

MAINE STATE LEGISLATURE

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FIFTH REVISION.

THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

BY THE AUTHORITY OF THE LEGISLATURE.



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CHAP. 29.

Insurance companies shall report to commissioner, adjustment of all losses.
1897, c. 267, § 5.

Appropriation to carry out provisions of §§ 46-53.
1897, c. 267, § 6.

Municipal officers shall keep record of returns.
1897, c. 267, § 7.

Penalty for neglect.
1897, c. 267, § 8.

SEC. 50. Every fire insurance company or association transacting business in the state shall report to the insurance commissioner, within ten days after the adjustment of every loss, the amount of all policies issued by said company on the property destroyed or damaged, the amount paid or payable on account of such loss, and such other information relating to the matter as the commissioner may require.

SEC. 51. The insurance commissioner may employ such clerks and assistants, provide such blanks, and incur such expenses as may be necessary to carry out the provisions of sections forty-six to fifty-three inclusive, not to exceed two thousand dollars in any year, and all bills and expenses incurred shall be audited by the governor and council.

SEC. 52. Municipal officers shall record or cause to be recorded, in a book provided by the insurance commissioner, all returns made under the provisions of the six preceding sections.

SEC. 53. Any city or town officer, or any insurance company neglecting or refusing to perform any duty required by the provisions of the seven preceding sections shall be punished by a fine of not less than ten, nor more than one hundred dollars for each offense.

CHAPTER 29.

INNOLDERS AND VICTUALERS. INTOXICATING LIQUORS.

Licenses to innholders and victualers, when and by whom granted.
R. S., c. 27, § 1.
24 Me., 442.
93 Me., 485.

—license may be revoked.

Bond, \$300.
R. S., c. 27, § 2.
93 Me., 483.

—form.

SEC. 1. The municipal officers, treasurer and clerk of every town shall meet annually on the first Monday of May, or on the day succeeding, or both, and at such time and place in said town as they appoint, by posting notices in two or more public places therein, at least seven days previously, stating the purpose of the meeting; and at such meeting they may license under their hands as many persons of good moral character, and under such restrictions and regulations as they deem necessary, to be innholders and victualers in said town, until the day succeeding the first Monday in May of the next year, in such house or other building, as the license specifies. And at any meeting so notified and held, they may revoke licenses so granted, if in their opinion there is sufficient cause.

SEC. 2. No person shall receive his license until he has given his bond to the treasurer, to the acceptance of the board granting it, with one or more sureties in the penal sum of three hundred dollars, in substance as follows, namely:

“Know all men that we — — —, as principal, and — — —, and — — —, as sureties, are held and stand firmly bound to — — —, treasurer of the town” (or city) “of — — —, in the sum of three hundred dollars, to be paid to him, or his successor in said office; to the payment whereof we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents. Sealed with our seals. Dated the — — — day of — — —, in the year nineteen hundred and — — —.

The condition of this obligation is such that, whereas the above bounden — — — has been duly licensed as a — — — within said town” (or city) “until the day succeeding the first Monday of May next; now if in all respects he shall conform to the provisions of law relating to the business for which he is licensed, and to the rules and regulations as provided by the licensing board in reference thereto, and shall not violate any law of

the state relating to intoxicating liquors, then this obligation shall be void, otherwise shall remain in full force."

SEC. 3. The licensing board may, at any other time, at a meeting specially called, and notified as aforesaid for the consideration of any application therefor to them made, grant such license on like conditions; but all such licenses expire on the day aforesaid.

SEC. 4. Every person licensed shall pay to the treasurer, for the use of such board, one dollar; and the clerk shall make a record of all licenses granted.

SEC. 5. Every innholder shall, at all times, be furnished with suitable provisions and lodging for strangers and travelers, and with stable room, hay and provender for their horses and cattle; and with pasturing, if it is required by the terms of his license; and he shall grant such reasonable accommodations as occasion requires, to strangers, travelers and others.

SEC. 6. In case of loss by fire, innholders are answerable to their guests only for ordinary and reasonable care in the custody of their baggage or other property.

SEC. 7. Innholders are not liable for losses sustained by their guests, except for wearing apparel, articles worn or carried upon the person to a reasonable amount, personal baggage and money necessary for traveling expenses and personal use, unless upon delivery or offer of delivery, by such guests, of their money, jewelry or other property, to the innholder, his agent or servants, for safe custody. (a)

SEC. 8. An innholder against whom a claim is made for loss sustained by a guest, may in all cases show that such loss is attributable to the negligence of the guest, or to his non-compliance with the regulations of the inn; *provided*, that such regulations are reasonable and proper, and are shown to have been brought to the notice of the guest.

SEC. 9. Every victualer has all the rights and privileges and is subject to all the duties and obligations of an innholder, except furnishing lodging for travelers, and stable room, hay or provender for cattle.

SEC. 10. No innholder or victualer shall have or keep for gambling purposes about his house, shop or other buildings, yards, gardens or dependencies, any dice, cards, bowls, billiards, quoits or other implements used in gambling; or suffer any person resorting thither to use or exercise for gambling purposes any of said games, or any other unlawful game or sport therein; and every person who uses or exercises any such game or sport for gambling purposes in any place herein prohibited, forfeits five dollars.

SEC. 11. No innholder or victualer shall suffer any reveling or riotous or disorderly conduct in his house, shop or other dependencies; nor any drunkenness or excess therein.

