Legislative Record

OF THE

Seventy-Sixth Legislature

OF THE

STATE OF MAINE

1913

HOUSE.

Saturday, April 12, 1913.

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

Prayer by the Rev. Mr. Livingston of Augusta.

Journal of previous session read and approved.

Papers from the Senate disposed of in concurrence.

On motion by Mr. Descoteaux of Biddeford, bill, An Act relative to the compensation of employees for personal injuries received in the course of their employment and to the prevention of such injuries, was taken from the table.

Mr. Descoteaux moved that the House concur with the Senate in the acceptance of the report of the conference committee.

Mr. BUTLER of Farmington: Mr. Speaker, I have here an order which I would like to introduce, and I will say that it is in regard to this compensation act, but feeling that the time is so short it will be impossible at this time to frame this bill in a form that will be satisfactory to the majority of the members of this House; for that reason I wish to introduce an order asking for the appointment of a committee of five, three to be appointed from the House and two from the Senate, to investigate the workings of the compensation bill in other states, such committee to serve without pay and to report to the next Legislature. I do this, Mr. Speaker, feeling that a bill drawn as this one is will not provide compensation surely for one-half of the common laborers of our State. We have a large rural section, and in many of our small villages there are men working by the day in small groups who would come entirely outside of any of the provisions of this act. While it is claimed by the propenents of the bill that the expense of compensation for injuries justly falls upon the cost of the articles produced, it seems to me allowing that to be so that it is manifectly unjust to increase the expense to the consumer of those products. It may be that at the best it can accommodate less than 50 per cent. of our working men, and then obliges the other 50 per cent. to buy at this increased price to provide for a small amount of our working men, or an amount less than one-half. To my mind this is manifestly unjust and I hope the motion will not prevail.

Mr. PEACOCK of Readfield: Mr. Speaker, as a member of the conference committee I wish to say just a word. This matter has been threshed out carefully for almost four months in this body by committees who have worked hard to produce an act that shall be a benefit to the working men and also to the employers. We all understand that it is almost impossible to so draft any measure that it will be satisfactory to everybody. The aim however is to satisfy a large majority; and after going over this matter carefully your committee of conference believed that a large part of the objections which have been offered to this measure have been eliminated, and they recommended therefore that the measure receive a passage. It seems to me it is the right and the proper and the fair thing for us to pass this measure in justice to all parties concerned, and thus show to the laboring people of our State that we are interested in their welfare. I do feel and feel honestly that this is a step in the right direction, and I trust that the gentlemen of this body will manifest their feeling in the matter by saying that we will adopt this measure and try and help the working men. I trust the motion of the gentleman from Biddeford (Mr. Decoteaux) will prevail.

The SPEAKER: The question before the House is on the acceptance of the conference committee, which report is that the House concur with the Senate in the passage of the bill as amended by Senate Amendments O, P and Q.

Mr. MARSTON of Skowhegan: Mr. Speaker, I just want to say a word in praise of this conference committee. We have already had one conference committee representing the majority

of the House who are the opponents of this bill. At that time it was hoped that the opponents in fairness would agree upon some compromise that they could report to the House that would be acceptable. That committee absolutely refused to entertain any propostion looking to a compromise, and they were obliged to report that they were unable to agree. Then the second committee started in where they left off and by very careful and serious and sincere work they were able by sacrificing a little here and there to agree on a report which the members of the House and Senate felt would represent the respective majorities that they represented.

Now, the three members of the House represented the opponents of the bill; they were selected as representatives of the opponents of the bill in the House. Those three representatives have met three from the Senate and they have agreed upon a bill which in a sense is a compromise bill. It seems to me if there is any virtue or any merit in any conference committee, and if there is any virtue in the rules for concurrent action, that this House should this morning accept the report of the conference committee.

Mr. HIGGINS of Brewer: Mr. Speaker, I would like to know if an amendment is in order at this time?

The SPEAKER: The Chair thinks not. The question now is on the acceptance of the report of the committee of conference, and that report is that the House concur with the Senate in the passage of the bill, as amended by Senate Amendments O. P. and Q.

Mr. HIGGINS: If those amendments prevail an amendment would be in order?

The SPEAKER: The Chair does not see any way in which the bill can be amended in the House except by dispensing with the rules. This bill has once been indefinitely postponed in the House. If the House takes action undoubtedly it would have to reconsider its vote, and it cannot do that on account of the rules, having once voted down a motion to reconsider; but of course if the rules are dispensed with the obstacle is removed; but certainly the Chair sees no way in which it can be amended in the House except by a suspension of the rules.

Mr. HIGGINS: I want to say that personally I am in favor of this bill, and I have so voted for it at each stage. I have discovered in the bill a clause which works to the detriment of small cities. For instance, you take the cities of Hallowell, Brewer, Ellsworth and Calais, and this bill includes those cities under its provisions; it exempts the town of Sanford, the town of Houlton, Bar Harbor and other towns, that are as large or larger than many of the cities which I have mentioned. I wanted to offer an amendment that this should not apply to cities of less than 10,000 inhabitants, unless they voted to come under the act; it seems to me only fair and reasonable to these small cities. I presume the parties who drew the bill did not think of that particular point, and, Mr. Speaker, if it is in order I would move that the rules be suspended, and that this amendment be received.

Mr. IRVING of Caribou: Mr. Speaker, just a word in defense of the first committee of conference. In reply to the remarks of the gentleman from Skowhegan (Mr. Marston) I wish to state unqualifiedly that the committee from the House did make propositions and did propose to meet upon a common level and do everything they could to meet this Senate committee; and I submit that it is a simple matter for the proponents of a measure from one House to the proponents of the measure from the other House to meet as compared with an attempt of the opponents of the measure from one House and the proponents of the measure from the other House meeting upon the same measure and trying to reach some common ground.

Mr. MARSTON: Mr. Speaker, I want to say in regard to the amendment offered by the gentleman from Brewer (Mr. Higgins) representing the proponents of the bill, that we would be very glad to have that amendment made, and after the report of the committee has been accepted we hope very much that the House will allow that amendment to be made.

The SPEAKER: If the report of the committee is accepted and this concurrent action with the Senate is adopted in passing the bill, as amended by the Senate, then the House by suspending the rules of course could amend it or do anything else they wanted to do with it.

Mr. MARSTON: Mr. Speaker, it is my suggestion that the report of the committee must be accepted first, and then the proponents of the bill would be very glad to accept the amendment offered by the gentleman from Brewer (Mr. Higgins) and I hope the House will so vote.

Mr. HIGGINS: That is entirely satisfactory to me.

The question being on the aceptance of the report of the committee of conference.

A viva voce vote being doubted,

Mr. Marston of Skowhegan asked that the yeas and nays be called.

The SPEAKER: Those favoring the motion for the yeas and nays will please rise.

A sufficient number not having arisen,

The yeas and nays were not ordered.

A division being had, the motion prevailed by a vote of 41 to 31.

So the report of the conference committee was accepted.

Mr. Descoteaux then moved that the House recede and concur with the Senate in the passage of the bill to be engrossed, as amended by Senate Amendments O, P and Q.

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

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

Mr. BUTLER: There was no quorum voted on this matter.

The SPEAKER: There were 72 members voted. The Chair has a right to observe members present who did not vote, and there being a sufficient number present to make a quorum. The question now comes on the motion of the gentleman from Bidetord (Mr. Descoteaux) to recede and concur with the Senate, which follows his motion to accept the report of the committee.

A viva voce vote being taken,

The motion was agreed to.

On motion by Mr. Higgins of Brewer, under a suspension of the rules, the vote was reconsidered whereby the bill was passed to be engrossed as amended by Senate Amendments O, P. and Q.

Mr. Higgins then offered House Amendment H, to amend section one in line five after the word "cities" by inserting the following: "of more than ten thousand inhabitants."

The question being on the adoption of the amendment,

The amendment was adopted.

Mr. Bass of Wilton then offered House Amendment I, to amend by adding the following: "Any assenting employer having provided insurance for his employees satisfactory to the commission may deduct from the wages of his employees an amount equal to one-half of the insurance premium under such rules as may be prescribed by the commissioner.

Mr. BASS: Mr. Speaker, it seems to me that in any compensation bill the principal thing to be sought after is to provide in some way for the compensation of the employees, and that in some way when he meets with an accident he will be assured that there will be something coming to him. To my mind this bill appears to be one-sided, and I have offered this amendment as a compromise, and I hope it will be adopted.

Mr. MARSTON of Skowhegan: Mr. Speaker, I have looked through the compensation acts of a large number of states and some of the European provisions, and I think the rate in this is higher than in any of the others. The gentleman from Wilton (Mr. Bass) asks the wage earner to pay one-half of this expense. This matter has been thoroughly threshed out in every state in the Union, and it has been the opinion in the majority of the states that this principle is wrong, and I hope very much that the amendment will not be adopted.

Mr. BUTLER of Farmington: Since there are only 50 per cent. of the workmen of the State who can receive any compensation under this act it seems to me it is only fair that the workmen share in the expense. There seems to be a disposition on the part of many members here to pass something, and this may be a step in

the right direction. I hope the amendment will be accepted.

Mr. COOK of Vassalboro: I just want to ask the members to remember what this is. It is a workmen's compensation bill. They can get insured now if they wish to. There are insurance companies enough and I hope this amendment will not prevail.

The SPEAKER: The question before the House is on the adoption of House Amendment I, offered by the gentleman from Wilton, Mr. Bass.

A viva voce vote being doubted,

Mr Cook of Vassalboro called for a division of the House

A division being had, the motion prevailed by a vote of 38 to 30.

So the amendment was adopted.

Mr. MARSTON of Skowhegan: Mr. Speaker, I move that the vote be reconsidered whereby this amendment was adopted. And I want to say in behalf of the proponents of this bill that this amendment is practically an amendment to kill the bill, because I feel absolutely certain that—

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

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

Mr. JONES: I think the motion has not been put and carried to reconsider.

The SPEAKER: The gentleman is —now arguing his motion, as the Chair supposed.

Mr. MARSTON: I want to say if this amendment is adopted by this House it makes the bill not only useless but it makes it wicked and pernicious, and I feel certain that the passage of the bill with this amendment would work a great hardship not only upon the workmen of Maine but upon the employers of Maine. It would mean practically that every employer would have to deduct from the wages of his workmen—

Mr. IRVING of Caribou: Mr. Speaker, I rise to a point or order.

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

Mr. IRVING: Did the gentleman speaking vote in the negative?

The SPEAKER: The gentleman from Caribou, Mr. Irving, makes the point of order that the gentleman from Skowhegan, Mr. Marston, cannot make the motion to reconsider as he voted in the negative. If this is a fact, and the Chair has a right to ascertain by inquiry, the gentleman cannot make the motion.

Mr. MARSTON: I voted in the affirmative.

The SPEAKER: The gentlemen then has a right to make the motion.

Mr. MARSTON: I am wrong; I voted in the negative.

The SPEAKER: The gentleman then has no right to make the motion.

Mr. BASS of Wilton: Mr. Speaker, if it is in order I would like to say that this amendment was offered with the very best of purposes and in the hope that it would prevail and that the bill would become a law as so amended.

Mr. HIGGINS of Brewer: Mr. Speaker, I think out of courtesy to the gentleman from Skowhegan (Mr. Marston) some gentleman who voted on the other side will move a reconsideration of the vote of the House.

Mr. Morrison of Corinth moved that the vote be reconsidered whereby House Amendment I was adopted.

A viva voce vote being taken,

The motion was lost.

Mr. Marston of Skowhegan called for a division of the House on the motion to reconsider the vote whereby House Amendment I was adopted.

Mr. MARSTON: On that motion, Mr. Speaker, I wish to say that it has been the experience wherever this workmen's compensation act has been tried that unless employers of labor increased their wages to the extent of this cost of insurance there would be labor trouble in the way of strikes, for the reason that there is in every industry a great many people who do not thoroughly understand the provisions of the act, and when out of their pay envelopes every Saturday night a certain amount of money is deducted they look upon it in the light of a decrease in their wages. That is the attitude of the proponents of the bill in opposing this amendment, on the ground that the deduction or the percentage asked for by this amendment, one-half, makes it even more objectionable. I will say that I have examined about 15 such bills applying to different states in this country, and

in all of the 15 bills one-eighth is the largest proportion that labor has been asked to pay; and I believe that one-half is so large an amount that any friends of the bill must vote to object to the amendment.

The question being on the reconsideration of the vote whereby House Amendment I was adopted.

Mr. Benn of Hodgdon called for the yeas and nays.

The SPEAKER: As many as favor the yeas and nays will please arise.

A sufficient number not having arisen,

The yeas and nays were not ordered.

A division being had, the motion was lost by a vote of 35 to 44.

Mr. Higgins of Brewer moved that the bill be now passed to be engrosesd as amended by Senate Amendments O, P and Q, and House Amendments H and I.

Mr. Descoteaux of Biddeford moved that the bill be indefinitely postponed.

Mr. NEWBERT of Augusta: Mr. Speaker, I certainly did not intend to take part in this debate. Somewhere in this session a beginning was made of what to my mind was a great and beneficient measure. It comes to us now in its dying days when it is impossible to consider it and loaded down with amendments which no man in the House has read, anu to my mind the bill as it stands with all its unreasonable exemptions, with its exemption of farm hands, and domestic servants, and lumber interests, and lumbermen and crews below 10; and this last amendment putting half the charge upon the laboring man. I say, the bill as it stands, gentlemen, loaded down as it is with this awful weight is an evil to the 50,000 laboring men of the state of Maine, and it ought to die right here. (Applause).

Mr. SMITH of Auburn: Mr. Speaker, the remarks of the gentleman from Augusta (Mr. Newbert) thoroughly coincide with mine. The bill was reported from the committee and the committee felt obliged to put in there some of these amendments. In regard to one of these amendments, applying to cities and towns, there is no reason why towns should be exempted. It is nothing more or less than the laboring men carrying insurance, for which they will have to pay, and I hope the motion to indefinitely postpone will prevail.

The SPEAKER: The question is on the motion of the gentleman from Biddeford, Mr. Descoteaux, that this bill be indefinitely postponed.

Mr. TRIMBLE of Calais: Mr. Speaker, I had a striking illustration of the needs of such a measure as this when I was home last week. A laboring man was taken into the hospital where a surgeon had to remove all of his right hand except one finger and a thumb. The corporation by whom he was employed carried insurance against accidents, and they offered him $100 for practically losing his right hand, and he said to me, "I am glad you passed the workmen's compensation bill, and I wish it had been passed before I met with my accident." I had doubts and at that time I was very much afraid the measure would not pass, but I was very much interested in its pasage and would do everything I could to have a fair measure passed; but from the attitude I have discovered on the part of members or the House, I think we ought to make one more try to get this measure into reasonable shape, and I move that the bill together with the amendments be laid upon the table.

A viva voce vote being taken.

The motion was lost.

Mr. KEHOE of Portland: Mr. Speaker, I am very anxious to see a proper employer's liability bill passed by this legislature. I read in the paper recently the action of this House and Senate instructing Congress in reference to the pending tariff bill in which the desire seemed to be on the part of members to protect the great lumber interests of Maine. Today we see how much the same members care for the laborers who are employed by the same lumbermen. I a sorry this bill is being killed in this fashion. Of course after House Aendment I is adopted, no self-respecting man could vote for it.

Mr. O'CONNELL of Milford: Mr. Speaker, I would like to ask the members of this Houes if it would not be advisable, since this bill is going down, to allow it to lie on the table until perhaps Monday morning to see if we could not get a committee of perhaps three or four or five more whatever number is deemed advisable to investigate at this time in regard to the work-

ing of the law in different states and have that committee some time during the next two years report to the next legislature. By that time it seems as though with all this winter's work and two years coming they might be able to get a bill that would be satisfactory to everybody. I think a committee of seven on the part of the House or five, or whatever number may be desired, and some from the Senate could be appointed to look into this matter perhaps and they might be able to get together on something.

Mr. MARSTON of Skowhegan: Mr. Speaker, I want to second the expression of the gentleman from Milford (Mr. O'Connell) and I think that is the best we can do at this present stage of the legislature. I just want to say one word in regard to the remarks of the gentleman from Portland (Mr. Kehoe). I want this to go on record, that this bill has not been killed by the lumber industry of Maine. I want to say that the employers of labor in the lumber industry who are members of this House, and I think they can be fairly called representatives of the lumber industry, not only put in no amendments injuring this bill, but they on the floor of this House have expressed the desire that their industry be not exempt, and that the bill be passed without lumbermen being exempted. I think it is unfair to say that the lumber industry, of which I am a very humble member, did anything or tried to kill this bill.

Mr. KEHOE: Mr. Speaker, I have had it put up to me by members of the third House that it is a little hard on the lumber interests of our State. I supposed those who wrote that article were connected with the lumber interests, and I couldn't see why the lumber interests should be exempt from this bill.

Mr. BASS of Wilton: Mr. Speaker, it has been said that the workmen's compensation bill was on trial but in an experimental stage. If this bill should be passed as it now stands, it seems to me it will give some protection to the laborers of this State, and I hope the motion will not prevail.

Mr. COOK of Vassalboro: Mr. Speaker, up in my village there was a man who through the negligence of a fellow servant got into a vat of fluid, and while it didn't kill him he was thrown out of employment and faced the poor farm with his family. The members who have been trying to kill this bill know that he could not recover under the common law on account of the negligence of a fellow servant; and the members who are trying to kill this bill are trying to prevent that man from getting any compensation from that accident, and trying put that man and his family on the town farm, and on their heads be the wrath of all the workmen in this state. (Applause.)

Mr. AUSTIN of Phillips: Mr. Speaker, I move the previous question.

The SPEAKER: The gentleman from Phillips, Mr. Austin, moves the previous question. The consent of one-third of the members of the House is necessary to entertain it. Those in favor of the motion will please rise.

A sufficient number having arisen.

The previous question was moved.

The SPEAKER: The question before the House is on the motion that the previous question be now put. Upon this five minute debate is allowed.

A viva voce vote being taken.

The motion was agreed to.

The question being on the motion of the gentleman from Biddeford, Mr. Descoteaux, that this bill as amended be indefinitely postponed.

A viva voce vote being taken.

The motion was agreed to.

A communication was received from the department of the attorney general in relation to the matter of the present condition of Adelbert J. Tolman, sheriff of the county of Knox.

On motion by Mr. Smith of Patten the communication was placed on file.

The SPEAKER: The Chair will state that if any action is taken on the matter of the sheriff of Knox county, or if the case is not considered at this session, the presiding officers think that the legislature may adjourn today. Of course what may be done with this case of the sheriff of Knox county the presiding officers have no knowledge. This statement is made for the information of those who might be considering going on the train or otherwise.

Mr. NEWBERT of Augusta: Mr. Speaker and gentlemen of the House, were it not for the lateness of the hour and the pressing business of the joint convention soon to assemble, I might say many things which will forever go unsaid. In the beginning of this session, Mr. Speaker, it was my high privilege to conduct you to the Speaker's chair, and after this strenuous winter when we have lived under high tension here, and in the closing days of this long session I esteem it, sir, an honor to be chosen by the members of this body to bring to you a message from the House over which you have presided so well, a message of respect and regard.

We have been here fifteen full weeks, and we are soon going to get done, we hope; we shall then separate, and many of us will not return, and some of us, Mr. Speaker and gentlemen, will not meet again. We have had many divisions here and the records will show innumerable roll calls, and our names are there, and I take it that were we to do the work over again there would be few changes in the line-up of men or of parties. We have had divisions here because we have come here as men and not as children; we have come here as party men, believing that this is a government of parties; we have divided, not because we have been weak, but because we have been strong. But in these closing days of the session many things are now forgotten, the debates of yesterdays gone from our minds. We shall soon go from these doors, and when they swing behind us, Mr. Speaker, they will shut in a great many things which we would not carry away with us.

This is the hour of felicitation and conciliation, the hour of forgetting many things and the hour for remembering the best things that attain unto this House and the better elements that exist in every one of us here. However much we may have divided, Mr. Speaker; however much contention there may have been here; however much you, Mr. Speaker, and the rest of us may have failed in your wishes or in ours, the time has come when we are done, and the time has come when you, Sir, and the rest of us should ask whose we are and whom in this House and in this state we serve. There is one sentiment I am going to propose here this morning upon which I believe we are all agreed, a sentiment which holds us all in its grasp, "The State of Maine; we all love her and we all say 'God Bless Her.' The State of Maine, proud of her place in the sisterhood of states; the State of Maine proud and jealous of her prestige in the nation, earned by her great and noble sons of other days; the State of Maine rich in her unrivalled resources, rich in her splendid inheritance of moral and intellectual ideas, rich too in the quality of the homely life of her plain people; the State of Maine claims us all, Mr. Speaker and gentlemen, as sons nor knows she either race or color or creed or party. This is the sentiment around which we gather and which claims the allegiance of our hearts.

I again repeat, Mr. Speaker, that I esteem it an honor that the bad man of the House should be chosen by your fellow-members and mine to bring to you a message of respect and regard. You have been the Speaker of this House, sir, and we all have known it, and we know it now. This has not been an easy matter, for this House in its party lines is without precedent in the history of this state. It has required a strong hand to wield the gavel. We recall many things here during these long fifteen weeks. I recall that there have been more points of order raised here than in any previous legislature of which I have been a member or which I have observed; and your rulings, sir, have been fair, and we like to say it to you today. **(Applause) Only** once did the exigency occur for an appeal to the House, and then the Speaker was sustained. No other appeal has been taken; no other question raised after you have decided questions here, because the House has seen the fairness of your attitude and the ability behind your rulings. Nor can any man recall once even in all these fifteen weeks of session, when you, sir, have departed from this attitude of fairness, in the recognition of a member on this floor of high or low degree. (Applause.)

Nor have you once left your high positon to descend upn this floor in all these hours of debate and contention to address this House upon any partisan

question or any other question; and because of this you have kept the respect of this House, and you have earned this high regard which today this House tenders to you.

We have come together from many parts of the state to work together, and today after all the contention we are together. I bring to you, sir, from the members of the House, your fellow members and mine, not only a message of respect and regard, but I bring to you in their name a simple gift. It is a gift of gold; you have earned it. Many men of ability have preceded you in this state in this high office of Speaker. When the roll is made up, sir, and your name goes among the rest, we say this and we say it from the heart because we mean it, that you will be considered inferior to none and the equal of any.

