

The Sumter Banner.

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"God—and our Native Land."

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The Maine Liquor Law.

AN ACT FOR THE SUPPRESSION OF DRINKING-HOUSES AND TIPPING-SHOPS. Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECTION 1. No person shall be allowed at any time to manufacture or sell, by himself, his clerk, servant or agent, directly or indirectly, any spirituous or intoxicating liquors, or any mixed liquors, a part of which is spirituous or intoxicating, except as hereafter provided.

SEC. 2. The selection of any town, and mayor and aldermen of any city, on the first Monday of May annually, or as soon thereafter as may be convenient, may appoint some suitable person as the agent of said town or city, to sell at some central or convenient place within said town or city, spirits, wines, or other intoxicating liquors, to be used for medicinal and mechanical purposes and no other; and said agent shall receive such compensation for his services as the board appointing him shall prescribe; and shall in the sale of such liquors, conform to such rules and regulations as the selectmen or mayor and aldermen as aforesaid, shall prescribe for that purpose. And such agent, appointed as aforesaid, shall hold his situation for one year, unless sooner removed by the board from which received his appointment, as he may be at any time, at the pleasure of the board.

SEC. 3. Such agent shall receive a certificate from the mayor and aldermen, or selectmen, by whom he has been appointed, authorising him as the agent of such town or city, to sell intoxicating liquors for medicinal and mechanical purposes only; but such certificate shall not be delivered to the person appointed, until he shall have

livered to said board a bond, with two good and sufficient sureties, in the sum of six hundred dollars, in substance as follows: Know all men, that we, — as principal, and — as sureties, are bound and stand firmly bound to the inhabitants of the town of — (or city, as the case may be), in the sum of six hundred dollars, to be paid them, to which payment we bind ourselves, our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this — day of A. D. —.

The condition of this obligation is such, that whereas the above bounden — has been duly appointed agent for the town (or city) of — to sell, within and for and on account of said town (or city), intoxicating liquors for medicinal and mechanical purposes and no other, until the — of — A. D. —, unless sooner removed from said agency.

Now if the said — shall in all respects conform to the provisions of the law relating to the business for which he is appointed, and to such rules and regulations as now are or shall be from time to time established by the board making the appointment then this obligation to be void; otherwise to remain in full force.

SEC. 4. If any person, by himself, clerk, servant or agent, shall at any time sell any spirituous or intoxicating liquors, or any mixed liquors, part of which is intoxicating, in violation of the provisions of this act, he shall forfeit and pay on the first conviction, ten dollars and the costs of prosecution, and shall stand committed until the same be paid; on the second conviction he shall pay twenty dollars and the costs of prosecution, and shall stand committed until the same be paid; on the third and every subsequent conviction, he shall pay twenty dollars and the costs of prosecution, and shall be imprisoned in the common jail, not less than three months, nor more than six months, and in default of the payment of the fines and costs prescribed by this section for the first and second convictions, the convict shall not be entitled to the benefit of chapter 175 of the revised statutes until he shall have been imprisoned two months; and in default of payment of fines and costs provided for the third and every subsequent conviction, he shall not be entitled to the benefit of said chapter 175 of the revised statutes, until he shall have been imprisoned four months. And if any clerk, servant, agent, or other person in the employment or on the premises of another, shall violate the provisions of this section, he

shall be held equally with the principal, and on conviction shall suffer the same penalty.

SEC. 5. Any forfeiture or penalty arising under the above section, may be recovered by an action of debt, or by complaint before any justice of the peace, or judge of any municipal or police court, in the county where the offence was committed. And the forfeiture so recovered shall go to the town where the convicted party resides, for the use of the poor; and the prosecutor or complainant may be admitted as a witness in the trial. And if any one of the selectmen or board of mayor and aldermen shall approve of the commencement of any such suit, by endorsing his name upon the writ, the defendant shall in no event recover any costs; and in all actions of debt arising under this section, the fines and forfeitures suffered by the defendant, shall be the defendant, shall be the same as if the action had been by complaint. And it shall be the duty of the mayor and aldermen of any city, and selectmen of any town, to commence an action in behalf of said town or city, against any person guilty of a violation of any of the provisions of this act, on being informed of the same, and being furnished with proof of the fact.