SEC. 12. No person shall be a common innholder or victualer without a license, under a penalty of not more than fifty dollars. (b)

SEC. 13. The licensing board shall prosecute for any violations of the foregoing sections that come to their knowledge, by complaint, indictment or action of debt; and all penalties recovered shall inure to the town where the offense is committed. Any citizen of the state may prosecute for any violation of the preceding sections in the same manner as the licensing board may prosecute.

(a) 72 Me., 274; 74 Me., 229, 262; 77 Me., 360; 91 Me., 279.
 (b) 65 Me., 363; 76 Me., 543; 89 Me., 445.

Licenses may be granted for a part of the year.
 R. S., c. 27, § 3.

License fee and record.
 R. S., c. 27, § 4.

Duty of innholders to provide entertainment.
 R. S., c. 27, § 5.
 71 Me., 19, 316.
 76 Me., 542.

Liability in case of fire.
 R. S., c. 27, § 6.
 74 Me., 229, 262.

Liability of innholders for guests' losses.
 R. S., c. 27, § 7.

Losses by negligence of guests.
 R. S., c. 27, § 8.
 74 Me., 229, 262.

Duties of victualers.
 R. S., c. 27, § 9.
 10 Me., 439.
 16 Me., 122.

Innholders and victualers to allow no gambling on their premises.
 R. S., c. 27, § 11.

—penalty.

Nor reveling, drunkenness, etc.
 R. S., c. 27, § 12.

Penalty for neglecting a license.
 R. S., c. 27, § 13.
 Licensing board, to prosecute.
 R. S., c. 27, § 14.
 1891, c. 132, § 1.
 —any citizen may prosecute.
 12 Me., 204.
 65 Me., 363.
 93 Me., 484.

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STATE AGENCY FOR SALE OF INTOXICATING LIQUORS.

State liquor
commissioner.

—how appointed.

R. S., c. 27, § 15.
1895, c. 160, § 1.
68 Me., 189.

—term of
office.

—expenses of
office.
See c. 116, § 1.

Towns shall be
furnished by
commissioner,
and from no
other source.
1895, c. 160, § 2.
See §§ 23, 24, 26.

—amount of
stock to be
carried.

—analysis of
liquors.

—liquors shall
be inspected.

—liquors shall
be purchased,
subject to
analysis.

—no liquors
shall be sold
unless in-
spected.

—compensa-
tion of
assayers.

Each invoice
of liquors sold
shall contain
copy of assay-
er's certificate.
1895, c. 160, § 3.

Liquor com-
missioner pro-
hibited from
borrowing
money.

SEC. 14. The governor with the advice and consent of the council, shall appoint a commissioner to furnish municipal officers of towns and cities in the state, with pure, unadulterated, intoxicating liquors, to be kept and sold for medicinal, mechanical and manufacturing purposes. Said commissioner shall reside in this state and shall have his place of business therein, at such place as shall be approved by the governor and council, and shall hold his office for the term of four years, unless sooner removed by the governor with the advice and consent of the council, and until another is appointed in his stead. He shall be allowed reasonable expenses of office, and present his account, under oath, with vouchers therefor to the governor and council, annually in December, to the last day of the preceding month, who shall audit the same and direct payment from the state treasury. He shall also be entitled to interest on the average capital actually invested by him in his stock of liquors, to be determined by the governor and council.

SEC. 15. The commissioner shall keep in stock, at all times at his said place of business in this state, a sufficient stock of liquors to supply the demands of all duly authorized town and city agencies of this state for not exceeding two months, and all such agencies shall be supplied from said stock so kept at his said place of business in this state, and from no other source and in no other manner. If the governor and council are of opinion that said commissioner is carrying a larger amount of stock than is necessary to comply with the provisions of this section, they may direct him to discontinue purchases until said stock is reduced to such an amount as they may order. All alcohol, whiskey, brandy, rum and gin hereafter purchased by such commissioner, otherwise than in bottles, as hereinafter provided, shall be analyzed at the commissioner's place of business in this state by a competent assayer, appointed by the governor and council. But the governor and council may authorize the purchase, by the commissioner, of any of said kinds of liquors, in bottles, if deemed expedient, and in such case may cause the same to be inspected and tested in such manner as they may determine. All other intoxicating liquors purchased by the commissioner shall be inspected, tested or analyzed, by a competent assayer, at said place of business, in such manner as the governor and council may direct. All intoxicating liquors shall be purchased subject to such analysis, test or inspection, to be reshipped to the seller at the seller's expense, if found to be impure. The commissioner shall not sell such liquors, nor deliver them to the authorized agencies of cities and towns, unless so analyzed, tested or inspected as aforesaid, at the place of business of said commissioner and found to be pure. The compensation of such assayers shall be fixed by the governor and council, and with their reasonable expenses, shall be paid out of the state treasury.

SEC. 16. On the back of each invoice of liquors sold as aforesaid, to towns and cities, shall be written or printed a copy of the assayer's analysis, or certificate of inspection, certified to by said commissioner, and the agents of such cities and towns shall preserve such invoices and certificates for public inspection, for one year after receiving the same. Each invoice shall state both the price actually paid by the commissioner for the liquors, and the price at which they are sold to the city or town.

SEC. 17. The commissioner is prohibited from borrowing money of any party or parties of whom he may purchase liquors. He shall not sell to municipal officers of this state any intoxicating liquors, except such as

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have been inspected or tested and found to be pure, in the manner aforesaid, under a penalty of not less than one hundred, or more than five hundred dollars, to be recovered by indictment. He shall take of such officers for such pure, unadulterated liquors, and for all malt liquors sold to them, ten per cent above the cost thereof at the place where they were by him purchased, and after the commissioner's accounts shall have been audited and allowed by the governor and council, he shall pay any and all balance of such ten per cent so received by him, to the treasurer of state, on or before the first day of January, annually.