Mr. Speaker, I say this is a gift of gold, type of what is least tarnished in this world and most enduring; it marks the hour, sir, and should teach you and us that life goes on by the tick of the clock, and that no man of us lives in yesterdays, nor yet in tomorrows, but we all live in today; nor should you nor we borrow trouble from the great past through which we have come, nor from the unknown tomorrow which spreads before us. You will bear this gift, Mr. Speaker, to your home; it should abide with you throughout your life, and when you look upon its face, whether at midnight or at noon time, we would have you remember, sir, that scattered over the hills of Maine, upon the farms of Maine, and in the cities and villages of this state there are at least 150 men who are your friends, they are your friends because you have made them your friends by the high and honorable and able attitude which you have assumed here in these fifteen weeks behind us. Don't forget this, that the hearts of 150 men will beat for you, though we may never gather together again to look into the faces of each other.

So, Mr. Speaker, I bring you this small gift bearing with it an expression of the respect, regard and affection of this House. (Prolonged applause.)

(Mr. Newbert then presented a gold watch to the Speaker.)

The SPEAKER: Mr. Newbert and gentlemen of the House, my friends: I thank you cordially and sincerely for this gift. Of course I shall always keep it, and of course I shall always treasure it as one of my most valued possessions, and as a memento of the most pleasant, interesting and valuable experience of my life. But beautiful and valuable as this is, Mr. Newbert and gentlemen, it is as nothing compared with my appreciation of the sentiment expressed by you through Mr. Newbert.

It is said sometimes that duty done or attempted to be done is a sufficient reward in itself, but, gentlemen, I cannot deny that it is sweet to hear an appreciation of an attempt to perform a duty. I only wish that I felt that I deserved it in any degree, as expressed in the too kind words of our friend from Augusta (Mr. Newbert) and apparently seconded by you with your expression of sympathy with his remarks.

It has not been by reason of my efforts, gentlemen, that any success has been attained in the conduct of the business of this House; I could not have done anything without cooperation on your part. I feel that I owe you, gentlemen, as much and more than you owe me. When we came here we had no idea—I had no idea that the difficulties of this session would be so great, that the session would be so prolonged or its duties so arduous; and I could not have hoped to have conducted my part in the affairs of this body in any degree to your satisfaction, or to mine, if I had not had the most cordial co-operation from every one of you; and especially I want to say, from the gentlemen who do not belong to my political party but who are on the other side politically.

And I want to say and I say it sincerely, that I feel very grateful indeed to the Democratic party here represented and their leaders for the kind and cordial treatment which they have given the Chair in the administration of the duties which have devolved upon him at this session. We had no idea when we came here that we should be here so long, nor that we should have so many matters and difficult things to accomplish; and I

want to say right here that I believe that no legislature has ever assembled in the State of Maine that has had such an arduous task to perform, taking it by and large. I believe when we come to look over the records of this session and see the things that we have done and have left un-done purposely, when we look over the whole record of this session, I do not believe any man would deny that this session of the legislature is made up of men in character and standing who will measure up well with those who have gone before. The results of this session will show it. It has shown that the members of this legislature have advanced upon problems of the greatest magnitude and have accomplished results which indicate that they have had a single purpose for the good of the State, and that they have been willing to sink their personal views, and party views even, and finally when they have got right down to business have shown they have been single minded for the good of the State.

I believe that your record will go down to posterity, and as the record of this legislature is analyzed I think it will meet with the approval of your fellow citizens. I think that your action here has strengthened our system of government; I think it has made people confident in our old-fashioned plan of representative government; and I believe that your action here during the session of this winter will be a great force in the future welfare of this State.

Gentlemen, I cannot tell you how deeply I appreciate, not so much the gift which is valuable and a beautiful thing and shall always be kept by me —I cannot tell you how much I appreciate the friendly and cordial sentiment you have expressed, and I reciprocate them every one.

We came here strangers comparatively; we have been here during these arduous times, during this great length of time, in friendly cooperation, and I believe we all feel, now that the heat of battle is past, now that these scars have become healed over, I know that you feel that as we go out of here we go out friends, every one of us. Nothing has occurred here, so far as I have observed, which has interferred with the cordial friendships which I know have existed among all of us and which I hope will continue forever, gentlemen, I cordially and sincerely thank you for your expressions and for this beautiful gift. (Long continued applause.)

On motion by Mr. Wheeler of Paris, the rules were suspended and that gentleman presented the following order out of order:

In House of Representatives.

April 12th, 1913.

Ordered, that there be spread upon the records of the House this resolution expressing our appreciation of unfailing courtesy and untiring industry of our recording officers, the clerk and assistant clerk.

Mr. WHEELER: Mr. Speaker and gentlemen of the House, I do not need to remind you that the work of the department presided over by these two young men has at this session of the legislature been more exacting than that of any previous session of the legislature. The Governor in the office of the secretary of State this morning had signed resolves to the number of 353 and bills to the number of 445, and beside that there are something like 1000 more which have required our time and attention. Without any further remarks enlarging upon the sentiment expressed in this order, I ask the House to join with me in giving the order a unanimous passage, and with it our good wishes for the future of these young men who have been with us this winter.

The order received a unanimous passage.

Mr. AUSTIN of Phillips: Mr. Speaker and gentlemen, I ask unanimous consent to introduce an order our of order; and I will say in explanation of this action that if I make a short explanation it will not be because the hour is late but it will be because I can think of nothing more to say. We have been here some 15 weeks together; we have worked together; we have fought together, but we have been kept together a good while more than most of us wanted to be. But in these the closing hours of the session I think we will,

every one of us, Mr. Speaker, carry back to our homes one indelible picture, the picture of the Speaker's chair graced with a man who has shown everybody nothing but courtesy and has shown nothing but fairness in every disposition that he has made.

Now in further explanation of this order I want to say that perhaps this year will break the precedent which has been, as many of the older members know, a custom at the closing of a session of the Legislature, to present a gift to the Speaker. The beautiful gift which has just been so eloquently presented by the gentleman from Augusta (Mr. Newbert) was truly a needed gift, for I personally know that all through this session the Speaker has carried a watch which he told me in confidence cost him but 37 cents. (Laughter) So, nobody can question the value of this gift to him. He will look at it always with a great deal of satisfaction, and, knowing the Speaker as well as I do, I think part of that satisfaction will come from the fact that he will think that that watch is worth more than 37 cents.

But while the Speaker's house probably is furnished with comfortable furniture, it seems to us in this House that we might possibly add to the Speaker's comfort at home—and as I say, this is where the precedent may be broken, and we are about to offer an order, Mr. Speaker, to give you the only comfortable piece of furniture that ever has been in the Maine House of Representatives . (Applause) And I say it is with deep regret, Mr. Speaker, that I fear that when you return from your term of usefulness in the councils of the land, or when you come home tired from your usefulness perhaps upon the supreme bench of this state or the nation,—I say, I regret that you cannot sink back into the comfortable folds of that chair and find upon each arm a toddling grandchild. (Laughter). I well know, Mr. Speaker, with how much satisfaction you could take those grandchildren upon your knees and tell them of the old days back in 1913 and the legislature of that year, and the friends you made; but I do feel, Mr. Speaker, that wherever you are you will always be glad to get back to the folds of that chair and sink back once more—and they tell me that you smoke a pipe at home, but you don't here—once more with your old pipe in your mouth, you will go back to the memories of the days when you graced the Chair as the presiding officer of this state in I think as judicial a manner as it has ever been graced before, and as I think it will ever be graced again.

Now, Mr. Speaker, I would like to offer the following order:

"Ordered, that the superintendent of buildings be directed to deliver to Hon. John A. Peters, Speaker of this House, the chair which he has filled with ability, dignity and grace during the present session of this House; and that the same be retained by him as a reminder of days of devotion to duty and an association not soon to be forgotten."

I ask that the order receive a passage.

The order received a unanimous passage.

The SPEAKER: Mr. Austin and gentlemen of the House, my obligation is again added to, and I cordially thank you, not only for this beautiful gift, which I have in a measure become accustomed to for some months, but also for your expression of good will, which the gentleman from Phillips, Mr. Austin, has so generously added to the gift. The Chair has a regret, in that I am not able to fill the chair so well as the gentleman from Phillips (Mr. Austin) would have. (Laughter) But I assure him that he may have the opportunity some day when he comes to my house, where I shall certainly gratefully take this kind and generous gift of yours, and I certainly hope that the gentleman from Phillips (Mr. Austin) as well as every other member of the House will have the oportunity to try it, and I assure you, gentlemen, that I shall enjoy it very much. I thank you again. (Applause).

Mr. SANBORN of South Portland: Mr. Speaker, custom dictates and the situation certainly makes it proper that yet another word should be said. We have with the greatest propriety remembered our Speaker and our clerk and assistant clerk. It seems to me that it is fitting that at this time a word schould be said in appreciation of

the services of our messenger and his assistants, and I rise at this time to say just a word, not, unfortunately, at thi time accompanied by a gift and not with any reolution to be spread upon the records, but as expressive of the sentiment which I am sure is in the minds and hearts of each of us. We want to remind our good friend, the messenger, whose empty sleeve and coat of blue remind us that he has seen service of a strenuous nature, not, to be sure, in peaceful halls like this, but upon the field of carnage and gore. Let us remind him by our expression today that we appreciate his service which he has rendered to us, and the fidelity with which he and his assistants have waited upon us and have attended to our beck and call and have humored our every idiosyncrasy. I may say to our friend here that in accordance with a custom that has prevailed during this session, a custom of delaying everything until the last minute, we have taken steps to have a substantial recognition made to him. I will say for the information of all the members, as well as his own, that there is on the way a badge which shall be his upon its arrival; and we are not going to do as has been done in some other matters, we are going to refer it to the next legislature; we are going to see to it that it is received soon, and my brother on my right will see to it that it is promptly and properly delivered to him, and he will keep it as a memento of our good will; and this good will extends, as I say, not only to him but to those who have assisted him, and he may judge by your response to my remarks whether or not this sentiment is agreed in. (Applause.)

The SPEAKER: The appropriate remarks of the gentleman from South Portland, Mr. Sanborn, voices the sentiment of every member present I am sure. The remarks will be spread upon the record. (Applause.)

Mr. BOMAN of Vinalhaven: Mr. Speaker, it has been the custom heretofore to remember in some way the man in whose care the mail is brought from the postoffice to the State House; and I move that as an expression of the appreciation of the members of the House for the services rendered by the mail carrier that the mail bag remain in his posession as his property.

The motion was unanimously agreed to

On motion by Mr. Higins of Brewer, the rules were suspended and that gentleman introduced out of order resolve for the payment of expenses incurred on the joint address of the legislature to the Governor for the removal of certain county officers.

On further motion by Mr. Higgins the rules were suspended and the resolve received its two readings and was passed to be engrossed without reference to a committee.

From the Senate: Resolve to compensate W. E. Lawry, secretary of the Senate, for extra services.

This resolve came from the Senate in that branch read twice and passed to be engrossed under a suspension of the rules.

On motion by Mr. Connors of Bangor, the rules were suspended and the resolve received its two readings and was passed to be engrossed without reference to a committee.

Senate Bills on First Reading.

An Act to appropriate moneys for the expenditures of government for the year 1913.

On motion by Mr. Mitchell of Kittery, the rules were suspended and the bill received its three readings and was passed to be engrossed.

On motion by Mr. Mitchell of Kittery, the rules were suspended and that gentleman introduced bill, An Act to provide for the payment of salaries and mileage of members and officers and for other expenditures incident to the 76th Legislature.

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

From the Senate: An Act for the assessment of a State tax for the year 1913.

In the House this bill received its three readings and was passed to be engrossed under a suspension of the rules, and came from the Senate in that branch amended by Senate Amendment A.

On motion by Mr. Boman of Vinalhaven, the vote was re-considered whereby this bill was passed to be engrossed, Senate Amendment A was adopted in concurrence, and on further motion by Mr. Boman the bill was passed to be engrossed, as amended by Senate Amendment A, in concurrence.

From the Senate: An Act for the assessment of a State tax for the year 1914.

In the House this bill was passed to be engrossed, and came from the Senate amended in that branch by Senate Amendment A.

On motion by Mr. Boman of Vinalhaven, the vote was re-considered whereby this bill was passed to be engrossed, Senate amendment A was adopted in concurrence, and on further motion by Mr. Boman the bill was passed to be engrossed, as amended by Senate Amendment A, in concurrence.

From the Senate: An Act to amend section 11 of chapter 116 of the Revised Statutes, as amended by section one of chapter 53 of the Public Laws of 1905, as further amended by chapter 183 of the Public Laws of 1907, relating to the salaries of officers of the Senate and House of Representatives.

In the House this bill was passed to be engrossed, and came from the Senate amended in that branch by Senate Amendment A.

On motion by Mr. Wheeler of Paris, the vote was re-considered whereby this bill was pased to be engrossed, Senate Amendment A was adopted in concurrence, and on further motion by Mr. Wheeler the bill was passed to be engrossed as amended by Senate Amendment A, in concurrence.

On motion by Mr. Mitchell of Kittery the rules were suspended and that gentleman was permitted to introduce out of order resolve in favor of the House postmaster.

On further motion by Mr. Mitchell the rules were suspended and the resolve received its two readings and was passed to be engrossed without reference to a committee.

On motion by Mr. Swift of Augusta, that gentleman was permitted to introduce the following order:

Ordered, the Senate concurring, that a committee of five, two from the Senate and three from the House, be appointed to investigate the workmen's compensation laws of other states and report by bill or otherwise to the next legislature; said committee to serve without pay, and their actual expenses shall be paid by the governor and council from any moneys in the State treasury not otherwise appropriated.

On further motion by Mr. Swift, the order received a passage.

The Speaker thereupon appointed as members of such committee on the part of the House Messrs. Swift of Augusta, Kehoe of Portland and Marston of Skowhegan.

From the Senate: Communication from the Governor in relation to resignation of Hewett M. Lowe as sheriff of Androscoggin county.

The communication was read and ordered placed on file.

Passed to Be Enacted.

An Act to establish the Lincoln Municipal court.

Finally Passed.

Resolve in favor of A. E. Hayes.

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

IN JOINT CONVENTION.

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

The PRESIDENT: Have you any further evidence to present, Mr. Skelton?

Mr. SKELTON: Nothing further as far as the State is concerned, except that I wish to say this, an effort was made last night, or an attempt to go somewhat into the records of one of the terms of court in 1904, which was ruled to be inadmissible. I do not want any misunderstading to come from that, and I am ready to say that if there is any desire to go into those records, and they may all be produced and gone into in detail, to that we have no objection.

The SPEAKER: Mr. Skelton, I think the convention has some interest in that in this way, that that would involve apparently so much inadmissible testi-

mony that the Chair feels compelled to Chair will rule that that cannot be introduced in testimony.

Mr. SKELTON: We rest at this point.

The PRESIDENT: Is the defense ready to proceed? The Chair desires to say so that members of the convention will be able to make their plans, that it will not be possible to complete this case probably before the noon recess, but it will be posible by taking a short recess to complete it early this afternoon, and it is the hope of the presiding officers and counsel that members will be patient and that they will make their plans to come back early this afternoon after a short recess. Counsel have agreed to hurry the proceedings as fast as may reasonably be done.

Mr. DUNTON of Belfast: Mr. President, I would like to ask whether any action will be taken in relation to the case of Sheriff Tolman?

The PRESIDENT: The Chair will state that some action before adjournment must be taken by the Senate and House in regard to the case of Sheriff Tolman. It cannot be done in this convention, but will be taken in each branch of the elgislature. Some action must be taken before final adjournment.

Mr. DUNTON: Mr. President, I move that the convention take a recess in order that the Senate and House might act upon the proceedings in relation to the case of Sheriff Tolman, and also in relation to the case now pending.

The PRESIDENT: The gentleman from Belfast, Mr. Dunton, moves that the convention take a recess for five minutes for the purpose which he has indicated.

A viva voce vote being taken,

The motion was lost.

The PRESIDENT: Is the defense ready to proceed with its case?

The following opening remarks in behalf of the respondent were then addressed to the convention by Mr. McCarty:

Mr. President and gentlemen of the convention, it has been suggested here by counsel for the state that this case to which you are now giving your attention differs from the cases which you have considered during the past week, and so far as that statement is concerned we agree absolutely with the State. They also say that although this case is different, yet in the next breath they maintain that it is the same so far as evidence that will be introduced, and so far as the duties that they claim are incumbent upon a county attorney.

As this resolve now appears before this convention Mr. Hines, the county attorney for Androscoggin county, appears here charged with wilfully refusing or neglecting to perform his duties; and I presume, gentlemen, in order for you to find a verdict of one kind or another upon this resolve that it is necessary for you to be informed as to just what a county attorney's duties are.

Now here is where the defense differs from the prosecution, if I may term it that. They say under this particular section that the county attorney is charged with the performance of certain duties; they say, and I will read it, and it has already been read to you, but I will read it again,—that the law says that "sheriffs and their deputies and county attorneys shall diligently and faithfully inquire into all violations of law within their respective counties, institute proceedings in cases of violations or supposed violations of law, and particularly the law against the illegal sale of intoxicating liquors and the keeping of drinking houses and tippling shops, gambling houses or places and houses of ill fame, either by promptly asking a complaint before a magistrate and executing the warrant issued thereon, or by furnishing the county attorney promptly and without delay with the names of alleged offenders and of the witnesses."

This law was somewhat different in the past. Up to 1891 this law remained the same as it is today, with the exception that at that legislature it was amended by inserting the words "and county attorneys." Now it is the contention of the state, as I understand it, that a county attorney is in the same position as a sheriff or a deputy sheriff, and that he is encumbered with the same duties as one or the other of them. We maintain as a legal proposition that such a contention is not only unfair but absolutely unsound.

The legislature says here that they shall inquire into all violation of law.

How shall they prosecute those violations of law in this particular section? They say it is the duty of the county attorney to make a complaint before a magistrate and execute the warrant isued upon that complaint. Now is it the contention of my Brother Skelton in this case that it is the duty of the county attorney, or that it was his duty when he was in office, or the duty of any county attorney in office in the State of Maine at the present time to go before a magistrate and ask for the issuance of a complaint and then go out upon the street and execute that complaint? That is what they are insisting upon here, gentlemen, as a duty of the county attorney; and yet I do not believe that they believe for a single moment that such a duty is incumbent upon a county attorney. The idea, gentlemen, of a county attorney going into a municipal court and obtaining a warrant, and a warrant issued not to the county attorney but to a sheriff or a deputy sheriff or any constable within the precinct that that court has jurisdiction over. Think of him, the county attorney, asking for that warrant and then going out on the street and executing it against violators of the prohibitory law. That is the duty of the sheriff and the deputy sheriff, and it is not the duty of the county attorney, and nor did the legislature intend it to be the duty of the county attorney, and if that was the fact he would have to go and hold a conference with himself and furnish himself with a list of all the interested witnesses. Such a proposition, gentlemen, is folly, and I cannot understand for a moment that this convention will consider it seriously.

Let me give you my ideas what the legislature did mean, what the law of Maine demands of its county attorneys. Following that same section under which we are proceeding is another section, which reads as follows:

"Section 70. County attorneys shall cause to be summoned promptly before the grand jury, all witnesses whose names have been furnished them by any sheriff or his deputies, as provided in the preceding section, and shall faithfully direct inquiries before that body into violations of law, prosecute persons indicted, and secure the prompt sentence of convicts."

And when you read that section you then get an idea of what the county attorney's duties are. He is not a sleuth, a detective to go out and execute warrants. There are other officers for that purpose. He is there to summon promptly before grand juries all witnesses whose names have been furnished him, he is there to procure indictments, he is there to prosecute those indictments, and see that the guilty are punished, and we maintain in defending Mr. Hines in this case that that is exactly what he has done, and we hope to produce the evidence here before this convention to prove that contention.

There has been considerable evidence produced here, and introduced without objection so far as we are concerned, of the appearance of open violation of the prohibitory law in Androscoggin county, particularly in the city of Lewiston. Now taking the stand that we do take, that the county attorney is not a sheriff nor a deputy sheriff, we say that he is not responsible for those open conditions. If the sheriff is responsible for them it is not our fault; if he is remiss in his duty it is not our responsibility; if his deputies have not performed faithfully the labors that are incumbent upon them, the county attorney is not chargeable with that, and so all these charts that are produced here, and all this documentary evidence that has been handed around to you, is not evidence at all, we claim, against Mr. Hines, evidence, it is true, of the violation of the prohibitory law, but not evidence, gentlemen, against Mr. Hines, and they know it, and it was introduced here, not for the purpose of—for the purpose only of poisoning and interjecting into this case something that ought not to have gone into the case, but it is here, and we deny the responsibility for it, and so far as we can determine from the evidence that they produce here, with the object of furnishing you cause to vote for the removal of Mr. Hines, it is that some time since the first of January he has

been wilfully negligent in the performance of his duties in this, that he has failed to sue out scire facias writs.

Now I understand, and I know that it is true, that there are many members of this convention who are attorneys and who understand without any explanation from me what a scire facias writ is, but to the laymen it may be termed as being "all Greek," and perhaps an explanation from me at this time might not be amiss.

The ordinary liquor prosection begins by complaint before some magistrate in the city of Lewiston, before the Lewiston Municipal Court. The respondent is arrested and brought in, and it is customary for him to be arraigned upon two complaints involving the same evidence, and really making the same case. One of these we call a search and seizure, the other a nuisance complaint. Now the Municipal Court in Lewiston has the power and the authority to punish for search and seizure violations and it is ordinarily done there, but they have no power—the judge has no power whatever—to inflict or impose sentence upon any one who is found guilty of maintaining a nuisance, therefore that respondent is bound over to the next term of the supreme court. There evidence is produced before the grand jury and an indictment is found. In binding him over a bond is given for his appearance there when the indictment is found in the supreme court, and if the respondent doesn't appear, then the sureties on that bond or recognizance, call it what you will, are defaulted. They are also defaulted in the search and seizure case, and the sentence of the lower court in a case of that kind goes into immediate effect, so far as the search and seizure is concerned, and the defaulted case remains upon the docket, there to be prosecuted further.

Now then, they say that at the January term there were a number of cases—some sixty odd—a number of indictments, and after being called up the respondents failed to answer, and that failing to answer they were defaulted, and they say that because after that default the county attorney didn't sue out his scire facias writs that therefore, by reason of that failure, he wilfully neglected and refused to perform his duty.

Now gentlemen, what is the law in regard to scire facias writs? Let me read it for you. Section 88 of Chapter 83 reads as follows:

"No scire facias shall be served on bail unless within one year after judgment was rendered against the principal; nor on sureties in recognizances in criminal cases unless within one year after default of the principal."

It is a matter of discretion with him entirely, a matter of judgment. The law does not say that one day after adjournment or after default scire facias shall be brought; it does not impose upon the county attorney the duty within thirty days to bring his scire facias writs, but it says that he shall have a year in which to do it. Now as near as we can find out, the January term of the Supreme Court in Androscoggin county adjourned somewhere along the middle or the latter part of the month of February, so that when court adjourned, if that is true, the statement I make in regard to it—I won't be positive about it—the State claims that because from the 13th of February, if that is the date, up to the present time Mr. Hines has failed to sue out his scire facias writs, that by reason of that, he has therefore failed or wilfully neglected and refused to perform his duties.

