

The Dispensary Law, continued.

sell to no person in this State, except the State Commissioner, and to parties outside the State, and the State Commissioner shall purchase his supplies from brewers and distillers in this State, where their product reaches the standard required by this Act: Provided, Such supplies can be purchased as cheaply there as elsewhere. Every package, barrel, or bottle of such liquors shipped beyond the limits of this State shall have thereon the certificate of the State Commissioner allowing the same, otherwise it shall be liable to confiscation, and the railroad carrying it shall be punished as in Section 3: And provided, That any person shall have the right to make wine for his or her own use from grapes or other fruits.

Sec. 16. Every Dispenser shall keep a strict account of all liquors received by him from the State Commissioner, in a book kept for that purpose, which shall be subject at all times to the inspection of the Circuit Solicitor, any peace officer or grand juror of the county, or of any citizen, and such book shall show the amount and kind of liquors procured, the date of receipt and amount sold, and the amount on hand of each kind for each month. Such book shall be produced by the party keeping the same, to be used as evidence on trial of any prosecution against him, on notice duly served that the same will be required as evidence.

Sec. 17. The payment of the United States special tax as a liquor seller, or notice of any kind in any place of resort, or in any store or shop, indicating that alcoholic liquors are there sold, kept or given away, shall be held to be prima facie evidence that the person or persons paying said tax and the parties displaying such notices are acting in violation of this Act, and unless said person or parties are selling under permit as prescribed by this Act they shall be punished by a fine not exceeding \$100 or imprisonment not more than thirty days.

Sec. 18. Licensed druggists conducting drug stores and manufacturers of proprietary medicines are hereby authorized to purchase of Dispensaries of the counties of their residence intoxicating liquors (not including malt) for the purpose of compounding medicines, tinctures and extracts that cannot be used as a beverage. The Dispensary shall not charge such licensed druggists more than ten per cent. net profit for liquors so sold. Such purchaser shall keep a record of the uses to which the same are devoted, giving the kind and quantity so used, and quarterly they shall make and file with the County Auditor and with the County Board of Control sworn reports, giving a full and true statement of the quantity and kind of such liquors purchased and used, the uses to which the same have been devoted, and giving the name of the Dispenser from whom the same was purchased, and the dates and quantities so purchased together with an invoice of each kind still in stock and kept for such compoundings. If said licensed druggist shall sell, barter, give away or exchange or in any manner dispose of said liquors for any purpose other than authorized by this Section, he shall upon conviction forfeit his license and be liable to all penalties, prosecutions and proceedings at law and in equity provided against persons selling without permit, and upon such conviction the Clerk of the Court shall within ten days after such judgment or order, transmit to the Board of Pharmaceutical Examiners the certified record thereof, upon receipt of which the said Board shall strike the name of the said druggist from the list of pharmacists and revoke his certificate: Provided, That nothing herein contained shall be construed to authorize the manufacture or sale of any preparation or compound under any name, form or device, which may be used as a beverage which is intoxicating in its character. And provided, further, That the State Commissioner shall be authorized to sell to manufacturing chemists and wholesale druggists alcohol by the barrel at cost.

Sec. 19. If any person shall make any false or fictitious signature, or sign any name other than his or her own to any paper required to be signed by this Act, without being authorized so to do, or make any false statement in any paper, request or application signed to procure liquors under this Act, the person so offending shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$25 or be imprisoned not more than thirty days.

Sec. 20. If any Dispenser, or his clerk, shall make false oath touching any matter required to be sworn to under the provisions of this Act, the person so offending shall, upon conviction, be punished by law for perjury. If any County Dispenser shall purchase or procure any intoxicating liquors from other person than the State Commissioner, or make any false return to the County Auditor, or use any request for liquors for more than one sale, in any such case he shall be deemed guilty of a misdemeanor, and upon conviction be punished by a fine of \$500 or six months imprisonment.