SEC. 18. The commissioner shall, on or before the last day of each month, report to the governor and council the names of the towns to which liquors have been sold, of the persons buying for said towns, the kind and quantity sold to each, and the price paid for the same. He shall also, at the same time, make report to the governor and council of all liquors purchased by him, enumerating the different kinds and the quantity of each kind, price paid and the terms of payment, also the names of parties of whom the liquors were purchased, and their place of business and date of purchase.

SEC. 19. The commissioner shall before entering upon the duties of his office, give a bond to the treasurer of state, in the penal sum of not less than ten thousand dollars, for the benefit of the state as well as for the benefit of such towns as may be injured by a breach of the conditions, and for the faithful performance of his duties and compliance with such regulations and conditions as the governor and council prescribe. In case of his resignation, removal from office or death, and the appointment of a successor, the stock of liquors remaining on hand at the time of his resignation, removal or death, shall be taken at cost by the new commissioner, after the same shall have been analyzed or tested by an assayer, to be appointed by the governor and council, and found to be pure; and he shall, before entering upon his office, pay for the same in cash, or settle therefor to the satisfaction of his predecessor or his legal representatives.

SEC. 20. Whenever any town or city agency shall be abolished, the commissioner shall receive back all such liquors purchased of the liquor commissioner as may remain on hand, after the same shall have been analyzed or tested, and found to be pure and unadulterated, under such conditions and regulations as the governor and council may prescribe.

SEC. 21. The commissioner shall keep a sample of all spirituous liquors analyzed, labeling the same, and marking them by number or otherwise, to conform with the assayer's certificate, and shall keep such samples during his term of office. The governor and council may cause the commissioner's stock to be inspected at any time by a competent assayer. A committee of the executive council shall visit the commissioner's place of business as often as once every six months, and make a careful and complete examination of the records of the office, including all the bills of purchases and accounts of sales. The governor and council shall correct any and all abuses, if any exist; and refusal on the part of said commissioner to comply with their order or directions relative thereto, shall be good and sufficient cause for immediate removal from office.

SEC. 22. The governor and council shall annually cause the reports of the commissioner and assayers made to them to be printed, and one copy sent to the municipal officers of each town, maintaining an agency.

SEC. 23. Immediately after appointing such commissioner, the governor shall issue to the municipal officers of towns, a notice of his name and place of business, and such officers shall buy such intoxicating liquors

1895, c. 160, § 4.
1897, c. 190.

Report shall be made monthly, to governor and council.
1895, c. 160, § 5.

Bond.
1895, c. 160, § 6.

—how liquors shall be disposed of, in case of vacancy.

How liquors in town shall be disposed of, when agency is abolished.
1895, c. 160, § 7.

Shall keep samples of liquor, analyzed.
1895, c. 160, § 8.

—stock may be inspected any time.

—committee of council shall visit commissioner, once in six months.

Distribution of reports.
1895, c. 160, § 12.

Notice of appointment, etc., to town officers.

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R. S., c. 27, § 16
68 Me., 189.
—liquors, of
whom to be
bought.
See §§ 15, 33.

Municipal
agents to keep
record of
sales.
R. S., c. 27, § 19.
—to be open
for inspection.
See §§ 15, 33.
—failure or
neglect.
—false repre-
sentation to
agent.
—penalty.

State credit
not pledged to
pay for
liquors.
R. S., c. 27, § 20.

as they may keep on sale for the purpose specified herein, of such commissioner and of no other person.

SEC. 24. Agents of towns authorized to sell intoxicating liquors, shall keep a record in a suitable book, of the amount of intoxicating liquors purchased by them, specifying the kind and quantity of each, and the price paid; and they shall also keep a record of the kind and quantity of liquors sold by them, the date of sale and the price, the name of the purchaser and the price for which it was sold; which record shall be open to inspection. And if such agent fails to keep such record, he forfeits to his town for every such offense not less than ten, or more than twenty dollars, to be recovered on complaint or indictment. Whoever knowingly misrepresents to said agent the purposes for which he purchases such liquors, forfeits to his town twenty dollars, to be recovered on complaint or indictment.

SEC. 25. No contract made under this chapter shall pledge the credit of the state for the payment of any sum to said commissioner, or for the payment of any liquors purchased by him.

CITY AND TOWN AGENCIES.

Municipal offi-
cers to pur-
chase.
R. S., c. 27, § 21.
1887, c. 140, § 11.
See § 23.

—agents to be
appointed to
sell for cer-
tain purposes.
—their pay
and duty.

—term.

—vacancies,
how filled.

—not to be in-
terested.

Agent must
have a certifi-
cate.
R. S., c. 27, § 22.
40 Me., 310.
—give bond.
50 Me., 79.
67 Me., 61.

—amount.

—form.

—condition
of bond.

SEC. 26. The selectmen of any town, and mayor and aldermen of any city, may, on the first Monday of May, annually, or as soon thereafter as convenient, buy such quantity of intoxicating liquors as is necessary to be sold under this chapter, and may appoint some suitable person, agent of said town or city who shall not be one of the municipal officers of said town or city, to sell the same at some convenient place therein, to be used for medicinal, mechanical and manufacturing purposes, and no other; such agent shall receive such compensation for his services and in the sale of such liquors, shall conform to such regulations not inconsistent with law, as the board appointing him prescribes, and shall hold his office for one year, unless sooner removed by them, or their successors. Vacancies occurring during the year, shall be filled in the same manner as original appointments are made. No such agent shall have any interest in such liquors or in the profits of the sale thereof. (a)

SEC. 27. Such agent shall receive a certificate from the board by which he is appointed, authorizing him as the agent of such town or city to sell intoxicating liquors for medicinal, mechanical and manufacturing purposes only; but it shall not be delivered to such agent until he has executed and delivered to said board a bond, with two sufficient sureties, in the sum of six hundred dollars, in substance, as follows:

“Know all men, that we, ———, as principal, and ——— and ———, as sureties, are held 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 to 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 ———, 19—.