Gentlemen, I have read the law of Maine to you in that respect. It is for you to say whether a man, with a year before him to perform his duty, has wilfully refused or neglected to do it if he fails to do it within 60 days. That is the proposition for you to decide. We maintain that it involves no wilful neglect or no wilful refusal.

There has also been evidence introduced here by the state through the clerk of courts, Mr. Belleau, that at no term did Mr. Hines ask for bench warrants, warrants to be issued and respondents to be arrested upon them and brought before the court Now it is well known to the attorneys, Mr.

Skelton has been through the same performance, and Mr. Morey, the Senator from Androscoggin, has been through this same experience, and Mr. Skelton knows himself that in 1904 at least, there wasn't a single respondent except one brought before the supreme court to answer to a liquor indictment, that he didn't ask for a bench warrant, and the records will show it, and Mr. Skelton—no one denies his honor, no one denies his integrity, and no one has any dispute about his intelligence and his judgment—and the reason that he didn't ask for them was this, that he knew that if they were issued he would not be able to find a single respondent within the limits of Androscoggin county. He knows, and I know, and every attorney practicing at the Androscoggin bar knows this, that there is a sort of "wireless" goes out from that court room at the mere mention of the issuance of a bench warrant and in five minutes these respondents disappear and cannot be found again until after court adjourns. That is the practice, that is the experience, and it is simply asking for something that cannot be accomplished even if he had asked for it. So much for the bench warrants.

They say that he has been more or less liberal in his nol prossing of cases. I am not making this statement with any degree of positiveness at all, if I venture to say that there wasn't a single case nol prossed by Mr. Hines during his term as county attorney without reason and without cause, and you will find, if you are allowed to look into the docket, that most of those cases that were nol prossed were nuisance indictments, and that accompanying each of those indictments was a complaint from the municipal court, upon which mittimus issued, and either that respondent paid the fine that mittimus called for or else was imprisoned, whatever the sentence appears to have been, so that although it may appear that the nol pros of the case upon the docket requires explanation, yet in nearly every case you will find that the respondent was punished either one way or the other, either by the payment of a fine or by imprisonment in jail. It is nothing new for Mr. Hines to nol pros a case; it isn't an unheard of thing. It has been the practice ever since the practice of criminal law began for attorneys occupying this position to use their own judgment and their own discretion, to advice with the court in regard to these cases, if those cases appeared worthy of being nol prossed. My brother Skelton did it and I have got his record here but I don't want to introduce it undess he wants to. Mr. Brother Morey has done it, and I can look around and see other attorneys who perhaps have occupied this position of county attorney, and they won't dare to say but that they in their practice found it good practice at times to nol pros cases either without or with the payment of money.

They say as an indiction of his wilful neglect and refusal, that a certain members of the church went to him and was desirous of appearing before the grand jury to give his information in regard to certain conditions existing in Lewiston, and it is true. They say that he was furnished with a copy of the bulletin which gave him certain information in regard to certain places. That is true, but it is also true, gentlemen, that there isn't a place mentioned in that bulletin that hasn't been indicted, not one, and although Mr. Leitch had that information and passed it if he did, to Mr. Hines in the form of a bulletin, Mr. Hines is prepared to testify that not one place mentioned in that bulletin but that was prosecuted. Mr. Leitch says he made some sort of a statement to him—it appears that perhaps I may have been mistaken, that I was too broad in my statements, and it may appear that two places out of the great number of places mentioned in that bulletin there was no indictment found against, but Mr. Leitch, in his desire to see conditions corrected—and he is no more desirous of that than Mr. Hines is—that he went to him and Mr. Hines told him that he was not elected to enfroce the prohibitory law.

Now I have all of the respect for a man who wears the cloth. I don't be-

lieve, nor I don't intend even to insinuate, that Mr. Leitch was wilfully misstating the conversation that passed between him and Mr. Hines. I am charitable enough to believe that he was mistaken, and let it go at that. Mr. Leitch was informed by Mr. Hines that he was doing the best he could, so far as he was concerned, that the sentiment of the community was against the enforcement, or the strict enforcement of the law, and that it was a difficult thing for him to strictly enforce the law, but that he was doing all that he could.

And it is true. Mr. Hines was doing all that he could, gentlemen. He couldn't go out upon the street; he couldn't go and raid places; he couldn't go in and make a deputy sheriff of himself; he couldn't take a position upon a jigger load of liquor and travel through the streets of the city of Lewiston. No county attorney ever did that before, and he had too much respect for himself, for his profession, and for his office, to even consider such a proposition, even though the State maintains that that is exactly what he should do. I hope the time will never come when any attorney in the State of Maine will so far forget his profession as to debase himself into being a liquor sleuth, and I don't think it ever will come, gentlemen.

Further I say that this conversation that they had—Mr. Leitch with Mr. Hines—that it is true that there was a conversation and that Mr. Hines told him only this, that it was a difficult thing to enforce the prohibitory law there and that he was doing his best to do it.

But he says he had a case against the sheriff and he wanted to go before the grand jury, he wanted to go through that open door and present his case against the sheriff.

Gentlemen, you have had a little experience with that law that he wished to prosecute at this present session. Have you ever heard a single prosecution under that statute since it was enacted in 1905? I have not, nor I don't believe that you have, and this proposition that came up before you, to enlarge the duties of the attorney general, so that he could go in before the grand jury was found in your judgment to be unreasonable, and for that reason that act was defeated, and Mr. Hines wasn't going to place himself in a position to find an indictment upon a law which I believe, and I believe anybody that knows any law at all believes, unconstitutional.

Now then, so far as this defence is concerned, it is a rather difficult defence to present. Really, it all rests with Mr. Hines himself. We come here prepared to show to this convention that Mr. Hines has been a faithful official, that he has performed his duties as well as any man could perform them, as well as any man ever did perform them. He will take the stand. He will tell you his experience as county attorney. He will relate to you the duties that he has performed. If you find that he has not performed them, that he has been wilfully negligent, or wilfully refused to perform them, then place your seal of condemnation on him. If you find that he is in the same class with a deputy sheriff, and ought to go to these places marked upon that chart and search every one of them, put your seal of condemnation on him. I dont think that you will, gentlemen. I don't think that you will adopt the narrow, contracted, illiberal construction of this statute that my Brother Skelton is trying to insist upon you to adopt.

We have brought over here members of the Androscoggin bar, young and old, all honorable, truthful men, who have come here gladly and willingly to testify to the faithfulness with which this officer has performed his duties. Further evidence than that we cannot give. I don't know what we can produce outside of that.

Gentlemen, we are here with Mr. Hines to tell you his story. We are here with his fellow practitioners at the bar to give the results of their observation of his performance of his duties in that office.

Mr. PATTANGALL: I would say, Mr. President, for the relief of the convention, that while there are a large number of witnesses, the testimony is necessarily extremely brief.

WILLIAM H. HINES, called for the defense, sworn, in answer to questions by Mr. Pattangall, testified as follows:

Q. Your age? A. 31 years old.

Q. You are the county attorney of Androscoggin county? A. Yes, sir.

Q. You were first elected to that office two years ago last fall? A. Yes, sir.

Q. And re-elected last fall? A. Yes, sir.

Q. And you are now mayor of Lewiston? A. Yes, sir.

Q. Were you formerly a member of this body? A. Yes, sir.

Q. At what session? A. 1909 I believe.

Q. How long have you been practicing law? A. Since 1907.

Q. Commenced practicing at that time in tne city of Lewiston? A. In the city of Lewiston.

Q. You assumed the duties of the office of county attorney in January, 1911? A. I think so.

Q. Now Mr. Hines, during the present year, 1913, how many terms of court have there been in Androscoggin county where criminal cases could be brought? A. Only one term of court in which either civil or criminal cases could be brought.

Q. You have no superior court? A. We have no superior court in our county.

Q. Who presided at that January term? A. Justice A. R. Savage.

Q. When did that term convene? A. Third Tuesday of January.

Q. When did it adjourn? A. Feb. 13.

Q. Did you appear before the grand jury at that term of court? A. I did.

Q. How many liquor indictments did you procure at that term? A. I don't recollect the exact number, I believe it is in evidence.

Q. It was stated 66,—would that be about right in your judgment? A. I think the total number was 85 or 87, I should think the liquor indictments would be about 66.

Q. That includes all kinds of criminal cases? A. Yes, sir.

Q. Were there any cases called to your atention or any evidence brought to you regarding any parties selling liquor in Lewiston who were indicted at the January term? A. Absolutely no one.

Q. That is to say, your indictments at that term included all the persons against whom evidence was presented to you as being in the liquor business. A. That is true.

Q. Now Mr. Hines, at that term, did any of the respondents appear? A. I think not.

Q. Were they or not under bail? A. They were in every instance.

Q. Whether or not those indictments were accompanied, in most cases if not all, by search and seizure cases which had been appealed from the municipal court. A. I think that is true in every case at the January term.

Q. What action was taken in regard to those cases where parties were indicted and in which the respondents didn't appear? A. In consultation with Justice A. R. Savage, he said that if I could get them in any time within the year by bringing scire facias to do it and he would order scire facias to issue.

Q. Were the cases defaulted? A. The cases were defaulted.

Q. And the bail defaulted? A. The bail defaulted.

Q. And scire facias ordered to issue? A. Scire facias ordered to issue.

Q. Now the statute has been read—you are familiar with the law—how long a period of limitation is there in which to bring the scire facias writ? A. One year from the tme of default, as I understand it.

Q. Following Feb. 13,—imediately following, were you actively engaged in your campaign for Mayor of Lewiston? A. Somewhat engaged.

Q. And when is your election in Lewiston? A. I think it is the first Monday of March, if I recollect correctly.

Q. You had several candidates for Mayor as I recall? A. Several candidates for Mayor.

Q. Did it tend to make rather a more busy and exciting election than ordinary? A. I think so.

Q. Now immediately following that election were there or not certain legal questions that arose concerning the formation of the city government? A. There were.

Q. And whether or not you were obliged to give a considerable portion of your time to your duties as Mayor immediately following the election? A. I was.

Q. Have you issued any scire facias writs in the cases mentioned? A. I haven't.

Q. Why haven't you done so. A. In the first place because I had a year before which to do it and the custom

over there had been to sue scire facias out returnable at the April term and then enter them, and they would be in order for trial at the August term. I had thought that I could issue scire facias at any time now with notice for trial, and adjust them at the September term of court, but my experience had been that we could dispose of them on the indictment without scire facias.

Q. In these particular cases, Brother Hines, was it your intention to sue out the scire facias writs? A. Certainly. Then there was one other reason why I didn't. The Court adjourned Feb. 13, and you see immediately afterwards the mayoralty election came on and there was also a murder case in the city of Lewiston.

Q. To which you had to give some atention? A. some attention.

Q. Now, to make it very plain, in order to bring such a suit, would you have to have a writ served on the parties two weeks before the opening of court? A. Yes, sir.

Q. When does court meet? A. Next Tuesday.

Q. So that your writs would have to have been served at least as early as two weeks ago the coming Tuesday? A. That is true.

Q. Now just previous to the expiration of your suing time, did you learn of these proceedings here? A. If I remember correctly, my last day to have brought suit would have been two weeks ago last Tuesday. I think it was the Friday or Saturday preceding that I received notice of the intention to remove me as county attorney.

Q. Now, had you made any plans or had you any intention at that time, prior to receiving that notice, to sue out any such writs to be entered at the April term? A. I had considered the advisability of it, and had been practically undecided. I had felt that if I did decide to sue I had Saturday and Sunday in which to make the writs, and Monday and Tuesday in which to make service, but when this notice was served on me I decided not to bring my writs, because I didn't want the Legislature here to think that I was doing it at the last moment in an attempt to defend myself or to fool any member of this Legislature. I had time enough to do it, had I desired, but I thought it best not to, because I didn't want to be placed in the position of atempting or appearing to attempt to fool anybody.

Q. Previous to that time, had the civil deputies spoken to you about the issuing of the writs? A. They had.

Q. What officers? A. If I recollect, Deputy Sheriff Bechard and Deputy Sheriff Cabot.

Q. What conversation did you have with them in regard to the matter? A. They of course were anxious to serve the writs on account of the fees they would get and they asked me if I was going to sue them out, and I told them yes, and they asked for their share of the work, and I told them that I would be very glad to divide it up evenly with them

Q. Have you entered a nol pros in any liquor case in the present years, 1913? A. I have not.

Q. Have you continued any liquor case without default or having the bail defaulted in the present year, any liquor indictment? A. There were two or three liquor indictments considered of which some disposition was made by Justice A. R. Savage.

Q. Of course those 60 odd cases were defaulted. A. They were ordered defaulted.

Q. But you say that outside of those there were two or three that were otherwise disposed of? A. They were otherwise disposed of, but I think they were also defaulted but one or two of them were continued.

Q. Whatever disposal was made after consultation between you and Judge Savage? A. It was.

Q. Did you have any conversation with the sheriff of your county at the beginning of this year with regard to the conditions in Lewiston and as to what ought to be done in connection with the enforcement of law? A. I did.

Q. Won't you relate that conversation? A. I told the sheriff and his deputies at the beginning of this year that I thought it was time for them to inforce this liquor law in the city of Lewiston.

Q. What reply did you receive, if any? A. They told me that they were going to.

Q. During the present year up to the time when these proceedings were started, have you received any complaint to you personally from anybody, in regard to your work? A. I have not received any complaints from anybody, or a complaint in regard to the conditions from anybody.

Q. Going back to the last year, the evidence concerning which has been properly admitted for certain purposes, in the spring term of 1913, did you have a number of defaulted cases? A. I think so.

Q. In which scire facias was ordered issued? A. I think so.

Q. Why did you not issue scire facias writs the following April term? A. Because I had a year to do it, and thought probably the cases could be adjusted without scire facias suits.

Q. Were they so adjusted? A. They were.

Q. In September, 1912, a number of cases were nol prossed, some on the payment of money, as shown by the docket, and some without the payment of money? A. That is true.

Q. Will you explain to the convention that matter? That is, were any cases nol prossed in which the respondent did not either have an indictment against him or some other case, or pay money into your county treasury? A. No, sir. In the case of every indictment on the docket that time there was an accompanying mittimus and a search and seizure case, so that in every case there was $100 collected or a sentence of 60 days in jail.

Q. Were there instances where there were several cases against one person? A. That is true, and in those cases there were several mittimuses on the search and seizures.

Q. In such cases did the person pay more than one fine? A. Certainly.

Q. Do you know of any instance in your work as county attorney, can you recall any, where the respondent was brought before the court, I will say a case brought against anybody, where a verdict of guilty was rendered and the sentence of the lower court confirmed in the upper court, and the party indicted, up to those on your January docket, where the prisoner got away without some punishment? A. I know of none.

Q. Now in arranging your September, 1912, docket, do you remember who presided at that term? A. My recollection is Chief Justice Whitehouse.

Q. And either in that term or the preceding term, or in the term following, we will group them all together, I will ask you whether or not you consulted with the court as to the disposal of your cases? A. Certainly.

Q. At the last term, the January term, did you have any talk with the present Chief Justice Savage with regard to bench w arrants? A. Certainly.

Q. Relate it. A. My recollection is that I talked with him generally in regard to the criminal docket. I went to see him in regard to several intoxication and assault cases, and he told me that I was county attorney and it was my duty to handle those cases, and that I need not bother with him at all. That his duty began when I moved for sentence. And as I recollect the conversation, he said that up to that time, it may my duty to dispose of the docket as I thought best.

Q. I called your attention to the bench warrants. And were they mentioned between you? A. Not then. Later on he said that he did not see any need of it, because respondents would immediately leave the jurisdiction, and he would order scire facias, and that I would have a year to make them out and get them into court.

Q. It has been said that at that term of court and various other terms, respondents did not appear. You practised in Lewiston prior to being made county attorney? A. I did.

Q. And were about the courts? A. I was.

Q. And is it or not a common occurrence in Androscoggin county that indicted liquor sellers fail to appear and they are defaulted and that their bails are defaulted?

The ATTORNEY GENERAL: Mr. Speaker, I object to the "common occurrence."

The SPEAKER: It does not seem to

the Chair that evidence of a common occurrence is admissible. Suppose it was common but was improper? The fact that it was common would not make it proper.

Mr. PATTANGALL: No, Mr. Speaker, but I was inquiring of the county attorney simply as to the fact that they commonly jumped their bail and did not come in, and in liquor cases if it was not common for the respondents not to appear and not to have counsel appear.

The SPEAKER: Of course evidence of a common practice and a common custom, so far as it is evidence bearing upon this case, should not be admissible unless it is an incidental fact and of a nature material to the issue.

(Question read by the reporter.)

Mr. PATTANGALL: It has been said that the respondents were not there, and that it was something extraordinary and perhaps a cause for removal.

The SPEAKER: The Chair thinks that is not admissible. The Chair does not think that because a thing is a common practice it makes it admissible. Of course the fact that they sometimes jumped their bail would be admissible.

Q. Have you known before you were county attorney of liquor sellers who were under bail not appearing in court and allowing their cases to go by default? A. When certain justices came to our court, they certainly defaulted the bail and jumped the jurisdiction.

Q. Aside from the issue of bench warrants, was there any way in which you could get those respondent into court? A. No way that I know of.

Q. In regard to the wisdom of doing that in January I understand that you consulted with Judge Savage? A. I certainly did.

Q. And acted under his advice? A. I certainly did.

Q. Going back to the September term, 1912 again, do you recall that at some time during that term while your grand jury was in session, that Mr. Leach came to see you? A. I do.

Q. Now where did he see you? A. As I recollect it, he saw me in the corridor of the court house in Auburn.

Q. Will you relate to the convention what occurred between you and Mr. Leach in the corridor of the court house? A. He met me there, and if I recollect correctly, he had a copy of the laws of Maine, I think he had it open to that part in relation to the Oakes Law, and I think he had a copy of the Bulletin, although I am not sure. He said that he would like to testify before the grand jury. I told him if he came around later on, he could.

Q. Did he tell you what he wanted to testify to or about? A. He handed me the Bulletin and I asume he meant in regard to the statement, in regard to that, and I told him I had evidence to cover nearly every name there.

Q. Did he request anything of you in regard to the sheriff? A. He said he would like to give evidence against the sheriff.

Q. Under the Oakes Law? A. Yes, sir.

Q. And you replied to him as you have stated? A. Yes, sir, that if he would come around later, I would be glad to give him a chance. I had witnesses then sworn in that would take up my time.

Q. Did he come back? A. He has never come back since.

Q. Did he not see you at your office after the grand jury disappeared? A. Never at my office.

Q. What about the conversation which he—do you recall any conversation that you had with him, as he has related your statement, that you were not elected to enforce the prohibitory law? A. That was made in the corridor of the court house?

Q. State that . A. He talked about the enforcement of the prohibitory law in general. I told him that it was very difficult to have effective enforcement in a community so strongly opposed to it, and that I was doing my best to perform my duty in that respect. In regard to the witnesses that he had in the Bulletin, I told him that he could go ahead and could testify if he had anything further and I asked him for his evidence, but he kept insisting upon the Bulletin.

Q. He was ready to go ahead against the sheriff? A. He wanted to make a speech of about 15 minutes before the grand jury.

Q. Do you know if any of those furnished evidence before your grand jury? A. Certainly not.

Q. Did he bring to your notice cases upon which you had not already procured sufficient evidence? A. He did not.

The PRESIDENT: The Chair suggests that a recess be taken until half past one, if members will be prompt in their return.

Mr. BAILEY of Penobscot: Mr. President, over on this side, we would rather go on and take a recess later.

Mr. STEARNS of Oxford: Mr. President, I move that the convention take a recess until one thirty.

The motion was lost on a viva voce vote.

The PRESIDENT: You may proceed, Mr. Attorney General.

CROSS EXAMINATION.

By the Attorney General.

Q. As I understood you, you have been county attorney of Androscoggin county since January 1, 1911? A. I think that is true.

Q. During that period Sheriff Lowe, or ex-Sheriff Lowe has been sheriff? A. That is true.

Q. And are you familiar with the places that are on the map and marked black in Lewiston? A. Where located?

Q. Yes. A. Yes I do.

Q. And you are aware of the fact that liquor is sold in those places? A. I assume so from the evidence I hear before the grand jury.

Q. In the course of your work or in the performance of your duty as county attorney you become familiar with those places where they are selling liquor in Lewiston? A. I think that is true.

Q. And you are familiar with the name of Thomas McNamara as one of the proprietors of a saloon on Main street? A. I think so.

Q. And that is one of the notorious places? A. Yes, sir.

Q. And he has been in business for a long time. And then this place kept by Green on Middle street? A. I do not know of that place.

Q. The place near the school? A.. I know of the place, but not of Green as connected with it.

Q. Who runs it? A. The only name I know is from being brought befor the grand jury under the name of Dowling.

Q. You know of the location of Martin Burgan's place? A. I know where it is located.

Q. That is a notorious liquor saloon? A. The evidence before the grand jury shows there is liquor sold there.

Q. And Milan Curry, is he another one of the respondents? A. His name has appeared on the docket.

Q. Where is his place, and whether he is connected as proprietor or otherwise? A. As I recollect the evidence somewhere on Main street, I think.

Q. Do you know of your own knowledge out side of the evidence? A. No, sir.

Q. You have no personal knowledge of it at all? A. No, sir.

Q. And have you any knowledge of any of these places outside of the evidence before the grand jury? A. Having lived in the city all my life, I know where they are located and what they are reputed to be.

Q. And on account of the evidence before the grand jury? A. Yes, and also from having been brought up in Lewiston.

Q. And Patrick Fay? A. I remember a Patrick Fahey as being mentioned before the grand jury.

Q. In connection with that place? A. A liquor saloon somewhere.

Q. But you have no recollection of the place? A. I do not recollect it just now.

Q. And Joseph Legassey? A. I remember that name appearing before the grand jury.

Q. You knok where the place is? A. I do not.

Q. Or Michael Murphy? A. I recollect that name, before the grand jury.

Q. And for an offence against the liquor law? A. I think so.

Q. And he has been indicted? A. Yes, sir.

Q. Has there ever been an indictment against the place? A. I do not recollect, but I think so.

Q. As mayor of the city of Lewiston, did you just apoint him a special police officer? A. I appointed him a police officer.

Q. So that he is now on your police

force? A. I assume that he is.

Q. James Ratacan, is that a familiar name on the court records? A. Not very.

Q. He has been before the court several times, has he not? A. I think I remember his name as being presented before the grand jury.

Q. Do you know what place he has been connected with? A. I do not.

Q. And has he recently been appointed to some office under your government? A. There was a James Ratacan on the fire police, on the recommendation of an alderman.

