 27 Cedar St.; Patrick Doyle, R L D, Lewiston, 304 Lisbon St.; Ludger Dube, R L D, Lewiston, 275 Lisbon street; Joseph Dube R L D & RD ML, Lewiston, 177 Lincoln & Fair Grounds; Gaspard Des Haies, R L D, Lewiston, 350 Lisbon; Elks Club, R L D Lewiston, 188 Middle; Eagle Associates, R L D Lewiston, 175 Main; Eagle Tobacconist, R L D Lewiston, 318 Lisbon; Patrick Fahey, Jr., R L D Lewiston, 125 Main: Fahey & Company, R L D Lewiston, 125 Main; Mrs. J. F. Frost, R L D Lewiston, 35 Oak; Patrick Gilroy, R L D &W D M L, Lewiston, 16 Water; Leon Gilbert, R L D Lewiston, 335 Lisbon; Narcisse Garneau, R L D Lewiston, 104 Chestnut; Hannah Harrisburg, R L D Lewiston, 35 Lincoln; James W. Howard, R L D Lewiston, 327 Lincoln; M. Jolicoeur, R L D Lewiston, 409 Lisbon; Magloin Jolicoeur, R L D Lewiston, Fair Grounds; T. P. King, R L D & W D M L, Lewiston, 12 Bates street; Arthur B. Loring, R L D Lewiston, 103 Main street; William Leader, R L D Lewiston, 79 Park; D. F. Long, R L D Lewiston, 59 Lisbon; Laurient Laberge, R L D Lewiston, 151 Lincoln; Patrick Lahey, R L D Lewiston, 229 Lincoln; Joseph Lemay, R L D Lewiston, 32 Oxford; Albert LeClair, R L D Lewiston, 7 Lincoln; Bartholomeau Lehy, R L D Lewiston, 327 Lisbon; Alfred Lesesque, R L D Lewiston, 110½ Lincoln; Ambrose Levesque, R L D Lewiston, 409 Lisbon; Arcene Leblanc, R L D Lewiston, 460 Lisbon; Lawrence Levargua, R L D Lewiston, 34 Main; Alfred Levesque, R D M D Lewiston, Fair Grounds; Joseph Legasse, R L D, Lewiston, 185 Lincoln; Fred Metayer, R L D Lewiston, 100 Lincoln; Thomas McNamara, R L D & R D M L, Lewiston, 4 Main; M. J. Mahoney, R L D, Lewiston, 24½ Park; A. E. Messier, R L D Lewiston, 203 Lincoln; M. L. Murphy & Co., R L D Lewiston, 10 Lincoln; George Miner, W. D. M L, Lewiston, 84 Lincoln Alley; Stanislas Malo, R L D, Lewiston, 27 Chest-

nut; Stanislas Malo, W D M L, Lewiston, rear 146 Lincoli; Maine Bottling Company, R L D Lewiston, 216-218 Lincoln; Mileau Drug Store, R L D Lewiston, 374 Lisbon; George E. Miner, Lewiston, 136 Lincoln; Alfred Maheaux, R L D Lewiston, 13 Hines Alley; Maine Bottling Co., W D M L Lewiston, 216-218 Lincoln; Lewis Michaud, R L D Lewiston, 84 Chestnut; Hair B. Morris, R L D, Lewiston, 162 Middle; Patrick May & Co., R L D Lewiston, 12 Ash street; George Ouelete, R L D Lewiston, 214 Lisbon, Howard Drug store; Michael O'Connell, R L D, Lewiston, 251 Lisbon; John J. O'Brien, W D M L & R L D, Lewiston, 9 Lincoln; Vital Ouelette, R L D, Lewiston, 255½ Lincoln; Joseph Ouelette, R L D, Lewiston, 161 Lincoln; O'Connell & Conley, R L D, Lewiston, 11 Main; Owls Assn., R L D, Lewiston, 215 Main; Isreal Ouelette, R L D, Lewiston, 360 Lisbon; E. A. O'Leary, R L D, Lewiston, 22 Bates; Dennis O'Connor, R D M L, Lewiston, Fair Grounds; J. B. Oliver, R L D, Lewiston, 117 Lincoln; Frank Pellevier, R L D, 361-365 Lisbon; Augustin Pellevier, R L D, Lewiston, 211 Lincoln; Ernest Petrell, R L D, Lewiston, 416 Lincoln; George R. Pattee, R L D, Lewiston, Pine & Park; George Paul, R L D, Lewiston, 169 Park; Ernest Petrell, R D M L, Lewiston, Fair Grounds; George Paul, W D M L, Lewiston, 169 Park; James J. Pattigan, R L D, Lewiston, 10 Lincoln; Pierre Roude, R L D, Lewiston, 259 Lisbon; Charles P. Roy, R L D, Lewiston, 307 Lisbon; Onesime Roy, R L D, Lewiston, 146 Lincoln; O. F. Roy, R D M L, Lewiston, Fair Grounds, So. Parish, Sept., Topsham, Oct.; Samuel Shapiro, R D M L, Lewiston, 291 Lisbon; Simard & Co., R D M L, Lewiston, 378 Lisbon; George Segalos, R D M L, Lewiston, 14 Lincoln; W. F. Sheridan, R L D, Lewiston, 16 Exchange street; Traffle Simard, R D M L, Lewiston, Fair Grounds; Charles Tremblay, R L D, Lewiston, 40 Birch; Charles W. Tuttle, R L D, Lewiston; Joseph Tardiff, R L D, Lewiston, 105½ Lisbon; Peter Thomas, R L D, Lewiston, 133 Lincoln; American Benefit Assn. R D M L, Lisbon; Walter S. Heath, R L D, Lisbon, Main; Loom Fixers Benefit Assn., R D M L, Lisbon, Loom Fixers' Hall, Main street; Harry Wright, R D M L, Lisbon Falls, Oak street; Greek Catholic Assn., R D M L, Lisbon Falls, Greek Catholic Hall; Lisbon Falls Turnverein Hall, R D M L, Lisbon Falls, Hall; M. McIntosh, R D M L, Main street; Slovak Catholic Assn., R D M L, Lisbon Falls, Slovac Catholic Hall, Avery street; Jos. H. Bedard, R L D; Livermore Falls, 95 Upper Main; Jos. Butler, R L D, Livermore Falls, Main street; C. H. Minchen, R L D, Livermore Falls, Depot street Hotel; Order of Owls, R L D, E. Livermore Falls, Rear Bank Block; E. A. Harris, R D M L, Mechanic Falls, Elm street;

March 18, 1913—Total number of liquor tax papers in Androscoggin county, 122; total number of liquor tax papers in Lewiston, 106; total number paying retail liquor dealer's tax, Lewiston, 89; total number paying malt liquor dealers tax, Lewiston, 8; total number paying wholesale malt liquor dealers tax, Lewiston, 9.

Mr. JOHN H WEBBER, having been duly sworn, testified as follows:

**Examination by Mr. Skelton.**

MR. PATTANGALL: Mr. President, I understand that this witness is called to testify in regard to shipments of liquor into Lewiston, and I have no objection to counsel stating that in any way he wants to, in order to save all the time we can.

MR. SKELTON: Mr. President, I will have the tabulation distributed so that it may be used in connection with the testimony. I shall have to ask the witness some questions.

Q. What is your name? A. John H. Webber.

Q. You reside in Lewiston? A. Yes, sir.

Q. You are in charge of the freight office for the upper Maine Central station? A. Yes, sir.

Q. Who is in charge of that office? A. Joseph W. Webber.

Q. Do those two stations constitute the Maine Central station for the city of Lewiston? A. Yes, sir.

Q. Have you with Mr. Webb of the lower station verified the records of liquor receipts as shown by the tabula-

tion just distributed for the month of February? A. I have.

Q. And what was the result? A. Well, I should have to have the list to tell you the result. We verified all figures on the tabulation, on the printed sheet.

Q. Have the shipments, since January, continued along about the same course? A. I think so, just about the same.

Q. And you have your receipts here, if they are wanted for examination? A. Yes, sir.

Q. Up to the 31st day of March? A. Yes, sir.

Q. Now, Mr. Webber, I am going to put in some evidence as to the liquors received by J. Ratical since the first day of January. Look at 12128. You have these arranged in order? A. Yes, sir. I do not find that number.

Q. Look at 12143. A. Give me that first number.

Q. 12128. A. That is three barrels of bottled beer.

Q. What date? A. January 17.

Q. Look for 12143. A. That calls for six barrels of bottled beer January 17.

Q. 12762. Those are all Ratical's. A. Yes, that calls for three barrels of bottled beer January 22.

Q. Look at 13125.

MR. PATTANGALL: Mr. Speaker, would you verify the presence of a quorum? It seems to be quite necessary.

THE SPEAKER: The Chair makes 99 members present now. Members are requested to keep their seats on account of the necessity of a quorum being present all the time.

Mr. SKELTON: It is agreed that the witness in order to save time, may separate from his list the papers that are wanted and leave them with the clerk to be read into the case and used in argument by either party.

The SPEAKER: It may be so understood.

Mr. PATTANGALL: I simply ask, Mr. Speaker, that Bro. Skelton or Wilson may call my attention to them because I am not familiar with them, so that we may both have the advantage of them in argument.

The SPEAKER: It is so understood.

**Cross-Examination.**

By Mr. PATTANGALL:

Q. Mr. Webber, in going over your freight receipts—from which I take it this paper was compiled? A. Yes, sir, from these delivery checks.

Q. When you have a date, January 2nd, for instance, such goods were received, does that mean received at the depot or delivered to the customer on that day? A. It means received at the depot.

Q. And I suppose your dates of receipt at the depot and your dates of delivery to the consignee would not in all cases be synonymous? A. No, sir, they would not.

Q. Some cases there would be a considerable delay between them? A. That is right.

Q. Now in the list there are barrels of beer referred to. Does that ordinarily mean bulk beer or barrels of bottled beer? A. Well, barrels of bottled beer and some barrels of bulk beer.

Q. But the large quantity of it would be barrels of bottled beer? A. Bottled beer.

Q. And is that true also where you have barrels of whiskey, does that represent mostly bulk goods or barrels of whiskey bottled? A. Well, it seems to run a little bit toward the bottled whiskey—I should say very nearly half of them.

Q. So that while the quantity seems large enough for all reasonable purposes, if the barrels of whiskey represented bottled goods it would not be so large in extent as though they represented bulk goods? A. Well, the bottled goods usually weigh about 250 pounds, so you can draw your own conclusions what the quantity would be.

Q. What did the bulk goods weigh? A. About 400.

Q. So there will be some rather less quantity brought into Lewiston—I don't assume any of it is drunk there—rather less of it shipped into Lewiston on the supposition that a good deal of it is barrels containing bottles than if we were thinking of it in the other way. That would be correct, wouldn't it? A. That would.

Q. How many freight depots has the Maine Central at Lewiston? A. Two.

Q. And was this compilation taken from the freight receipts of one depot alone? A. Both, of Lewiston upper and Lewiston lower.

Q. So that it includes all the shipments of liquor over the Maine Central into Lewiston? A. That is right.

Q. Now where does the Grand Trunk run to and from in connection with Lewiston? A. Lewiston to Lewiston Junction, I should say.

Q. But do the Grand Trunk trains come into Lewiston from Canada? A. No, sir. They connect at Lewiston Junction.

Q. Of course there wouldn't be any shipments of liquor over the Grand Trunk from Lewiston Junction to Lewiston—I am getting at the points—he spoke in his opening of shipments over the Grand Trunk—now the Grand Trunk coming into Lewiston doesn't come from Boston to Lewiston, does it? A. Well, there was only one connection. They run freight trains from Lewiston to Lewiston Junction and connect at Lewiston Junction and transfer.

Q. Connect with what? A. With the trains coming from Portland—the train which runs from Portland to Island Pond and then up through to Montreal.

Q. The Grand Trunk runs from Portland through Lewiston, that means Lewiston Junction, and through Island Pond up into Montreal? A. Yes, sir.

Q. That is correct, is it? A. That is right.

Q. Do you know anything about how your freight shipments of ordinary merchandise compare over the Grand Trunk and over the Maine Central into Lewiston? A. No, I do not.

Q. By far the larger freight, without attempting to make a comparison, by far the larger amount of any kind of freight shipped to the merchants of Lewiston comes over the Maine Central as compared with the Grand Trunk, doesn't it? A. Well, we have always thought we got the most, but I haven't known what their receipts are. I have never heard it spoken.

**Re-Direct Examination.**

Q. Mr. Webber, just a question suggested by Bro. Pattangall. Do the receipts by the American Express Co. show in your freight records? A. Not by the American Express Company.