The condition of this obligation is such, that whereas the above bounden ——— has been duly appointed an agent for said town” (or city) “to sell intoxicating liquors for medicinal, mechanical and manufacturing purposes and no other, until the ——— of ———, 19—, unless removed from said agency: now if said ——— shall in all respects conform to the provisions of law relating to the business for which he is appointed, and to such regulations as are or shall be from time to time

(a) 42 Me., 307; 48 Me., 553; 51 Me., 255; 67 Me., 61; 68 Me., 189.

established by the board making the appointment, then this obligation shall be void; otherwise shall remain in full force."

SEC. 28. No person authorized as aforesaid to sell intoxicating liquors, shall sell the same to any minor without the written direction of his parent, master or guardian, to any Indian, soldier, drunkard, intoxicated person, or to any person described in section four of chapter sixty-nine as being liable to guardianship, knowing either of them to be of the condition herein prescribed; nor to any intemperate person, of whose habits he has been notified by his relatives, or by the aldermen, selectmen or assessors, of any city, town or plantation. And proof of notice so given by said officers or by their authority, is conclusive of the fact of the intemperate habits of such person, in any prosecution or suit under this chapter; and notice so given by the relatives of such person is presumptive evidence of such habits.

SEC. 29. Whenever such municipal officers are informed by the relatives of any person that he is of intemperate habits, and are satisfied that such is the fact, they shall forthwith give notice thereof, to all persons authorized to sell intoxicating liquors within their respective towns, and in such adjoining places as they deem expedient.

SEC. 30. Any person, authorized as aforesaid, who violates section forty shall be punished as provided in section forty-one, and shall also be liable, notwithstanding such punishment, to a suit upon his bond; and the aldermen or selectmen of the city or town to which such bond was given, shall cause the same to be sued and prosecuted to judgment and satisfaction in behalf of the city or town. The court by which judgment is rendered upon any bond required by this chapter, has such chancery powers therein, as the supreme judicial court has in cases of forfeiture of penalties to the state. Whenever such a conviction is obtained or judgment recovered as aforesaid, the authority of such person to sell intoxicating liquors is vacated; and such aldermen or selectmen shall revoke such authority whenever they are satisfied of the violation of any of its conditions.

SEC. 31. The governor and council shall cause an inspection of the stock in each town or city agency, at least once in each year in towns, and twice in each year in cities, and for that purpose they may employ competent assayers, and empower them to enter at such times as they may be directed by the governor and council, and without notice, any city or town agency in this state, to test the purity of all of the intoxicating liquors kept therein. And the governor and council may also authorize such examination on complaint of the municipal officers in a town and at the expense of such town. Any assayer making any examination provided for by this section, shall examine the invoices of the liquors purchased, and compare his analysis with that written or printed on such invoices. He shall report immediately the result of his examination to the municipal officers, and also to the governor and council.

SEC. 32. Upon petition and representation, in writing, to any single justice of the supreme judicial court, in term time or vacation, of ten or more well known taxpayers of any city or town in which a liquor agency is established, that said agency is being conducted in violation or evasion of the law creating the same, specifying in said petition the violation complained of, such justice, after reasonable notice to said city or town, if, upon hearing, it is shown that said agency is not being conducted in accordance with the law authorizing the establishment of the same, may

Agents not to sell to minors, Indians, soldiers, drunkards, etc.
R. S., c. 27, § 23.

—notice by town officers, sufficient evidence.

—by relatives, presumptive.

Town officers to give notice to agents, on information.
R. S., c. 27, § 24.

Commissioner, or agents violating law, how punished.
R. S., c. 27, § 25.

—liable also on bond.

—duty of town officers, to sue bond.

—chancery powers of court.
—authority to sell, to be revoked on conviction or violation.
See § 35.

Governor and council shall cause inspection of stock held by towns, annually.
1895, c. 160, § 9.

Town agency conducted in violation of law, may be closed.
1895, c. 160, § 10.

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Municipal officers shall not purchase of any other person than commissioner, nor shall they sell impure liquors.
1895, c. 160, § 11.

—penalty.
See § 60.

Liquors owned by towns or kept by agents, casks, and vessels to be marked.
R. S., c. 27, § 26.
68 Me., 190.

—not so owned may be seized, and forfeited, although marked.
See 80 Me., 57, 61.

—adulterated or factitious, not protected.

Unfaithful agents forever disqualified.
R. S., c. 27, § 27.
See § 30.

order said agency closed, and the liquors found therein forfeited to the state.

SEC. 33. If a municipal officer buys any intoxicating liquors, to be sold according to law, of any other person than the commissioner, or knowingly obtains them from any other source than the commissioners' stock at his place of business, or if any duly authorized town or city agent, or any person in his employment or by his direction, sells or furnishes for sale, any such liquors as have been decreed to be forfeited, or found to be impure as aforesaid, or causes any intoxicating or malt liquors which he or they keep for sale to be adulterated, by mixing the same with any coloring matter, drug or ingredient, or mixes the same with other liquors of different kind or quality, or with water, or sells or exposes for sale such liquors as are adulterated, he shall be punished as provided in section forty-two. Such prosecution shall be by indictment.