Q. Was this that man? A. I do not know.

Q. Do you mean to say that you do not know that? A. His name was simply given to me.

Q. You assume that he is the same man? A. I imagine so, but I do not know. You asked me if I knew.

Q. And George Hall, is he another one? A. This name has appeared before the grand jury.

Q. Where is he located? A. I do not recall, but I think on Park street.

Q. Do you not really know where he keeps a place at times? A. I do not know, but I think on Park street, from my recollection as to the evidence and from reading the Bulletin.

Q. You think he may have been named in the Bulletin? A. I think his name appeared in the Bulletin. I am not sure.

Q. And Israel Ouellette? A. There are quite a number of Ouellettes. I think it is Israel.

Q. And he has been a liquor dealer for some time? A. I cannot say positively. There are several and I cannot say whether he is the one.

Q. His name has been before the grand jury and he has been before your court for some time? A. I think so.

Q. Now you say that you had a talk with the sheriff when you first went into office this year and that you requested him and his deputies to enforce the liquor law? A. I did.

Q. So that you realized that he had not been doing it? A. To a certain extent.

Q. You realized he had not been doing it well or you would not have spoken to him? A. I realized that he had not been doing it as hard as he might.

Q. And you suggested that he and his deputies should do better this year? A. I think so.

Q. Have you followed that to see what has been done since the first day of January? A. Generally.

Q. And did you realize in the time that they made no seizures from January up to March? A. I did not know it.

Q. You did not follow it up to that extent? A. I do not see him very much. I do not have an office in the county building. His office is in Auburn and I live in Lewiston and do not see him very much. He sends for me sometimes.

Q. The condition of the business for two years has been pretty open, has it not? A. You want my answer from the evidence before the grand jury or my evidence from having lived in Lewiston all my life?

Q. Anyway you please? A. The evidence before the grand jury would indicate that the liquor business was being conducted in Lewiston.

Q. Pretty openly? A. Judging from the testimony.

Q. And judging from your experience as a citizen? A. Having been born there, I think that the liquor business has always been conducted there.

Q. Has it not been sold very openly the last two years? A. I do not know about that.

Q. That is, you mean to tell the convention that you do not know whether those places in Lewiston have been openly selling liquor in the last two years? A. I do not believe I have been on that street in the last two years.

Q. And you want to tell the convention that you do not know whether Tom McNamara's place has been running openly in the last two years? A. I assume so from the evidence before the grand jury, and I have no doubt about it.

Q. And you have no doubt from the evidence before the grand jury that they were all running openly? A. Yes, sir.

Q. And you have no doubt that the evidence by Mr. Leach in regard to the openness of the saloons is true? A. Yes, sir.

Q. Back since the first of January, and back the last two years? A. I have

heard from the first of January what the conditions are.

Q. Since the first of January and in the previous two years you have no question but that it is true? A. I have no doubt but that it is true.

Q. It is true when a man sees white coated bar tenders and liquor dispensed over the bar, there is no doubt about it then, is there? A. I have no doubt that he testifies to what he saw. I have not seen it.

Q. That being true that liquor has been openly sold during the last two years while the present sheriff was in, it has been the practice of his department, has it not, to make out all the search and seizure warrants? You have not attended to that? A. No, sir. I never swore out a warrant and never knew of a county attorney of any of our counties who did.

Q. You do not mean to say that they do not in other counties? A. They do not in our county.

Q. Now it has been the practice during this administration for the officers to issue all the search and seizure warrants and you have had nothing to do with it? A. I think they go to the Lewiston municipal court and swear out their complaints.

Q. And you have nothing to do with it whatever? A. No, sir.

Q. And then they come up on appeal to the supreme court? A. Yes, sir.

Q. And it seems to be the practice from the testimony that at the time they bring in a search and seizure warrant they also make out a complaint for a liquor nuisance on the same place? A. Yes, and that is bound over and comes up before the supreme court.

Q. And then the party is bound over to answer in the supreme court? A. Yes, sir.

Q. And that accounts for the fact that when they get up to the supreme court, that you have up there a search and seizure case and a nuisance case in almost every instance? A. Yes, sir.

Q. So that the practice has been in your county during the last two years and up to the present time for the sheriff's force to take charge of all prosecutions of the liquor sellers up to the time they get to the grand jury? You do not appear in the lower court? A. No, sir, the city solicitor prosecutes there under the ordinances of the city. He prosecutes all violations of the liquor law

Q. When they get before the grand jury, then your duties begin? A. That is when I start.

Q. And you have presented, as I understand, all of the cases the sheriff has brought before you? A. I think so.

Q. And that has resulted in those sixty odd indictments in the January term of 1912? A. Whatever number there were.

Q. And something like 50 in the April, 1912, term? A. Whatever number there was. I do not recollect the exact number, I could not say.

Q. And approximately 12 at the September term? A. I do not recollect the exact number.

Q. And 66 or 68 in the January term? A. I assume that it is true, I do not recollect the exact number.

Q. Well, now, going back to the January term, 1912, when the grand jury arose, you must have, I assume from your testimony, something like 60 search and seizure cases on the docket appealed from the lower court? A. We had whatever number were appealed on the docket.

Q. If your indictments were 63 in 1912, you would have in the ordinary course of your practice 63 search and seizure cases? A. Unless there were cases presented before the grand jury that originated there.

Q. I understood from your testimony that in practically every case you had a search and seizure case? A. That is true.

Q. So that there were 60 search and seizures? A. Yes, sir. Unless some cases originated before the grand jury.

Q. The practice is, as I understand, in your court, has been for these respondents in search and seizure warrants not to appear and to be defaulted? A. The practice has been to default them and the judgment of the lower court affirmed and mittimuses to issue.

Q. And in any nuisance cases in 1912, did any respondents appear? A. They were all defaulted, as I recollect it.

Q. Well, how do you account for that, Bro. Hines, in the administration

of the criminal business in Androscoggin county, that you get sixty odd search and seizure cases, and not a single one of them appeared in court? A. I don't recollect of a party in a search and seizure case having appeared in court.

Q. I say, how do you account for it? A. Simply the practice there ever since I have been there.

Q. Well, the practice—how did the practice spring up? A. I don't know.

Q. Well, you can't account for it any other way, that not a single one of these rumsellers came into court on any of those cases, except by a practice, is that right? A. No, that is not right.

Q. What is right? A. You are asking about the search and seizure?

Q. How you account for the fact that not a single one of those rumsellers came into court and answered on those complaints, on the search and seizure? A. I don't know why they didn't come in. I know at that term of court Judge Savage ordered them defaulted and the mittimus issued.

Q. I ask you now from your experience in criminal business, how you account for the fact that not a single one of those rum-sellers came into court and answered—that they are all defaulted? A. At that particular term?

Q. Any term. A. I should say at that particular term, they didn't want to come before Judge Savage.

Q. Is that the way you account for it? A. Certainly, that has been the practice there for many years.

Q. And is that also true of the indictments, the reason they didn't come in on the indictments? A. Certainly, I imagine that is their reason.

Q. Their reason? A. The men that I have represented in years gone by were very chary about coming into court.

Q. So you have had experience on both sides, that of representing the liquor sellers and as county attorney? A. Yes.

Q. Now it is true that not a single one did come in at the January term under the search and seizure or the nuisance? A. That is my recollection, Mr. Wilson.

Q. And the search and seizures were ordered defaulted? A. That is true, I think.

Q. Now when you speak of search and seizures, I am asking this now in order that it may be explained for the benefit of those members who are not attorneys—that means that some one has complained to the judge of the municipal court that a certain person named in that complaint is keeping liquors intended for unlawful sale, and upon that complaint the judge orders the officers, or authorizes them to make search of the premises—that is right, isn't it? A. That is true, as I understand it.

Q. And then they are arrested and brought into the lower court and the hearing is on the complaint, charging with the keeping for sale of intoxicating liquors? A. That is true. In our practice over there they issue a nuisance warrant at the same time, I believe.

Q. I am asking you to explain what we call search and seizures. A. That is true, Mr. Wilson.

Q. Now the indictment for keeping a nuisance, or a so-called nuisance indictment, is a charge that they keep and maintain a place where liquors are sold? A. That is true.

Q. Or dispensed? A. That is true.

Q. Or drank—something of that sort—is what we term the maintenance of a liquor nuisance, and a saloon is held to be a liquor nuisance, a nuisance, is it not? A. Yes, as I understand it, Mr. Wilson.

On motion by the gentleman from Patten, the Convention took a recess untill two o'clock.

After Recess.

Mr. HINES recalled.

Cross-Examination Continued.

Q. Now Mr. Hines there are one or two other terms I would like to have you define, in order to make it as clear as possible to the convention—that we have used so many times. It has been stated that when men were brought in on search and seizure process and they defaulted, that is, they didn't appear and the judge or-

dered them defaulted, that a mittimus was issued. Now that mittimus is an order for the officer to carry out the commands of the court isn't it? A. That is true.

Q. Either compel them to pay the fine or go to jail. A. That is true.

Q. Simply what you might call a writ. Now bench warrants have been spoken of, and when a man is brought into court or when he is indicted under nuisance an order for his arrest may issue from the court and that is termed a bench warrant? ?A. If the court sees fit he can order a bench warrant.

Q. It is an order for an officer to go out and bring a man in? A. Always issued in our court when they are not under bail.

Q. And may be issued when they are? A. If the court sees fit.

Q. Now the term nol pros has been used here. It may not be fully understood. When that is used in a case, it means that the county attorney has abandoned prosecution of the case? A. Unwilling to proceed any further I suppose.

Q. It means that he has dropped the case, abandoned prosecution—that is the effect of it, is it? A. That is the effect of it.

Q. Now take the January term of 1912. There were as has been stated, 63 indictments for liquor nuisances and probably an equal number of search and seizure? A. I think that is true.

Q. And none of them appeared at that term of court? A. I think not.

Q. On every search and seizure or indictment did any more than two—I think it has been stated there were two come in? A. I don't recollect definitely any one that appeared.

Q. And they all went over to the April term? A. The nuisances, you mean?

Q. Nuisances and search and seizure—no I will not say that—that the nuisances did? A. I think so.

Q. The search and seizures were defaulted and a mittimus issued. A I think so.

Q. Now the court at the January term did not order scire facias to issue on those nuisance cases? A. I don't remember that it did.

Q. Well you are sure of it, they didn't—are you not? A. No, I am not sure.

Q. I wish you would get the docket and settle it.

Mr. PATTANGALL: We will have the fact admitted.

Attorney General WILSON: I would like to have Mr. Hines be able to tell. A. January, 1912, Mr. Wilson?

Q. Yes. A. There doesn't seem to be any order for scire facias here on the nuisance cases.

Q. Just keep that docket there a moment, Mr. Hines. Now the grand jury at that January term, 1912, reported before the end of the term, of course? A. Certainly.

Q. And Justice Savage was presiding? A. I think so.

Q. Now it would have been possible, wouldn't it, for you to have had some capiases taken out and at least brought some of the nuisances, or persons indicted for nuisance, into court at that term. A. It would not been possible for the court to have ordered bench warrants to issue. As to whether or not they would have succeeded in locating any of the alleged respondents, I couldn't say. That will be a matter for the deputy sheriff

Q. Is there any question, Mr. Hines, but that if you had applied to the court for capiases and had handed them to the deputy sheriff that they would have been able to have found some of those respondents out of the 60 odd cases. A. I don't know.

Q. Well they were all, nearly all of them at least, men whom you knew to be right there in Lewiston in the liquor business, were they not? A. They lived in the city of Lewiston, all of them on the docket.

Q. Well do you know of any reason why, if you had not made your indictments public, as you are not obliged to do, are you? A. The practice is when men are under bail to make the indictments public.

Q. But you are not oliged to do so? A. I do not know whether I am obliged to do so or not. I know it is the practice to do so.

Q. I am not asking you about the

practice. I say you are not obliged to make them public? A. I don't know.

Q. Well, now do you know of any reason why if you had asked for bench warrants or capaises at that term of court and given them to an officer, they could not have brought in some of them at least? A. I don't know whether they could have located them or not.

Q. Do you know of any reason why they could not? A. I know of no reason why they could not.

Q. Now if you were zealous in the enforcement of the liquor law would not Justice Savage have been a good one to get them up before? A. I think he would probably be as good a judge as anyone to bring them before.

Q. He was the one man whom they didn't want to go in before, wasn't he? A. I think that is very true—one of the men.

Q. Well, now those January indictments, as a matter of fact there was nothing done with them and they went over until the April term of 1912? A. That is my recollection, Mr. Wilson, and the docket so shows it.

Q. Now at the April term you not only had those indictments on your docket but you also indicted 55 more for liquor nuisance? A. I forget the exact number, Mr. Wilson.

Q. But there was a certain number indicted at the April term—there were between 50 and 60? A. I don't remember the number, I have no doubt about it, if it has been investigated, but I don't remember the number myself.

Q. Now at the April term of court—did there any respondents appear at the April term, either personally or by council, on a search and seizure warrant that came up from the lower court? A. I don't believe that anyone appeared there in person so far as I can remember.

Q. Or by counsel? A. I don't know, I didn't look at the docket.

Q. Well would you mind looking to see? A. Certainly not. April term, 1912?

Q. Yes, And if in any, in how many cases did counsel appear? A. Glancing at this hurridly I don't see any appearances.

Q. Well, will you state to the Convention whether or not, in any of the liquor indictments that were then on the docket, including those in the January term and the new ones in the April term, any respondent appeared personally, or by attorney, in any of those cases. A. I don't see any. I haven's looked at them all Mr. Wilson—yes, here is one here, Holmes.

Q. One? A. Joe Black.

Q. You find one in which there was counsel? A. Holmes, McGillicuddy and Morey, Holmes. I didn't look at this docket, Mr. Attorney General.

Q. Well, will you tell the convention whether there was more than one. A. I told you I didn't remember.

Q. Well look at the docket—run it over and see if you find any more.

Mr. PATTANGALL: I understood him to read three. A. McGillicuddy & Morey, Holmes, and Holmes, Newell & Skelton, Newell & Skelton, J. G. Chabot, H. E. Holmes, Connellan, and Connellan.

Q. Was this at the April term? A. Docket of the April term.

Q. Those are the old cases, are they not? I am speaking about the January indictments and the April indictments. A. Do you know the name they start with?—Bealleau & Bealleau, do you want the name of the case?.

Q. No. A. A. T. L'Heureux, McGillicuddy & Morey, Molmes, Holmes—

Q Now those are the new indictments? A They seem to be appealed cases, Mr Wilson.

Q. I was speaking about the indictments particularly. A. Yes, the indictments.

Q. Do you find any more of the appealed cases? A. I don't know. I was just glancing through. I wouldn't know without looking. I wouldn't pretend to remember every case on the docket.—A. T. L'Heureux—

Q. Just let us know when you get through with the search and seizures. A. White and Carter.

Q. Is that a search and seizure or nuisance? A. Claim by the Maine Central Railroad. There are cases which are actually tried here, not liquor cases in which there is no ap-

pearance, although they were directed by counsel in open court.

Q. I don't care for anything but the liquor cases. A. A. T. L'Heureux —I simply say there was no appearance anyway when they were directed by counsel and the case tried in open court. I am done, I think, with the search and seizures, Mr. Wilson. Another case where they were represented, but no name down here, in open court.

Q. Is this a liquor case? A. I think that is an adultery case. Here is a liquor case where a man was in court and sentenced, but no entry at all of counsel, but whether he was represented or not I don't remember.

Q. I only want the cases where you know there were counsel or where they appeared A. I think in the case of State vs. Carl A. Wolcott—I don't know who the counsel was, I think somebody represented him.

Q. What is the result of your examination as to how many cases of those liquor indictments counsel did actually appear? A. On the docket?

Q. Or do you know in addition to it.A. I wouldn't care to say, I don't remember.

Q. How many do you find on the docket there? A. I should say five or six.

Q. Liquor cases, five or six? A. I should say so, I didn't count them.

Q. You cannot tell whether there where any more or not? A. I couldn't recollect each term, Mr. Wilson, positively enough to say.

Q. Now in those nuisances there of the April term and the January term, they all being pending at that time, scire facias was ordered to issue by the court, Judge Cornish, both in the January and the April indictments, was it not? A. There seems to be an entry here, I don't recollect it personally.

Q. At the April term scire facias was apparently ordered to issue both for the indictments found at the January and the April term? A. That is true.

Q. There hadn't been anything done with your January indictments up to that time? A. Apparently.

Q. Do you recall any conversation with Judge Cornish about this and the condition at that April term? A. No, sir.

Q. Let me refresh your mind a little bit: Do you recall Judge Cornish calling you up and showing your docket and telling you it looked like a directory of the Lewiston rumsellers. A. That is not true. He never made it to me.

Q. He made the remark? A. I don't know that he did. He never said it to me. I understood he said it to a newspaper man.

Q. He said it to a newspaper man? A. I don't know that he did. It is published in the Lewiston Journal. It was not said to me personally, although I was County Attorney.

Q. At that time it had about 150,—130 liquor indictments on it, with nothing at all done. I forgot the exact number.

Q. 112—Well now at that term none of the respondents were brought into court? A. I don't recollect that they were.

Q. It is a fact they were not, isn't it, Mr. Hines? A. I think not.

Q. No capiases, no bench warrants were issued on any of the cases? A. Judge Cornish apparently ordered none issued.

Q. And you didn't ask for any? A. Apparently not.

Q. So that all the liquor sellers who were indicted, I mean from the beginning of January, 1912, had nothing done with them as far as you were concerned until September. A. Except the issue of the mittimus, in each case in which an indictment was found and the collection of $100 and costs of a jail sentence.

Q. Mitimuses were issued—on indictments? A. I don't understand a mittimus issues in the case of an indictment. I say search and seizures accompanying each one of those nuisances.

Q. What did you have to do with them? A. Had them defaulted.

Q. You had them defaulted? Didn't the Judge call the docket? A. I don't decollect, sometimes they did sometimes they didn't. We have had a term of court where the docket wasn't called at all.

Q. But that particular term it was

called? A. I don't recall it was absolutely called in open court or not. I think it was. I don't recollect absolutely though.

Q. What did you do with the issuing of these mittimuses? A. Asked for them.

Q. Didn't you hear Clerk Bealleau testify here that mitimuses issued here as a matter of course without anything being done by the county attorney? A. I didn't hear all his testimony. He said something to that effect as I recall it.

Q. It is true as a matter of fact, isn't it, when a search and seizure case is defaulted the mittimus issued from the court or clerk as a matter of fact without action on the part of the county attorney. A. I think if you look at the docket—

Q. Answer my question. (Question read by reporter.) A. I think that is generally true.

Q. And those the sheriff takes care of and collects? A. Yes.

Q. He comes in and gets them, so you don't have anything to do with the search and seizures at all after that? A. Well he has advised with me a good deal in locating some of these people, attempting to locate them.

Q. He takes the mittimuses right from the court and goes after them himself? A. Like all warrants and precepts they are directed to the sheriff and deputy sheriff, not to the county attorney.

Q. So he attends to that part of it—You don't have to attend to that? A. It is certainly not my duty to collect liquor fines.

Q. So that after September 1912, the only thing that you have done with the liquor sellers in Lewiston was to indict them at the January and April term of court, and they were either continued or scire facias ordered to issue and went over to the Septehber term of court. A. There seems to be—

Q. With the possible exception of one or two cases? A. There seems to be a case here where a man pleaded guilty, and ordered placed on file, no money, no jail.

Q. Two other cases? A. I don't remember the number. There happens to be one where it is open here. I don't remember the exact number.

Q. When you got around to the September term you had a general cleaning up of your docket, didn't you? A. As I recollect it many cases were disposed of.

Q. Practically all that were left, were they not? A. I don't recollect the exact number that were disposed of,—I think so.

Q. And for some reason or other the liquor sellers were willing to come into court at that term and settle up their cases? A. Apparently so, and I suppose they thought—

Q. Will you get the September term Mr. Hines, September docket 1912? A. I have it.

Q. Do you recall now how many liquor indictments there were at that term? A. I do not.

Q. Is eight the correct number? A. I do not know now.

Q. Is the correct number 12? A. I do not know.

Q. It is in evidence 12. A. If so it is correct.

Q. Have you any question about it? A. No question whatever except that I don't remember, I don't want to testify to what I don't remember.

Q. I don't want to leave it indefinite, and I do not want to take up the time. We will start that there were 12 in September. Now will you tell the convention, when you indicted 63 in January, 55 in April, why you only had 12 indictments in September? A. Because that is the only,—the lists of witnesses given to me by the police department and the deputy sheriffs and sheriffs whose duty it is to enforce the liquor law contained only those names and no one- else appeared before the grand jury to put in evidence against them, as I remember.

Q. Wasn't this the term at which Dr. Leach appeared before you and wanted to bring evidence? A. And I told him to come and he didn't come.

Q. He testified you told him you would let him know when to come before the grand jury. A. I told him to come around after I had finished with the witnesses, and I would give him a chance.

Q. Did you expect him to keep track

of the grand jury? A. I didn't expect to keep track of him.

Q. When people come and tell you they have evidence, you don't take the trouble to notify them? A. Yes, I do, I summon them ordinarily, if they have any evidence, if they tell me any evidence.

Q. Well he told you he had evidence and you didn't take the trouble to summons him? A. I asked him for the evidence. He didn't give it to me specifically.

Q. He would have to go before the grand jury and present it— A. And I told him to be there.

Q. You didn't notify him when you were ready? A. No, as I recollect it, we held the grand jury at that time, I think it was Friday or Saturday, we held it two or three hours there I think.

Q. Well now, you have stated here that you indicted all of the men whose names appear in the bulletin, or all of the cases, I don't know as you said men. A. I said that on the September docket there were the names of all or nearly all the men who were contained in the bulletin.

Q. That was not quite the way you put it—You said you had indicted all of them. A. I had no question about that.

Q. Let us take it that way. Well now, even supposing you had indicted them at a previous term you would indict them again at the September term couldn't you, if they were still in the business? A. I could if I had the evidence.

Q. So that if he had any information gathered between the April term and the September term and wanted to present it to your grand jury, it was your duty to present it, wasn't it? A. It was if he was there.

Q. Well, in the evidence which was presented in that bulletin there were more than 12 parties, were there not, there? A. I think there were. Nearly every name that was in the bulletin was on the docket.

Q. On the bulletin which he handed you, or presented at the time, there were more than 12 places or names on it were there not? A. Undoubtedly, as I recollect it.

Q. And something like 60 altogether were there not? A. I should say that would be the number, judging from the number that was on the docket in here, about 60.

Q. I suppose this is true Mr. Hines, that when you presented evidence to the grand jury at any term of court you generally had sufficient evidence to convict a man if he was tried, calculated you had?A. I had sufficient evidence at least to satisfy the grand jury.