Q. So that whatever may come in by the American Express over the Maine Central would not be included in your freight records? A. No, we have no record of that whatever.

**Recross-Examination.**

Q. I don't suppose you are familiar enough with the business perhaps to answer this question but I will try it and see if you can. Do the men whose names have been suggested in Mr. Skelton's opening as liquor dealers have their goods come in by express so far as you know? A. I couldn't say. I couldn't answer that question.

Q. You do find the names on your freight bills? A. I do, yes sir.

**Re-Direct.**

Q. Do you know whether the amount of freight receipts lessens and express receipts increases when enforcement is strenuous? A. Well, yes I should say they are considerably less.

Q. Of freight? A. Yes, when the enforcement is strenuous.

Q. At the present time there is no difficulty in getting them by freight? A. There doesn't seem to be.

**Recross.**

Q. That is to say, when you have enforcement, the consumer has the goods shipped direct to him by express, and when it is a little looser, the middle man comes into the games—that is the idea of it, is it? A. Well, it seems to be when there is no enforcement—there seems to be more of it than when there is.

Q. More liquor? A. Yes. When there is no enforcement.

Q. More by freight you say? A. Yes.

Q. And when you have what is called enforcement, you have arger express business? A. They have.

Q. I don't mean you have, I mean there is a larger express business? A. Yes, sir.

E. R. PETTENGILL having been duly sworn, testified as follows:

**Examination by Mr. Skelton.**

Q. E. R. Pettengill of Auburn? A. Yes, sir.

Q. Are you in charge of the freight office of the Grand Trunk Railroad in Lewiston? A. I am.

Q. Are intoxicating liquors shipped into Lewiston over the Grand Trunk? A. They are, yes, sir.

Q. And have been since the first of January, 1913. A. Yes, sir.

Q. Have you brought with you the records showing the shipment? A. I have.

Q. Will you produce them? A. (Witness does so.)

Q. What do you find for January first? Simply state the name and the amount of liquor. A. I don't find any for January first. It starts with January second. Do you want each name?

Q. Yes. A. And you want the quantity?

Q. I want the quantity. A. Paul Mercier, 3 boxes of liquor; C. Tremblay, 2 boxes bottled liquor; L. Abrahamson, 2 kegs whiskey; A. Baucher, 1 half barrel of whiskey. That takes all of the second. The fourth: L. Abrahamson, 5 cases of liquor; J. W. Howard—this is on the sixth—2 barrels ale, 2 half barrels, 6 quarter barrels ale; Vincent Bottling Co., 20 barrels bottled ale, 30 barrels bottled ale, 5 half barrels ale. Seventh, L. Abrahamson, 3 barrels ale. A. Pellerin—

MR. PELLERIN: Unless you want the details, could he tabulate that and put it in? Or do you want the details?

MR. SKELTON: I don't believe he has got the time. We will let him give a sample, unless you care to pursue it further.

Q. You may read on for two or three. A. Pellerin, 2 barrels whiskey, 1 barrel gin, 1 barrel rum; A. Beleveau, 1 barrel whiskey, 1 case Tom and Jerry; H. Harrisburg, 1 half barrel spirits. A. Pellerin, 5 barrels beer; Vincent Bottling Co., 2 half barrels ale, 24 quarter barrels ale. Joseph Lemay, 1 half barrel whiskey; Paul Mercier, 1 half barrel gin. Fred Metayer, 1 half barrel whiskey; Paul Mercier, 1 barrel rum. A. Beleveau, 1 barrel whiskey.

Q. Now, Mr. Pettengill, how far have you read now? A. Up to the 10th of January.

Q. Now I will ask you if shipments have continued about the same? A. Up to the last of March, yes.

Q. What about the time since the last of March? A. There has been quite a falling off.

**Cross-Examination by Mr. Pattangall.**

Q. You have the total quantity with you? A. No, sir, I have not.

Q. Would it take you long to figure it up? A. For the whole three months?

Q. Yes. A. It would take some time, yes, sir.

Q. You have got all the slips there? A. I have.

Q. Could you leave them long enough for a stenographer to tabulate them? A. I can leave them.

Q. Will you do that? A. I will do that.

(Witness asked to tabulate them during the supper recess.)

JOHN L. REED, having been duly sworn, testified as follows:

**Direct Examination by Mr. Skelton.**

Mr. SKELTON: I will put Mr. Reed on out of order because he is here simply for the purpose of verifying this paper and wishes to get away, unless you wish to keep him for something later on.

Q. John L. Reed of Lewiston? A. Yes.

Q. You are an attorney? A. I am.

Q. Are you the secretary of the Citizens' Law Enforcement Association? A. I was.

Q. State briefly what that was. A. It was an association formed by a number of prominent business and professional men of Androscoggin county for the purpose of endeavoring to educate the people as to conditions which exist in Androscoggin County with regard to the enforcement of law. Its object was not to enforce law itself, not to swear out warrants or make complaints, but to investigate conditions and publish them so that the officers of the law might know what the conditions were and so that the public generally might be informed upon those questions.

Q. When was this organized? A. It was in December of 1911, or January 1912, I think, along—

Q. Who was president of it? A. President George C. Chase of Bates College.

Q. Who was vice president? A. Dr. Geo. M. Twitchell of Auburn.

Q. Who was secretary? A. I was.

Q. And who was treasurer? A. J. H. Stetson, the treasurer of the Mechanics Savings Bank in Auburn.

Q. J. W. Stetson? A. J. W. Stetson, yes.

Q. Now did this organization cause an investigation to be made, last spring, a year ago? A. They did.

Q. State briefly what was done. A. The association employed a detective from Boston to visit suspected liquor places in Lewiston and purchase liquor. He worked for—they had two at different times—I think a little over a week, going to different places in Lewiston. They went to one or two in Auburn, but I think, if my recollection is right, didn't find anything in Auburn. They went to Livermore Falls, made one or two purchases there.

Mr. PATTANGALL: I object to your stating where they purchased liquor unless you were with them.

The WITNESS: No, I wasn't—and they brought the liquors to me, all marked with the places where they were purchased and the date, and I think in most cases a brief description of the person who sold it was written upon it, and gave the information upon which I issued what we call "Bulletin No. 2," which gave the name—

Q. The bulletin will show for itself what it was. I show you a paper marked "State Exhibit 2" and ask you if that is the bulletin referred to? A. It is.

Q. Was a copy of that bulletin sent to County Attorney Hines? A. It was.

Q. Was it also published in the Lewiston daily papers? A. I think in full.

Q. Do you know positively that it was sent to the county attorney? A. I mailed it myself.

Q. Was any of the evidence in your possession, or shown to be in your possession by that bulletin, asked for by the county attorney or anyone else representing the prosecuting officials? A. It was not.

Mr. SKELTON: We offer this bulletin and will read such parts as we care to in evidence, later on.

**Cross-Examination.**

By Mr. PATTANGALL:

Q. When was it that you called the county's attention to the matters contained in this bulletin by mailing him a copy? A. I can't give the exact date. It was some time in the month of April of last year when it was printed. I made no record of the date and I don't remember anything more than that.

Q. This is "Bulletin No. 2?" A. Yes.

Q. Did you have charge of the issuing of "Bulletin No. 1?" A. I did.

Q. Well, this "Bulletin No. 2" was the one you sent to the county attorney? A. I sent him all three. We issued three bulletins. I sent him copies of all three of them by mail.

Q. This of course is the only one that is in. The other have not been offered.

Mr. SKELTON: Well, I will offer the others. I didn't think they were so material.

Q. "Bulletin No. 2" was the one that contained the list of the places your men stated they had purchased liquor at? A. It was.

Q. So that perhaps was the important one or more important? A. I think the No. 3 was important.

Q. No. 2, anyway, contained the list? A. No. 2 contained the list.

Q. Did No. 3 contain any lists of places where liquor was sold? A. No; it contained a record of the disposition made of liquor cases by the county attorney in the courts.

Q. And you sent that to the county attorney? A. I did.

Q. So that he would know about it, I suppose? A. Unless the United States mail failed to get it to him.

Q. And have you examined the records of your court since April, 1912, to see how many of these places to which you called the attention of the county attorney had been brought into court? A. Not for that purpose, no.

Q. Well, do you know? A. No.

Q. The first place named is the Tavern, No. 103 Main street, E. M. Billings proprietor. Do you know whether there has been any prosecution with regard to this place or man? A. I don't know, or any other place on there.

Q. So that I needn't— A. Needn't go through it. I haven't made any investigation since last fall.

Q. You don't know how many of them have been indicted? A. I do not.

Q. Or how many paid fines in the lower court, or have been prosecuted? A. I never have taken that list and gone through it to ascertain that fact.

Q. Your purpose in sending that to the county attorney was in order that he might have some information to go on to bring cases against those people if he desired to do so? A. Yes, and I think it is stated in "Bulletin No. 2" that the evidence that was gained was at his disposal.

Q. When did your next court meet after that bulletin was issued? A. Well, I am not positive now, from recollection, whether that was issued before the April term came in on the third Tuesday of April, or whether it was during the session, my recollection is at fault in that matter.

Q. Now, if the county attorney, by means of other evidence that he had himself, had those places which you have mentioned—some action taken against them looking towards the violation of the law, that of course would have answered the purpose just as well as though he had used the detective's evidence? A. Certainly.

Q. You say your society was not formed for the purpose of making any complaints against people? A. No.

Q. Or furnishing any evidence against them except in this way? A. That is all.

Q. If that "Bulletin No. 2" was published, in April prior to the meeting of your court, you had of course a grand jury in session almost immediately following its publication? A. Yes.

Q. Do you remember who was foreman of that grand jury? A. No, I do not.

Q. Well, that was a fact that could be readily ascertained? A. Oh, certainly.

Q. And you would not have needed even to have employed a Boston detective to have found out that, would you? A. Oh, no.

Q. None of your society saw fit to lay what evidence they had before the grand jury, either personally or by calling the foreman's attention, or anything of that sort, to it? A. Not at that April term.

Q. I mean at the April term. A. No, I think not.

A. When did your next term follow? A. September.

Q. Did your society arrange, or did any of you arrange to have the evidence that you gathered and which is spoken of in the April bulletin placed in the September term? A. I only know by report what the attorney for the State stated in his opening in regard to Dr. Leach, who was one of our executive committee, coming to the county attorney with the evidence. I don't know it as a fact.

Q. There was nothing done by your society as an organization? A. No.

Q. Or by you as secretary? A. No.

Q. Now this "Bulletin No. 2" was published in the Lewiston Journal? A. It was.

Q. During the session of the court when the grand jury was in session, that paper was being circulated on the streets and about the court house and everywhere? A. I presume so.

Q. It was public knowledge, and for ought you know, either that term or the next term or the following term or whenever the proper time came for it, if it did come, these people were indicted—you don't know that they were not? A. I don't know.

Q. You don't know but what the grand jury acted on that information even though they got it second hand and not direct from your society? A. Correct.

Q. I suppose your society is still in existence? A. It has not done anything since last September for lack of funds, and other reasons.

Q. When did it come into existence? A. A little over a year ago, I think it was December or January of 1911 or 1912, I am not positive which month, It was along early in the year of 1912.

Q. It was in existence for some 9 or 10 months? A. Somewhere along there.

Q. And it came into existence, did it, because of the need that you felt that some such society should procure evidence and submit it to the officers and try to arrange so that the law should

be better enforced? A. That was the object of it.

Q. And disbanded, last fall some time? A. Well, it has not done anything since—what we had done didn't seem to have any effect and we got discouraged, I guess.

Q. And didn't attract enough public interest so that you could get the funds to keep it up? A. That is about the size of it.

**Re-Direct.**

Q. Haven't received any co-operation from the officials? A. Not at all.

**Re-Direct.**

Q. Well, you don't know about that, you don't know how many of these men that you called the attention of the officials to were indicted, do you? A. No.

Q. Well, that is what you want the officials to do, isn't it? A. Yes.

Q. And you don't know but what they did it? A. Well, I have never examined the records to see. I don't think many of them have been prosecuted.

Q. You don't know about it, do you? A. No, I don't.

Q. You don't know but what they all were? A. I couldn't swear they were not all, for I have not examined it for that purpose.

Q. So when you say the officials didn't co-operate with you, you don't know whether they did or not, do you? A. I understood Mr. Skelton's question to mean, did they come to us for any of our evidence and co-operate with us in that way, and when I answered it I was referring to that.

Q. But in your bulletin, you named the places where they were selling liquor and said they had United States stamp, and the officers would not have had much trouble in locating that fact, would they? A. No.