SEC. 34. No such liquors owned by any city or town, or kept by any agent thereof, as provided by law, are protected against seizure and forfeiture, under the provisions hereof, by reason of such ownership, unless all casks and vessels in which they are contained are at all times conspicuously marked with the name of such municipality, and of its agent. When such liquors are seized, bearing such marks as are herein required, if such liquors are in fact not owned by any such municipality, such false and fraudulent marking is presumptive evidence that the same are kept or deposited for unlawful sale, and renders them liable to forfeiture under this chapter. The liquors kept for sale by such agents shall not be adulterated or factitious; and they shall not be protected from seizure and forfeiture by reason of being kept for sale by such agents, if they have knowledge that the same are adulterated or factitious.

SEC. 35. If an agent appointed under section twenty-six to sell intoxicating liquors is convicted of a violation of this chapter, he is forever thereafter disqualified from holding such office.

MANUFACTURE OF INTOXICATING LIQUORS FOR SALE.

Manufacturing for sale.
R. S., c. 27, § 28.
—and sale, punished.
See § 60.
69 Me., 134.

Sale of pure cider, regulated.
R. S., c. 27, § 29.
1887, c. 140, § 2.

SEC. 36. Whoever manufactures for sale any intoxicating liquor, except cider, and whoever sells any intoxicating liquor manufactured by him in this state, except cider, shall be imprisoned two months and fined one thousand dollars.

SEC. 37. This chapter does not apply to the sale of unadulterated cider, unless the same is sold to be used as a beverage or for tipping purposes. (a)

LIQUOR PEDDLING AND LIQUORS IN TRANSIT.

Traveling liquor peddlers and dealers, punished.
R. S., c. 27, § 30.
1885, c. 366, § 1.

—penalty.

—how recovered.

—to whom accrues.

—alternative penalty.

SEC. 38. No person shall travel from town to town, or from place to place, in any city, town or plantation, on foot or by public or private conveyance, either by land or water, carrying for sale or offering for sale, or obtaining or offering to obtain, orders for the sale or delivery of any intoxicating or fermented liquors, in any quantity, under a penalty of not less than twenty, nor more than five hundred dollars and costs for each offense, to be recovered on complaint or by indictment; half to the complainant and half to the county in which the offense is committed; and in default of payment thereof, said person shall be imprisoned for a term of not less than two, nor more than six months. (b)

(a) 62 Me., 262; 69 Me., 134.

(b) 61 Me., 388; 64 Me., 425; 65 Me., 136; 68 Me., 420; 79 Me., 107.

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SEC. 39. No person shall knowingly transport from place to place in the state, any intoxicating liquors, with intent to sell the same in the state in violation of law, or with intent that the same shall be so sold by any person, or to aid any person in such sale, under a penalty of not less than fifty, nor more than one hundred dollars, and sixty days' imprisonment. Any servant, agent or employee of any railroad corporation, or of any express company doing business in this state, who shall remove any intoxicating liquors from any railroad car at any place other than the usual and established stations or places of business of such railroad corporation, or who shall aid in or consent to such removal, shall be subject to a penalty of fifty dollars for every such offense; *provided*, that said penalty shall not apply to any liquor in transit when changed from car to car to facilitate transportation. All such liquors intended for unlawful sale in the state, may be seized while in transit and proceeded against the same as if they were unlawfully kept, and deposited in any place. (a)

Intoxicating liquors intended for unlawful sale, not to be transported. R. S., c. 27, § 31. 1893, c. 307.

—removal of, by any employee of railroad or express company from car at any place other than usual station, prohibited. —penalty. —may be seized in transit.

UNLAWFUL SALE OF LIQUORS. COMMON SELLERS. DRINKING HOUSES AND TITPLING SHOPS. SEARCH AND SEIZURE. DRUNKENNESS.

SEC. 40. No person shall at any time, by himself, his clerk, servant or agent, directly or indirectly, sell any intoxicating liquors, of whatever origin, except as hereinbefore provided; wine, ale, porter, strong beer, lager beer and all other malt liquors, and cider when kept or deposited with intent to sell the same for tippling purposes, or as a beverage, as well as all distilled spirits, are declared intoxicating within the meaning of this chapter; but this enumeration shall not prevent any other pure or mixed liquors from being considered intoxicating. (b)

Sale of intoxicating liquors, prohibited. R. S., c. 27, § 33. 1887, c. 140, § 4.

—intoxicants defined. See c. 22, § 1.

SEC. 41. Whoever by himself, clerk, servant or agent, sells any intoxicating liquors in this state, in violation of law, shall pay a fine of not less than fifty dollars and costs, and in addition thereto be imprisoned thirty days. In default of said payment he shall be imprisoned thirty days additional, and on each subsequent conviction he shall be punished by a fine of two hundred dollars and costs, and in addition thereto be imprisoned six months, and in default of payment of said fine and costs, he shall be imprisoned six months additional. Any clerk, servant, agent or other person in the employment or on the premises of another, who violates or in any manner aids or assists in violating any provision of law relating to intoxicating liquors, is equally guilty with the principal and shall suffer like penalties. (c)

Penalties for selling liquors in violation of law. R. S., c. 27, § 34. 1887, c. 140, § 5. See c. 136, § 1.

—subsequent convictions.

—clerk, servant or agent, assisting in violations, subject to same penalties.