SEC. 6. If any person shall claim an appeal from a judgment rendered against him by any judge or justice, on the trial of such action or complaint, he shall, before the appeal shall be allowed, recognise in the sum of one hundred dollars, with two good and sufficient sureties, in every case so appealed, to prosecute his appeal, and to pay all costs, fines and penalties that may be awarded against him, upon a final disposition of such appeal or complaint. And before his appeal shall be allowed, he shall also, in every case, give a bond with two other good and sufficient sureties, running to the town or city where the offence was committed, in the sum of two hundred dollars, that he will not, during the pendency of such appeal, violate any of the provisions of this act. And no recognizance or bond shall be taken in cases arising under this act, except by justice or judge before whom the trial was had; and the defendant shall be held to advance the jury fees in every case of appeal in action of debt; and in the event of a final conviction before a jury, the defendant shall pay and suffer double the amount of fines, penalties and imprisonment awarded against him by the justice or judge from whose judgment the appeal was made. The forfeiture for all bonds and recognizances given in pursuance of this act, shall go to the town or city where the offence was committed, for the use of the poor; and if the recognizances and bonds mentioned in this section shall not be given within twenty-four hours after the judgment, the appeal shall not be allowed; the defendant in the meantime to stand committed.

SEC. 7. The mayor and aldermen of any city, and the selectmen of any town, whenever complaint shall be made to them that a breach of the conditions of the bond given by any person appointed under this act, has been committed, shall notify the person complained, and if upon a hearing of the parties it shall appear that any breach has been committed, they shall revoke and make void his appointment. And whenever a breach of any bond given to the inhabitants of any city or town in pursuance of any of the provisions of this act, shall be made known to the mayor and aldermen, or selectmen, or shall in any manner come to their knowledge, they or some of them shall, at the expense and for the use of such city or town, cause the bond to be put in suit in any court proper to try the same.

SEC. 8. No person shall be allowed to be a manufacturer of any spirituous or intoxicating liquor, or common seller thereof without being duly appointed as aforesaid, on pain of forfeiting on the first conviction, the sum of one hundred dollars and costs of prosecution, and in default of the payment thereof, the person so convicted shall be imprisoned sixty days in the common jail; and on the second conviction, the person so convicted shall pay the sum of two hundred dollars and costs of prosecution, and in default of payment, shall be imprisoned four months in the com-

mon jail; and on the third and every subsequent conviction, shall pay the sum of two hundred dollars, and shall be imprisoned four months in the common jail of the county where the offence was committed; said penalties to be recovered before any court of competent jurisdiction, by indictment, or any action of debt in the name of the city or town where the offence shall be committed. And whenever a default shall be had of any recognizances arising under this act, scire facias shall be issued, returnable at the next term, and the same shall not be continued, unless for good cause, satisfactory to the court.

SEC. 9. No person engaged in the unlawful traffic in intoxicating liquors shall be competent to sit upon any jury in any case arising from this act, and when information shall be communicated to the court, that any member of any panel is engaged in such traffic, or that he is believed to be so engaged, the court shall inquire of the jurymen of whom such belief is entertained; and no answer which he shall make shall be used against him in any case arising under this act; but if he shall answer falsely, he shall be incapable of serving on any jury in this State; but he may decline to answer, in which case he shall be discharged by the court from all further attendance as a jurymen.

SEC. 10. All cases arising under this act, whether by action, indictment or complaint, which shall come before a superior court, either by appeal or original entry, shall take precedence in said court of all other business, except those criminal cases in which the parties are actually under arrest awaiting a trial; and the prosecuting officer shall not have authority to enter a nolle prosequi, or to grant a continuance in any case arising under this act, either before or after the verdict, except where the purposes of justice shall require it.

SEC. 11. If any three persons, voters in the town or city where the complaint shall be made, shall, before any justice of the peace or judge of municipal or police court, make complaint under oath or affirmation, that they have reason to believe, and do believe, that spirituous or intoxicating liquors are kept or deposited, and intended for sale, by any person not authorized to sell the same in said city or town, said justice or judge shall issue his warrant of search to any sheriff, city marshal or deputy, or to any constable, who shall proceed to search the premises described in said warrant, and if any spirituous or intoxicating liquors are found therein, he shall seize the same, and convey them to some proper place of security, where he shall keep them until final action is had thereon. But no dwelling-house, in which or in part of which, a shop is not kept, shall be searched, unless at least one of said complainants shall testify to some acts of sale of intoxicating liquors therein, by the occupant thereof, or by his counsel or permission, within at least one month of the time making said complaint. And the owner or keeper of said liquors, seized as aforesaid, if he shall be known to the officer seizing the same, shall be summoned forthwith before the justice or judge by whose warrant the liquors were seized, and if he fails to appear, or unless he can show by positive proof, that said liquors are of foreign production, that they have been imported under the laws of the United States, and in accordance therewith—that they are contained in the original packages in which they were imported, and in quantities not less than the laws of the United States prescribe, they shall be declared forfeited, and shall be destroyed by authority of the written order to that effect, of said justice or judge, and in his presence, or in the presence of some person appointed by him, to witness the destruction thereof, and who shall join with the officer by whom they shall have been destroyed, in attesting that fact upon the back of the order by authority of which it was done; and the owner or keeper of such liquors shall pay a fine of twenty dollars and costs, or stand committed for thirty days, in default of payment, if in the opinion of the court, said liquors shall have been kept or deposited for the purposes of sale. And if the owner or possessor of any liquors seized in pursuance of this section, shall set up the claim that they have been