Q. But you would not present a case to the grand jury unless you thought you would convict anybody, would you? A. No, that is just why I didn't present several of them.

Q. In all the cases where you indicted men in your judgment you had sufficient evidence to convict them? A. That is my opinion.

Q. Well now at that September term, if you will turn to your docket — A. I have it.

Q. I find that you nol prossed one liquor nuisance against Thomas McNamara on payment of $110 I think. A. I think that is very likely.

Q. And two cases against him, liquor nuisances without receiving any money at all? A. Not receiving any money because he had paid $300 on the mittimuses.

Q. But on those cases? A. That is true.

Q. Well now it is true, I assume, from what you have already testified that if you had seen fit to have continued your prosecution against Mr. McNamara in those two other nuisances, you could have convicted him? A. I think so.

Q. And he was still in the liquor business? A. I don't know.

Q. Do you have any question about it from the testimony here that he was continuing in the business? A. I didn't hear any evidence that he was in the business at that particular time. I don't know, Mr. Wilson.

Q. You want the convention to understand that you don't know whether Thomas McNamara's place— was running on Main street all last year? A. My opinion is from the evidence that I heard before grand jury, it was, but personally I don't know, Mr. Wilson.

Q. You have never known him to show any signs of getting out of business, have you? A. He has been on every docket—

he was four times on one docket here in evidence.

Q. Now will you explain to the convention why, if you had sufficient evidence to convict him you nol prossed, that is, abandoned prosecution on two of your liquor nuisances on which he might have been fined up to $1,000 on each? A. I went to the court and consulted with Justice Whitehouse and asked him what my authority in regard to the docket, as I always did, and he said, "You can do anything until you move for sentence and then it is up to the court," and I thought that was the best adjustment I could make in view of the fact that he had paid $300 previously.

Q. So Judge Whitehouse told you you had the full responsibility of abandoning prosecution if you wanted to? A. Judge Whitehouse practically told me that his authority began when I moved for sentence.

Q. No question about that, on the nuisance indictments the county attorney can prosecute or abandon when he sees fit? A. I believe that is true.

Q. As matter of fact you say because he had paid on some mittimuses $300, which the sheriff had collected, that you consented to abandon prosecution against him on two nuisance indictments? A. I think that is true.

Q. Although you could undoubtedly have convicted him if you had insisted on trial? A. I doubt it very much,—that is, I don't doubt it very much, I don't know. I convicted one man over there on the trial of a case and the court ordered him discharged. That wasn't very encouraging to me.

Q. Well, judging from the evidence that has gone in here as to the amount of beer and whiskey and ale he was disposing of there wouldn't seem much question about it, would there? A. About convicting him?

Q. Yes. A. I would answer that, Mr. Wilson, by saying that judging by the amount of liquor that is coming into Lewiston there must be some of the jury using it and they don't bring in verdicts of guilty.

Q. Well, it may be so. Is that what you want the convention to understand that the juries don't convict the rumsellers and therefore you are using this method? A. I want them to understand that it is difficult to convict, difficult to indict before a grand jury when there isn't any evidence presented on the other side.

Q. Do you want this convention to understand that your juries won't convict your rumsellers? A. No, but I want them to understand that it is difficult to convict, and it is difficult at times to indict before a grand jury where there is no evidence to present, they vote differently, and they don't vote unanimously; that is my experience.

Q. Take the case of Rameo Corey. That was one of the liquor indictments in September? A. He has been indicted; I don't recollect whether at that term or not.

Q. But there has been prosecution of his case, and I presume for the same reason as McNamara's case? Is that true? A. I don't think so; I don't remember that case individually now.

Q. You don't remember anything differently? A. No, sir.

Q. And this James Donovan whom you stated is bar tender for Martin Bergin, the specially nice bar that you have spoken about. That was nol prossed for the same reason? A. I didn't state he was bar tender; I stated that the evidence in the grand jury showed that when the sheriffs and deputy sheriffs seized there they found him in charge and took him.

Q. And Victor Beaudette. A. The case there was nol prossed for the same reason so far as I know; I don't recollect.

Q. And Joseph Lamais? A. What number is that?

Q. I don't have the numbers here? A. I imagine it was probably, but I don't remember that particular case.

Q. And Joseph Legasse. His nuisance case was nol prossed for the same reason, that the sheriff had collected on search and seizure? A. I imagine he also on each one of those cases paid on one nuisance, didn't he?

Q. I can't tell you. A. I would have to look up the docket; I don't remember each of those cases.

Q. If you will look it up and see. A. In the case of Legasse?

Q. Yes. No. 2474, that is the one he paid on. A. Joseph Legasse, nol prossed on payment of $110.

Q. No. 2327. A. That was nol prossed.

Q. That was without any payment? A. Yes, sir.

Q. And in the case of Michael Murphy? A. I imagine the same is true.

Q. The same reason would apply? A. I used them all alike I guess you will find.

Q. and George Paul, the same in that case? A. I imagine so, I haven't looked it up.

Q. So that at that term the 33 cases that have been testified about by the clerk which were nol prossed were undoubtedly done for the reason that the sheriff had collected in on the search and seizure mittimuses? A. I think so.

Q. Or in fifty caes, or 58 altogether it seems. A. For that reason and also for the reason that it had been the custom and habit or practise in our court.

Q. You understood that the sheriff had been collecting on search and seizure cases? A. I knew he had, and also that it had been the practise and custom to do that.

Q. And you had been following that same practise? A. Quite largely.

Q. By an arrangement with the sheriff? A. I had no arrangement with the sheriff.

Q. You had been following the same practise?

Q. Now by looking up the docket when I was county attorney—I can illustrate by the McNamara case if you would care to do that.

Q. I think we understand. A. He was in court four times in one day.

Q. At the January term 113. You had practically cleaned up in this way—they had come in at the September term and you practically cleaned up a large part of your liquor indictments? A. I think that is true.

Q. Most of them, the majority of them were settled up in the way you have testified? A. Yes, sir.

Q. Now upon the January docket 112? A. State vs. Gertrude Matthews?

Q. Yes. Defaulted at the January term? A. That was defaulted at the April term 1910.

Q. April term 1910 it was entered, and at the April term 1912 it was continued on motion of the county attorney, wasn't it? This is docket No. 24? A. State vs. Peter Albert?

Q. Yes, and docket numbers 24. 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36 and 37, 12 cases in all. Are the entries there, Mr. Hines, defaulted at the January term 1912? A. That is true.

Q. And at the April term 1912 scire facias ordered to issue and capias did issue scire facias to issue in all? A. That is true.

Q. Now you haven't brought scire facias in those suits yet? A. I have not.

Q. And the year has expired, hasn't it? A. It has.

Q. So that there are 12 cases in which you have not undertaken to insist on the scire facias againt the party at all? A. Apparently not.

Q. And during all the year of 1912 and even up to the present time, Mr. Hines, have you brought a single scire facias writ? A. I have not.

Q. Now these 66 indictments at the January term of this year—the same conditions hold true with reference to them, that not a single respondent came into court nor were they represented by counsel? A. At the January term?

Q. Of this year, 1913. A. I don't recollect positively. Do you mean the nuisances?

Q. Yes the nuisances? A. There seems to be one entry here, Dana S. Williams.

Q. Those are liquor indictments? A. Yes, and H. E. Holmes, Harry Mansur, Harry Mansur, F. O. Purington, Harry Mansur, Harry Mansur, Dana S. Williams, Harry Mansur, White & Carter.

Q. Those are search and seizure cases in the lower court? A. Nuisance cases also.

Q. And nuisance cases also? A. Yes, certainly. Dana S. Williams, White & Carter, Harry Mansur, Dana S. Williams, Dana S. Williams—

Q. So that there are cases where they have counsel? A. Occasionally they are represented on the docket by counsel, but my experience is that they are not always so represented.

Q. Their names don't appear on the docket always? A. Very seldom they put their names on the docket—Tascus Atwood, Tascus Atwood—

Q. Now, if I understand it, your reason for not issuing scire facias on these cases was that you had been pretty busy up to the time that these proceedings were announced and then you

thought it might look suspicious? A. Yes, I didn't have a great deal of time. I think court adjourned February 13th, and I received notice a week ago Saturday or whatever day it was, and then when I received notice I only had two days, and I didn't feel like issuing scire facias then.

Q. You felt it was a duty that you ought to perform? A. Some time within the year, yes.

Q. You felt it would look suspicious if you didn't perform it before April? A. Right on the eve of hearing, Mr. Wilson, I didn't care to do anything in my own favor, such as issuing scire facias.

Q. You didn't? A. No, sir.

Q. I don't quite see why you shouldn't continue to perform your duty just the same facing a hearing as at any other time? A. I intend to continue to perform my duty of issuing scire facias; I was under no obligation to do it then; I had a year in which to do it.

Q. But you havn't pursued even in the lower court all cases? A. In some cases that is true, but not since January 1st, 1913.

Q. Is there any way of getting these indicted persons into court except upon a bench warrant or scire facias or by their consent? A. One of those three ways I should think.

Q. And in no case during your term of office have they been brought in on a scire facias or bench warrant? A. I think not.

Q. They have all come in voluntarily? A. I think so.

Q. And since the first day of January, 1912, has there been more than three cases in all these 120 odd indictments—180 odd indictments, where the court has imposed sentence? A. I don't recollect exactly the number; I think that is true if you have investigated it.

Q. And if in at least over a hundred cases the disposition has been entirely by arrangement between the respondent and yourself— A. By arrangement between the court and myself.

Q. The respondent had to come into it to a certain extent? A. The respondent had to be there by counsel, certainly.

Q. If it was nol prossed on payment he had to agree to that, didn't he? A. His counsel did or him.

Q. That is the same thing. You wouldn't make any question about it? A. I wouldn't put counsel quite in the same class with the respondent.

Q. He is agreeing for the respondent and representing him? A. Certainly.

Q. And the respondent agrees to it? A. I wouldn't do that because I have represented some myself.

Q. Yes, I understand that. A. Previous to my term as county attorney.

Q. In the course of the sheriff's enforcement of the liquor law and for two years and three months along, his practise has been apparently to make searches and seizures of these liquor sellers, bringing them into the lower court and when they get up into the upper court take the mittimuses out and collect on them. That has been his method of procedure? A. I think that is what has always been done.

Q. I say, as far as Mr. Lowe is concerned? A. With my assistance on the mittimuses.

Q. You didn't explain about what assistance— A. Simply ordering them defaulted; sometimes the clerk turns them over to me and I turn them over to him.

Q. You don't have anything to do with the mittimuses? A. Occasionally I call for them.

Q. It was very occasionally? A. Some terms of court I think I have, but I don't recollect within the period exactly.

Q. So that evidently was the method that the sheriff who has recently resigned was pursuing as to the enforcement of the law there? A. Apparently, from the docket.

Q. And your part in it, or your part of your duties that you performed, was whenever he had collected those on searches and seizures, on search and seizure processes that you would nol pros a portion of the indictment which you had found against them? A. That wasn't part of my duty; it was my duty to handle the whole criminal docket.

Q. The sheriff seemed to be handling search and seizures mostly? A. It was up to him to collect them because all writs and processes are directed to the sheriff.

Q. The only thing you could possibly claim you had to do with search and seizure processes was posibly to call for default? A. I think that is true.

Q. That is all, isn't it? A. I think so.

Q. But I say the sheriff had all the rest of this work to do in connection with the collection on the search and seizure enforcement? A. That is true.

Q. And your part had to do simply with nuisances? A. With the nuisances on the docket, yes, that is true.

Q. In your disposition of your part of it you nol prossed a large number of your nuisances when the sheriff had succeeded in getting his part of it in? A. That is true, I fined them all in nuisance cases; there was always the nuisance cases, one nol prosed on payment and the other not, and the mittimuses collected by the sheriff.

GEORGE POTTLE, called and sworn, testified as follows:

By Mr. McCARTY:

Q. What is your name? A. George Pottle.

Q. Your residence is Lewiston? A. Yes, sir.

Q. At one time yere you Mayor of Lewiston? A. Yes, sir.

Q. And you have also occupied the office of State assessor? A. Yes, sir.

Q. Are you the present foreman of the grand jury? A. Yes, sir.

Q. When did your term begin? A. At the September term, 1912.

Q. And in the consideration of the matters that came before you, who represented the State. A. County Attorney Hines.

Q. You have been sitting on the grand jury with Mr. Hines presenting evidence for how many terms? A. Two, September 1912, and January 1913.

Q. During the time you have been foreman of that grand jury I suppose that you have had abundant opportunity to observe Mr. Hines and his work? A. Yes, sir.

Q. What do you say, Mr. Pottle, as to Mr. Hines' conduct of his his office so far as you have observed, as indicating wilful neglect or refusal to perform his duties?

Attorney General WILSON: I think that comes within the objection.

The SPEAKER: The question is excluded.

Attorney General WILSON: That is for the convention to decide.

Mr. McCARTY: What have you to say in regard to Mr. Hines' conduct, have you observed that?

Attorney General WILSON: I don't see but it is the same thing.

The SPEAKER: It appears to involve an opinion also, and it is excluded.

Mr. McCARTY: You may state if it will be permitted, what Mr. Hines has done by appearing before the grand jury in the line of his work.

Attorney General Wilson: The witness should understand that he is to state only facts.

The SPEAKER: He is to understand that he is to state from his own observation, and no conclusions, as that is for the convention. You may state facts from your observation, facts that have appeared to you. A. As far as I observed, his cases were well prepared.

Attorney General WILSON: Now you are giving an opinion.

The SPEAKER: You did not heed the admonition of the Chair. You may state what he did and what he said, and that is all.

Mr. McCARTY: I will ask you this question, whether or not his actions showed a desire to—

Attorney General Wilson: That is the same thing.

The SPEAKER: The question is excluded.

Attorney General WILSON: It seems to me they are trying to get an opinion out of this witness in a roundabout way.

Mr. McCARTY: During the terms that you have sat through as a grand juror did Mr. Hines present any cases for your consideration involving violation of the prohibitory law? A. He did.

Q. Whether or not the evidence was presented along—A. All the evidence was presented.

Attorney General Wilson: I don't know whether all the evidence was presented or not.

Mr. McCARTY: So far as you know, was all the evidence presented?

The SPEAKER: I don't think that is admissible; I think that is a matter of opinion.

Mr. McCARTY: It is a matter of knowledge.

The SPEAKER: It seems rather vague.

Mr. McCARTY: I ask him so far as he does know.

The SPEAKER: As I say, that seems rather vague. Can't you put it in some other way? Let him state what the county attorney said and did before the grand jury, so far as he is allowed as a grand juryman to disclose it, of course not the details. A. As each case was taken up witnesses were summoned and they were questioned thoroughly, and at the September term with one exception an indictment was ordered; at the September term, 1913, in every case—

Mr. PATTANGALL: You mean January 1913. A. January 1913, I should say, in every case an indictment was ordered.

Mr. McCARTY: Do you know of any case or where any person applied to you for the purpose of giving testimony before the grand jury and having their request denied? A. No, sir.

Q. Or do you know of any case, of any persons or parties being refused by Mr. Hines admission to the grand jury room for the purpose of testifying? A. I do not.

Q. How many indictments did you say there were found at the January term of this year? A. 60 or 70, I can't state exactly the number.

Q. You refer to liquor indictments? A. Liquor indictments, nearly 80 of all kinds.

Q. Who produced the witnesses and who furnished you with all the evidence in regard to these violations? A. They were witnesses that were called by the county attorney; they were police officers and deputy sheriffs of Lewiston and Auburn.

Q. And did you yourself or any member of the grand jury have any occasion to ask for further testimony or evidence from Mr. Hines than that which he presented? A. I did not.

Cross-Examination by Attorney General Wilson.

Q. Just one question, Mr. Pottle—you recall the September term, the first term you served? A. Yes, sir.

Q. And you recall the 1912 indictments for liquor nuisance? A. I can't recall the number.

Q. Do you recall any particular indictments for liquor nuisance wherein there wasn't in your judgment a sufficient amount of evidence to secure a conviction? A. There was one case.

Q. When was that? A. The September term.

Q. The others you felt as though there was abundant evidence to secure a conviction if they were tried? A. If it was unexplained, yes.

Mr. PATTANGALL: There are here several members of the grand jury whose testimony would be cummulative, and it is prescribed within pretty narrow limits necessarily by the ruling, and I would, if it was agreeable, instead of taking the testimony, like to call each one and simply have them stand and have their names put in the record and have the statement taken of counsel that their testimony would be corroborative of Mr. Pottle, and then permit them to be cross-examined by the other side if they desire to do so.

ATTORNEY GENERAL WILSON: Will you also admit that they would reply the same in cross examination?

Mr. PATTANGALL: I don't know whether they would reply the same or not. If you have any questions to ask of course you can ask them.

The SPEAKER: Yhy not have it admitted that they would testify substantially the same as the foreman of the Grand Jury.

Mr. PATTANGALL: Well, I will put them on one at a time.

ATTORNEY GENERAL WILSON: What nonsense that is.

Mr. PATTANGALL: I would rather—

The SPEAKER: Mr. Attorney General, suppose we name these gentlemen, have them stand up, and have it stated that they would testify substantially the same as Mr. Pottle did.

Mr. PATTANGALL: I don't want to do that if the Attorney General is go-

ing to take the view of it in which he said that it was nonsense for me to put them in that way. I want to recall to the counsel that in an earlier case we agreed that Mr. Berry and another man would make the same statement that other witnesses had made. I only am trying to carry out the same procedure.

The following witnesses were called and rose in reponse to their names, namely:

Chauncey F. Crafts, John M. Googin, Charles F. Barr, Albert C. Merton, C. M. Plummer.

The SPEAKER: It is admitted that these witnesses would testify to substantially the same facts as Mr. Pottle.

GEORGE C. WING, called for the defense, sworn in answer to questions by Mr. Pattangall, testified as follows:

Q. You live in Auburn? A. Yes, sir..

Q. You are a practicing lawyer? A. Yes, sir.

Q. How long have you lived in Auburn? A. 45 years.

Q. During that time have you acted as county attorney in the county of Androscoggin. A. Yes, sir.

Q. For how long a time? A. Three years.

Q. And you are familiar with the work of the State's prosecuting officer? A. Yes, sir.

Q. Are you at the present time President of the State Bar Asociation? A. Yes, sir.

Q. Are you acquainted with William H. Hines? A. Yes, sir.

Q. And during the last two years and four months have you been more or less familiar with his work as county attorney? A. I have seen him in court.

Q. What can you state to the convention with regard to his work, so far as you have observed it?

ATTORNEY GENERAL WILSON: That question obviously may be answered with opinion put in as to what Brother Wing thinks about it, and I want to have it understood that no opinion is to be expressed.

The SPEAKER: We think questions along those lines should be excluded, Mr. Pattangall.

Mr. PATTANGALL: I think as asked, if Judge Wing has not already heard the limitation put upon it by the Speaker, that it might be assumed from his knowledge of law that there would be no danger of his overstepping the law.

The SPEAKER: That is perfectly true. Of course Judge Wing knows the law better than I, and if it is understood that he will not attempt to give any opinion or judgment the question may stand.

WITNESS: Now just what was your question:

(Question read by stenographer)

A. I have seen him in court, I have heard him address the court, I have been present when he was conducting business as county attorney for the county of Androscoggin.

Q. And have you seen anything of his conduct of matters relating to the liquor docket or of liquor cases in court? A. What I have said relates to that in particular, because his practice in civil matters has not been se extensive as it has on the criminal side.

Q. You are speaking of his work as county attorney now, with especial relation to the criminal docket? A. Yes, sir.

Q. And can you say anything further in regard to the matter? A. I understand that under the ruling of the Chair I am not permitted to say that he is an active—

The SPEAKER: State what you saw him do and heard him say in connection with the performance of his duty? A. I can't do it. I can't repeat the langauge of a lawyer in court or the addresses to the court in the conduct of his business, or in relation to his activity or ability. I can say that I have seen him in court and heard him address the court.

Mr. PATTANGALL: Would the ruling of the Chair extend so far as to exclude a question relating to his general manner of conducting his business?

The SPEAKER: I think it would.

(Cross examination waived.)

Mr. PATTANGALL: Now, Mr. Speaker, we have here a number of other attorneys of the Androscoggin bar, including Judge Newell, Mr. Williams, Mr. Chabot, Mr. Webber, and quite a number whose names I don't recall for the moment, but I suppose

it would be impossible under the present ruling to get any evidenc that could be of any value from those attorneys, who have had something actually to do with Mr. Hines in connection with some particular case. Perhaps I could limit it to the general inquiry.

The SPEAKER: If these gentlemen have any information as to facts in connection with the performance of his duty by Mr. Hines from which the convention could draw a conclusion, we would be very glad indeed to hear it, but if it is along the same lines as Judge Wing's testimony, it would be useless.

Defense Rests.

On motion of Mr. Austin of Phillips a recess was taken for five minutes.

After Recess.

Mr. Patangall addressed the convention by way of argument as follows:

Mr. President, Mr. Speaker, and Gentlemen of the Convention. I will promise you gentlemen that I will make my remarks in closing this case just as brief as I can and cover the points in the case that seem to be necessary to argue.

I want to call your attention to one matter, and I may reiterate it more than once before I cease to speak to you, because it is of the most vital importance in considering these things, and that is this—that under the resolve which you are considering here today you are obliged to find, in order to address the Governor for the removal of County Attorney Hines, you are obliged to say, that there has been on his part since the first day of January, 1913, some wilful neglect or refusal to do his duty.

I wish you wouldn't forget that. If I were sitting in a court of law, where the presiding justice had a right to instruct the jury, and you were on the jury, I could successfully ask for that instruction without any possible question, and I don't think that the attorney general will differ with me on that proposition that there must be evidence of some wilful neglect or wilful refusal proven against William H. Hines during his present term of office before you can consider even the question of removal. Everything relating to prior terms is admitted simply as to whether it sheds some light on the motives of the county attorney in doing whatever he has done during the present term, as showing his state of mind, as indicating, if there was neglect, whether it was wilful or otherwise; that is all.

At the start of the case it is incumbent upon the prosecution to show some wrong doing, some act of omission or commission, that amounts to wilful neglect or wilful refusal during the present term of office. I would like you to remember that; it is of vital importance in this case, and there can be no controversy about it. You cannot address the Governor to remove a man from office for something he did in a prior term, or for something he did while he held some other office. The cases are decisive upon that point, and the Chair has so ruled in these cases, that the only purpose for which evidence would be put in relating to prior terms was to give you an opportunity to say whether any neglect in this case was wilful or not. That is the only purpose it can come in for.

Now taking that for a start you must look at the term of office which Mr. Hines has held since January 1, 1913, and you can then determine whether there has been any wrong doing during that term or not on his part, any failure to perform his duty, any wilful neglect, any wilful refusal, to perform his duty during the past three months. If there has not been, your case ends, so far as his case goes.