SEC. 42. No person shall be a common seller of intoxicating liquors. Whoever violates this section shall be fined one hundred dollars and imprisoned thirty days, or instead of such fine he may be imprisoned sixty days additional. On a second and every subsequent conviction, he shall be fined two hundred dollars and imprisoned four months, and in default of payment of fine and costs, he shall be punished, by four months additional imprisonment.

Common sellers. R. S., c. 27, § 35. 1887, c. 140, § 6. 79 Me., 107. 94 Me., 61. See § 60; c. 136, § 1.

(a) 74 Me., 563; 79 Me., 107, 542; 84 Me., 25, 489; 94 Me., 338; 95 Me., 140; 96 Me., 415; 97 Me., 275.

(b) 6 Me., 413; 33 Me., 496, 561; 37 Me., 161; 54 Me., 502; 55 Me., 356, 430; 62 Me., 262; 63 Me., 224; 64 Me., 537; 67 Me., 243; 69 Me., 134; 70 Me., 257; 75 Me., 124; 79 Me., 107; 80 Me., 118; 81 Me., 389; 97 Me., 289.

(c) 28 Me., 67; 33 Me., 497; 34 Me., 219; 45 Me., 321; 53 Me., 539; 54 Me., 383; 55 Me., 92; 65 Me., 239, 247; 68 Me., 204; 70 Me., 455; 72 Me., 426; 74 Me., 220; 79 Me., 107; 80 Me., 118; 83 Me., 418.

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Who not common sellers.
R. S., c. 27, § 36.
73 Me., 107.

Drinking houses, prohibited.
R. S., c. 27, § 37.
1891, c. 132, § 3.

—defined.

—penalty.
See § 60; c. 136, § 1.

Penalty for advertising sale of liquors.
1885, c. 366, § 8.

—to whom it accrues.
97 Me., 488.

Penalty for furnishing intoxicating liquors to persons in confinement.
1889, c. 157, § 1.

—exception.

See c. 136, § 1.

Possession or deposit with intent to sell prohibited.
R. S., c. 27, § 38.
1903, c. 170, § 1.

Liquors for unlawful sale, forfeited.
R. S., c. 27, § 39.
See § 53.

Warrants of search and seizure may be granted on complaint.
R. S., c. 27, § 40.
1891, c. 132, § 4.
1903, c. 170, § 2.
See § 60; c. 136, § 1.
33 Me., 530,
561, 569.
38 Me., 288.
42 Me., 305.
46 Me., 526.
47 Me., 360,
392, 429.

SEC. 43. Persons selling by authority of and according to sections fourteen and twenty-six are not common sellers.

SEC. 44. No person shall keep a drinking house and tippling shop. Whoever sells intoxicating liquors in any building, vessel or boat, contrary to law, and the same are there drank, is guilty of keeping a drinking house and tippling shop, and upon conviction thereof shall be fined one hundred dollars and costs, and in addition thereto be imprisoned sixty days. In default of payment of said fine and costs, the party shall suffer an additional imprisonment of sixty days. (a)

SEC. 45. Whoever advertises or gives notice of the sale or keeping for sale of intoxicating liquors, or knowingly publishes any newspaper in which such notices are given, shall be fined for such offense the sum of twenty dollars and costs, to be recovered by complaint. One-half of said fine shall be paid to the complainant and one-half to the town in which said notice is published.

SEC. 46. Whoever gives or delivers to a person confined in any jail, house of correction or other place of confinement, or to a person in custody of any officer qualified to serve criminal processes, any spirituous or intoxicating liquor, or has in possession, within the precincts of any jail, house of correction or other place of confinement, any such liquor, with intent to convey or deliver the same to any person confined therein, unless under the direction of the physician appointed to attend said prisoner, or of the officer in charge of said place of confinement of said prisoner, shall be punished by fine not exceeding twenty dollars, or by imprisonment in the jail or house of correction not exceeding thirty days.

SEC. 47. No person shall deposit or have in his possession intoxicating liquors with intent to sell the same in the state in violation of law, or with intent that the same shall be so sold by any person, or to aid or assist any person in such sale. Whoever violates this section shall be fined one hundred dollars and costs or be imprisoned sixty days. (b)

SEC. 48. Intoxicating liquors kept and deposited in the state, intended for unlawful sale in the state, and the vessels in which they are contained, are contraband and forfeited to the county in which they are so kept at the time when they are seized under this chapter. And in all cases where an officer may seize intoxicating liquors or the vessels containing them, upon a warrant, he may seize the same without a warrant, and keep them in some safe place for a reasonable time until he can procure such warrant. (c)

SEC. 49. If any person competent to be a witness in civil suits, makes sworn complaint before any judge of a municipal or police court or trial justice, that he believes that intoxicating liquors are unlawfully kept or deposited in any place in the state by any person, and that the same are intended for sale within the state in violation of law, such magistrate shall issue his warrant, directed to any officer having power to serve criminal process, commanding him to search the premises described and specially designated in such complaint and warrant, and if said liquors are there found, to seize the same, with the vessels in which they are contained, and

(a) 45 Me., 436; 48 Me., 217; 53 Me., 539; 69 Me., 135; 79 Me., 107; 82 Me., 213; 94 Me., 61

(b) 47 Me., 427; 48 Me., 581; 50 Me., 514; 56 Me., 91; 59 Me., 384; 63 Me., 214; 79 Me., 107.