Sec. 21. Every person who shall di-

rectly or indirectly keep or maintain, by himself, or by associating or combining with others, or who shall in any manner aid, assist or abet in keeping or maintaining any club room or other place in which any intoxicating liquors are received or kept for use, barter or sale as a beverage, or for distribution or division among the members of any club or association by any means whatever, and every person who shall receive, barter, sell, assist or abet another in receiving, bartering or selling any alcoholic liquors so received or kept, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars, or thirty days imprisonment: Provided, That the State Board of Control shall have the power, upon a proper showing and under such rules as they may adopt, to exempt hotels where the tourists or healthseekers resort, from being considered nuisances or as violating this Act by reason of any manager of such hotels dispensing liquors bought from the Dispensary, by the bottle either night or day, among the bona fide guests of such hotel; but before any such exemption shall be granted the State Board of Control shall require the manager of such hotel to give a good and sufficient bond in the penal sum of three thousand dollars, conditioned for the observance of all the rules, regulations and restrictions prescribed and imposed by the said board and with all the requirements of this Act; and it shall be lawful for any constable or officer thus empowered under this Act to enter such hotel and search it at any time, day or night, without a warrant for contraband liquors.

Sec. 22. All places where alcoholic liquors are sold, bartered or given away in violation of this Act, or where persons are permitted to resort for the purpose of drinking alcoholic liquors as a beverage, or where alcoholic liquors are kept for sale, barter or delivery in violation of this Act, are hereby declared to be common nuisances, and any person may go before any trial justice in the county and swear out an arrest warrant, on personal knowledge or on information and belief, charging said nuisance, giving the names of witnesses against the keeper or manager of such place and his aids and assistants, if any, and such trial justice shall direct such arrest warrant either to the sheriff of the county or to any special constable, commanding said defendant to be arrested and brought before him to be dealt with according to law, and at the same time shall issue a search warrant, in which the premises in question shall be particularly described, commanding such sheriff or constable to thoroughly search the premises and to seize all alcoholic liquors found thereon, and dispose of them as provided in section 33, and shall also seize all vessels, bar fixtures, screens, bottles, glasses and apparatuses apparently used or suitable for use in retailing liquors, to make a complete inventory thereof, and deposit the same with the sheriff. That under the arrest warrant the defendant shall be arrested and brought before such trial justice and the case shall be disposed of as in case of other crimes beyond his jurisdiction, except that when he commits or binds over the parties for trial to the next term of the court of general sessions for the county he shall make out every paper in the case in duplicate and file one copy of the proceedings with the clerk of the court for the county and immediately transmit the other copy to the solicitor of the circuit whereupon said solicitor shall at once apply to the circuit judge at Chambers within that circuit, for an order restraining the defendants, their servants or agents from keeping, receiving, bartering, selling or giving away any alcoholic liquors until the further order of the court. Such circuit judge is hereby authorized, empowered and required to grant the said restraining order without requiring a bond or undertaking upon the hearing or receipt by him of said papers from the said trial by the hands of the solicitor; and any violation of said restraining order, before the trial of the case, shall be deemed a contempt of court and punished as such by said judge or court, as for the violation of an order of injunction. Upon conviction of said defendants of maintaining said nuisance at the trial, they, or any of them, shall be deemed guilty of a misdemeanor, punishable by imprisonment in the State Penitentiary for a term of not less than three months, or a fine of not less than two hundred dollars, or by both, in the discretion of the court, and the restraining order shall be made perpetual. The articles covered by the inventory, which were retained by the sheriff, shall be forfeited to the State and sold and the net proceeds sent to the State Commissioner, and the sheriff shall forthwith proceed to dispose of the alcoholic liquors covered by the inventory as provided for in this Act as when other liquors are seized. The finding of such alcoholic liquors on such premises, with satisfactory evidence that the same was being disposed of contrary to this Act, shall be prima facie evidence of the nuisance complained of. Liquors seized as herein provided, and the vessels containing them, shall not be taken from the custody of the officers in possession of the same by any writ of replevin or other process while the proceedings herein provided are pending. No suit shall lie for damages alleged to arise by seizure and detention of liquors under this Act.

Any person violating the terms of any restraining order granted in such proceedings shall be punished for con-

tempt by a fine of not less than two hundred dollars nor more than one thousand dollars, and by imprisonment in the State Penitentiary not less than ninety days nor more than one year.

In contempt proceedings arising out of the violation of any injunction granted under the provisions of this Act, the court, or, in vacation the judge thereof, shall have power to try summarily and punish the party or parties guilty, as required by law.

The affidavits upon which the attachment for contempt issues shall make a prima facie case for the State. The accused may plead in the same manner as to an indictment in so far as the same is applicable. Evidence may be oral or in the form of affidavits, or both; the defendant may be required to make answers to interrogatories, either written or oral, as in the discretion of the court or judge may seem proper; the defendant shall not necessarily be discharged upon his denial of the fact stated in the moving papers. The clerk of the court shall upon the application of either party, issue subpoenas for witness, and except as above set forth the practice in such contempt proceedings shall conform as nearly as may be to the practice in the court of common pleas.