regularly imported under the laws of the United States, and that they are contained in the original packages, the custom-house certificates of importation and proofs of marks on the casks or packages, corresponding thereto, shall not be received as evidence that the liquors contained in said packages are those actually imported therein.

SEC. 12. If the owner, keeper or possessor of liquors seized under the provisions of this act, shall be unknown to the officer seizing the same, they shall not be condemned and destroyed until they shall have been advertised, with the number and description of the packages as near as may be, for two weeks, by posting up a written description of the same in some public place; that if such liquors are actually the property of any city or town in the State, and were so at the time of the seizure, purchased for sale by the agent of said city or town, for medicinal or mechanical purposes only, in pursuance of the provisions of this act, they may not be destroyed; but upon satisfactory proof of such ownership, within said two weeks, before the justice or judge by whose authority said liquors were seized, said justice or judge shall deliver to the agent of said city or town, an order to the officer having said liquors in custody, whereupon said officer shall deliver them to said agent, taking his receipt therefor on the back of said order, which shall be returned to said justice or judge.

SEC. 13. If any person claiming any liquors seized as aforesaid, shall appeal from the judgment of any justice or judge, by whose authority the seizure was made, to the district court, before his appeal shall be allowed, he shall give a bond in the sum of two hundred dollars, with two good and sufficient sureties, to prosecute his appeal, and to pay all fines and costs which may be awarded against him; and in the case of any such appeal, where the quantity of liquors so seized shall exceed five gallons, if the final decision shall be against the appellant, that such liquors were intended by him for sale, he shall be adjudged by the court a common seller of intoxicating liquors, and shall be subject to the penalties provided for in section eight of this act; and said liquors shall be destroyed, but nothing contained in this act shall be construed to prevent any chemist, artist or manufacturer, in whose art or trade they may be necessary, from keeping at his place of business such reasonable and proper quantity of distilled liquors as he may have occasion to use in his art or trade, but not for sale.

SEC. 14. It shall be the duty of any mayor, alderman, selectman, assessor, city marshal or deputy or constable; if he shall have information that any intoxicating liquors are kept or sold in any tent, shanty, hut or place of any kind for selling refreshments in any public place, on or near the ground of any cattle show, agricultural exhibition, military muster, or public occasion of any kind, to search such suspected place, and if such officer shall find upon the premises any intoxicating drinks, he shall seize them, and arrest the keeper or keepers of such place, and take them forthwith, or as soon as may be, before some justice or judge of a municipal or police court, with the liquors so found and seized, and upon proof that said liquors are intoxicating, that they were found in possession of the accused, in a tent, shanty or other place as aforesaid, he or they shall be sentenced to imprisonment in the county jail for thirty days, and the liquor so seized shall be destroyed by order of said justice or judge.

SEC. 15. If any person arrested under the preceding section, and sentenced as aforesaid, shall claim an appeal, before his appeal shall be allowed, he shall give a bond in the sum of one hundred dollars, with two good and sufficient sureties, that he will prosecute his appeal, and pay all fines, costs and penalties which may be awarded against him. And if on such appeal, the verdict of the jury be against him, he shall, in addition to the penalty awarded by the lower court, pay a fine of twenty dollars. In all cases of appeal under this act, from the judgment of a justice or judge of any municipal or police court, to the district court, except where the proceeding is by action of debt, they shall be conducted in said

district court by the prosecuting officer of the government—and said officer shall be entitled to receive all costs taxable to the State, in all criminal proceedings under their act, in addition to the salary allowed to such officer by law—but no costs in such cases shall be remitted or reduced by the prosecuting officer or the court. In any suit, complaint, indictment or other proceeding against any person for a violation of any of the provisions of this act, other than for the first offence, it shall not be requisite to set forth particularly the record of a former conviction, but it shall be sufficient to allege briefly that such person has been convicted of a violation of the fourth section of this act, or as a common seller, as the case may be, and such allegation in any civil or criminal process in any stage of the proceedings, before final judgment, may be amended without terms and as a matter of right.