(c) 33 Me., 561; 47 Me., 427; 54 Me., 37; 55 Me., 424; 56 Me., 91, 92; 59 Me., 384; 63 Me., 217; 65 Me., 102, 557; 68 Me., 420; 71 Me., 357; 78 Me., 403; 79 Me., 108; 86 Me., 527; 96 Me., 124; 97 Me., 275.

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them safely keep until final action thereon, and make immediate return on said warrant. The name of the person so keeping said liquors as aforesaid, if known to the complainant, shall be stated in such complaint, and the officer shall be commanded by said warrant, if he finds said liquors to arrest said person and hold him to answer as keeping said liquors intended for unlawful sale. Any person who may be suspected of selling from, or keeping for illegal sale in his pockets, intoxicating liquors, may be searched in the same manner and by the same process as is provided for the search of places and if liquors are found upon his person, may be held to answer as though such liquors were kept and deposited by him in any place. If fluids are poured out or otherwise destroyed by the tenant, assistant or other person, when premises are about to be searched, manifestly for the purpose of preventing their seizure by officers authorized to make such search and seizure, such fluids may be held to have been intoxicating and intended for unlawful sale, and the penalties shall be the same as if said liquors had been seized. If the name of the person keeping such liquors is unknown to the complainant, he shall so allege in his complaint, and the magistrate shall thereupon issue his warrant as provided in the first sentence of this section. If upon trial, the court is of the opinion that the liquor was so aforesaid kept and intended for unlawful sale, by the person named in said complaint, or by any other person with his knowledge or consent, he shall be found guilty thereof, and sentenced to a fine of one hundred dollars and costs and in addition thereto be imprisoned sixty days. In default of payment of fine and costs the party shall be imprisoned sixty days additional. The payment of the United States special tax as a liquor seller, or notice of any kind in any place of resort, indicating that intoxicating liquors are there sold, kept or given away unlawfully, shall be held to be prima facie evidence that the person or persons paying said tax, and the party or parties displaying said notices, are common sellers of intoxicating liquors, and the premises so kept by them common nuisances.

Sec. 50. When liquors and vessels are seized as provided in the preceding section, the officer who made such seizure shall immediately file with the magistrate before whom such warrant is returnable, a libel against such liquors and vessels, setting forth their seizure by him, describing the liquors and their place of seizure, and that they were deposited, kept and intended for sale within the state in violation of law, and pray for a decree of forfeiture thereof, and such magistrate shall thereupon fix a time for the hearing of such libel, and shall issue his monition and notice of the same, to all persons interested, citing them to appear at the time and place appointed, and show cause why said liquors and the vessels in which they are contained should not be declared forfeited, by causing a true and attested copy of said libel and monition to be posted in two public and conspicuous places in the town or place where such liquors were seized, ten days at least before the day to which said libel is returnable. (a)

Sec. 51. If no claimant appears, such magistrate shall, on proof of notice as aforesaid, declare the same forfeited to the county in which they were seized. If any person appears and claims such liquors, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with the magistrate such claim in writing, stating specifically the right so claimed, and the foundation thereof, the

- 48 Me., 581.
- 49 Me., 286.
- 53 Me., 173.
- 54 Me., 36.
- 56 Me., 92.
- 59 Me., 384.
- 62 Me., 262, 422.
- 63 Me., 217.
- 64 Me., 431, 537.
- 66 Me., 130.
- 67 Me., 250, 425.
- 68 Me., 410, 411, 421.
- 70 Me., 201.
- 71 Me., 454.
- 73 Me., 38, 403.
- 79 Me., 54, 99, 104.
- 80 Me., 57, 93.
- 83 Me., 307, 463.
- 86 Me., 427, 529.
- 90 Me., 451.
- 95 Me., 198.
- 96 Me., 172.
- 97 Me., 275.

—fluids poured out to prevent seizure, may be held to have been intended for unlawful sale.

See § 54.
—penalty.

—payment of U. S. special tax as liquor seller, shall be prima facie evidence, the person paying such tax is a common seller.
80 Me., 57.

Duty of officer on seizure.
R. S., c. 27, § 41.

—libel, what to set forth.

—proceedings of magistrate in case of libel.

—notice of hearing.

In case no claimant appears.
R. S., c. 27, § 42.
48 Me., 583.
—claimant how to proceed.
61 Me., 523.

(a) 33 Me., 561, 573; 47 Me., 400; 48 Me., 188, 581; 53 Me., 172; 54 Me., 37; 61 Me., 523; 62 Me., 265; 80 Me., 93, 207.

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62 Me., 422.
69 Me., 525.
73 Me., 279.
83 Me., 151.

—claimant to be admitted as a party.

—trial.

—duty of magistrate if claimant is entitled.

—otherwise, judgment for costs and liquors forfeited.
See § 53.

—appeal.

Dwelling-house not to be searched, except in certain cases.
R. S., c. 27, § 43.

Liquors forfeited by order of court.
R. S., c. 27, § 44.
1897, c. 212.

—officer shall send out of the state, and have alcohol re-distilled therefrom.

—officer shall contract with distiller, outside of state, to distil liquors and sell same for cash.

—shall take bond of distiller.

items so claimed, the time and place of the seizure, and the name of the officer by whom the same were seized, and in it declare that they were not so kept or deposited for unlawful sale, as alleged in said libel and monition, and also state his business and place of residence, and shall sign and make oath to the same before said magistrate. If any person so makes claim, he shall be admitted as a party to the process; and the magistrate shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libelant or claimant. If the magistrate is, upon the hearing, satisfied that said liquors were not so kept or deposited for unlawful sale, and that the claimant is entitled to the custody of any part thereof, he shall give him an order in writing, directed to the officer having the same in custody, commanding him to deliver to said claimant the liquors to which he is so found to be entitled, within forty-eight hours after demand. If the magistrate finds the claimant entitled to no part of said liquors, he shall render judgment against him for the libelant for costs, to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said liquors forfeited to the county where seized. The claimants may appeal and shall recognize with sureties as on appeals in civil causes from a magistrate.