Q. And you don't know but what they did do it, do you? A. I don't know but what they did.

**Re-Direct.**

Q. Has there been any evidence of any material improvement in conditions? A. I haven't seen any.

Rev. F. A. LEITCH, called and sworn, testified as follows:

By Mr. SKELTON:

Q. What is your name? A. F. A. Leitch.

Q. And your residence? A. Auburn.

Q. You are pastor of the High street Methodist church? A. Yes, sir.

Q. Did you at some time last summer make an examination of conditions in Lewiston as to the sale of liquors? A. About the first of October, 1911, I, with Mr. E. Y. Turner, one Saturday night began at Lincoln street, No. 9, and we went in there—

Mr. PATTANGALL: Pardon me. I don't know quite how far we ought to without objection allow examinations by Mr. Leitch of liquor selling conditions in Lewiston prior to January 1st, 1913, to be gone into until some offence of negligence or malfeasance should be set up and proved with regard to January, 1913.

Mr. SKELTON: I will say, Mr. Speaker, to set the matter right that Dr. Leitch will testify as to the conditions since 1913 in comparison with the same places, and if you prefer we can begin at the last end and go backwards.

Mr. PATTANGALL: I shouldn't bother you about that.

The SPEAKER: The Chair understands the same theory would govern as in other cases.

Mr. PATTANGALL: I don't care what order the witness gives it in. Now, there is another suggestion I would like to make. I don't want to waste time in any way in the case. and so far as going over the detailed evidence with regard to the fact that in January, 1913, and January, 1912, and January, 1911, if those other dates are admissible, that liquor has been freely sold in Lewiston, general circumstances under which it has been sold—I will take the statement of counsel for that and they need not put the witness on to show that, unless they have some other point.

Mr. SKELTON: We have other points, and we will try and not waste any time.

Mr. PATTANGALL: I will assist in every way in providing that in any way that we can.

Mr. SKELTON: Now, you may proceed, Mr. Leitch. A. I called at No. 9 and found liquor selling there.

Mr. PATTANGALL: No. 9 where? A. On Lincoln street; and then crossed at No. 10 on the same street, and there I found a place practically filled with men and some of them were drinking at the bar, and some were standing around about; and I went to Ash street, No. 12, and we entered there and found similar conditions there, so much so that it was practically impossible for us to buy anything unless we shoved a couple of customers over from the counter; and we went down Lisbon street, beginning on the left-hand side, and we found some 12 places open there, and then we walked over to the right-hand side and came up on the right-hand side; and we found places there and we went into some of them, into several of them; in one place we bought some liquor, and after spending about an hour in visiting these places we returned home, and as I was entering the parsonage my neighbor, Mr. Lowe—

Q. The present sheriff? A. The present sheriff—and I thought it was the right thing for me to go over and tell him what I had seen and ask if he would accompany me to Lewiston.

Mr. PATTANGALL: Just a moment.

The SPEAKER: Of course the important thing is to bring it to the attention of the county attorney and not the sheriff.

Mr. SKELTON: The only thing we wish to show is that this was brought to the attention of the sheriff, and that this same witness, subsequently reported these experiences to the county attorney and asked for an opportunity to testify against the sheriff for failing to perform his duties.

The SPEAKER: He can state the fact that he made a report of what he found to the sheriff as a basis for other evidence.

Mr. PATTANGALL: The talk between him and the sheriff back and forth would not be proper.

The SPEAKER: No.

Mr. SKELTON: And may he state that the sheriff declined to go with him to investigate the places?

The SPEAKER: He can declare the general proposition which the sheriff made in regard to his attitude. A. Mr. Lowe didn't care to go with me, and he said that he had deputies to do that work and the deputies were out; and in time Mr. Ridley came in, and Mr. Ridley and I went over between ten and half past ten, and when we got as far as Lincoln street the places that were open and doing business were closed up.

Mr. SKELTON: And other deputies had gone ahead of you? A. Yes, two deputies. I asked them if I might go with them and show them these conditions, but they said they had to serve a warrant and couldn't go; and then we returned, and I suppose Mr. Ridley went into the sheriff's office, and I returned home.

Q. Now you may state your next experience in this same connection. A. My next experience was last September. I took the Androscoggin Law Enforcement Bulletin and I took the Revised Statutes of the State of Maine, and I took with me Mr. Kinney, and we went and called upon Mr. Hines, the county attorney, and we made this statement that we had about 60 single sale evidences and we knew conditions generally existing in the city; and we asked if we might have the permission to place this evidence before the grand jury. Mr. Hines said that the grand jury was quite busy at that time and he would telephone me when we might have that privilege. We waited and waited—

Q. Did you also ask for permission to present your evidence against the sheriff? A. That was the object, to present this evidence on the basis of the Oakes law, to see if the Oakes bill was worth the paper it was written on. We said that.

Q. And by the Oakes bill do you mean the law referring to the prosecution of sheriffs and other officers for not doing their duty? A. For criminal malfeasance in conection with the prohibitory law.

Mr. PATTANGALL: I would like to get this clear as it goes along so that I won't misunderstand. Is it introduced for the purpose on the part of

the prosecution of complaining that the county attorney was negligent in his duty in not attempting to indict the sheriff under the Oakes law

Mr. SKELTON: It is introduced for the purpose of showing that the county attorney declined substantially to permit these men to present such evidence as they had to the grand jury against persons charged with the commission of crime and against the sheriff for wilful failure to perform his duties as sheriff; and that the county attorney failed to grant them that permission, and subsequently excused himself by saying that he was not elected for the purpose of enforcing the prohibitory law.

Mr. PATTANGALL: That combines two propositions, the evidence put in in regard to talks with the sheriff and the sheriff action, and the desire of these gentlemen that the county attorney should prosecute the sheriff under the Oakes law, and it does not combine with it the balance of brother Skelton's statement, and I think I should have the right to know whether it is a question of prosecution as one negligent act of the sheriff, or the county attorney because of his failure to prosecute the sheriff under the Oakes law. If that is not claimed all that testimony is inadmissible. I think I am entitled to that much notice.

The SPEAKER: Of course the county attorney had some notice through the wording of the resolve as to the allegation that he was charged with being negligent in the performance of his duty with respect to the enforcement of the prohibitory law. He did not appear to have much notice of any claims in connection with any other duty. The resolve says particularly in relation to the enforcement of the prohibitory law.

Mr. PATTANGALL: Trying it without very precise allegations, and that was all we supposed we had to meet.

The SPEAKER: It is the understanding of the convention in relation to the prohibitory law that this investigation was being had. While technically the Attorney General's assistant is probably right, but still the Chair really hopes the matter will not be urged.

Mr. SKELTON: Do I understand, Dr. Leitch, that you at this interview with the county attorney told him generally what you had for evidence and of the investigations you had made? A. I told him—

The SPEAKER: That question can be answered by yes or no. A. I told him generally.

Mr. SKELTON: And asked for an opportunity to present that to the grand jury? A. I did.

Q. As well as this matter that has been discussed, about the Oakes law? A. Yes, sir.

Q. Now, were you—

Mr. PATTANGALL: We have not yet arrived at an understanding, and I think we ought to in fairness to everybody concerned. It is apparent that I am obliged to put in a defense and argue this case before the prosecution argues, and the evidence in regard to Mr. Leitch's connection with the sheriff and his informing the county attorney and the matter of requesting the right to go before the grand jury under the Oakes law is in. The convention have heard it, but in my opinion it ought not to stay there for the purpose of argument unless the other side rely on it. And I think in fairness I am entitled to counsel saying to me that in trying the case without any specifications to go on, whether or not they rely upon the neglect to bring action against the sheriff under the Oakes law or not. If they say they do, then I can proceed in one way, and if they say they do not then we can proceed in another way.

Attorney General WILSON: I think I can state to the Chair and to the convention that it is not the purpose, or at least we waive as far as any question of negligence in relation to the prosecution under the Oakes law, and that was simply part of the testimony or talk that they had at the time.

The SPEAKER: And that should be disregarded.

Mr. PATTANGALL: It may be fair to state to the convention that the

statements of Dr. Leitch with regard to his talk with the sheriff and as to the sheriff's failure to perform his duty as requested by him, and his conveying that talk to the county attorney all goes for nothing as far as this case is concerned.

The SPEAKER: That is true, and also the convention will understand that no reply is made to it, and it may be inferred that there is a defense to that part of it. It is only fair to assume that.

Mr. SKELTON: Now, Mr. Leitch, were you given the opportunity to go before the grand jury for any purpose? A. I was not.

Q. You started to state what Mr. Hines' reply to you was when you made the request? A. He was to telephone me and inform me when I might go before the grand jury, and I was surprised when the grand jury rose and—

Q. Did you receive any further communication from him when the grand jury rose? A. I did not.

Q. And what did you then do with reference to this matter? A. I went to him and asked him why he didn't notify me.

Q. What was his reply? A. He said he had thought it over and did not think it was within his jurisdiction.

Q. What else did he say?

Mr. PATTANGALL: He didn't think it was within his jurisdiction. A. To open the doors of the grand jury for evidence and for me to present the case that I had.

Mr. SKELTON: And what further reply or statement did he make to you? A. In a general way he said he was in rather a hard position, and that I knew he was not elected to enforce the prohibitory law.

Q. Where did this conversation take place? A. It took place in the halls of the court house in Auburn, in the main hall down stairs.

Q. Was there any further conversation between you at that time? A. Nothing relative to this situation.

Q. Now have you visited any of these places during the present year to see how the condition compared with 1911 and 1912? A. On Saturday evening, March 22nd, I was on Lincoln street and on Main street and on Lisbon street and on Ash street, and I found all these places open and running and ready for business. I went into No. 330, Bergin I think the man's name is, and there were eight men in there; four at the bar that were waited upon by the bar tender who was there and had on his white coat, and two men stood smoking, and the other two were in conversation. From there I went to No. 125 Main street, and went in there, and there were four men in there, two at the bar and two were standing at one side smoking. I spent about an hour and a half and then I returned home.

Q. Did you see liquors, intoxicating liquors at these places? A. I saw the general conditions of the bar room at Bergins and at No. 125 Main street. I didn't go into all the places.

Q. Did you see bottles, liquor bottles? A. Yes, sir.

Q. And men drinking liquor? A. Yes, sir.

Q. And what did you see at the places on Lincoln street? A. I didn't go into all the places on Lincoln street. The places were there as usual. I saw some men going in and coming out, and I didn't have time to go into all of them.

Q. How did the conditions as you observed them compare with those that you had seen on your previous visit? A. They were practically the same.

Q. In regard to this conversation with Mr. Hines in September, I neglected to ask you just what part of the month was that in September, 1912 when, as you say, he told you he was not elected to enforce the law? A. That was during the session of the court.

Q. Which opened on the 3rd Tuesday of September? A. Yes sir, .

Q. Do you know what the general reputation of the places to which you have referred is on Hain, Lincoln and Lisbon streets? A. Yes, sir.

Q. What is it? A. They are liquor saloons.

Q. And any appearance of any other business? A. No appearance whatever.

**Cross-Examination by Mr. Pattangall.**

Q. Mr. Leitch, when you found that the grand jury had arisen in September of 1912 and went to Mr. Hines' office and had the conversation you spoke

about, you say the first thing he said to you was that he had no jurisdiction in the matter? A. Yes, he didn't think he had.

Q. He was then referring to your case under the Oakes law, wasn't he? A. Yes, surely.

Q. And what else did he say on that subject? A. I don't remember that he said anything more particularly on that subject, excepting that he was not elected as I understood it to enforce the prohibitory law.

Q. That was referring to the general matter? A. Yes, sir.

Q. Now when you went to him in the first place did you go to the grand jury room, I mean, to the court house where the grand jury were? A. We went; yes, sir. It was upstairs and I called him out from the ante room where the lawyers were assembled.

Q. And who did you have with you? A. Mr. Kinney.

Q. Is he here? A. Pastor of the Methodist church at New Auburn.

Q. Is he here? A. I have not seen him.

Q. Do you know just what you said to Mr. Hines? A. Practically; I had the Bulletin which has been presented here as evidence.

Q. That is, Bulletin No. 2? A. Yes, sir; No. 2; and I had the Revised Statutes of the State of Maine, and I called attention to this statute.

Q. That is, the Oakes law? A. The Oakes law, yes, sir.

Q. And as a matter of fact when you went to see him that time how long did you talk with him? A. I presume about seven minutes.

Q. Not over that. A. I don't think so.

Q. And during that time you told him this story about the sheriff that has been related here? A. I don't remember that I mentioned Mr. Lowe's name.