If you are going to vote on the case, and I assume you are, if you are going to vote on the merits of the case, and I assume you are, if your minds are directed toward the merits of the case and I assume you are, you must first consider whether anything has been done by Mr. Hines which would warrant his removal, since the first day of January, 1913. If you don't find that to base your case on, then all this other evidence is absolutely valueless and couldn't even be properly heard. In order to

make it admissible a basis had to be made by showing something that occurred since January first, 1913. I can't repeat that too often, I can't emphasize it too strongly, until I am sure that every man in this convention has it fairly in mind. It is the vital thing. It is the foundation of the prosecution's case.

Now let us look at the record since January 1, 1913. One term of court has been held. At that term of court Mr. Hines had indicted some 66 liquor sellers. The record of the United States licenses is put in by Mr. Owen, or by our consent as coming from him, showing 87 licenses or United States stamps held in the city of Lewiston. Now a good many of those of course are held by druggists, so that you may conclude that at the January term Mr. Hines indicted practically every man who was in the liquor business in the city of Lewiston. So far he did his duty, you can't complaint about that. That is about all the county attorney could do at the start, would be to indict the liquor sellers, and they were indicted.

Now let us see. We begin the year with that. We begin the year, not with an act of omission, but an act of active commission in favor of the county attorney, Mr. Hines, 66 indictments brought before the grand jury, evidence properly presented by him, evidence presented by him in such a way that the grand jury would the indictments.

Now the prosecution has said that the respondents were not in court. Well, that happened, but is there any man in this body, lawyer or layman, who is going to say that they were not in court because of the wilful neglect or the wilful refusal of William H. Hines to perform his duty? Is there any man with experience in that line who won't tell you when you meet in your respective houses, when you listen to remarks by each other, as juryman should when they retire, is there any man familiar with such maters but that will tell you that it is a common thing in the counties where there are large cities and where the liquor traffic has flourished to some extent for the last fifty years, that if the county attorney indicts a large number of liquor sellers, and they are coming up before a judge from whom they fear jail sentences, for them to leave the city or the county, and get out of the way?

Why not have them under arrest? They were under arrest, and they got bail, and Mr. Hines was as helpless to bring them into court as you would have been, except in one way.

He procured the indictments, and now came the court. The respondents were'nt there. Judge Savage was there. There was one way in which they could be brought into court if the sheriffs could find them, and that was by issuing bench warrants, and they have been mentioned a great deal in this case. Was he guilty of wilful neglect or wilful refusal in not asking for bench warrants? Let us see what the evidence was. He says that he talked that matter over with Chief Justice Savage, and Chief Justice Savage knowing that in all probability—because he has lived in Lewiston and Auburn a large part of his life, and he knows about those things, and has been I think in the office of prosecuting attorney himself—knowing that in all probability the deputy sheriffs would return and say "these men are not in the city" —Chief Justice Savage said after they had considered it together, that it would be a mere waste of time to issue bench warrants.

Now if that was wilful neglect, I want you to remember that Mr. Hines acted in consultation with the Chief Justice of the State of Maine on that point, and I would rather have the opinion of the Chief Justice than any member here present in the convention because of his vast experience and idea of what was best and right to do, and Mr. Hines, an attorney of only six years' experience, and a county attorney of only four years and three months' experience, instead of doing the negligent thing, did the careful thing, he talked with Chief Justice Savage about the matter, and they spoke of bench warrants, and Judge Savage said there was a better way to do. have the bail defaulted and have an order on the docket to issue scire facias writs,

which would either bring the respondents into court or force the bondsmen to obey the mandate. Now that was done in consultation with Judge Savage.

Now about the bench warrants in January. That was done after consultation with Judge Savage.

Now under the proposition laid down here, first you must find wilful neglect or refusal, and in the year 1913 was there wil ful neglect or refusal on the part of Mr. Hines to do his duty? Do you find any negligence on his part in procuring indictments in 1913? Was it any fault of his that liquor sellers did not walk into court voluntarily? Was he at fault in not issuing bench warrants when he had the advice of the Chief Justice? What was done, was done under the advice and the wisdom of the judge, under the instruction and the order of the Chief Justice.

Is it wilful negligence that that order has not yet been complied with? In my opinion that is not negligence, let alone wilful negligence. There was nothing in that order that said to Mr. Hines "If you do not get those scire facias writs served, before the 20th of March, you will have to go before the Legislature and be removed." There was a statute that said 12 months could pass before the time for issuing those scire facias writs would expire. Why wait? Because of this: Would any man who had any common sense bring scire facias suits within two or three weeks without giving the bail an opportunity to bring their men in and surrender them and have some arrangement about the case?

Was it the purpose of the order to bring suits against the bondsmen in these cases and oblige the bail to be defaulted, for we all know that after the bail has been defaulted and we can technically take the money from the bail, that if they produce their men, and they stand up and take sentence, we always arrange it so that the bondsmen will not have to take the money out of their pockets.

Following right on after that term of court, Mr. Hines became a candidate for mayor of Lewiston and was elected. He went into that campaign, and I suppose he was busy. I suppose it was a fairly busy campaign in Lewiston, and we knew it over here. Some of our State officials may have neglected their duties before election but we do not call them wilfully negligent. We are willing that they should give their time and they do.

Immediately following that election came the organization of the city government, and Mr. Hines was busy with that. Then he had a murder case on his hands.

Then came the time for suing out the writs for the April term of court, when he naturally would have made such of the writs as he intended to make, and he had decided to bring to them and had expressed that intention to the deputy sheriff who had asked the privilege of serving them.

He had decided to bring these suits and when the time came when he naturally would have made those writs, these proceedings over here were started. The attorney general asked him if there was anything in these proceedings which could have influenced him to refrain from doing his duty. You and I know that if it had appeared here that he brought those writs the day that these proceedings started, every one of your common sense men would have said that was the foolishest play he ever made. You would have said that he was afraid, that he was frightened when he brought them. And I can understand the scorn in my brother Wilson's voice when he said to him "You brought these writs the very day the case was filed against you?" And then he would have said "Yes."

As he said, the time was approaching when he had intended to delay some until the September term; the time had nearly expired, and then these proceedings started and he knew it would not be said of him by the Legislature that he was acting in a frank way if he served them. I think he did right to delay action in this way.

To recapitulate, the sole thing that they can bring against William H. Hines in 1913 is neglecting his duty in not bringing scire facias writs, and there is still nine months left by the law of this State in which to bring them.

This is the whole case. There is nothing else to it.

When they bring in a list of the amount of liquor hauled into Lewiston over the Maine Central and the Grand Trunk, you know and every man knows that that list was not prepared to try Mr. Hines' case, but it was prepared to try Sheriff Lowe's case, and notwithstanding the fact that Lowe had resigned, they had got to going on that track and could not get off. No man except my friend Wilson or my friend Skelton would say that a county attorney was obliged to watch the shipments of liquors to the depots. If he had watched them, tell me what he could have done more than he did do when he indicted every one of those fellows in January?

Next week when we get through bothering him, he will go back home and indict them again. Shipments of liquor to the saloons,—and that dotted map shows the location of the liquor saloons—have continued for many years.

William H. Hines did not build those buildings; he did not invent liquor selling in Lewiston. And nobody expected that he would personally search and seize liquor. In Brother Skelton's opening, he touched on the fact that deputy sheriffs when they went where there were large stocks of liquor only took a part of the stock. What did Mr. Hines have to do with that? Some of you have been county attorneys. Did you have any control over how much rum the deputies seized? What nonsense! The fact that liquor has been sold in Lewiston since the first day of January does not bear against William H. Hines in the exercise of his duties. He has had a term of court and he has indicted every liquor seller there was any evidence against. He indicted 66 of them and brought them before the grand jury and the cases were defaulted and he now has the power to exercise against them which Judge Savage advised him to use. He did not have the advice of the Legislature or the advice of counsel, but he did get Judge Savage's advice. He took it and followed it, and so far as you have any evidence, has he wilfully or negligently refused to carry out his command?

Counsel says that Mr. Hines did not intend to issue those writs. Why? Because a year ago the same arrangements were made in such cases. He has gone over that. A year ago there were some cases defaulted, and there were scire facias orders to issue on the docket, and instead of issuing a writ, they went to the September court and were settled under the direction of Judge Whitehouse, at the term of court where Judge Whitehouse presided, and where the various entries have been made under the authority of the court.

It is true that there appeared on the docket cases carried over from 1911 to April, 1912, where scire facias were ordered issued in 12 cases by Judge Cornish, and they were not issued during the year. But if you had those dockets before you, you would find that those 12 cases were against offenders who were charged with other cases, and they have been brought down to now and have paid several fines. Is it anything uncommon or unheard of when a man has accumulated several cases, has three, four or five cases, that he settles one or two for what the court deems a reasonable fine? Is that anything new?

If that anything new in the history of jurisprudence in Maine?

I can not go very far in the limits which this court puts upon respondents. I have no doubt that the court was right and I was wrong in it. I felt that I ought to be allowed to go on, but I am not barred from arguing to you that it is within the knowledge of every one in this room who has had anything to do with courts, that it is common practice, with the consent and advice of the judges, when they have several cases against a liquor seller, to have him fined on certain number, continue a certain number, and nol pross a certain number.

Brother Skelton said that in the continued cases he is in fault.

Mr. Hines' docket does not now contain a large number of continued cases. There has been nothing in connection with nol prossing cases in which anything wrong has been shown; nothing but the reasonable proposition which the statutes of Maine bear out, that if a county attorney deems it wise and proper

to do so he may nol pross a case against an offender. And when the county attorney has two or three cases against some one, and two or three more against the same party in the lower court, and the man had paid two, or three or four hundred dollars in fines, to nol pross the rest. The attorney general says he could have brought Mr. McNamara into the court room and had him fined a thousand dollars on each of those nuisance cases. No man, looking over the courts of this state, going back to the day when the prohibitory law was enacted, can find a case when the judge of the supreme court, with three or four nuisance cases against the same man, fined him a thousand on each. The judges use discretion about those things. You can put a man in jail for a year on every nuisance case you have against him, and you can get an indictment against every humseller in Lewiston, and you could put him in jail for ten years, but no judge in Maine does it and will not while the judges are selected from the places from which the judges have sprung. It is never done, never was and never will be done. If you have three or four cases against a man in court, you who have been around the courts, know that they are settled in the discretion of the county attorney, and the rest are disposed of by nol pross or continuance. That is not a wild or strange practice, and it is not confined to Androscoggin county or to Mr. Hines. It is the ordinary practice of the courts of Maine, and it is proper practice. There is no other way to carry on that business of the state, and there is no statute that makes it wrong.

Now if there is anything wrong in Mr. Hines' whole career—I will drop my argument on this last three months, and I will go back to the day he started in as county attorney, a new man, and I will say that there is only one piece of evidence that shows any negligence on his part, let alone wilful negligence. Talk about wilful negligence or wilful refusal! There is no wilful negligence. The most you can make of the case—and I wondered, after the case was brought out, that it was not dropped. I do not know why it was carried on. There is but one piece of evidence that shows negligence, and that is on the 12 cases that came over from 1911, and were carried on the docket until the January term, 1913, on the entry made by Judge Cornish, that scire facias should issue on them. On those 12 cases he neglected to bring scire facias, and those people have all been in court on other cases. They have been taken care of one in one way and another. Did he do anything that has anything wilfully negligent in regard to that?

When a young attorney comes into a great county like Androscoggin with only three years of practice, and in two years works up his new indictments as he goes along, that if he is negligent, if you look at it as negligence, not to bring those suits against bondsmen at one term of court, you cannot say that it is wilful negligence. Do you think because thirty-four or thirty-five thousand dollars worth of liquor was shipped into Lewiston, are you going to say that that is wilful negligence? Are you going to say because they make a map of Lewiston and put on it all the saloons that exist in that city that he is responsible for them?

I think these men were all in court afterwards and paid fines that were satisfactory to the court and to the county attorney, and he considered it well enough to drop the old cases. If he did drop those cases through negligence, there was no wilfulness in it. He would not be the first county attorney or the last to bring over cases, but there was no wilfulness in that. County attorneys are human beings like other people, and sometimes they do neglect things.

When liquor sellers did not appear in his court during the term, what was he to do? Go to the county of Penobscot, and you had the county attorney before you the other day as fine a young man as lives in the State of Maine, and a good lawyer; go over and ask him if he has power to personally bring liquor dealers of Penobscot county in before the judge on each term? If he has that power, it is a new thing. Go to Portland where County Attorney Samuel L. Bates has received a certificate of good character from the Civic League, and see if he can personally present liquor sellers there who jumped their bail when indicted.

You say that he does not make these indictments public. Those men who

have been in the business do not have to have indictments made public. They do not need anyone to bring notice to them or through the public press. They have ways of their own for finding out. We unfortunately have on the grand jury sometimes men who are not of saintly character.

We all know that from experience. Now the men were not in court. They could have been brought into court in just one way—no more—suggested here, and that is by the bench warrant. Now it is said that the county attorney had power to call for bench warrants. He did have the power to call for bench warrants and the judges who sat on the bench at each one of those terms of court, including Judge Savage, the present chief justice, Judge Whitehouse, the former chief justice, Judge Cornish perhaps the ablest judge of his age in the State—all knew that they had the power to call for bench warrants. They didn't have to wait until Mr. Hines asked Mr. Belleau for a bench warrant. If one of those gentleman had thought it was right and proper that the respondent should be in court and that that bench warrant would bring him there, he would have ordered it. Nobody is going to contend that Judge Savage or Judge Whitehouse or Judge Cornish have any sympathy with law-breakers. Nobody is going to contend that they are wilfully negligent in their duties, or wilfully neglecting anything that comes within the scope of a judge's work, and if bench warrants had been the thing I regret that counsel for the prosecution had not informed those judges of the supreme court of the fact so that they could have cleared their skirts.

Bench warrants could be asked for by the county attorney. Tell me, pray, in fairness and decency, do you expect a county attorney of the brief experience of Mr. Hines, a lawyer new at his work as he is to think of that expedient when the two judges of the supreme court said nothing about it to him and a third one, the chief justice, said that was not the best thing to do? Are you going to condemn him for that? Are you going to condemn him for not doing what the judges did not do? Are you going to condemn him for not doing what Judge Savage advised him not to do? Oh, hardly, hardly, my friends, not even in this spasm of exceeding virtue we have been undergoing lately, because you are fair men and decent men.

I want to say to you—I want to differentiate between this case and the cases you have heard. I argued to you here in the sheriff's case and the sheriff had a right to use certain discretion. I did not argue to you that the law gave him that discretion. I argued to you that he was obliged to use it by the very nature of his business, by the very nature of the conditions which surround him.

But I say in this case that you can take the bare law for it, you need not take anything else, and that within the county attorney is reposed a certain discretion by law. It does not come in Section 69 of Chapter 29 of the Revised Statutes, the section under which these proceedings are wrongfully brought. The County Attorney's duties are not at all described in that section; his name is simply sandwiched in between sheriffs and deputy sheriffs by reason of an amendment passed in 1891 which made a disconnected statute. His duties are defined elsewhere. But under the laws of this State he has legal discretion reposed in him by law—not the discretion of the sheriff—but legal discretion that he has a right to use, and one of the things that he has a right to decide is when he will and when he will not nol pros a case. Why, in this Legislature, you attempted to take this discretion away from the county attorney. Some thought that county attorneys were using it too carelessly, that they were not discreet enough, and a movement was instituted here to take that discretion away from the county attorney so that the judge would exercise it instead of the county attorney. What did you gentlemen say to that? You reported the bill ought not to pass, and you refused sanction to take away from the county attorney the discretion to nol pros a case.

Now reposing that power in the coun

ty attorney, giving him that right, giving him that discretion, you have only to ask him to use it according to his own judgment. When you give discretion to a man, he cannot use your discretion because you are not there to advise him; you have got to let him use his own. And in the nol prossing, if that is discussed, there is not a single atom of evidence that would go to show that Mr. Hines nol prossed any case there for any reason except that he deemed it right to do it, and what he did he did under the order and with the sanction of the court.

I ought not to take any more of your time. I am sorry I have taken as much as I have. But this case goes pretty close to me. If the time has come when a man of William H. Hines age, who has managed before he has reached the age of 32 to have been an honorable member of this body, to have been twice elected county attorney to a great county, to have been elected mayor of the second city in the State, with all the forces and power that has been arrayed against him,—if the time has come when such a young man is to be stricken down in the Legislature of Maine because he has not sued out scire facias writs soon enough, fast enough to suit some outside critic, then your government of this state is reaching a critical period. I read with some alarm a day or two ago an editorial in a Maine newspaper where it was suggested that all the 16 sheriffs of Maine should place their resignations in the Governor's hands so that he could accept them when he chose, and remove them when he chose, and that if he removed them, his appointees should go through the same performance, in other words, that the people of Maine should voluntarily give up their constitutional right to elect sheriffs and pass it over to the Governor, and make the sheriff's office an appointive one. I read that with alarm I say because it showed to me a tendency of mind, a drift of public sentiment, and a giving up of the right which the public have long enjoyed, and always ought to enjoy, and transferring those rights and responsibilities to some central authority.

Now you come to the county attorney's case. If a man elected county attorney, who is carrying out his business as he sees it, doing the best he can in the best way that he can, getting along as well as he can in his professional work,—if because that professional work does not suit some hypercritical person, he must be brought before the Legislature, and if perchance he has not conducted his business just as some other lawyer would conduct it, he must be removed from office and someone appointed in his stead,—then pretty nearly your last vestige of popular government is gone. It would be carrying it a long ways, too far and too long.

I confess to you that when this case started I supposed the prosecution had some sort of a case. I could not conceive of their bringing Mr. Hines here to be tried, bring this charge against him, and keeping you and all of us here while it was tried out, unless they had some sort of a case. It was a much heralded case, and at the lobby of the State House and of the Augusta House clear down to tea time last night there were malicious people moving around saying before this case gets through there are going to be some terrible things shown. That has been kept up right along. There probably is not a man of his age in Maine who has been slandered and abused during the last three or four months as Wm. H. Hines has,—I say of his age, I am 17 years older than he is,—I doubt if there is another. I doubt if there ever was one of his age in the State of Maine who has been abused as he has in the last three months, because when I was his age I had not become so active in politics. You have heard a good deal,—you have heard from his opponents, from his unsuccessful opponents because in Mr. Hines own home where they know him they have a way of voting for him and backing him up. You saw assembled here pretty nearly the whole bar of Androscoggin county, Republicans and Democrats ready to go on the stand and say a good word for this young man, except for the ruling of the Chair which brought their evidence within the limit of simple statements of what he had said, and of course it was nonsense to go ahead on that line. To give any information as to his work is ruled out. You saw that whole Bar, the old-

er members and the younger members, standing here. You saw that he was not afraid to bring before you his grand jury men, the men who know more about his work than all the Dr. Leaches and Mr. Berry's and all the rest of those people that you could pack in this room if you all went out and gave them the whole room to come in to. He was not afraid to bring them and have them cross-examined. You saw the deputies go on the stand. They were ready to testify that promptly they talked with him and he with them on each one of these cases. And I will say to you if you will confine this case and your mind to the legal evidence, and God knows I have been confined to the legal evidence in trying it, if you will confine it within the limits of legal evidence and ask yourselves, has anybody proved that during the year 1913 William H. Hines has been guilty of negligence or guilty of wilful refusal to do his duty, you will have to say no. You can't say anything else. Your verdict ought to be unanimous.

There ought not to be any question about it; there ought not to be any party in it; there ought not to be anything in it except to hurry up and get it in. You ought not to hang on this case. I enjoyed your exercises this morning, I enjoyed them very much. It has been my pleasure to participate in such exercises on four different occasions in this House. I remember the session of 1909 when I was here as a member, and when my friend, Mr. Hines, was here as a member, and he sat across the aisle from me.

I thought when you were carrying on what we call the love feast this morning how four years ago he and I participated in the occasion. I remember that there was no man in the House who was more beloved, no man who was more respected. He was only 27 years of age then, and there was no man who took a better or abler part in the work of this Legislature. I know when we parted then I felt that he had before him a brilliant future; the future promised a good deal for him; and I believe the last act any of you would desire to do would be to do anything that would cause that future to be less brilliant, less hopeful by him him and his friends.

I know in these last days of the session when you are going home with friendship in your hearts toward everybody, when, as the Speaker eloquently said this morning, scars had been healed up, and you have gotten together on a common plane, I know that the last and final act you do won't be to ask the Governor to remove from office a square, honorable, nice boy who came before you with his record, unafraid to take the stand, unafraid to face cross-examination, unafraid to tell you the absolute truth as he has done today. (Applause.)

The following argument was then addressed to the convention by Attorney General WILSON:

Mr. President and Gentlemen of the Convention, this case in some respects has some different aspects from those which have previously come before you. In the three other cases which have been heard the question of the diligent performance of the duties of sheriffs of the several counties of the State has been the matter under consideration. In these proceedings the question of the faithful performance of the other branch of the prosecuting department of the State is now up for your consideration.

Now, when my eloquent brother in opening this case suggested that the State was asking of the county attorney to perform duties which it was absurd and unreasonable for him to perform, he was setting up a straw man to knock down for the effect that it would have upon the members of this Legislature. My brother Skelton in opening the case expressly stated that of course the part of the statute that requires the county attorney to go out and serve warrants was only intended to apply to the sheriffs of the county. It has never been suggested by my brother in opening or by any of the evidence put into the case here that there is any expectation whatever that the county attorneys shall serve warrants. The statute does require, however, that the sheriffs and the deputy sheriffs shall faithfully and diligently enforce

the several provisions of this same chapter of the Revised Statutes relating to the sale of intoxicating liquors.

Now in the administration of the duty, gentlemen, I think all of you know, whether you are lawyers or laymen, that the office of the prosecuting attorney is equally important in securing results with that of the sheriff of the county; and while his duties are of a different character, the statute lays just the same burden upon him in the performance of them that it does upon the sheriff and his deputies, that he shall faithfully and diligently perform these duties the arm of the law that prosecutes the violators of this section of the statute is paralyzed; it does not make any difference which one of them it is; so that it is just as important that you should give due consideration to this case as it has been that you should give consideration to the cases relating to the several sheriffs that have come before you.

My brother has laid great stress upon the proposition that you must find neglect, wilful neglect or refusal to perform his duties since the first day of January, 1913. We admit that, gentlemen; we accept that proposition. And he says that the acts that have taken place in Androscoggin county, so far as the performance of the duties are concerned, there is nothing in and of themselves that idicate or could be construed by the widest stretch of the imagination to be any wilful neglect on the port of the county attorney. Now it might be, gentlemen, if that was all there was to the case, and if you didn't know anything about the enforcement of the law and the practise in the courts and all there was in the case was simply a record of 67 indictments found at the January term of the grand jury and their default and an order of scire facias to issue, and on the failure to issue them, if that was all the evidence there was in the case, why, it might be that that unexplained and without anything to throw any light upon those acts or failures to act, that there would not be sufficient evidence upon which you could properly ask the Governor to remove the county attorney.