Sec. 23. The State Commissioner, under rules and regulations provided by the State Board of Control, may enter into contracts with responsible grape growers in this State for the sale of domestic wines through the Dispensary, so as to encourage grape growing in the State, and in furtherance of this object not more than ten per cent. profit to the Dispensary over the expenses of bottling, labeling, freights, etc., shall be charged for the handling of such wines.

The manager of every registered distillery of liquor in this State shall report quarterly to the State Commissioner, showing the number of gallons of each kind of liquor on hand, manufactured or disposed of during the quarter, and if the said report fail to correspond with the return of said distillery to the United States Internal Revenue Collector, for this State, or it is shown that said manager has disposed of liquor contrary to this Act, said distillery shall be deemed to be a common nuisance, and the said manager and his aids and assistants and the premises shall be proceeded against as in this Act provided as to places where liquors are sold contrary to this Act.

Sec. 24. In all cases of places where liquors are unlawfully kept or stored, the same not being in an open house or exposed to view, and a search being necessary, upon affidavit to that effect or on information and belief that contraband liquor is in such places, a search warrant shall be issued by a Justice, Judge or Trial Justice, or Mayor or Intendant of a city or town, to whom application is made empowering a constable, or any person who may be deputized, to enter the said place by day time or in the night time and to search and examine the said premises for the purpose of seizing the said contraband liquors therein concealed, kept or stored, which liquor when so seized shall be disposed of as hereinafter provided.

Sec. 25. That any of the liquors set forth in Section one (1) of this Act, which are contraband may be seized and taken without warrant by any State constables, sheriff or policeman, while in transit or after arrival, whether in possession of a common carrier, depot agent, express agent, private person, firm, corporation or association, and reported, to the State Commissioner at once, who shall dispose of the same as hereinafter provided: Provided, That liquors purchased outside the State owned and conveyed as personal baggage, shall be exempt from seizure when the quantity does not exceed one gallon.

Sec. 26. That the possession of said illicit liquors is hereby prohibited and declared unlawful, and any obligation, note or indebtedness contracted in their sale or transportation is declared to be absolutely null and void, nor shall any action or suit for the recovery of the same be entertained in any court in this State.

Sec. 27. That the proceeding against liquor so illegally kept, stored, sold, delivered, transported or being transported, shall be considered a proceeding in rem, unless otherwise herein provided elsewhere than at his or her residence.

Sec. 28. That the carriage, transportation, possession, removal, sale, delivery or acceptance of any of the said liquors or liquids in any package, cask, jug, box or other package, under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks, packages or boxes containing the same, or causing such removal, acceptance, transportation, taking into possession, or any such delivery, shall work the forfeiture of said liquors or liquids and casks or packages, and the person or person so offending, knowingly, be subject to pay a fine of not more than five hundred dollars or imprisonment for the term of not longer than six months, and the wrongful name, address, mark, stamp or style on such liquor when seized shall be considered evidence prima facie of guilt. The books and waybills of the common carrier may be examined to trace said liquor to the shipper, who shall be liable, upon conviction, in a like penalty.

Sec. 29. That all Constables, Deputy Constables, Sheriffs, or Municipal policemen, shall have the right, power and authority, and it shall be their duty, whenever they are informed

or suspect that any such suspicious package in possession of a common carrier contains alcoholic liquors or liquids, to detain the same for examination for the term of twenty-four hours without any warrant or process whatever.

Sec. 30. That any interference by any person with obstruction or resistance of, or abusive language to, any officer or person in the discharge of the duties herein enjoined or the use of abusive language by any such officer or person to any other person or persons shall, upon conviction, be deemed guilty of a misdemeanor and be punishable by a fine of not more than one hundred dollars or imprisoned for the term of not more than thirty days.

Sec. 31. In all cases of seizure of any goods, wares or merchandise hereafter or heretofore made, as being subject to forfeiture under any provision of this Act or the former Act, which, in the opinion of the officer or person making the seizure are of the appraised value of fifty dollars or more, the said officer or person shall proceed as follows: First. He shall cause a list containing a particular description of the goods, wares or merchandise seized to be prepared in duplicate and an appraisement thereof to be made by three sworn appraisers, to be selected by him, who shall be respectable and disinterested citizens of the State of South Carolina residing within the county wherein the seizure was made. Said list and appraisement shall be properly attested by the said officer or person and the said appraisers, for which service each of the said appraisers shall be allowed the sum of one dollar, to be paid by the State Commissioner.