Q. You didn't expect him to proceed against Mr. Lowe under the Oakes law unless you told him something about it, did you? A. I wished to bring this evidence.

Q. What evidence? A. The answer that I had with regard to Bulletin No. 2, and other evidence.

Q. Let us not get at odds with each other. You told him at that time, you pointed out to him the Oakes law, didn't you? A. Yes, sir.

Q. Now when you pointed that out to him you told him the experience you had had with the sheriff, didn't you? A. I don't remember that.

Q. What in the world did you tell him about the Oakes law? There was nothing in Bulletin No. 2 about the Oakes law, was there? A. No, sir.

Q. At the same time you told Mr. Hines this little trouble you had with the sheriff, didn't you? A. I don't remember.

Q. So that as far as you know, Hines didn't know anything about that? A. As far as I know.

Q. How in the world did you expect him to indict Lowe under the Oakes law if he didn't know anything about that act of malfeasance? A. I wished to bring the evidence before the grand jury decide that.

Q. Evidence of what? A. The evidence of the criminal conspiracy of the sheriff in not enforcing the law.

Q. Of course you told Mr. Hines that, didn't you? A. I said there was this evidence, and it was up to the—

Q. Against the sheriff? A. Against the sheriff, and I wished to bring it before the court.

Q. So that during that conversation you told Mr. Hines about that evidence and asked the privilege of presenting it to the grand jury? A. Certainly.

Q. Now, wasn't that the principal subject and the very subject of the conversation, the trouble you had with the sheriff and pointing out the Oakes law and asking the privilege of taking that evidence against the sheriff before the grand jury,—wasn't that practically the whole talk you had with him that day? A. I don't remember mentioning the sheriff's name or that trouble with him. I wanted to present this evidence to the grand jury, and the only door I saw to enter was through the county attorney.

Q. When you said this evidence, you meant this evidence relating to Sheriff Lowe? A. The evidence relating to the non-enforcement of the prohibitory law in Portland.

Q. Now we have wandered back to the starting point. You meant Lewiston, didn't you, but you said Portland?

A. Yes, in Lewiston.

Q. Now, Mr. Leitch, I want you to recollect and tell the convention whether either at that time or at any time you communicated to Mr. Hines this difficulty you had about Sheriff Lowe? A. I don't remember that at any time I mentioned that difficulty that I had with Mr. Lowe.

Q. You know what I mean by the word "difficulty." I mean the occurrence that you told about. A. Yes, sir.

Q. You think you never told Hines about that? A. Not to my knowledge.

Q. And then he didn't know and had no way of knowing that you wanted to go before the grand jury to present anything against the sheriff, did he, unless you told him? A. He knew that I had evidence that I wished to present to the grand jury.

Q. Did you know what it was about? A. Yes, sir.

Q. What was it about? A. It was about non-enforcement of the prohibitory law by the sheriff; and I wished to bring the evidence that these places were wide-open and the sheriff was not obeying the law and closing them up.

Q. And that is what you told him? A. It was not necessary to tell him; he knew it.

Q. You must have told him something. You didn't make signs to him. Tell me what you did tell him? A. I told him I wanted to bring evidence to the grand jury with regard to that malfeasance on the part of the sheriff, and I wished him to open the door to let me in.

Q. That is, you wanted to bring evidence before the grand jury of the malfeasance of the sheriff? A. Yes, sir.

Q. And you showed him the Oakes law? A. Yes, sir.

Q. Did you go on then and say anything about what the malfeasance consisted of? A. We had the Oakes law there.

Q. Did you go along and tell him what the malfeasance consisted of, or didn't you, which is it? A. I wanted to present that to the grand jury.

Q. You keep to the conversation until we see if we can get it. Did you or not tell him what you claimed was the malfeasance of the sheriff, what you claimed he had done that was wrong, or failed to do? A. I wanted the privilege of presenting through Mr. Hines the information that I had to the grand jury.

Q. Did you or not tell Mr. Hines what the malfeasance was that you were complaining about? A. I said I would bring abundant evidence to show that this malfeasance existed.

Q. What malfeasance? A. The non-enforcement of the prohibitory law.

Q. And you wanted him to prosecute the sheriff just generally on that statement? You didn't say anything about your having been to the sheriff and the sheriff had got the deputies off ahead and then taken you down and failed to get anything? A. I wanted him to open the door to let this evidence in to the grand jury.

Q. What evidence? A. The evidence that I had.

Q. You didn't tell Hines what it was? A. I wanted the grand jury to know it.

Q. I don't care what you wanted. Just answer the question. You didn't tell him what it was about? A. I said I had abundant evidence and that if he would open the door I would present it to the grand jury, and then they could put it before the court.

Q. I must still reiterate. You didn't tell Hines what your evidence was, did you? A. If he had given me a chance to go before the grand jury he would have seen enough of it.

Q. That is not answering the question clearly, and you know it. I ask you if you told Hines what your evidence was? Did you, or not? That is a simple question. A. I wanted to tell him in the grand jury what I had.

Q. Did you tell him?

The SPEAKER: Mr. Leitch, you will have to answer the questions as they are asked, if they are reasonable questions. A. Yes, sir.

The SPEAKER: And counsel has inquired of you, first, whether or not

you told the county attorney what the evidence was. Now, do you understand the question? A. Yes, sir.

Mr. PATTANGALL: Did you tell him that, or didn't you? A. I told him in part what I had.

Q. What was the part you told him? A. That I had been to Lewiston and had seen the conditions there.

Q. Was that all you told him? A. I told him I had evidence that was of a rather serious nature and I wished to present this through him to the grand jury.

Q. And that it referred to the enforcement of the liquor law. A. It referred to the non-enforcement of the liquor law.

Q. And then he told you that later he would have you before the grand jury, did he? He said he would give you an opportunity to go before the grand jury? A. Yes, sir.

Q. Now, you gave him that Bulletin No. 2 A. I don't think I gave him that Bulletin No. 2 at that time.

Q. You gave one to the high sheriff? A. I wouldn't say certainly I gave Mr. Lowe that.

Q. You had one with you at that time? A. Yes, I had one with me and the Statutes of the State of Maine. I had it with me and showed it to him.

Q. You had the Statute and you had the Bulletin with you, didn't you? A. I had the Bulletin with me, yes.

Q. And you showed that to him? A. Yes, sir.

Q. How did you find out, or have you since found out, how many of the places mentioned in that bulletin were indicted at that term of court? A. No, sir.

Q. Do you know? A. No, sir.

Q. You don't know but what he indicted them all? A. I don't know that he did, sir.

Q. And you don't know but what he did? A. I don't know that he did.

Q. And I say you don't know that he didn't, either. A. I wouldn't say that he did or didn't.

Q. In other words, you don't know anything about it. Now if he had indicted those places on other evidence, there would have been no need of his having you come in before the grand jury? A. Of course if all of those places were indicted, there would not, from his standpoint, but there would be from my standpoint.

Q. O, from your standpoint? What was your standpoint? All you wanted was to have the places indicted? A. All I wanted was to bring this evidence before the grand jury and let them see if there was sufficient evidence so that this case could be placed before the court.

Q. You are talking about the case against the sheriff. I am talking about the cases against rumsellers. Now the cases against the rumsellers—if they were indicted at that term of court, that was all you desired on the grand jury's part? You know that so far as the liquor sellers were concerned all the grand jury could do was to indict them? A. Yes.

Q. And if they were indicted you didn't care whether it was on your evidence or somebody else's, did you? A. I wished the liquor saloons closed.

Q. You knew the grand jury couldn't do that? A. Yes, sir.

Q. And your complaint against Mr. Hines, assuming that you are making any complaint, is that he didn't let you into the grand jury room. Now, I say, so far as the liquor saloons were concerned, if the grand jury indicted them without your being there, that filled the bill just as well as if you had been there, didn't it? You agree with me on that? A. I would if the indictments did any good.

Q. But you wouldn't suppose that an indictment that was gotten on your evidence would do any more good than one on somebody's else? A. I didn't desire any particular indictment against the liquor saloons, because I wasn't in that business.

Q. What do you mean, in what business? A. Of indicting liquor saloons.

Q. Then you didn't go there for the purpose of getting indictments against liquor saloons? A. I did not, sir.

Q. Your whole purpose in going there, and your whole conversation with Mr. Haines, was to get an in-

dictment against Lowe, wasn't it? A. I wished to see whether—

Q. Can't you answer that question. Who did you want to get an indictment against? A. I wanted the court to say whether there was sufficient evidence to indict the sheriff.

Q. And that was all the indictment you were looking for, wasn't it? A. At that time, yes, sir.

Q. And your whole conversation with Hines before the Grand Jury, or out there in the corridor when you couldn't get in before the grand jury, and afterwards about the same incident, all related to your attempt to indict the sheriff? A. Yes, sir.

Mr. PATTANGALL. Absolutely; thank you.

**Direct Examination Resumed.**

Q. You have been asked whether you knew that the grand jury secured indictments at that term against all the places indicated in the bulletin. Suppose they secured only thirteen indictments—would that cover all the places? A. No, sir.

**Cross Examination Resumed.**

Q. You didn't show the County Attorney the bulletin, did you? You kept it in the statute? A. I showed him the bulletin. I didn't give him one.

Q. When? A. When we went into the room there at the court house.

Q. There wasn't anything in the bulletin about the sheriff, was there? A. I said that was in there—I had that evidence, and I desired to present that evidence to the grand jury.

Q You didn't leave that, did you? A. I didn't think it was necessary. I thought I could get into the grand jury through it.

Q. Whether you thought you could get before the grand jury or not, you didn't leave it? A. Not to my knowledge.

Q. Don't you know whether you did or not? A. I am pretty sure that I didn't. I don't remember that I did.

On motion of Senator Murphy of Cumberland, a recess was taken until eight o'clock.

## EVENING SESSION.

Convention called to order by the President.

The PRESIDENT: The secretary will call the roll.

PRESENT:—Sen. Allen of Kennebec, Allen of Machias, Austin, Sen. Bailey, Benn, Benton, Bither, Boman, Bowler, Bragdon of Sullivan, Bragdon of York, Bucklin, Sen. Burleigh, Butler, Sen. Chase, Chick, Churchill, Sen. Clark of York, Clark of N. Portland, Cochran, Sen. Colby, Sen. Cole, Sen. Conant, Connors, Cook, Crowell, Currier, Cyr, Descoteaux, Doherty, Dunton, Durgin, Eaton, Farrar, Folsom, Greenleaf of Auburn, Greenleaf of Otisfield, Hancock, Harman, Harper, Sen. Hastings, Sen. Hersey, Higgins, Irving, Jenkins, Sen. Jillson, Johnson, Jones, Kimball, Leader, Leary, Libby, Marston, Sen. Maxwell of Sagadahoc, McBride, McFadden, Merrill, Mildon, Sen. Milliken, Mitchell of Kittery, Sen. Morey, Morneau, Morrison, Morse, Sen. Murphy, Newbert, Nute, O'Connell, Sen. Packard of Knox, Peacock, Peaks, Pendleton, Peters, Peterson, Pitcher, Putnam, Quinn, Reynolds of Lewiston, Sen. Richardson of Penobscot, Richardson of Canton, Roberts, Sanborn, Sanderson, Skelton, Skillin, Smith of Auburn, Smith of Patten, Smith of Presque Isle, Sen. Stearns, Stevens, Stuart, Sturgis, Swett, Swift, Taylor, Thombs, Tobey, Trimble, Tryon, Umphrey, Violette, Sen. Walker, Washburn, Waterhouse, Wheeler, Winchenbaugh, Sen. Wing, Wise, Yeaton.

ABSENT:—Sen. Allan of Washington. Bass, Boland, Sen. Boynton, Brennan, Brown, Chadbourne, Clark of Portland, Davis, Donovan, Dresser, Dunbar, Sen. Dutton, Eastman, Eldridge, Elliott, Emerson, Sen. Emery, Estes, Farnham, Sen. Flaherty, Franck, Gallagher, Gamache, Gardner, Goodwin, Gordon, Sen. Hagerthy, Haines, Harriman, Haskell, Hodsdon, Hogan, Hutchins, Jennings, Kehoe, Kelleher of Portland, Kelleher of Waterville, Lawry, LeBel Leveille, Sen. Mansfield, Mason, Mathieson, Maxwell of Boothbay Harbor, Maybury, Metcalf, Mitchell of Newport, Mooers, Morgan, Sen. Moulton, Packard of Newburg, Sen. Patten of Hancock, Plummer, Price, Ramsay, Sen. Reynolds of Kennebec, Ricker, Robinson, Rolfe, Rousseu, Sargent, Scates, Sherman, Sen. Smith of Penobscot, Smith of Pittsfield, Snow, Spencer, Sprague, Stanley, Stetson, Thompson, Twombly, Wise.