My brother has laid great stress upon the fact that we saw fit to put in evidence here relating to the sale of intoxicating liquors in the county of Androscoggin, and the great amount that came in there, and the large number of rum shops that existed there, and all those elements that we would have introduced if sheriff Lowe had been on trial; but, gentlemen, when you come to look at the matter and consider the whole question, it is those very pieces of evidence that throw a light upon the acts of this county attorney in the January term, 1913, that speak to this convention and that speak louder than any possible words he could utter on this stand as to what the significance of those acts would be, and whether or not he has faithfully and diligently performed his duties as prosecuting officer of that great county.

Now, gentlemen, either the law in Androscoggin county for the last two years and three months has been faithfully and diligently enforced or it has not. I don't suppose there is any question in the minds of any member of this convention that it has not been properly, effectively ad diligently enforced in two years and previous to that time; and if there was any other evidence needed upon the point, the evidence of Mr. Hines himself that he felt called upon to speak to the sheriff and his deputies ought to be sufficient to indicate that it was not enforced properly during the two years previous, and that very fact that the sheriff of Androscoggin county was unwilling to stand trial before this convention speaks louder than any other words as to what has been going on over there in that county.

Gentlemen, I do not believe you have the slightest question but what the same condition, if not a worse condition, has existed in Androscoggin county during the last two years and three months than has been depicted to you in any other county in this state during this hearing. Now, if that condition did exist, and if that tremendous amount of liquor, beer, ale and whiskey had been coming into Androscoggin county during those two year. and the testimony of these witnesses is to be

believed as to the conditions under which they were operating in Androscoggin county during those two years, and the testimony of these witnesses is to be believed as to the conditions under which they were operating in Androscoggin county, then it must be clear in your minds that the business was being carried on there with the connivance of the sheriff's department during that time as it was in these several counties where you removed these different sheriffs or requested their removal.

Now, let us see just what was their plan of operation in Androscoggin county. It was an unusual plan. I am free to confess that with all my experience in the court, experience as prosecuting officer, if you please, in the great county of Cumberland, I never have run across such a situation as existed in that county, as has been testified to here on the stand. It seems that their method of proceeding up there, a practise as my brother called it, has been for the sheriff to go out and make the seizures among the different rum sellers, as many as he saw fit, to seize one kind of rum sellers and bring them into the municipal court and also have them bound over for a nuisance indictment, and when they came up to the supreme court then the nuisance indictments were to be presented to the grand jury and an indictment found by the grand jury and presented to the supreme court, a condition which I never knew existed in the state of Maine, which I never knew to be the practise in any other county in the state; none of these respondents or any counsel appeared in court whatsoever, but they all allow, that is, if the judge doesn't happen to be favorable, they all allow their several cases to be defaulted, if it is a search and seizure cast and a mittamus to issue. Now there has been some little attempt put into this case that brother Hines was responsible or had something to do with the issuing of those mittamuses, but he had to admit himself that so far as he knew, while there might be some cases where he requested them to issue, he did not issue them.

It seems that the sheriff goes on with the search and seizure matters and the county attorney does not have anything to do with them, but the sheriff has been going on and collecting those mittimuses and when he got them collected in and got what he felt to be the proper amount of fines, or license, or whatever you wish to call it or prefer to call it, from the prospective rum sellers, then the nuisance indictments were taken care of; and that is the way the proposition has been operated over the county. Now it is those acts and their prosecutions during the year 1912, and even in 1911, which shows what the meaning of these prosecutions are in 1913 andd uring this present term. In 1912, at the January term 63 liquor indictments were found for nuisance, and not a single one of them, so far as the records show, appeared at that term of court; and neither was a scire facias ordered to issue at that time; I also want to call your attention to the significant fact that at no other term until the April term was any scire facias ordered to issue by the court; that for the three previous terms in 1911 the court had not felt called upon to ask him to issue a scire facias, and so all his indictments at the January term go over to the April term. Then he runs up against Judge Cornish; and he also indicted some 55 more nuisance respondents at the April term. Then when Judge Cornish looks over his docket—and while this was not very direct testimony because Mr. Hines denied it was stated to him, but he evidently heard it, and I submit it was a very appropriate remark, that his criminal docket which contained then about 110 or 115 liquor nuisances and the same number, as he said, of searches and seizures, resembled a directory of the rum sellers in the city of Lewiston; and then, gentlemen, for the first time did a judge of the Supreme court direct this order of scire facias to issue, and it appears upon the dockets of that court for the first time, April, 1912, after he had indicted all those men in January and done absolutely nothing with them—he had indicted all those men in April and had done nothing with them, and then Judge Cornish sitting there said that it was about time for this to stop, or substantially that, and directed that he should issue scire facias against these several respondents.

Now, gentlemen, it is said that we have suggested that he might have brought some of them into court. It has been my practice, and I don't know what it has been in other counties, but it has been my experience that it is entirely possible that if the officer wants to bring his respondents into court on liquor indictments—I know it was our practice in Cumberland county, that we did not make public our indictments, but that we took out capiases and placed them in the hands of the sheriff, and while some of the rum sellers would escape it is true, we would certainly succeed in gathering in some of them and bring them before the court at the term at which the liquor indictments were found; but that has not been the practice over in Androscoggin county.

These indictments, 110 and 112 of them, go over until the September term, and aparently for some reason or other they are then ready to come in and settle their cases, and either the sheriff has succeeded in collecting all the money he thinks he ought to collect or they up to that time have paid it into his hands, and they proceed during that term to dispose of the liquor indictments on the docket. And what do they do? They very considerately nol pros about 50 of them.

They also nol prossed, without any criminal record whatsoever, some 30 odd more of these liquor nuisances, and the balance of them, with the exception of one that came in and pleaded guilty, were continued to the January term.

Well, now, gentlemen, for a moment just consider the record of what took place in Androscoggin county during the year 1912. Here is an acknowledged, flagrant, open violation of the liquor law. Here is the method that it is dealt with by the sheriff's and county attorney's departments there in that county.

Now the question for you to consider, to my mind, is: Was the county attorney in 1912 one of the cogs in the wheels of justice over there or was he a trig to what was being done by the sheriff's department. Of course if he was diligent and faithful in the enforcement of the law, he must necessarily have been a trig in the sheriff's wheels, but if by his consent or his connivance, if he fell into the plan of the sheriff to regulate the traffic over there, then he was nothing but a cog in one of the wheels of the sheriff's department, and I submit to you, gentlemen, on the face of the records that have been produced here, and the testimony that has been produced here on the one side and the other, as to whether or not it is not absolutely clear to every gentleman of this convention that the county attorney in every instance in 1912 was acting in accordance with a well established plan of regulating the rum traffic in the county of Androscoggin, that he wasn't giving the slightest interferenec to this method which the sheriff of Androscoggin county was pursuing in the regulation of the traffic over there.

Well now, it is rather a strange thing to my mind, as to why, if he was sincere and faithful and diligent in the performance of his duties, that he should indict 60 rum sellers in January, 55 in April, and only 12 in September. But he says it was all the evidence that was presented to him. You have the testimony of Dr. Leitch, and Dr. Leitch says that it was the September term that he presented to him the bulletin and told him that he had evidence to go before the grand jury with reference to the violation of the liquor laws and he told him something like 60 places tha he had evidence against, but because he had considered those places at other times, because their names appeared on the docket at other terms, he didn't feel that it was his duty to present the evidence to the September grand jury and indict those places again, although I submit, gentlemen, it was just as important for him to know, just as much his duty to know, and I believe there is not a single citizen of the age of intelligence in the city of Lewiston who did not know—and if Mr. Hines didn't, he is the only one in the city—that liquor was being sold openly and freely in that county and in the city of Lewiston in September, 1912, and

from then up to within two weeks ago.

Then another significant piece of testimony in relation to Dr. Leitch's testimony which he gave here. There was some little confusion between him and Brother Pattangall as to whether or not he was desirous of indicting under the Oakes law or whether he desired to give his information with reference to these liquor sellers, but that mattered nothing. He did testify that when he came back to see the county attorney he inquired of him why he hadn't notified him so that he could go before the grand jury, and Mr. Hines said to him, "It is a pretty difficult place I am in, and you know well enough that I wasn't elected to enforce this law."

So much, gentlemen, as showing the action of this county attorney in the year 1912 as indicating whether or not he was during that period enforcing faithfully and diligently this chapter of the statutes.

I submit, gentlemen, there is not the slightest question and if you are considering this evidence honestly and fairly and impartially you will find that he was simply acting as one of the cogs in the wheels of the sheriff's department in regulating this traffic during the year 1912.

Well now, gentlemen, if that is so, if you are satisfied upon that point, if every member of this convention believes that County Attorney Hines was doing that in the year 1912, that his action with reference to these liquor cases on the docket during that year was simply a part of this whole plan over there, why then, gentlemen, what do you say as to his following out the same course of action at the January term, 1913? If he is doing exactly the same thing in January, 1913, isn't the evidence just as conclusive that he was following along the same lines since the beginning of this term of office as during the period of 1912. It is true that the time hasn't been long enough for us to show the continuance of this performance during the whole year, but we have shown you the practice that was going on there in the first two years of his administration, we have shown you that he was beginning the same methods of practice in connection with the sheriff's department this year that he had previously, and how can any gentleman of this convention, how can any man who is honest and sincere in considering this question, entertain any doubt for a moment that the proceedings at the January term in Androscoggin county with reference to these 67 or 69 liquor sellers were not in accordance with the same plan that has been going on for the past two years.

If that is so, gentlemen, can there be any question in your mind as to the propriety of requesting the Governor to remove a county attorney who has been following in that office the same policy as the sheriff whom you unquestionably would have removed, but who did not dare to stand trial here before you?

Consider for a moment, gentlemen, what would happen if you leave a county attorney in office who has shown that this was his method of enforcing the law, and have the Governor placing there a sheriff who was undertaking to enforce it. There is the danger of leaving the county attorney who has shown the traits and the methods of procedure that this county has shown during the last two years and a quarter. What is the use of the Governor's accepting the resignation of the sheriff unless you have a county attorney who will faithfully and diligently assist him in the enforcement of the law.

Now this, gentlemen, is an exceedingly important question. It is not one for you to allow the slightest sympathy to enter into your action in this respect You gave no sympathy to the old man 80 years old who came before you and had been in the sheriff's department for 35 years. You didn't allow your syspathies to sway you one iota from the path of your duty and are you going to allow your sympathies to sway you in this matter because this county attorney is just beginning life? It is just as important that the young men that are

entering upon the profession of law, just beginning their public life, should know that the people of the State o. Maine will not stand for this sort of proceeding in the prosecution of the criminal laws of this State It is time for the people of this State to realize that if they are going to insist on having the laws of this State enforced they must not only insist upon the performance of duty by the sheriffs of their several counties but by the county attorneys, and say to them "It is just as necessary that you faithfully and impartially and diligently enforce these laws, and we demand it just as strongly, as the sheriffs of our counties."

Further than that, in addition to the duties that are placed upon the sheriffs and the county attorneys under section 69 of chapter 29, my Brother Hines took an oath of office when he entered upon the practice of law, that to us members of the bar, means more than the oath he took as county attorney. Let me read to you the oath which he took when he became a member of the bar as an additional reason why he, more than the sheriff, should faithfully and impartially perform his duties as prosecuting attorney and as a member of the court itself. Mr. Hines when he was admitted to the bar, with uplifted hand, said:

"You solemnly swear, that you will do no falsehood, nor consent to the doing of any in court, and that if you know of an intention to commit any, you will give knowledge thereof to the justices of the court or some of them, that it may be prevented; you will not, wittingly or willingly, promote or sue any false, groundless or unlawful suit, nor give aid or consent to the same, that you will delay no man for lucre or malice, but will conduct yourself in the office of an attorney within the courts, according to the best of your knowledge and discretion, and with all good fidelity, as well as to the courts, as to your clients."

So that the county attorney, as a practicing lawyer, as a member of our bar, a profession that every one here respects, has taken an additional duty, has an additional oath, to diligently administer the duties if his office, if he has never taken the oath as county attorney, and I submit to you gentlemen, that this is too important a case for you to allow any sympathy, and political prejudices, or any other slight consideration, to sway you for a moment in your decision of this case, it is just as important that you should say to the several county attorneys in this State that the people of Maine expect not only the sheriffs but the county attorneys in every particular to perform their duties.

The PRESIDENT: The purposes for which this convention was formed having been accomplished, it is dissolved, and the Senate will retire.

IN THE HOUSE.

On motion by Mr. Scates of Westbrook, the House voted to go into executive session for the purpose of considering the adoption f an address to the Governor for the removal of William H. Hines, county attorney for Androscoggin county.

The SPEAKER: In accordance with the vote of the House to go into executive session the galleries will be vacated, persons other than members of the House will kindly vacate the floo and the messengers will take charge of the entrances.

In Executive Session.

The SPEAKER: The question before the House is on the adoption of an address to the Governor for the removal of William H. Hines, county attorney of Androscoggin county.

Mr. O'Connell of Milford moved that when the vote is taken it be taken by 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.

The SPEAKER: Is the House ready for the question.

Mr. DUNTON of Belfast: Mr. Speaker, I do not want to take very much of the time of the House in what I have to say, but it is due to the situation it seems to me and also in a measure to myself to say what I shall say. The questions that have been decided by us heretofore related to the

sheriffs of the various counties, and the proposition was made before us and argued to us that there was something higher than common law and the written law which should govern our decision; that notwithstanding our written law enacted by the representatives of the people said that certain things should not be, notwithstanding that it was argued to us that if the members of a certain community here or there in the State or if a sufficient number of those who were able to make their opinion felt decided that public opinion there demanded a different state of things, they had a right to have that state of things regardless of the law; and it seemed to me, gentlemen, that not only the sheriff was on trial but representative government was on trial before the bar of this House, and we the representatives of the people who sent us here to enact laws were called upon to stultify ourselves and the Legislatures that had preceded us by declaring that the written law should be of no effect in those parts of the State where certain so-called public opinion made itself heard and said that that thing declared by the law should not goven, and we were called upon in effect to honor that and degrade the law and the people and the Legislature through whom the people had spoken; and it seems to me, gentlemen, that a situation confronted us which never in the history of the State of Maine confronted any Legislature.

The people speak through their representatives sent here, and the voice of the people is expressed through their representatives, and I know of no other public opinion that had a right to be recognized except the public opinion of the people of this Stae crystalized in the Statutes of the State made by the representatives of the people themseives who are sent here to speak for them.

Notwithstanding that situation, we have no right to do injustice to any man, to say that any man was guilty if we believed him to be innocent. But, gentlemen, on those cases that were brought before us, notwithstanding there was an appeal to our sympathy, notwithstanding that our sympathy did go out to those men who were the victims of a system more than of any vice in themselves—I say, there was a call for sympathy, but, notwithstanding that we did feel sympathy, we judged these cases, I believe, on their merits; and I want to say here that in my vote I voted and I intended to vote regardless of whether the man then at the bar was a Democrat or a Republican, and in my own mind I decided the question on its merits. (Applause) I have not yet, gentlemen, notwithstanding my regret that this condition of affairs should call from us the doing of what was done, I have not yet for one instance regretted my vote in any one of those cases.

But, gentlemen, a different case is before us, today; another officer belonging to another class is called before the bar of this House. We have a right to call him here, and he has come, and we have heard the evidence. Some of you, probably all of you heard me make the motion which was defeated, that we take a recess of the convention in order that in separate bodies we might meet and consider the Rockland case, the case of the sheriff of Knox county, and the case now pending. You did not understand what my purpose was perhaps; the vote would have been different if you had, but I want to say what I had in mind was this, and it did not come from anybody, but it seemed to me that the State had not made out a case under this charge sufficient to warrant us in convicting this county attorney; and I believe that, gentlemen, because this case is different from the other cases. In the first place, we have not the evidence showing that there was a regulation and a compromise with this traffic that we had in the other cases where the sheriffs have been in trial before us, notwithstanding that we may believe and probably do believe that the system is worse than it is in those other counties; but the sheriff is an executive officer, he is the one who takes the initiative, and the county attorney takes the orders as they came from him and does his duty.

Has this man done his duty? I am not going to argue that he has. Prob-

ably he has not. Has any other county attorney in the State done his duty, so far as you know, in relation to these cases? I do not believe in blaming this young man for anything that he has done as county attorney. I do not believe he has done all that he should have done as county attorney. But gentlemen, the county attorney, as was said in the argument here, is clothed with a discretion; he has this certain work to perform; the matter of corruption is eliminated from the charge. I feel that if we as members of the Bar, if our dockets were opened to the inspection of an investigating committee, our civil dockets in our own offices, how many cases of negligence would appear thereon, wilful negligence? But that is not an answer to wilful negligence, such wilful negligence and refusal to perform the duties required of him. But I say we should have strong, clear and convincing evidence, such evidence as will convince us beyond a reasonable doubt that this young man in these three months has wilfully and intentionally prostituted his office. I do not think the evidence shows that. I think if the young man does not do better than he has he ought not to be county attorney, but I do not think that we ought to remove him from that office in order to assist any sheriff that may be appointed. It is not a question of whether the evidence in this case convinces us beyond a reasonable doubt that he is guilty of this charge against him.

As I said before, I believe that a case has not been made out against him; and notwithstanding the eloquence and the ability and the plausability and the convincing nature of the evidence and of the argument of the attorney general and the appeal that was made, I have not changed my mind. I believe that we should act upon this case, as has been said, regardless as to whether of party, and I will say regardless as to whether this man is a member of the Bar or not. I do not believe that any lawyer in this House will consider that in this case, but I do believe that when this vote is called that you will find the members of the Bar almost as a whole against this proposition. I have taken a longer time than I expected to tell why I shall vote no on this resolve.

Mr. MORNEAU of Lewiston: Gentlemen, I have not imposed myself upon the indulgence of this House for the last three months, and I am not going to do so at this time. This case has been well argued by both sides, but I wish to make an appeal to you. Gentlemen, this case touches me deeply because I had practically at one time the same start, but all that has vanished and been thrown to the winds by the opposition of the party with which I have been identified, and with which I am still identified. I realize how sad it is for a young man such as William H. Hines, with whom I have been associated for years, and he is my pal and I know him, he is a good lawyer and an upright citizen; I cannot tell you whether it is through the machinery of some plan why he was brought into it and exposed and talked about. Gentlemen, many of you are old men here; many of you have some of his age, and perhaps many of you have sons who are lawyers and ambitious young men, and perhaps your son will be placed in a similar position at the head of a great county. I make this appeal to you, gentlemen, please do not throw to the winds the career of a smart and enterprising young man such as Mr. Hines is. (Applause)

Mr. NEWBERT of Augusta: Mr. Speaker, I just want to say a word. It seems to me, if possible, this is a more solemn occasion than any that has confronted us in executive session, for reasons which I need not go into. I would not for a moment presume to sit in judgment upon any man's conscience who votes in this room. I can justify my own action, and that is sufficient. At the beginning of these matters I laid down for myself a fundamental principle, and I said to myself, and I said it to no other man I think nor did I ask any other man how he would vote—I laid down for myself the principle that unless I could find evidence of corruption on the part of county officials or some flagrant vio-

lation of oath, or some evidence of high crimes or misdemeanors, that I should never vote in this House recommending to the Governor of this State the removal of any official elected to office.

I voted for John Ballou; I voted for the sheriff of Cumberland county; I would have voted for Sheriff Emerson had I been here, but I was absent on account of sickness; and I am willing at any time to go before the good people of this State on this principle which I have laid down for my own conduct. I do not believe in Governor-made sheriffs or in Governor-made county attorneys. We have come suddenly upon an excessive zeal in regard to the enforcement of the prohibitory law; we have had these spasms before, and this one will pass and we will have another spasm. This is a serious matter, the sheriff of a county in this State or a county attorney from a county in this State, brought before the bar of this Legislature. I do not think we should let the resignation of Sheriff Lowe prejudice the case of County Attorney Hines. It is not for me to say why Sheriff Lowe resigned nor is it for you to say, and neither is it for the attorney general of this State to say. He has resigned, and his resignation should not prejudice the case of William H. Hines.

We have 16 county attorneys in this State and we have only had one called before us. Gentlemen, I shrink from this unjust discrimination. This young man, 37 years of age, the mayor of the second city in our State, only one of 16 called to answer to this charge; and when Mr. Skelton was done with his remarks, yesterday, I sat here and as a layman and as a juror I wondered why this man was brought here. Is he guilty? If he is, what is he guilty of? You have the evidence. Is the county attorney of Penobscot county guilty because you said the sheriff of that county was guilty? We have recommended the removal of Mr. Moulton, sheriff of Cumberland county, and we have said that he is guilty, and if he is guilty I am going to add that County Attorney Samuel L. Bates is also guilty; we have recommended the removal of John W. Ballou, and we should add to that the county attorney of that county as being also guilty; and if Sheriff Lowe was guilty and resigned for that reason, is it any reason to assume that this young man is likewise guilty?

This may be our last official act in this Legislature, and I wish to say this and then sit down: I would rather in exercising this legislative act in my legislative career, I would rather lose my left hand than today to sit in my seat and vote to recommend to Governor Haines the removal of County Attorney Hines, this rising young man with ambitious tendencies and the mayor of our neighboring city.

Mr. DURGIN of Milo: Mr. Speaker and gentlemen of the House, I do not rise in the closing hours of this Legislature and just previous to a vote being taken upon this case to state here how I intend to vote. I do desire to say a word in protest against any individual stating on the floor of this House that the members of this Legislature have pre-judged this case before any evidence had gone in. I talked with a gentleman on the floor of this House yesterday who does not vote as I do politically, and from the remarks he made to me he may as well have said to me that my mind was already made up, and that because I was a Republican I was ready to vote to remove any Democrat who came here, and that was the policy of the Republicans in this House. I do not believe it, and I do not believe that honestly he believed it. Today I have heard the remark made in one of the barber shops in town, a gentleman stated and he quoted with approval from the able gentleman who represented this county attorney, that all you need to say to this Legislature was, there is your man and he belongs to a certain party, and remove him. I do not believe it. I believe that every member of this Legislature has approached the conclusion of every case that has been tried here honestly, squarely and with an intention to do his duty. I have voted as I believed I ought to vote, and I have not taken into account whether a man was a Democrat or a Republican.