Second. If the said goods are believed by the officer making the seizure to be of less value than fifty dollars, no appraisement shall be made. The said officer or person shall proceed to publish a notice for three weeks, in writing, at three places in the county where the seizure was made, describing the articles and stating the time and place and cause of their seizure, and requiring any person claiming them to appear and make such claim within thirty days from the date of the first publication of such notice.

Third. Any person claiming the liquors so seized as contraband, and the vessels containing the same, within the time specified in the notice, may file with the State Commissioner a claim stating his interest in the articles seized and may execute a bond to the State Commissioner in the penal sum of five hundred dollars, with sureties to be approved by the said State Commissioner, conditioned that in the case of condemnation of the articles so seized the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation; and upon the delivery of such bonds to the State Commissioner he shall transmit the same with the duplicate list or description of the goods seized to the Solicitor of the circuit in which such seizure was made, and said Solicitor shall prosecute the case to secure the forfeiture of said contraband liquors or liquids in the court having jurisdiction.

Fourth. If no claim is interposed and no bond given within the time above specified, such liquors shall be forfeited without further proceedings, and the State Commissioner shall have the said liquors tested by the State Chemist, and if pure shall sell the same through the State Dispensary as though purchased by him. If not pure, he shall sell the same beyond the State and deposit the proceeds to the credit of the State Commissioner. Provided, That in seizures in quantities less in value than fifty dollars of such illicit liquor, or liquors, the same may be advertised, with other quantities, at Columbia by the State Commissioners and disposed of as hereinafter provided: Provided further, That the claimant of such liquors may give bond in one hundred dollars as when the value is fifty dollars or over, and shall bear the burden of showing before a Trial Justice that he has complied with the law and that the liquors is not liable to seizure.

Sec. 32. That all fermented, distilled or other liquors or liquids containing alcohol, transported into this State or remaining herein for use, sale, consumption, shortage or other disposition shall, upon introduction and arrival in this State, be subject to the same extent and in the same manner as though such liquors or liquids had been produced in this state.

Sec. 33. That no person, except as provided by this Act, shall bring into this State, or transport from place to place within this State, by wagon, cart or other vehicle, or by any other means or mode of carriage, any liquors or liquids containing alcohol, under a penalty of \$100 or imprisonment for thirty days, for each offense upon conviction thereof, as for a misdemeanor. Any servant, agent or employee of any persons, corporation or associations, doing business in this State, as common carrier, or any person whatever, (except an officer seizing or examining the same) who shall remove any intoxicating liquors from any railroad car, vessel or other vehicle of transportation at any place other than usual and established stations, wharves, depots or places of business of such common carriers within same city or town where there is a Dispensary, and then only for such Dispensary, or who shall aid in or consent to such removal, shall upon conviction be subject to a penalty of \$50 or imprisonment for thirty days for every offense: Provided, That said penalty shall not apply

to any liquor in transit when changed from car to car to facilitate transportation across the State: Provided, That this section does not apply to liquors purchased from a Dispensary and bearing the proper label or certificate. All liquors in this State, except Dispensary liquors and those passing through consigned to points beyond, shall be deemed contraband and may be seized in transit without warrant. And any steamboat, sailing vessel, railroad, express company or other common carrier transporting or bringing into this State for sale or use therein, except by the Dispensary, shall suffer a penalty of \$500 and costs for each offense, to be recovered by the Solicitor of the Circuit Court, or the Attorney General, by an action brought therefor in any court of competent jurisdiction. The State constables, sheriffs, municipal police or any lawful constable may enter any railroad car, or express car, or depot, or steamboat, or other vessel, without warrant and make search for such contraband liquors, and may examine the way bills and freight books of said common carriers, and any one interfering with or resisting such officer shall be punished by a fine not exceeding \$100 or imprisonment not longer than thirty days.

Sec. 34. That any person detected openly violating any of the provisions of this Act shall be liable to arrest without warrant, provided a warrant shall be procured within a reasonable time thereafter.