The PRESIDENT: The roll discloses the presence of 108 members of the convention.

Mr. SKELTON: Mr. President, we have two more witnesses who were summoned here to testify as to the general open condition in Lewiston during the present winter and the past year, but I understand that there is no question about that, and we shall therefore not call them. Their names are W. F. Berry and Norris G. Wood.

Mr. PATTANGALL: I understand that if they testified they would testify to the saloons being open and liquor being sold, and we shouldn't raise any question, so we will let the statement go in. The SPEAKER: The statements of counsel may go in by agreement.

Mr. SKELTON: We have Robert J. Curran, recorder of the Lewiston Municipal Court, who would testify as to the correctness of the tabulation of seizures by the sheriff's department during 1913, as shown on the sheet. This is admitted and we will therefore not take the time of the convention to call him.

Mr. PATTANGALL: We simply make the admission that the seizures printed on the record may go in as if it was the evidence of Mr. Curran. Of course we haven't any means of verifying them, and I don't care to do so.

Mr. Skelton: He is here with the books.

Mr. PATTANGALL: We don't question his being here, or that he would so testify. We simply don't know enough about the facts to admit whether they are true or not. We simply admit that he would so testify.

Mr. SKELTON: As from the records of the Lewiston Municipal Court.

Mr. PATTANGALL: Yes, that is all right.

Mr. SKELTON: We have the receipts for liquors for various dates as selected by the agents who went out. I understand there is no question they are to be used.

Mr. PATTANGALL: Used by either side for evidence and argument for whatever they are worth.

Mr. SKELTON: As evidence or argument.

Mr. PATTANGALL: That is all right.

F. X. BELLEAU, called for the prosecution, sworn, in answer to questions by Mr. Skelton testified as follows:

Q. You are clerk of the Supreme Judicial Court in the county of Androscoggin? A. Yes, sir.

Q. And reside in Lewiston? A. I do.

Q. You have been clerk for how long? A. I have been clerk six years, I am serving my second term.

Q. How long has William H. Hines been county attorney? A. He began his second term January 1 last.

Q. So that it is since January 1, 1911, is it? A. He began January 1, 1911.

Q. Now Mr. Belleau, I call your attention direct to the docket of your court for the January term 1912. How long did that term continue, how many days? The January term began Tuesday the 16th day of January and adjourned Feb. 13.

Q. And that made how many court days? A. 25 days.

Q. Were there not 28? A. 25 court days, 28 days counting Sundays; court adjourned the 13th of February.

Q. You have counted the 13th and counted the 16th of January, did you not? A. Yes sir.

Q. Your printed docket shows 28 days, does it not, your record? A. In this table here it is 28 days.

Q. Now, Mr. Belleau, how many liquor indictments were found at that term? Have you made any tabulation this evening? A. I have made a tabulation, but I don't seem to find it. At the January term there were 63 indictments found.

Q. All for nuisance? That is, 63 nuisance indictments? A. 63 nuisance indictments.

Q. Now what disposition was made of them at the January term? A. They were all defaulted.

Q. On what day of the term? A. On the 23rd day.

Q. So that there were five court days after that? A. I think there is an error there. I think the court sat from the 16th day of January to February 13.

Q. If there were 25 court days, there would be two days after that? A. There would be two days.

Q. How many respondents does your docket show to have been in court in those days of that term? A. I think the docket shows 2 respondents.

Q. And were those two two that were in jail? A. Well, I wouldn't say sure, I think one of them was. I wouldn't say about the other.

Q. And none of the others of the 63 appeared to have ben in court that term? A. All were defaulted.

Q. Were any bench warrants issued to arrest and bring them in? A. The entry simply shows that they were de-

faulted, no warrant issued, and no scire facias ordered to issue?

Q. And no warrants were called for by the county attorney? A. No warrants were called for by the county attorney.

Q. How many of those 61 cases had attorneys appear for them on the docket of the court?

A. I think the docket shows but one entry.

Q. Now what became of those 61 cases at the April term of court? That would be the next term in Androscoggin county, would it not? A. Yes, the April term.

Q. How many of those persons were in court at the April term to answer to these indictments continued from the January term? A. I think that there remained on the docket— I will make sure— there remained on the docket with the additional entry "scire facias to issue"—

Q. You don't understand my question Mr. Belleau, how many of those indicted persons of the 61 were actually in court at the April term to answer to these indictments continued from the January term? A. None that I know of.

.Q How many were bench warrants gotten out for at the April term? A. There is no entry as to warrants on the docket.

Q. No warrants issued? A. No warrants issued.

Q. Had any scire facias suits been brought against their bondsmen at the return of the April term? A. No.

Q. Did Justice Cornish preside at that term? A. He did.

Q. Did he make an special order as to those 61 continued cases? A. He made the following order "Scire facias to issue."

Q. In each case? A. In each case.

Q. And is that an unusual order for the court to enter? A. It is generally the order.

Q. Is it general and customary for the court to order that put on the docket? A. When parties are defaulted.

Q. How many terms within your experience as Clerk of Courts has it been done? A. Scire facias to issue?

Q. Ordered put on the docket specially. A. I may be mistaken, but I think ever since I was Clerk of Courts.

Q. That the judge has ordered that entry on the docket? A. Scire facias to issue?

Q. Yes. A. I think so.

Mr. PATTANGALL: I don't want to object to this, but I want to save my rights, so as to get the scope of it. I suppose if the Clerk goes back through other terms, it would be proper as showing the practice of the court, but not as comparing the work of one county attorney with any other county attorney, or one judge with another judge.

The SPEAKER: It would seem so.

Mr. SKELTON: You may go back simply through Mr. Hines's term as county attorney.

Mr. PATTANGALL: Just a moment. As the question was asked, there wouldn't be the slightest thing to prevent his going back as far as he wanted to. I don't want to get mixed up on it. I suppose it might be proper, because we are not trying a case before the law court, or men who are familiar with the practice, to show the practice in regard to the various entries made at different terms, no matter who the judge may be.

The SPEAKER: Let the Clerk run through it and satisfy himself, and testify whether it was the practice or the custom, and in cross-examination he can be asked questions to verify his knowledge.

Q. I ask you, Mr. Belleau, if there was any scire facias ordered to issue at the January term, 1912? A. At the January term, 1912, the entry is simply "Defaulted."

Q. The entry was made at the April term, as you have testified. A. In those cases the entry was made at the April term.

Mr. PATTANGALL: I would like to have the question answered that Brother Skelton asked him.

The SPEAKER: It didn't appear to me that he had answered that question.

Q. Mr. Belleau, did the county attorney sue out scire facias writs on any of these orders that were made

at the April term, 1912? A. I shall be obliged to object, there is an unanswered question left in the air.

(Original question withdrawn.)

Q. Now, Mr. Belleau, do you find such an order on anw of the books for 1911. "scire facias to issue"? A. I don't find it on the book of 1911.

Q. That is the first year of Mr. Hines's incumbency of the office? A. It is.

Q. Now going back to these 61 indictments that came from January, 1912, on which scire facias suits were ordered in April and none of the parties appeared in court in April, were scire facias suits ever brought on any of those 61 cases? A. They were not.

Q. Were any bench warrants or capiases taken out from the time these persons were indicted in January up to the September term of court, to get them into the court's jurisdiction? A. There were not.

Q. Now turn to your September docket and I would like to have you call those cases through and state what was done with each, beginning with No. 2295 on your September docket, State vs. Albert. A. Nuisance.

Q. What disposition was made of it? A. Nothing.

Q. State vs. Victor Budette? A. Nol prossed.

Q. Patrick Bremman? A. Nol prossed.

Q. State vs. Gilman Brasen? A. Undisposed of.

Q. State vs. Patrick Venson? A. Undisposed of.

Q. 2303? A. Nol prossed.

Q. 2303? A. Undisposed of.

Q. 2304? A. Nol prossed.

Q. 2305? A. Nol prossed on payment of $110.

Q. 2306? A. Nol prossed.

Q. 2307? A. Nol prossed.

Q. 2308? A. Nol prossed on payment of $110.

Q. 2309? A. Nol prossed on payment of $110.

Q. 2310? A. Nol prossed.

Q. 2311? A. Nol prossed.

Q. 2312? A. Undisposed of.

Q. 2313? A. Nol prossed on payment of $110.

Q. 2315? A. Nol prossed.

Q. 2316? A. Undisposed of.

Q. 2317? A. Nol prossed on payment of $110.

Q. 2318? A. Undisposed of.

Q. 2319? A. Nol prossed.

Q. 2320? A. Nol prossed.

Q. 2321? A. Nol prossed.

Q. 2322? A. Nol prossed on payment of $110.

Q. 2323? A. Nol prossed.

Q. 2324? A. Nol prossed.

Q. 2325? A. Nol prossed.

Q. 2326? A. Nol prossed.

Q. 2327? A. Nol prossed.

Q. 2328? A. Undisposed of.

Q. 2329? A. Nol prossed on payment of $110.

Q. 2330? A. Nol prossed on payment of $110.

Q. 2331? A. Nol prossed.

Q. 2332? A. Nol prossed.

Q. 2333? A. Nol prosed.

Q. 2334? A. Nol prossed on payment of $110.

Q. 2335? A. Nol prossed on payment of $110.

Q. 2336? A. Nol prossed.

Q. 2337? A. Nol prossed on payment of $110.

Q. 2338? A. Nol prossed.

Q. 2339? A. Nol prossed.

Q. 2340? A. Nol prossed.

Q. 2341? A. Nol prossed on payment of $110.

Q. 2342? A. The entry is dead, nol prossed.

Q. 2343? A. Nol prossed.

Q. 2344? Nol prossed.

Q. 2345? A. Nol prossed.

Q. 2346? A. Nol prossed on payment of $110.

Q. 2347? A. Nol prossed.

Q. 2348? Nol prossed.

Q. 2349? A. Nol prossed on payment of $110.

Q. 2350? Undisposed of.

Q. 2351? A. Undisposed of.

Q. 2352? A. Undisposed of.

Q. 2353? A. Undisposed of.

Q. 2354? A. Nol prossed.

Q. 2355? A. Nol prossed.

Q. 2356? A. Nol prossed on payment of $110.

Q. 2357? A. Nol prossed.

Q. That is the last of the nuisances at that term? A. It is.

Q. Now in those 61 cases did you find a record of guilty? A. There is no rec-

ord of guilty when a case is nol prossed.

Q. So that there is no record of guilty in any of those 61 cases? A. I have not looked. I suppose there are not.

Q. Please look at the tabulation, how many do you find nol prossed without the payment of anything? A. 33 cases were nol prossed.

Q. How many were nol prossed on the payment of $110? A. Fifteen.

Q. And the rest were undisposed of? A. Yes, sir.

Q. How many of those respondents appear to have been personally in court? A. None of those called at this time.

Q. So that out of 61 indictments pending in court for three terms, not one of them ever had to go to court? A. Not in these cases, not any of these particular cases.

Q. I say out of those 61 indictments? Now going forward to your new entries for the April term, 1912, you have the tabulation there? A. Yes, sir.

Q. You find how many nuisance indictments returned at the April term, 1912? A. I think 51 cases.

Q. And what disposition was made of those cases at the April term? A. 28 were nol prossed on payment of $110.

Q. No, during the April term? Look at your April docket. A. They were undisposed of.

Q. They were simply defaulted at the April term, were they? A. They were defaulted at the January term.

Q. No, I am talking about the indictments returned at your April term of court. A. You are right. They were defaulted.

Q. How many of them were brought into court or taken to court at the April term? A. None of those defaulted.

Q. So that none of the new entries were brought in? A. No, sir.

Q. Then those 51 April indictments also went forward to the September term without any disposition, did they? A. They did.

Q. Were bench warrants taken out at the April term? A. No, sir.

Q. Were their bondsmen sued at the September term? A. They were not.

Q. What disposition was made of those cases at the September term? You may start with 2446. A. That was undisposed of.

Q. 2447? A. Undisposed of.

Q. 2448? A. Nol prossed on payment of $110.

Q. 2449? A. Nol prossed on payment of $110.

Q. 2450? A. Nol prossed on payment of $110.

Q. 2451? A. Nol rossed on payment of $110.

Q. 2452? A. Nol prossed on palment of $110.

Q. 2453? A. Nol prossed.

Q. 2454? A. This was not a liquor case.

Q. 2455? A. Nol prossed on payment of $110.

Q. 2456? A. Nol prossed on payment of $110.

Q. 2457? A. Nol prossed.

Q. 2460? A. Nol prossed on payment of $110.

Q. 2461? A. Undisposed of.

Q. 2462? A. Nol prossed on payment of $110.

Q. Now take your tabulation and state how many of those cases were nol prossed without the payment of anything? A. There were 28 cases nol prossed on payment of $110.