SEC. 16. All payments or compensations for liquor sold in violation of law, whether in money, labor or other property, either real or personal, shall be held and considered to have been received in violation of law, equity and a good conscience, and all sales, transfers and conveyances, mortgages, liens, attachments, pledges and securities of every kind, which either in whole or in part shall have been for or on account of spirituous or intoxicating liquors, shall be utterly null and void against all persons and in all cases, and no rights of any kind shall be acquired thereby; and in any action either at law or equity, touching such real or personal estate, the purchaser of such liquors may be a witness for either party. And no action of any kind shall be maintained in any court in this State, either in whole or in part, for intoxicating or spirituous liquors sold in any other State or county whatever, nor shall any action of any kind be had or maintained in any court in this State, for the recovery or possession of intoxicating or spirituous liquors or the value thereof.

SEC. 17. All the provisions of this act relating to towns shall be applicable to cities and plantations; and those relating to selectmen shall also be applied to the mayor and aldermen of cities and assessors of plantations.

SEC. 18. The act entitled "An Act to restrict the sale of intoxicating drinks," approved August sixth, one thousand eight hundred and forty-six, is hereby repealed, except the thirteen sections, from section ten to section twenty-two inclusive, saving or reserving all actions or other proceedings, which are already commenced by authority of the same; and all other acts and parts of acts inconsistent with this act are hereby repealed.—This act to take effect from after its approval by the governor.

Unrepealed Sections of the Old Law. The following are the unrepealed sections of the Law of 1846, referred to in the last section of the new law.

SEC. 10. No action shall be maintained upon any claim or demand, whether it be note, account, bond, order, draft, acceptance, or other security or evidence whatever, made, had, or given in whole or in part, for any wine, brandy, rum or other strong or spirituous liquors, or mixed liquors, a part of which is spirituous, sold in violation of the provisions of this act; provided, however, that this section shall not extend to negotiable paper in the hands of holders bona fide, and for a valuable consideration, without notice expressed or implied, of the consideration.

SEC. 11. If any payment or compensation for any such liquor hereafter sold, in violation of law, shall be received by the seller, his clerk, servant, agent or attorney, whether in money, labor, or other property, real or personal, the amount so received shall be held and considered to have been received in violation of law and without consideration, and held against law and equity and good conscience, and may be recovered back, any time within six years from the receiving thereof, by the purchaser, his guardian, executor, or administrators, or by any of his creditors, such money in an action for money had any received, and such labor, goods or other property in an action

of trover, or in a special action on the case, for the value thereof; in any court proper to try the same; and the plaintiff in such action shall, within three days after the commencement of such suit, give notice thereof, by filling an abstract of the declaration with the date of his writ, in the office of the clerk of the town where the defendant resides. And when such suit shall be commenced by a creditor, the purchaser may be a witness for the plaintiff, at the trial of the action, and such actions and cause of action shall survive.

SEC. 12. All payment received within the six years, may be embraced in one general count, and shall allege that the money, or other thing, was received by the defendant, for liquor sold in violation of law, and amendments may be made to the writ and declaration, as matter of right, and without terms, in any stage of the proceedings. And when the defendant shall rely upon having the legal license, or upon the liquor sold having been imported, the burden of proof shall be and continue upon him. The custom-house certificates of importation and proofs of marks on the cask corresponding thereto, may be received as evidence that the liquor specified in said certificate was once imported in said cask, but shall not be evidence that the liquor sold in or from such cask was the same liquor once imported therein. And it shall be no objection to the suit, that the payment was received for the joint use of the defendant and any other person or persons, or that the defendant was under the age of twenty-one years, or a married woman.

SEC. 13. When the money or other thing shall have been received, by any clerk, servant, agent or attorney, the action may be maintained against him, if he had knowledge or previous notice that it was for liquor sold in violation of law. And if any action which is authorized by this act, be brought in the district court, the plaintiff prevail therein, full costs shall be allowed, though the amount of damages recovered be less than twenty dollars.

SEC. 14. The defendant shall not be allowed, on the trial of any action against him, under any of the provisions of this act, any claims or demands he may have against the plaintiff or person to whom the liquor was sold or furnished, either in set off, payment or otherwise; nor shall the action of any creditor be defeated by any assignment of the claim by the purchaser.

