THE MAINE LIQUOR LAW.

AN ACT FOR THE SUPPRESSION OF DRINKING HOUSES AND TIPPLING 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 selectmen 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 hold his situation for one year, unless sooner removed by the board from which he received his appointment, as he may be at any time, at the pleasure of said board.

SEC. 3. Such agent shall receive a certificate from the mayor and aldermen or selectmen by whom he has been appointed, authorizing 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 so appointed, until he shall have executed and delivered 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 holden and 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 an agent for the town (or city) of —— to sell, within and for and on account of said town (or city) of ——, 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 cost 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 cost 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 in 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 guilty 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 complaining 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 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 in any judge or justice, on the trial of such action or complaint, he shall have the appeal shall be allowed, by entering in the county of one hundred dollars, with two good and sufficient sureties, in case the appeal is to prosecute his appeal, and to pay all costs and the sum of one hundred dollars and costs of prosecution, in case he shall be adjudged guilty, upon the trial of the appeal. And before an 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 same penal sum, bind himself to be well and truly, during the pendency of such appeal, abide the order of the court upon the trial of the appeal, and to pay all fines and costs which may be adjudged against him; and in the case of any appeal by the defendant shall not recover a lower fine than the fine adjudged against him, the defendant shall pay all fines and costs which may be adjudged against him, in the court to which the appeal is taken, in the same manner as he would have to pay them if he had not appealed.

SEC. 7. If any person shall be convicted 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 common 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 by 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 recognizance 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. 8. 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 which information shall be communicated to the court, that any member of any panel is engaged in such a traffic, or that he is believed to be so engaged, the court shall inquire of the juryman of whom such belief is entertained; and to 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 juryman.

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 court 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 under the provisions of this act, in any store, shop, warehouse or other building, or place in said city or town, and 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, which he shall keep them until final action is had thereon. But no dwelling house, in which or in part of which, a shop is 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 consent or permission, within at least one month of the time of 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 purpose 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 certificate of importation and proofs of marks on the casks or packages corresponding therein, 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 or printed notice of the same in some public place at which liquors are actually the property of any city or town in the state, and were sold the time of the seizure, purchased for sale by the agent of said city or town, for medicinal purposes only, in pursuance of the provisions of this act, they are not to be destroyed; but upon satisfactory proof of such ownership, within said two weeks, to the justice or judge by whose authority such liquors were seized, said justice or judge shall deliver to the agent of said city or town, or 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 under the provisions of this act, shall appeal from the judgment of the justice or judge, by which authority the liquors were destroyed, to the district court, he shall enter into a recognizance with sufficient surety, to the effect that he will prosecute his appeal to effect, and will pay the costs of the court, if the judgment of the court be against him; and if the judgment of the court be against the claimant, the liquors shall be destroyed by order of the court, in the same manner as by the justice or judge.

SEC. 14. If any person shall be convicted 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 common 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 by 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 recognizance 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.

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