Q. What else? A. Nineteen were simply nol prossed.

Q. Without payment of anything and two plead guilty and were placed on the special docket? A. That is my remembrance of it. I have not it here.

Q. So that as a matter of fact only two of all those respondents were ever personally in court? A That is what the record shows.

Q. And those two had their cases filed away without sentence? A. That is my remembrance of it.

Q. At the September term of 1912 how many new nuisance indictments were found? You have the tabulation there, have you not? A. Twelve.

Q. And that was the September following the issue of Bulletin No. 2, was it? A. I cannot say as to that. I have no remembrance of it.

Mr. PATTANGALL: The people who gave it to you did not know whether it appeared at the September term or not.

Mr. SKELTON: That was testified to this afternoon by Dr. Gates, was it not? A. I presume so.

Q. How are those nuisance indictments disposed of? A. Eight nol prossed and two nol prossed on payment of money, I think $110.

Q. And what became of the other two? One pleaded nolo? A. Yes, sir.

Q. And the other is undisposed of? A. Yes, sir.

Q. So that of those 12 new indictments, only one ever got personally into court? A. That is all.

Q. And only one got a record? A. That is all.

Q And that was the record of nolo contendere? A. Yes, sir, that is all.

Q. Now coming forward to the January term of court, 1913, which is the last one, how many new nuisance indictments do you find? A. January 1913, 66 nuisance.

Q. Sixty-six or sixty-nine? A. I made it 66, counting it.

Q. Assuming that it is 66, it does not matter particularly, how many respondents in those indictments were in court during the January term? A. The docket and record show they were al defaulted.

Q. How many came into court to answer to those indictments? A. None, according to the record.

Q. How many were sent for by the county attorney by bench warrants or any process issued from the court? A. The docket shows no warrants issued.

Q. And no warrants asked for? A Not that I know of.

Q. They would be issued if asked for? A. They would.

Mr. PATTANGALL: How do you know? Mr. Speaker, he asked him in direct if a warrant would have been issued if he had asked for it. How can he know?

Mr. SKELTON: Does the clerk ask the court permission to issue a bench warrant when the county attorney calls for it? A. The custom in the county since I have been clerk of courts has been for the court to order warrants to be issued at the request of the county attorney.

Q. And the clerk issues warrants at any time the county attorney asked for them? A. Yes, sir.

Q. Did the county attorney call for any warrants? A. Not in those cases.

Q. And none of those respondents were in court voluntarily or otherwise? A. No, sir.

Q. They were defaulted on the 10th day? A. They were.

Q. And there were 11 more days of that court to bring them in? A. They were defaulted on the 10th day of the term.

Q. And the court adjourned February 12th, the, the 21st court day? A. Yes, sir.

Q. So that they had 11 days to have taken out warrants. Now, Mr. Belleau, did Judge Savage make a special order on those cases? A. He defaulted principal and sureties, scire facias to issue.

Q. Did he order scire facias to issue in every case? A. Yes, sir.

Q. Have scire facias writs been sued out for the April term so far as you know? A. No, sir.

Q. That term opened on the third Tuesday in April? A. Yes, sir.

Q. So that writs to be returnable at that term have to be served by the first Tuesday of April? A. Yes, sir.

Q. Was anything done at the January term with cases that had been continued over from the previous September? A. At the January term?

Q. Yes. There were 71 continued cases, were there not, brought over to the January term? A. Well, you are speaking now of the January docket?

Q. Yes, brought forward to September. A. Nothing was done.

Q. There were 71 of them, your numbers will show. A. Yes, sir, that is right.

Q. Look at the last number. A. It is 71.

Q. There were 71 continued cases? A. Yes, sir.

Q. And nothing done with them? A. No, sir.

Q. Have you so far as your dockets for the four terms of the January term, 1912 to the end of the January term, 1913, as far as they are concerned, there

were two liquor nuisances disposed of in January, 1912? A. That is right.

Q. One at least of whom happened to be in jail at the time? A. I think so.

Q. In addition to that, you have found two during the four terms that plead guilty and had their cases put on the special docket? A. That is correct.

Q. One who pleaded nolo? A. Yes, sir.

Q. And aside from that, not a single respondent seems to have got into court or to have received a record of conviction? A. None.

Q. There are two or three special questions about special parties that I want to ask you. Take your September docket again, 1912. I am going to ask about a few special cases, because they are respondents whom we shall show or offer evidence to show are of a particularly persistent character of violations of the law continuing up to the present time. 2331, State vs. Thomas McNamara. What was done with him? A. In that particular case it was nol prossed.

Q. 2476, State against the same party. What was done with it? A. Nol prossed.

Q. 2487, what was done with that? That is the same party? A. It was nol prossed on payment of $110.

Q. While we are talking about McNamara, will you please turn to your September docket, No. 250, and see if there is an indictment against the same party for a nuisance found at the January term, 1912. A. Defaulted and scire facias to issue.

Q. Please turn to your September docket, No. 2335, State vs. Stanislas Malo, nuisance. What was done with that? A. Nol prossed on payment of $110.

Q. Now turn to 2345, nuisance. A. Nol prossed.

Q. Simply Nol prossed, A. Yes, sir.

Q. 2306, State vs Ronald Corrier? A. Nol prossed.

Q. 2456, State against the same party? A. Nol prossed on payment of $110.

Q. Does Martin Burgess' name appear on the January docket, either continued or new entry? A. No.

Q. Do you find the name of James Donovan there? A. Which term?

Q. The January term. A. There is James Donovan, No. 133, January term.

Q. What was that? A. A search and seizure.

Q. No nuisance found? A. Yes, 219, nuisance.

Q. That was brought forward with the rest of the defaulted cases? A. Yes, sir.

Q. What was done with the search and seizure, 133? A. Mittimus issued.

Q. On default? A. Yes, sir.

**Cross-Examination by Mr. Pattangall.**

Q. Mr. Belleau, in addition to the nuisance cases which appear on your liquor docket, do you find at all the terms of court appealed search and seizure cases against the same people who were indicted for nuisance? A. Exactly, as a rule, generally speaking.

Q. Now in every search and seizure case that has come up to this court on appeal, don't you find an indictment for nuisance? A. Most generally.

Q. Do you know of any case where there is not such, where that is not correct? A. I think sometimes the grand jury reports no nuisances, but perhaps one or two.

Q. That is, you mean one or two at the four terms of court? A. No, I have known terms where the grand jury—

Q. Let us stick to these four terms for the present. Are there any cases in those four terms of court you have testified to where an indictment was not found following search and seizure? A. Well, it strikes me that I remember one or two.

Q. Not more than one or two? A. I don't think so.

Q. Of course you could examine your docket and tell exactly? A. Yes.

Q. But I don't want to take the time to do it. Now take for instance the January term for 1911 where your respondents were not in court, where all defaulted and no bench warrant issued—what became of the appealed search and seizure cases against those same men? A. On the search and seizure they were defaulted, principal and sureties, judgment of lower courts affirmed, and a mittimus issued.

Q. What became of the mittimus?

A. It was placed in the hands of the sheriff.

Q. Who by? A. By the clerk of court.

Q. Now just for the benefit of everybody, can a man arrest on a mittimus? A. Oh, yes.

Q. Just as well as on a bench warrant? A. Just the same.

Q. And do you know whether on those mittimuses that were given to the sheriff, whether any collections have been made or not? A. I do know.

Q. Do you know how much was collected? I won't ask you each case. Of course it would be tiresome. A. I think this last term of court that the sheriff has turned over to the county treasurer something like $7,000.

Q. On mittimuses issued on search and seizure cases? A. On mittimuses issued on search and seizure cases.

Q. Against these same people? A. Against these same people.

Q. Against whom indictments were continued? A. Against whom indictments were continued.

Q. Now the order for scire facias to issue, on the January, 1913 docket, how long a time under the statutes—what is the statute of limitations on issuing a writ of scire facias? A. One year.

Q. So that that order is capable of being carried out any time during the year isn't it? A. That is my understanding of the law.

Q. And you of course are a lawyer. A. I am.

Q. Now, take the term, the September term—you have told the disposal of the indictments. I will ask you if in the September term, if each indictment was not against the same people, against whom you find a search and seizure case? A. I think in most cases. There may be one exception or two.

Q. But as a general rule that would be true? A. Yes.

Q. What do you find became of your search and seizure cases in September? A. The search and seizures were defaulted, principal and sureties, and mittimuses issued and turned over to the sheriff as in this latter case.

Q. Isn't that true, without bothering with each court, isn't that true of your April court and your January court and all these courts you have testified to? A. It is.

Q. And those search and seizure cases which were defaulted and mittimuses issued were against the same people who were indicted for maintaining a nuisance? A. They were.

Q. And on the docket in such a case is there a record against the man? A. Oh, yes.

Q. He was found guilty in the lower court? A. Found guilty in the lower court, appeals, and he is defaulted in the supreme court.

Q. Judgment of lower court affirmed? A. Yes.

Q. So that everyone of those men indicted for a common nuisance have right on your dockets a criminal record, haven't they? A. Every one of them.

Q. And I suppose some of them are men who are up before the courts more than once during the four terms. A. Yes.

Q. Now you say that at the January term there was 71 continued cases. Will you take your January docket and just look at the continued cases? A. January, 1913?

Q. Yes, January, 1913. A. Where they were defaulted?

Q. No, I just want to call your attention to the continued cases of the January term, of which it was stated there was 71. What is the number of the first one of those continued cases? A. The first one is 207.

Q. And when did that originate? A. This is an indictment found at the January term.

Q. That would not be a continued case. That is your new entries. Take your continued—the docket that was continued to January. A. I didn't understand your question. The first is No. 24.

Q. And when did that originate? A. January term, 1912.

Q. That was only a year old? A. A year old.

Q. And all the old cases had been

cleaned up had they? A. Well pretty much so.

Q. Well, had they all been cleaned up? I want to get at it. Did those 71 continued cases originate under County Attorney Hines or were some of them old cases that had been carried on the docket for a long time? A. Well, there is quite a number of them from January term—

Q. You can tell by looking at the docket, can't you, how far back some of those cases dated—originated? A. Well, there is No. 1, originated in 1907.

Q. Well, that is what I am getting at. Let us take them one at a time. No. 1 originated 1907. A. 1907.

Q. That was before Mr. Hines came into office? A. Yes.

Q. He came in in 1910 didn't he? A. 1911.

Q. January 1911? A. Yes.

Q. So that case started before years before he came into office and it had been continued from time to time. Now what about No. 2? A. At the January term, 1907?

Q. That had been re-continued for four years before Hines came in. What about No. 3? A. That is 1908.

Q. That started three years before Mr. Hines came in. How about No. 4? A. April term, 1908.

Q. How about No. 5? and right on? A. Just the same No. 6, No. 7 is 1910, —8, 1910.

Q. Now you can stop. So that six of those continued cases were old cases that had been carried for three or four years before Hines came in office? A. Yes, sir.

Q. And 65 were cases that had accumulated on his docket during a period of three years or two years and three months? A. Yes, sir.

Q. Now how long have you been clerk of courts? A. Six years.

Q. And how long have you practiced law? A. Oh, I was admitted in 1881.

Q. Now, I will ask you, is that docket, 71 continued cases, is that an extraordinary number to carry on the docket a county of your size? I don't know as Bro. Skelton would claim it was.

Mr. SKELTON: I stated in my opening that we did not attach great significance to that part of it. Dockets are bound to cumber up with more or less old stuff.

The SPEAKER: The answer is it is not an unusual number.

Mr. SKELTON: What we put stress on is the new cases and the disposition of them.

Mr. PATTANGALL: Then we have taken care of the continued docket. Let us start with January, 1912 and look that matter up. In January, 1912, referring to the new entries at that term, I think I have the number correct, there were 61 liquor indictments, were there not, for nuisance. A. That is my remembrance of it

Q. Now in those cases you find them all defaulted on the—A. 23rd day.

Mr. SKELTON: There were 63 found and two disposed of, left 61.