SEC. 15. No discharge, release, receipt, settlement or admission made by a purchaser, shall defeat or hinder the suit, if it appear that the claim allowed to the purchaser by this act has not been actually paid in good faith, to its full value and amount; and the giving a negotiable note or other obligation, shall not be deemed a payment.

SEC. 16. Any plaintiff suing under the eleventh section of this act, may, at the trial, tender his oath in writing, which shall be received as evidence, unless the defendant shall in writing make oath that he did not, within six years before the commencement of the suit, receive any payment or compensation, for any such wine or strong liquor sold to the plaintiff, or to any person whom the plaintiff represents, contrary to the provisions of the law, as alleged in the declaration.

SEC. 17. When a plaintiff suing under any of the provisions of this act, in order to prove the facts which he has alleged, shall wish to avail himself of the defendant's knowledge, relating to the subsequent matter of the suit, he may, in his declaration, ask for a disclosure of the same upon the oath of the defendant, in writing, and the disclosure, if made, at the first term of the court, or day appointed for the trial, may be submitted to the court or jury with the other evidence in the case; but if the defendant neglects or refuses to make such disclosures, or if, when made, it does not absolutely and without qualification deny that he did sell the liquor and receive the money or other property therefor, as alleged in the declaration, and prevails in the action, he shall not receive any costs.

SEC. 18. No answers or disclosures made by a defendant under the provisions of this act, shall ever be used

against him in any penal action or criminal prosecution.

SEC. 19. Moneys which are by this act to be recovered back, may, when recovered by a guardian, executor or administrator, be applied at the discretion of the guardian, executor or administrator, in whole or in part, to meet the debts of the purchaser, or to relieve his wife or widow and children, and parents, in such proportions as the guardian, executor or administrators may deem suitable, and when recovered by a creditor, it shall be appropriated to the payment of his debt against the purchaser and his costs; and if any balance remains, it shall be paid to the purchaser; his guardian, executor or administrator to be appropriated by them, in the same manner as moneys recovered under this act by them; And if any guardian, executor or administrator, neglect to pay all said moneys, he and his sureties shall be liable for the same on his official bond.

SEC. 20. Whenever a judgment shall be recovered against any person on account of a violation of this act, the execution which shall be issued thereon, shall run against the body of the execution debtor, whether the amount recovered exclusive of costs, be more or less than ten dollars; and the justice or clerk issuing said execution, shall note on its margin that it was issued on a judgment obtained on account of intoxicating liquors sold in violation of law.

SEC. 21. If such execution debtor shall be arrested on such execution, he shall be committed to prison, and shall not be permitted to give any of the bonds provided in the 14th chapter of the Revised Statutes for the liberation of his person. And in case he shall apply to take the oath described in the twenty-eighth section of said chapter, no notice to the creditor shall be issued until fifteen days after the commitment. Provided, however, that no person shall be imprisoned on more than one warrant issued upon any judgment, recovered on account of the violation of the provisions of this act, at the same time.

SEC. 22. The keepers of the prisons shall be entitled to receive the same compensation now allowed by law for the support of poor debtors imprisoned, for the support of persons committed on execution, recovered under the provisions of this act, to be allowed and paid out of the treasury of the county where such persons stand committed, under the direction of the county commissioners.

The Working of the Law. From the Quarterly Report of the Mayor of Portland.

MAYOR'S OFFICE, Sept., 1851. To the Citizens of Portland. The 'Act for the Suppression of Drinking-Houses and Tipping-Shops' passed at the last session of the Legislature, has been in operation in this city for about three months, and I think it proper to give the people of Portland some definite information of its results.

At the time of its passage there were supposed to be in this city from 200 to 300 shops and other places where intoxicating liquors were sold to all comers. At the present time there are no places where such liquors are sold openly, and only a few where they are sold at all, and that with great caution and secrecy, and only to those who are personally known to the keepers, and who can be relied upon not to betray them to the authorities. These places, with one (possibly with two) exceptions, are of the lowest character; and so far as they sell these liquors at all, minister to the depraved appetites of the basest part of our population; but the keepers of these places will soon be brought to justice, so that the traffic in intoxicating liquors, to be used as a drink, will be entirely extinguished in this city. The shops which I allude to are kept almost exclusively by foreigners, and the few persons who are now brought to the lock-up in the watch-house, are the customers of these places, and are themselves foreigners almost without exception. The stock of liquors which the keepers of these places had on hand when the law went into operation will soon be exhausted, and some difficulty will be found by them in replenishing their stores, as the law will enable us to stop entirely the supplies of these liquors, which have hitherto been received principally by railroad and steamboat.

All these persons who are now selling these liquors unlawfully in
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