When I came here I had an opportunity to play politics if I wanted to, be-

cause it will be remembered that there was a contested election case, and it was a question of law, and on the committee which heard that matter there were five Republicans and two Democrats, and yet we disregarded utterly any politics and voted to seat a Democrat in this House. I protest that anyone should say that any member of this House is going to approach so important a matter as this and vote a man out of office simply because he is a Democrat or a Republican. I believe that we shall vote on this question as we have voted on other cases, with the utmost honor and integrity, and when we have voted we shall each one of us feel that we have voted according to our honest convictions and that we have done our duty as legislators. (Applause.)

The SPEAKER: It the House ready for the question? Those 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, upon the calling of their names will answer yes; those opposed will answer no. The clerk will call the roll.

YEA:—Austin, Bass, Benn, Bowler, Bragdon of Sullivan, Butler, Chick, Eastman, Farrar, Folsom, Greenleaf of Auburn, Greenleag of Otisfield, Harper, Higgins, Jenkins, Kimball, McFadden, Morrison, Peters, Sanborn, Sanderson, Skelton, Skillin, Smith of Auburn, Stevens, Stuart, Swift, Taylor, Tobey—29.

NAY:—Benton, Bither, Boman, Bragdon of York, Bucklin, Chadbourne, Churchill, Connors, Cook, Crowell, Cyr, Descoteaux, Doherty, Dresser, Dunton, Durgin, Eaton, Eldridge, Elliott, Farnham, Franck, Gallagher, Goodwin, Hancock, Harman, Irving, Jennings, Johnson, Kehoe, Kelleher of Portland, Kelleher of Waterville, Lawry, Leader, Leary, LeBel, Marston, Mason, Maxwell, McBride, Merrill, Mildon, Mitchell of Kittery, Morgan, Morneau, Morse, Newbert, O'Connell, Packard, Peacock, Peaks, Pendleton, Putnam, Quinn, Reynolds, Richardson, Roberts, Scates, Sherman, Smith of Patten, Smith of Presque Isle, Stetson, Sturgis, Swett, Thombs, Trimble, Violette, Washburn, Waterhouse, Wheeler, Winchenbaugh, Yeaton—71.

ABSENT:—Allen, Boland, Brennan, Brown, Clark of Portland, Clark of New Portland, Cochran, Currier, Davis, Donovan, Dunbar, Emerson, Estes, Gamache, Gardner, Gordon, Haines, Harriman, Haskell, Hodsdon, Hogan, Jones, Leveille, Libby, Mathieson, Maybury, Metcalf, Mitchell of Newport, Mooers, Nute, Peterson, Pitcher, Plummer, Price, Ramsay, Ricker, Robinson, Rolfe, Rousseau, Sargent, Smith of Pittsfield, Snow, Spencer, Sprague, Stanley, Thompson, Tryon, Twombly, Umphrey, Wise—50.

On motion by Mr. Cook of Vassalboro, Mr. Hutchins of Penobscot was excused from voting.

THE SPEAKER: Twenty-nine having voted in the affirmative and 71 in the negative, the address has failed to receive a passage.

Mr. Wheeler of Paris moved that the proceedings of the executive session be made a part of the records of the House.

The motion was agreed to.

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

IN THE HOUSE.

THE SPEAKER: The Chair will lay before the House on its final passage, resolve providing for the payment of certain deficiencies accrued prior to January 1st, 1913.

This resolve carries the emergency clause, and on its final passage requires the votes of two-thirds of the members elected to this House, or 101 votes. Those in favor of the final passage of the resolve will rise and stand until counted.

A division being had,

One hundred and one members voted in favor of the final passage of the resolve.

So the resolve received its final passage.

THE SPEAKER: The Chair will lay before the House on its final passage, resolve for the payment of the debts of the Maine State Prison.

This resolve carries the emergency clause, and on its final passage requires the votes of two-thirds of the members elected to this House. Those in favor of the final passage of the resolve will rise and stand until counted.

A division being had,

One hundred and eight members voted in favor of the final passage of the resolve.

So the resolve received its final passage.

Passed to Be Enacted.

An act to appropriate money for the expenditures of government for the year 1913.

An act to amend Section 2 of Chapter

250 of the Public Laws of 1909, relating to the payment of fees accruing to state institutions and departments.

Finally Passed.

Resolve to compensate W. E. Lawry, secretary of the Senate, for extra services.

Resolve to compensate W. R. Roix, clerk of the House, for extra services.

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.

Resolve on the pay-roll of the House.

On motion by Mr. Mitchell of Kittery, the rules were suspended and the resolve received its two readings and was passed to be engrossed without reference to a committee.

Resolve in favor of members and officers of the Senate of the 76th Legislature.

On motion by Mr. Mitchell of Kittery, the rules were suspended and the resolve received its two readings and was passed to be engrossed without reference to a committee, in concurrence.

On motion by Mr. Smith of Auburn, joint resolution relating to Boston & Maine Railroad was taken from the table, and on further motion by Mr. Smith the joint resolution was indefinitely postponed.

On motion by Mr. Mitchell of Kittery, the rules were suspended and that gentleman was permitted to introduce out of order resolve in favor of James L. Bresnahan, for services as messenger to the Speaker of the House.

On further motion by Mr. Mitchell the rules were suspended and the resolve received its two readings and was passed to be engrossed without reference to a committee.

Report of the committee of conference on the disagreeing action of the two branches of the Legislature, in relation to bill, An Act to require vehicles to carry lights at night on public highways and bridges, reporting the same in new draft and that it "ought to pass," presented by Mr. Swift of Augusta.

On motion by Mr. Scates of Westbrook the report was accepted.

Mr. Peacock of Readfield moved that the bill be laid upon the table, pending the acceptance of the report.

The motion was lost.

Mr. Scates of Westbrook moved that the rules be suspended and that the bill receive its three several readings at this time and be passed to be engrossed.

A viva voce vote being doubted,

Mr. Cook of Vassalboro called for a division.

A division being had,

The motion was lost by a vote of 34 to 35.

Mr. Mitchell of Kittery moved that the bill be referred to the next Legislature.

A viva voce vote being taken,

The motion was agreed to, and the bill was referred to the next Legislature.

An Act to appropriate moneys for the expenditures of government and to provide for certain deficiencies accrued and unpaid, January 1st, 1913.

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

Report of the committee of conference on the disagreeing action of the two branches of the Legislature on resolve in aid of the sufferers from the recent floods in Ohio, recommending the indefinite postponement of the resolve.

On motion by Mr. Mitchell of Kittery the report was accepted.

On motion by Mr. Durgin of Milo, the House voted to take a recess until seven o'clock in the evening.

After Recess.

From the Senate: Resolve in favor of the House postmaster.

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

Mr. Mitchell of Kittery moved that the House adhere to its former action

in the passage of the resolve to be engrossed.

Mr. MITCHELL: Mr. Speaker, I will say in regard to this resolve that it came to the committee on appropriations and financial affairs without being referred, and in some way it was reported "ought not to pass," but the postmaster of the House not being a "post-officer" and the members of the House not being "post-officers" and not knowing the regulations have put in their mail without placing thereon the necessary stamps. This man has paid this amount of money out of his own pocket, and he ought to have his pay; and if the Senate is too small to give it to him, then I think we had better adhere and take up a collection. (Applause.)

The question being on the motion that the House adhere to its action in the passage of the resolve to be engrossed,

A viva voce vote being taken,

The motion was agreed to.

Resolve in favor of appropriating money to assist in freeing the Portsmouth bridge.

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

Mr. Mitchell of Kittery moved that the House adhere to its former action in the passage of the resolve to be engrossed.

A viva voce vote being taken,

The motion was agreed to.

Passed to Be Enacted.

An act to appropriate moneys for the expenditures of government for the year 1913.

The committee on appropriations and financial affairs submitted their final report, that all matters submitted to them have been acted upon.

The report was accepted.

Finally Passed.

Resolve for the payment of expenses incurred on the joint address of the Legislature to the Governor for the removal of certain county officers.

THE SPEAKER: The Chair will lay before the House bill, an act to appropriate moneys for the expenditures of government and to provide for certain deficiencies remaining unpaid January 1st, 1913.

This bill carries the emergency clause and on its passage to be enacted requires the vote of two-thirds of the members elected to this House, or 101 votes. All those in favor of the passage of this bill to be enacted will rise in their places and stand until counted.

One hundred and two having voted in favor and none opposed,

The bill was passed to be enacted.

On motion by Mr. Scates of Westrook, order requesting Mr. Newbert of Augusta to furnish the names of all witnesses and whatever documents he might have in support of the charges he made against the sheriffs of Penobscot and Sagadahoc counties, was taken from the table, and on further motion by Mr. Scates the order was indefinitely postponed.

On motion by Mr. Newbert of Augusta, order in relation to the appointment of a special committee to investigate cases pending against sheriffs of Knox, Penobscot and Androscoggin counties, was taken from the table, and on further motion by Mr. Newbert the order was indefinitely postponed.

On motion by Mr. Thombs of Lincoln report of the committee on legal affairs to which was referred bill, entitled "An Act requiring safeguards for the protection of all persons employed or laboring in manufacturing establishments, and providing civil remedies, for all persons so engaged, or their personal representatives, in cases where any such person may be killed or injured while employed or laboring in any manufacturing establishment which is not properly provided with the safeguards required by this act," reporting "ought not to pass," was taken from the table, and on further motion by Mr. Thombs the bill was indefinitely postponed.

On motion by Mr. Scates of Westbrook resolve providing for an amendment to the Constitution was taken from the ta-

ble, and on further motion by Mr. Scates the resolve was indefinitely postponed.

The SPEAKER: The Chair is requested to direct the members of the House to leave their keys with the messenger before they leave the House tonight.

On motion by Mr. Austin of Phillipe the House voted to take a recess until half nine o'clock in the evening.

After Recess.

Passed to Be Enacted.

An Act to provide for the payment of salaries and mileage of members and officers and for other expenditures incident to the 76th Legislature.

An Ace to amend Section 11 of Chapter 116 of the Revised Statutes, as amended by Section 1 of Chapter 53 of the Public 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.

An Act to appropriate moneys for the expenditures of government for the year 1914.

An Act for the assessment of a State tax for the year 1914.

Finally Passed.

Resolve in favor of members and officers of the Senate of the 76th Legislature.

Resolve in favor of State House employes.

Resolve in favor of James L. Bresnahan, for services as messenger to the Speaker of the House.

Resolve on the pay roll of the House.

The SPEAKER: The Chair will lay before the House bill, An Act for the assessment of a State tax for the year 1913. This bill carries the emergency clause and on its passage to be enacted requires the vote of two-thirds of the members elected to this House, or 101 votes. All those in favor of the passage of the bill to be enacted, will rise in their places and stand until counted.

One hundred and eighteen having voted in favor and none opposed,

The bill was passed to be enacted.

From the Senate: Order concerning committee to investigate the workmen's compensation laws of other states and report to the next Legislature by bill or otherwise.

In the House this order received a passage, and came from the Senate in that branch indefinitely postponed in nonconcurrence.

On motion by Mr. Mitchell of Kittery the House voted to adhere to its action in the passage of the order.

From the Senate: Ordered, the House concurring, that when the Senate and House adjourn it be to meet on Tuesday, April 22nd, 1913, at 10 o'clock in the forenoon.

Mr. SMITH of Presque Isle: Mr. Speaker, 15 weeks we have been here, a long time, and a strenuous session. We are all tired out, and not only that but we have got something else to do, or at least some of us have, besides sitting here and trying out more rum cases; and if this order had not come from that great and dignified body in yonder chamber I should almost regard it as an imposition upon this House; I therefore move that the order be indefinitely postponed.

Mr. O'CONNELL of Milford: Mr. Speaker, I think the gentleman from Presque Isle (Mr. Smith) has expressed the sentiment of this House. We have been here, as he states, 15 weeks next Tuesday, and during the last three weeks some of us have been here almost day and night. I have something else to do besides sitting here and hearing about the Hollywood and other places, and I think we should adjourn until some time next fall.

Mr. SCATES of Westbrook: Mr. Speaker, I think myself that the order is an outrage upon every member of this Legislature. This has already been the longest session that this Legislature has ever convened in the State of Maine since 1820. But what is behind the order? It is expected, as I understand it, in the Senate that we will kill this order, and then there is something coming in later, either from the Senate or from the Chief Executive; and when that comes in we want to amend it, and amendments will be offered to it. I am perfectly willing for one to stay here all this summer and try out every rum case in the State of Maine, from Aroostook

county to Kittery; and if the administration or the Honorable Senate wants to have rum, let's have rum from now until next election time.

Mr. NEWBERT of Augusta: Mr. Speaker, possibly some of the members here can enlighten us in regard to the origin of this remarkable order. Is the Governor behind it? Does he want it? Does it come from the Senate, backed by the administration? I think this House would like to be enlightened upon its origin. Some one seems to have gone mad in this State. If not some one, then perhaps many, on this question of county officials. And where shall we stop? I live in Augusta, and I can come up here; others live far away. Is there any member here who can enlighten us, and if so I would like to have him do so.

Mr. O'CONNELL of Milford: Mr. Speaker, I will say in reply to the gentleman from Augusta (Mr. Newbert) that I will stop here if they want us to, but why can't a special session be called? I think it is about time to stop now. We have stayed here now three weeks longer than necessary, and if they are selling any rum why can't you find it out and call us over here next fall? I have something else to do besides staying here, and if they call another session and want us, let them pay us for it.

Mr. COOK of Vassalboro: Mr. Speaker, I agree with the motion of the gentleman from Presque Isle (Mr. Smith) but of course it is not best to get mad about it.

Mr. AUSTIN of Phillips: Mr. Speaker, I will say for the information of the gentleman from Augusta (Mr. Newbert) and I will state all the information that I have or can get upon this order. I was told by what I considered the best of authority that this order is something that has been incubated since we took a recess this afternoon for supper; and I think I can truthfully say that it comes from certain members in the upper branch who no doubt think they are working for the best interests of the State. I do not think this is an administration measure, and I think can say truthfully that the order has been put in and received its passage in the Senate without consultation with the Governor. I state the facts as they are personally known to me, from what I think is to the best of my knowledge and belief. Nothing further about the matter do I know, and I am frank to say that I was considerably discouraged about it.

Mr. SMITH of Patten: Mr. Speaker, I think I am able to confirm what the gentleman from Phillips (Mr. Austin) has said. I do not understand that it came from the Governor or at any request of his. I think it is something that was conceived by the members of the Senate since recess was taken this afternoon.

Mr. DURGIN of Milo: Mr. Speaker, I don't know that I am opposed to the motion of the gentleman from Presque Isle (Mr. Smith) but the thing that surprises me is that we should all express ignorance of what the order means. I supposed everybody knew that there were a certain number of resolves for the trial of a certain number of delinquent sheriffs, and that one of them had not been tried. I suppose that is what this means, that we should come back to finish up the slate.

Mr. SCATES of Westbrook: I will simply say for the information of the House that if we start into this question there will be no end to it. Certain members of the House have had resolves in their pockets for some time wanting to introduce them, but realizing the condition of the members and the extreme length of the session, they have refrained from doing it. Nothing would please me any better than to wash this thing right out. Now if you will try one you won't stop there. The evidence is all here from the several counties and I should like to have it put in and we want it put in; but I think owing to the extreme length of the session the people want to get home and for that consideration alone we have refrained from doing it.

Mr. WHEELER of Paris: Mr. Speaker and gentlemen of the House, apparently we are all of one mind. Let us vote down this proposition and indefinitely postpone it but let us go on record as being willing to perform now or at any time our full patriotic duty in this matter. We may be sure that

if the situation warrants it the Governor will summon this Legislature in a special session for the purpose of disposing of the pending order or any other condition that he may discover by his investigation anywhere in the State of Maine; and I assume from conversation with members that if we are so summoned in extraordinary session we shall come back here cheerfully, perform our duties but the point we are all agreed on now is that it is time for us to adjourn and go home and put our affairs in shape and attend to the business which each and every one has and let this matter come along in its proper and orderly course. (Applause)

The question being on the motion by Mr. Smith of Presque Isle that this order be indefinitely postponed,

A viva voce vote being taken,

The motion was agreed and the order was indefinitely postponed.

Report of the committee on the disagreeing action of the two branches of the Legislature on House Document No. 225 and Senate Document No. 670 bill, an act to compel certain vehicles to carry lights at night on public highways and bridges, reporting in new draft and that it "ought to pass."

In the House this report was referred to the next Legislature, and came from the Senate in that branch indefinitely postponed.

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

Report of the committee of conference on bill,. an act providing for the inspection of bakeries and confectioneries, reporting that they cannot agree.

On motion by Mr. Boman of Vinalhaven the report was accepted and on further motion by Mr. Boman the House voted to adhere to its former action.

On motion by Mr. Marston of Skowhegan the House voted to take a recess for 10 minutes.

After Recess.

From the Senate: Ordered, the House concurring, that a joint special committee be appointed to consist of three on the part of the Senate and seven on the part of the House to inquire forthwith into the conditions as to the enforcement of the prohibitory law by the sheroff of the county of Knox since January 1st, 1913, and to report their findings to the Governor with such recommendations as such committee may deem expedient; said committee shall have authority to employ counsel and a stenographer, summon witnesses and to compel the production of books, documents and papers.

Mr. SMITH of Patten: Mr. Speaker, as has been stated before this evening, we have had some days now of trials and investigations, and as one member of this House has remarked within a few moments that we were prevented from investigating the case of the sheriff of the county of Knox by reason of conditions over which we have no control. Now I do not believe that there is any necessity of an investigating committee to investigate conditions in the county of Knox and report to the Governor. I believe in regard to investigations of this sort that the best investigating committee you can have is the citizenship of the county Now under the conditions that are existing here we can all rest safely assured that if there is any information in regard to the situation in Knox county it will be furnished to the Governor, and he can obtain it without the aid of a junketing committee; and if upon that condition being learned the Governor deems it expedient he can at that time call a special session of the Legislature to act upon it. That is all he could do if he had a hundred investigations. The order seems to me to be entirely useless. You are starting in motion a useless piece of machinery to send a commission or committee down into that county to find out something that you can find out just as well without doing that. It was suggested to a member of the House by a member of the Senate that some of us gentlemen were trying to dodge something. I don't believe the members of this House are trying to dodge anything in this matter, or that they will, and I rather resent the imputation. Anyhow, that is not the point under discussion which is the expediency of passing this order, and I say I don't think it is necessary; I believe it is use-

less and I move that it be indefinitely postponed. (Applause.)

Mr. SMITH of Presque Isle: Mr. Speaker, I want to second the motion of the gentleman from Patten (Mr. Smith) and that, too, in face of the fact that I understand I am one of the members of this House named by gentlemen over in the Senate as one of the members who are trying to dodge something. I submit to this House that in the 15 weeks I have been here that there is no matter or measure that I have dodged. I never was a dodger; I am always willing to come right up into the column every time, and I agree with the gentleman from Patten (Mr. Smith) that this order would be useless; and for that reason I hope it will be indefinitely postponed.

Mr. SCATES of Westbrook: Mr. Speaker, I resent the action of the Senate in designating any of the members of this House as liquor spotters and making it their business. I don't think that these actions brought here ever ought to have come here, the first one or the last one because there is a law which is provided for cases like this. If a sheriff or a county attorney does not do his duty he can be brought into court and tried within the solemn walls of a court house, with a justice on the bench who can give to the jury there the law in regard to the case; there is where all these proceedings should have been begun. The sheriff and the mayor and the county attorney could there get justice free from any political bias, and as I say, there is where all these cases should have been brought.

The question being on the motion by Mr. Smith of Patten that the order be indefinitely postponed,

A viva voce vote being taken,

The motion was agreed to, and the order was indefinitely postponed.

The SPEAKER: The Chair will state that under certain orders passed by the two branches of the Legislature certain committees are to be appointed.

The committee on Presidential primaries. In the Senate Messrs. Hersey of Aroostook and Morey of Androscoggin have been appointed. The Speaker joins on the part of the House, Messrs. Wheeler of Paris, Dunton of Belfast and Thombs of Lincoln.

Committee on State School for Boys and Industrial School for Girls. In the Senate, Messrs. Allen of Kennebec and Murphy of Cumberland have been appointed. The Speaker joins on the part of the House, Messrs. Jones of China, Nute of Wiscasset and Donovan of Lewiston.

Committee on salaries and fees. In the Senate, Messrs. Wing of Franklin, Boynton of Lincoln and Conant of Waldo have been appointed. The Speaker joins on the part of the House, Messrs. Sanborn of South Portland, Durgin of Milo, Putnam of Houlton and Mitchell of Newport.

On motion by Mr. Mitchell of Kittery, that gentleman was appointed a committee to notify the Senate that the House had transacted all business before it and was ready to adjourn without day.

On motion by Mr. Packard of Newburg, the House voted to take a recess for three minutes.

After Recess.

Mr. Mitchell of Kittery reported that he had delivered the message with which he was charged.

THE SPEAKER: In the matter of Senate order for the appointment of a special committee to investigate the enforcement of the prohibitory law in the county of Knox by the sheriff, which order was passed by the Senate and in House indefinitely postponed, the Senate now insists upon its former action and asks for a committee of conference, having appointed upon that committee Senators Stearns, Wing and Maxwell.

Mr. Smith of Patten moved that the House adhere.

Mr. Smith of Presque Isle seconded the motion.

The question being on the motion that the House adhere to its former action in the indefinite postponement of the order,

A viva voce vote being taken,

The motion was agreed to.

On motion by Mr. Packard of Newburg, the House voted to take a recess for three minutes.

After Recess.

A message was received from the Senate through Senator Colby of Somerset,

informing the House that the Senate had transacted all business before it and was ready to adjourn without day.

The following order was received from the Senate:

Ordered, that a committee of three on the part of the Senate, with such as the House may join, be appointed to wait upon the Governor and inform him that asks for a committee of conference, have acted upon all matters before them, are now ready to receive any communication he may be pleased to make.

The order received a passage in concurrence.

The Speaker joined on said committee on the part of the House Messrs. Austin of Phillips, Newbert of Augusta, Scates of Westbrook, Wheeler of Paris and Putnam of Houlton.

Subsequently Mr. Austin for the committee reported that the committee had attended to the duties assigned it, and that the Governor would soon communicate with the House through the secretary of state a list of the bills and resolves passed during the present session of the Legislature, and that he had no further communication to make with the exception of his final message.

Thereupon the secretary of State, Hon. Joseph E. Alexander, came in and laid before the House a communication from the Governor transmitting a list of the acts and resolves passed during the present session of the Legislature and approved by him, numbering 462 acts and 369 resolves.

The communication was read by the Speaker.

(For full text of communication see Senate Report.)

On motion by Mr. Wheeler of Paris the communication was then placed on file.

On motion by Mr. Newbert of Augusta, the Speaker then declared the House adjourned without day.