Q. 63 indictments found. A. And two disposed of.

Q. Now two disposed of, what was done with the rest? A. They were all defaulted.

Q. Well, the other two were disposed of in some other manner but these were defaulted and the bail defaulted? A. Bail defaulted.

Q. Now in those cases were there search and seizures cases against the same parties? A. About every one of them.

Q. And mittimuses issued? A. And mittimus issued.

Q. Now, Mr. Belleau, was that number 63 indictments, liquor nuisance indictments, was that out of the ordinary or about the usual number of indictments found in a term in your county according to your experience? A. Well, I should say it was about the usual number.

Q. You think it would average about that. Now, I don't suppose you could state of your own knowledge how much was collected in fines from those parties because of the mittimuses that were issued. A. I could not at that term.

Q. Does the sheriff after serving a mittimus return it to you with his return on it? A. He turns the money over to the county treasurer and I

think he returns—I think those mittimuses are kept in his office, that is the custom in our county, they are kept in his office.

Q. So that you have not any record after they leave you? A. After they leave me, I haven't a record.

Q. Now Judge Savage presided at the term of court, didn't he. A. January, 1912?

Q. Yes. A. No, January, 1912, Judge Spear presided.

Q. Judge Spear presided? A. Yes.

Q. I had it minuted Savage, perhaps I made my minute wrong. A. 1913 is Judge Savage.

Q. And there were no respondents appeared, they were all defaulted? A. All defaulted.

Q. Well now, is that an uncommon thing in your experience as clerk of courts to have the respondents stay away from court? A. It is not.

Q. It depends a little bit on what judge is coming sometimes, doesn't it? A. A good deal.

Q. Rather more than on who is county attorney? A. A good deal.

Q. Did Judge Spear attempt to take any means to get these respondents into court that you know of? A. No.

Q. Now you say you issued bench warrants on the request of the county attorney. I suppose you would issue bench warrants on the request of the judge also, wouldn't you? A. Most certainly.

Q. The judge did not ask for any? A. He did not.

Q. Or rather, order any—I suppose he would order. Have you ever had in your experience to issue any bench warrants? A. I don't believe that I have been called upon to issue a bench warrant in a liquor case except once since I have been clerk of courts.

Q. So that you could not swear whether the custom was for them to issue by order of the court or by request of the county attorney, from your own experience? A. I could not.

Q. Not having had any in that line. These defaulted cases were carried over on that continued docket, were they not? A. They were.

Q. And they appear again in the April term. A. They do.

Q. Now at the April term, Judge Cornish presided, I think. A. April term, 1912?

Q. Yes, April, 1912. A. Judge Cornish presided.

Q. And in those 61 cases that were continued, which had been defaulted and continued, you said in answer to Bro. Skelton, that nobody appeared on bench warrant. Well now, in your experience as clerk of courts had you ever known a case to be continued and then somebody to be brought in on a bench warrant? A. There might have been one case.

Q. Barring that one case? A. Well, I don't know of any.

Q. It takes one good exception to prove any rule. And at that term Judge Cornish ordered scire facias to issue. A. Scire facias to issue.

Q. Now do you find on your docket that during next year, during the time that scire facias might issue, do you not find that all those 61 cases were disposed of? A. Practically speaking they were all disposed of.

Q. And they were largely disposed of by nol pros for $110, or a simple nol pros? A. Simple nol pros or $110.00.

Q. Now do you find a single case nol prossed where it appears that nothing was paid except in cases where mittimuses issued on search warrants against the same parties and an opportunity had been given the sheriff to collect money from them? A. That is the usual way.

Q. Now we get around to September term, 1912. There you have but 12 new entries for nuisance, am I correct? I think I am correct. A. Yes, you are correct.

Q. Can you tell me without too much trouble how many appealed search and seizure cases you had at that term? Perhaps I had better put that, how many parties had appealed search and seizure cases, because I presume a nuisance indictment would only be brought once if there were two or three searches against the same man. A. I think there were 17 search and seizure.

Q. And are they against 17 different people. A. 17 different people.

Q. And there were 12 nuisance indictments against 12 of those 17 people. A. 12 of those 17 people.

Q. Now in each of the 17 cases do you

find judgment of the lower court affirmed and mittimuses issued? A. Defaulted, principal and sureties, judgment of lower court affirmed.

Q. Mittimus issued? A. Mittimus issued.

Q. Now in January term, 1913, Judge Savage presided, did he not? A. He did.

Q. And there you had sixty-six nuisance cases? A. We did.

Q. Now you say that there has been collected in mittimuses from January term by the sheriff and turned into the treasury about $7,000.00? A. About.

Q. That will be an average of about $100 and costs on 66 cases, wouldn't it? A. About.

Q. So that it would, if you looked,—if it doesn't take you too much time, perhaps you can glance it over quickly, see if you don't find that there were against the 66 respondents who were indicted in January, there were on the docket cases, search and seizure cases, from which they appeal and were found guilty and the judgment of the lower court and mittimuses issued against them? A. They were the same.

Q. The numbers seem to correspond pretty well. Mr. Belleau, when bail was defaulted does it not follow as a matter of course that scire facies may issue whether a judge orders it or not? A. I think it necessarily follows.

Q. Now what is the docket entry in regard to the cases in January 1913? A. 10th day of the term, defaulted, principal and sureties, scire facias issued.

Q. Scire facias to issue. Well, now, you made that entry of course at the suggestion of the court? A. At the suggestion of the court.

Q. And by the way, all of the entries in the 66 cases were made by order of Judge Savage, were they not? A. They were.

Q. And do you recall,—if you do you may state—whether at the time they were made Judge Savage personally had the criminal docket in his possession on the desk and went over it. A. I don't think he did.

Q. You don't recall that? A. No.

Q. Who did have it? Did you have it? A. I had it.

Q. What did you do, read the cases to him? A. We called the docket, called every case, State against so and so, and the number, defaulted, principal and sureties, scire facias to issue.

Q. Now that docket was called at the Judge's request, was it not? A. At the judge's request.

Q. And did that not happen on a time when Bro. Hines was not in court, or don't you recall that? A. Oh, I think the docket was called on motion by the county attorney.

Q. You think he moved to have the docket called? A. He moved to have the docket called, that is the custom.

Q. Now in regard to one other matter, I want to clear up for my own purpose and so that the convention will entirely understand it. In September, 1912, you were questioned as to the disposal of certain continued cases and you stated that 33 were nol prossed without payment of money, 13 were undisposed of and 15 nol prossed on payment of $110.00. When you say undisposed of, do you mean continued? A. Continued.

Q. So that 13 cases were continued? A. They were.

Q. Now of the other 46, 15 appear on the docket as nol prossed on payment of $110.00? A. Yes, sir.

Q. Can you tell whether the other 33 cases which appear to be nol prossed without payment of money were cases in which mittimuses had already issued and in which the sheriff had had an opportunity to collect money on the search and seizure. A. That is the fact. That is my recollection.

Q. Now do you know, of any cases where a party has been indicted for a nuisance in those four terms in which a fine does not appear on your docket as having been collected by the county attorney or else a mitimus issued in the hands of the sheriff to enable him to collect the fine on the search and seizure on which the nuisance case was founded. A. There might be one or two but I don't recollect it. I don't recollect it. As a rule there is a mittimus issued against every person where a nuisance apears.

Q. Will you examine that docket—not now—at your leisure, and if you find any such case will you report it to the convention before the case closes? A. I will do so.

Q. Provided you have the time to do so, I would like to have you do it. I will ask you one other question. In your experience as clerk of courts, have you learned, and do you know as a lawyer that it is a common practice among county attorneys who are doing their full duty and acting in absolute good faith to nol pros a certain number of cases for many, many reasons? A. It has been the custom.

Q. And may there not be a number of reasons why a nol pros is entered? A. Certainly.

Q. So that the mere fact that a certain number of cases are nol prossed, whether they were liquor cases or what not, would of itself neither show vigilance, nor lack of vigilance on the part of the county attorney, would it? A. It would not.

Q. Now in your service as clerk of courts and in your examination of the record have you or not learned that it has been the practice before Mr. Hines came in county attorney, not to compare with any special administration but the general practice, to nol pros frequently liquor nuisance cases on payment of a certain sum of money? A. Yes.

Q. And have different judges of the supreme court who have presided over the terms in your county ratified such entries? A. They have.

**Redirect.**

Q. Now, Mr. Belleau, you have stated that there were appealed search and seizure cases accompanying these nuisance indictments. They came up from the municipal court, did they not? A. They did.

Q. The complaint on which the nuisance indictment was based also came up from the municipal court did it not? A. Yes.

Q. Accompanied by a recognizance? A. Yes, sir.

Q. So that the nuisance indictment was not originated by the county attorney except as he presented the evidence to the grand jury after the sheriff's department had started the case? A. I think that is the usual way.

Q. That is the rule, is it not? A. That is the rule.

Q. Now you have stated in answer to my brother's question that these search and seizure indictments were defaulted and judgment of the lower court affirmed, which would be a judgment of guilty, and mittimus issued?

Mr. PATTANGALL: Bro. Skelton, you don't mean it to go into the record search and seizure indictments?

Mr. SKELTON: Complaints—I thank you.

Q. As a matter of fact, the affirmation of the judgment of the lower court and the issuing of the mittimus follows the default as a matter of course in a search and seizure case, does it not? A. It does.

Q. So that it is not the act of the county attorney that causes this mittimus to issue except as he has the docket generally defaulted? A. That is the custom.

Q. If the docket is defaulted, general docket, these things issue simply from the clerk's office as a matter of course to the sheriff, do they not, on the search and seizure cases? A. That is the way it is done.

Q. Now, you were asked by my brother if affirmation of the judgment of the lower court and issuing mittimus did not make it possible to arrest the respondent just as well as the issuing of a bench warrant. I think your reply was yes. Am I right? A. Yes.

Q. What really is the difference, Mr. Belleau, between a mittimus on a search and seizure and a bench warrant issued by the court in term time? A. The mittimus has a sentence—is a sentence, whereas a bench warrant is simply bringing the matter before the court to answer to an indictment.

Q. In other words when a mittimus is issued the party may pay $100 and costs and settle it and be done with it? A. Or go to jail.

Q. Usually there is no jail attached, is there, from the lower court? A. Well, perhaps, it is safe to say, usually.

Q. You can not remember a case where you have issued a mittimus from the lower court that had the jail

attached, can you? A. Do you mean within 6 years?

Q. No, within two years. A. Well, I think we have issued—

Q. Well, it is the exception, very much the exception? A. Perhaps there would be a dozen cases out of 60.

Q. You really think it is a dozen out of 60, Mr. Belleau? A. Well, perhaps some terms there might have been a dozen, some terms.

Q. Well, now then, if a bench warrant is issued instead of a mittimus, the party is brought before the court, is he not? A. He is.

Q. So that if he is attempting to escape any particular judge and the county attorney is willing that he should do so, he can help him accomplish that by issuing a mittimus in vacation instead of a bench warrant in court time, can he not? A. Not on an indictment.

Q. On a combination of cases that my brother has been talking about, search and seizure and nuisance? A. In search and seizure, the mittimus goes into effect and is placed in the hands of the sheriff within a reasonable time after the court is over.

Q. After the court adjourns and the judge is gone? A. And the judge is gone.

Q. So that if he is to escape the judge, he can do that on the mittimus? A. He can.

Q. But he could not on the bench warrant? A He would give bond if he was brought under bench warrant. Q. You are assuming he has got to come before the judge under the bench warrant? A. He has got to come.

Q. Now you have stated I think that there were 17 search and seizure cases in September, 1912, and that these were defaulted and mittimus issued. Will you please look at your docket and see if you wish to correct that statement or modify it? A. I make it 18 now.

Q. How were they disposed of? Is it a fact that they were all defaulted. judgment of the lower court affirmed and mittimus issued? A. The first one was nol prossed on payment of $100; the second one was nol prossed on payment of $100; the third one against the same party was nol prossed; 2216 was nol prossed; 2530 is nol prossed; 2531 is nol prossed on payment of $105; 2535 is nol prossed on payment of $105; 2541 is nol prossed; 2552 mittimus issued.

Q. One mittimus issued so far? A. Yes, sir; 2564, $105.

Q. Nol prossed? A. Nol prossed on payment of $105; 2570 is defaulted and principal and surety, judgment of the lower court affirmed; 2573, nol prossed on payment of $105; 2570, nol prossed on payment of $105; 2581, mittimus issued; 2582, mitimus issued.

Q. That is four. A. 2585, nol prossed on payment of $105; 2587 is nol prossed.

Q. Is that all of them? A. That is all.

Q. Then as a matter of fact instead of finding a record of conviction on the search and seizures as my brother spoke of, you find that in only four cases out of 17 or 18? A. I didn't mean to deceive anybody; I meant 17 that were disposed of.