Sec. 35. That violations of any of the sections of this Act where punishment upon conviction is not especially provided for, the person or persons or corporation so convicted shall be punished in the discretion of the court trying the same. All alcoholic liquors, other than domestic wine, and in quantity more than five gallons, which do not have on the packages in which they are contained the labels and certificates going to show that they have been purchased from a State officer authorized to sell them are hereby declared contraband, and on seizure will be forfeited to the State as provided in Section 31: Provided, That this section shall not apply to liquor held by the owners of registered stills. Persons having more than five gallons of liquors elsewhere than at his or her home, which they wish to keep for their own use, may throw the protection of the law around the same by furnishing an inventory of the quantity and kinds to the State Commissioner, and applying for certificates to affix thereto. After sixty days from the approval of this Act any liquor found in the State not having such certificates may be seized and confiscated. Persons having more than they wish to use may obtain certificates to ship beyond the limits of this State. Any person affixing, or causing to be affixed, to any package containing alcoholic liquor any imitation stamp or other printed or engraved label or device than those furnished by the State Commissioner shall for each offense be liable to a penalty of ten days' imprisonment or \$25 fine.

Sec. 36. Every person who disposes or rescues from a constable or other officer, or attempts so to do, any alcoholic liquor taken or detained by such officer charged with the enforcement of this law, shall, upon conviction, be imprisoned thirty days or pay a fine of \$100.

Sec. 37. Any person handling contraband liquor in the night time or delivering the same, shall be guilty of a misdemeanor, and on conviction, shall be punished by imprisonment for thirty days or \$100 fine.

Sec. 38. Any wagon, cart, boat or other conveyance transporting contraband liquor at night other than regular passenger or freight steamers and railway cars shall be liable to seizure and confiscation; and to that end the officer shall cause the same to be appraised by three disinterested citizens, and unless recovered by claim and delivery proceedings and suitable bond, shall be advertised and sold and proceeds sent to the State Commissioner.

Sec. 39. Every Dispenser, when he sells a package containing liquor, shall put a cross mark in ink on the label or certificate thereon, extending from the top to the bottom and from side to side. When any liquor is seized because it has not the necessary certificates and labels required by this Act, the burden of proof shall be upon the claimant of said spirits to show that no fraud has been committed and that the whiskey is not contraband.

Sec. 40. That any railroad, steamboat, express company or other common carrier shall incur a penalty of treble the invoice price of any alcoholic liquors lost or stolen in transit to or from the Dispensary, whether shipped as released or not, such penalty to be recovered by action in any court of competent jurisdiction.

Sec. 41. That it shall be unlawful for any person to take or to solicit orders, or to receive money from other persons for the purchase or shipment of any alcoholic liquors for or to such other persons in this State, except for liquors to be purchased and shipped from the Dispensary, and any person violating this section, upon conviction, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment not to exceed thirty days or by a fine not to exceed \$100.

Sec. 42. It shall be the duty of sheriffs, deputy sheriffs and constables having notice of the violation of any of the provisions of this Act to notify the Circuit Solicitor of the fact of such violation and to furnish him with the names of any witnesses within their

knowledge by whom such violation can be proved. If any such officer or Solicitor shall wilfully fail to comply with the provisions of this section, he shall upon conviction, be fined in a sum not less than \$100 nor more than \$500; and such conviction shall work a forfeiture of the office held by such person; and the court before whom such conviction is had shall, in addition to the imposition of the fine aforesaid, order and adjudge the forfeiture of his said office.

Sec. 43. The Governor shall have authority to appoint one or more State constables at a salary of \$2 per day and expenses when on duty, and two chief constables at \$2 each per day and expenses, to see that this Act is enforced, the same to be charged to the expense of the State Commissioner, except as otherwise provided in this Act.

Sec. 34. All Acts or parts of Acts inconsistent with this Act are hereby repealed.

Sec. 45. That wherever in this Act it is provided that process shall issue upon an affidavit based on information and belief, the affidavit shall contain a statement setting forth the sources of information, the facts and grounds upon which the affiant bases his belief.

Sec. 46. This Act shall not be held or construed to in any manner repeal or effect existing laws prohibiting the sale of intoxicating liquors within certain distances of churches and schools.

Sec. 47. That brewers in this State of rice beer heretofore engaged in the manufacture and sale of rice beer containing not more than 2 per cent. of alcohol shall be allowed thirty days from the approval of this Act to dispose of their manufactured products now on hand.

Sec. 48. That Chapter 7, Title VII of the Code of Civil Procedure of this State entitled, "Of Provisional Remedies in Civil Actions," shall not apply to any officer or person having duties to perform under this Act and in no case shall an action lie against any such officer or person for damages to person or property as provided in said chapter.

Sec. 49. This Act shall take effect immediately upon its approval.

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Dec. 6—4.