Q. But only four of them show the record of conviction. Now, Mr. Belleau, you were led to say in your cross examination and referring to those January cases of 1912 which were finally nol prossed in September, that they were nol prosed only where mittimus had been issued and opportunity to collect. If there were no intention or reason for the nuisance indictment, do you know of any reason why they might not have been nol prossed just as well at the term in which they were returned? Do you know of any assistance they could have been in collecting the mittimus on the search and seizure? A. All my answer would be that it might have been.

Q. The parties were under bond for the search and seizure just as well as for the nuisance, weren't they? A. They are under bond in both cases.

Q. And they may be arrested and put in jail on the mittimus and search and sizure? A. They might be arrested and put in jail.

Q. Then can you think of any reason for carrying that nol prossing

proposition over from January to September except that possibly the county attorney as well as the respondent may have been selecting a favorable term? A. Well, you were following a certain custom that we have in the county.

Q. No, I am not talking about any custom. I am talking about these cases. Is there any other reason that occurs to you? A. Well, that reason don't occur to me, and I cannot give any reason.

Q. You can't think of any other can you? A. I cannot think of any reason excepting that it is the custom.

Q. Can you think of anything that made it better to nol pross or dispose of those 61 cases, some 33 by nol prossing, without the payment of money, anything gained by carrying forward to the September term? A. I can't tell what the county attorney or the court might have had in their mind to do it.

Q. Nothing occurs to you? A. No, sir.

Q. Why it couldn't have been done just as well earlier if it was to have been done at all? A. I wouldn't want to answer it that way.

**Cross Examination Resumed.**

By Mr. PATTANGALL:

Q. On these mittimuses that you issue on account of search and seizure cases the sentence of the lower court appears, and that is always an alternative sentence or else a jail sentence. That is, there is either so much money and jail or so much money or jail? A. Always.

Q. If a man is brought in on a bench warrant he can give bail? A. He gives bail.

Q. So that if the judge that he wants to avoid is sitting, and he concludes he would still like to avoid him he can give bail and wait for a favorable turn just as well? A. Just as well.

Q. And nobody can stop him? A. Nobody can stop him.

Q. In September, 1912, the presiding justice was Chief Justice Whitehouse, wasn't it? A. It was.

Q. Have you practised under him for some years? A. I have.

Q. And you don't have any idea there was any arrangement between him and the liquor dealers by which there was to be anything wrong done at his turn? A. I don't think so.

Mr. SKELTON: We did not mean to suggest anything like that.

Mr .PATTANGALL: You have here the court docket for the January term, 1904, for Androscoggin county? A. Yes, sir.

Q. Will you turn to that—

ATTORNEY GENERAL WILSON: I would like to know the purpose in going back so far.

Mr. PATTANGALL: My purpose is this, and I think it is a proper one: The work of a county attorney is necessarily more or less technical and not well understood by anybody except lawyers. The intimation goes all along through this case so far that the handling of liquor cases in a certain way is of itself evidence of wilful negligence. Now I want to say this, that not only was what Mr. Hines did the proper thing to do in regard to all these matters that have been raised, but that he was following the practise of good lawyers. The only way I can think of showing this, and the only way I can think of to show this convention that a technical professional act was in accordance with good practise would be to illustrate it by the practise of good careful professional men. Hence I want to go back to 1904 and show that Brother Skelton, for whom we all have the highest esteem and respect, did just the same things and carried just the same kind of a docket that has been shown here, and I think that would establish that Mr. Hines was in good practise, because we all recognize Brother Skelton's work as good practise.

ATTORNEY GENERAL WILSON: I think it would take much time.

The SPEAKER: Whether or not Brother Skelton or anybody else did the same thing is not admissible here; the fact that other county attorneys or other officials did the same thing would hardly be admissible, do you think?

Mr. PATTANGALL: I think it would be on the ground that this is purely professional work. We will say a doc-

tor or physician is charged with negligence before any court, criminal negligence. How do you get at it, whether he is negligent or not in what he has done.

The SPEAKER: The Chair feeling very firmly in its conviction that that is not admissible, what another lawyer or another county attorney has done—the point here is whether or not since January 1st this official has been guilty of wilful negligence.

Mr. PATTANGALL: That is true, but can anybody but a lawyer when it is shown that so many cases were continued and so many nol prossed and bench warrants not called for—can anybody but a lawyer form any idea of whether that is negligence.

The SPEAKER: They will have to form the best idea that they can. The Chair excludes it.

Mr. PATTANGALL: I cannot think of any other way to get at it. I submit however to the ruling.

Q. Mr. Belleau, one question I omitted to ask you in my original cross examination. You have been more or less familiar with the county attorney's work during his term of office? A. I have.

Q. And I suppose as clerk of courts most of what you have seen of his work has been in the court room? A. It has.

Q. Would you state, not an opinion but from your observation whether he has, from what you have seen of his work, been faithful and diligent in his work or otherwise?

ATTORNEY GENERAL WILSON: Isn't that an opinion?

The SPEAKER: The Chair feels bound to exclude that as a matter of opinion on the issue.

Mr. PATTANGALL: I say, from what he has observed.

The SPEAKER: You ask him his opinion.

Mr. PATTANGALL: I ask it not as an opinion.

Q. Has he conducted his work so far as you have seen it in accordance with the rules of court as you understand them? A. As I understand them, he has.

Q. And has he or not given to his cases good attention? A. He has.

Q. Have you had there besides criminal work, beside the liquor work has the county attorney had other cases to handle in court? A. Quite a number.

Q. You have no superior court? A. We have no superior court.

Q. All your criminal work is conducted in your supreme court? A. In our supreme court.

Q. And you have how many criminal terms a year? A. We have three terms which combine civil and criminal.

Q. About how much time does the criminal work usually consume, aside from the grand jury work and taking care of your criminal docket? A. Well, of course it depends.

Q. Necessarily it varies, but what would be a fair average for two years? A. The presiding justice generally will assign a week to the trial of criminal cases, from four to five days.

Q. And can you give an idea of the average time the grand jury sits in your county? A. As a rule the grand jury sits five days, four or five days, and sometimes six days.

Q. Making about two weeks that is given by the county attorney to the criminal work at each term? A. The first week is given entirely to the grand jury.

Q. And then about a week to cleaning up the criminal cases? A. Yes, sir.

Mr. SKELTON: Do you think that the criminal docket has averaged to occupy more than two days per term for the last four or five terms? A. I said four or five days. I don't know as I would change it very much.

Q. Not more than a day or two will you change it? A. I don't think I would change it.

Q. How many cases per term have been tried for the last four or five terms, if you can tell? Were any cases tried at the January term? A. I should say yes, but I would want to look up and make sure; I am not positive.

Q. Are you positive there were any tried at the September term, 1912? Or I don't know as that is material, and I don't think I will take the time of the convention. I will ask you, Mr. Belleau, whether you want to allow

us to look over your docket in case we may want to do so. A. Yes, sir.

SIMON P. WARDWELL, called and sworn, testified as follows:

By Mr. SKELTON:

Q. What is your name? A. Simon P. Wardwell.

Q. And your residence? A. Auburn.

Q. You are a deputy sheriff? A. Yes, sir.

Q. Under Mr Lowe? A. I am.

Q. Have you served any scire facias writs for the coming April term? A. I have not.

**Cross-Examined by Mr. McCarty.**

Q. How many other civil deputis are there other than yourself? A. There are three more in Auburn and Lewiston, and one in most every town.

Q. Have you ever spoken to the county attorney in regard to these scire facias suits? A. I have not

ERNEST E. BECHARD, called and sworn, testified as follows:

By Mr. SKELTON:

Q. What is your name? A. Ernest E. Bechard.

Q. And your residence? A. Lewiston.

Q. Are you a deputy sheriff? A. No, sir.

Q. You have been until what time? A. Until this afternoon.

Q. Have you served any scire facias writs returnable to the April term of court? A. I have not.

**Cross-Examined by Mr. McCarty.**

Q. How long have you been a deputy sheriff? A. Six years.

Q. And under the administration of Mr. Lowe as well as his predecessors? A. Yes, sir.

Q. Do you remember at any time of having called on the county attorney in regard to these scire facias suits? A. I do.

Q. And during this past year? A. Yes, sir.

Q. And at what time did you call on him in that regard? A. Oh, five or six or seven weeks ago.

Q. Whether or not that was before or after the adjournment of the January term of court? A. I can't remember, but I think it was after.

Q. What was your idea in calling on him?

Mr. SKELTON: That is objected to.

The SPEAKER: Excluded.

Q. Did you have any talk with him in regard to the issuance of scire facias writs? A. I did.

Q. What was that conversation?

Mr. SKELTON: Objected to.

The SPEAKER: I think that may be admitted because his attitude toward the proposition is important.

A. I asked him if he was going to sue any scire facias writs, and he said he would very soon, and I said I would like to have the work of serving them.

Q. And that you say was probably after the adjournment of the January term? A. I think so.

Q. Do you know when the January term did finally adjourn? A. No, I don't. I didn't pay any attention to the day it adjourned.

Q. Was it sometime in February? A. I think so, sometime around the last of February.

Q. And at that time he told you it was his intention soon to sue out those scire facias writs? A. He did.

L. O. CHABOT, called and sworn, testified as follows:

By Mr. SKELTON:

Q. What is your name? A. L. O. Chabot.

Q. And you live in Lewiston? A. Yes.

Q. Are you a deputy sheriff? A. Yes.

Q. Have you served any scire facias writs for the April term of court? A. No, sir.

**Cross-Examined by Mr. McCarty.**

Q. You have been a deputy sheriff under this present administration how long? A. I was appointed about the 14th or 15th day of January last.

Q. So that you have been a deputy sheriff for practically three months? A. Yes, sir.

Q. And I suppose you are more or less ambitious under your new appointment? A. Well, I should say so, yes.

Q. Looking for work all the time? A. That is right.

Q. Now did you have occasion to

interview the county attorney in regard to the issuance of scire facias writs? A. I did.

Q. And when was that if you can remember? A. The very day the docket was called.

Q. Do you remember what day that was? A. I couldn't say what day it was.

Q. Somewhere near the latter part of the adjournment of the January term of court, wasn't it? A. Yes, it was.

Q. What conversation did you have with him in that respect? A. I asked him if I could serve scire facias, and he answered yes, that I would get my share of them.

Q. Did he express any opinion to you as to when they would be issued, the time, whether soon or late, or anything of that sort? A. No, he said he would get around to it sometime.

Q. And have you been to him since that time? A. I have not.

Mr. SKELTON: It is admitted that none have been served by any other officer, and in substance that none have been served at all, I suppose that means.

Mr. PATTANGALL: Yes, there is no question about it.

Mr. SKELTON: And unless there is something that we have inadvertently omitted and comes up, this will close the State's testimony.

The PRESIDENT: The House and Senate will each hold a short session immediately after the convention takes a recess.

On motion by Mr. Butler of Farmington, the convention took a recess until tomorrow morning at 9.30 o'clock.

The Senate thereupon retired to the Senate Chamber.

## IN THE HOUSE.

From the Senate: Resolve authorizing the Governor and Council to use any unexpended balance in the treasury for the renovation and construction of buildings at the Maine State Hospital at Augusta.

On motion by Mr. Mitchell of Kittery this resolve received its two readings and was passed to be engrossed without reference to a committee, under a suspension of the rules.

From the Senate: Report of the committee on appropriations and financial affairs, reporting "ought not to pass" on resolve in favor of the Senate postmaster.

The report was accepted in concurrence with the Senate.

### Passed to Be Enacted.

An Act to amend chapter 129 of the Public Laws of 1913, entitled "An Act to create a Public Utilities Commission, prescribe its powers and duties and provide for the regulation and control of public utilities."

On motion by Mr. Peaks of Dover the rules were suspended and that gentleman introduced out of order bill, An Act for the assessment of a state tax for the year 1913.

On further motion by Mr. Peaks 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. Peaks of Dover the rules were suspended and that gentleman introduced out of order bill, An Act for the assessment of a state tax for the year 1914.

On further motion by Mr. Peaks 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. Sanborn of South Portland, unanimous consent was given and that gentleman introduced out of order the following order:

Ordered, the Senate concurring, that 500 copies of Act to provide for reconstruction of Portland Bridge be printed.

On further motion by Mr. Sanborn the order received a passage.

On motion by Mr. Jones of China,

Adjourned until tomorrow morning at 9 o'clock.