SEC. 52. No warrant shall be issued to search a dwelling-house occupied as such, unless it, or some part of it, is used as an inn or shop, or for purposes of traffic, or unless the magistrate before whom the complaint is made, is satisfied by evidence presented to him, and so alleges in said warrant, that intoxicating liquor is kept in such house or its appurtenances, intended for sale in the state, in violation of law. (a)

SEC. 53. All spirituous and distilled liquors and all other liquors, declared forfeited by any court under this chapter, which shall have been found by said court to contain more than twenty per cent of alcohol, shall, by order of the court rendering final judgment thereon, be turned over to the sheriff of the county where such seizure was made, by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to said court; and said sheriff shall receipt to said officer therefor; said sheriff shall mingle said liquors together, and as soon as he has accumulated a quantity equal to five barrels, he shall ship the same to some responsible rectifying distiller, outside of this state, and have the alcohol re-distilled therefrom, as is hereinafter provided. Said sheriffs shall annually contract with some responsible rectifying distiller, outside the limits of this state to take such liquors and distil the alcohol therefrom, and to account for and pay over to the treasurer of the county from which said liquors are received, in cash, at an agreed price for each gallon of one hundred degrees strength, determined by the United States internal revenue inspector at place of rectification. Before delivering any liquor under the aforesaid contract, the said sheriff shall take a bond, with sureties residing in this state, and to be approved by the treasurer of the county, from said rectifying distiller to the treasurer of his county, in the penal sum of one thousand dollars, conditioned that all of said liquors so received under said contract, shall be rectified and the alcohol distilled therefrom, and that the contractor will account for and pay over to the treasurer of said county from which said liquors are received, in cash, the amount due under said contract. In all suits upon bonds given under this section, the damages shall be the full penal sum of

(a) 62 Me., 422; 79 Me., 82; 85 Me., 471; 86 Me., 529.

said bond. For all services in connection herewith, the said sheriff shall receive from the county treasurer five per cent of the net amount received from said contractor. All other liquors declared forfeited by any court under this chapter, shall, by order of the court rendering final judgment thereon, be destroyed by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to said court. Such liquors shall be destroyed by pouring them upon the ground. A record of vessels forfeited shall be kept by each officer, and returned to the county commissioners once in each three months, and once in six months, or oftener, if they deem it advisable, the commissioners shall order such officers to sell the vessels at public or private sale, and pay the proceeds thereof into the county treasury.

SEC. 54. If complaint is made upon oath to any magistrate against any claimant under this chapter, alleging that the liquors so claimed by him were, prior to, and at the time when the same were seized, kept or deposited by said claimant, or by some person by his authority, and intended for unlawful sale in this state, either by such person, or the said claimant, the magistrate shall issue his warrant against such claimant so charged, and he shall be arrested thereon, and be brought before such magistrate, and on conviction shall be punished as is provided in section forty-nine.

SEC. 55. If an officer having a warrant, issued under this chapter, committed to him, directing him to seize any liquors, and to arrest the owner or keeper thereof, is prevented from seizing the liquors by their being poured out or otherwise destroyed, he shall arrest the alleged owner or keeper named in the warrant, and bring him before the magistrate, and make return upon the warrant that he was prevented from seizing said liquors by their being poured out or otherwise destroyed, as the case may be, and in his return he shall state the quantity so poured out or destroyed, as nearly as may be, and the magistrate shall put the owner or keeper so arrested upon trial; and if it is proved that such liquors as were described in the warrant were so poured out or destroyed, and that they were so kept or deposited and intended for unlawful sale, and that the person so arrested was owner or keeper thereof, he shall be punished in the same manner as if the liquors described in the warrant and in the return had been seized on the warrant and brought before the magistrate by the officer. All dumps or appliances for concealing, disguising or destroying liquors, so that the same cannot be seized or identified, found in the possession or under the control of any person or persons, shall be taken by the officer making said search or seizure, so far as the same is practicable, together with all bottles and drinking glasses or vessels found in the possession or under the control of any such person or persons, and carried before the next grand jury sitting in said county where said seizure and search is made, and the same, together with all evidences of such dumps or appliances for concealing, disguising or destroying liquors, shall be presented to said grand jury for their consideration, and the same shall thereafter be subject to the order of the court issuing the warrant for said search and seizure.

SEC. 56. If any deputy sheriff, after having executed such warrant by a seizure dies or goes out of office before final execution in the proceedings is done, the liquors shall be held in the custody of the sheriff or another deputy. If any other officer dies or goes out of office under like circumstances, the magistrate before whom the proceedings were commenced, shall designate in writing some officer lawfully authorized to execute such a warrant, who shall hold such liquors in his custody until final judgment and order of the court thereon.

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—fees of officer.

—all other forfeited liquors shall be destroyed.

—vessels may be sold.

Warrant to be issued against claimant upon oath of complainant.
R. S., c. 27, § 45.
1891, c. 132, § 5.
See c. 136, § 1.

—arrest.

—trial.

—punishment.

Seizure prevented by destruction of liquors.
R. S., c. 27, § 46.
1885, c. 366, § 5.
65 Me., 102.

—arrest of alleged owner.

—how to make returns in such cases.
47 Me., 360.

—trial of owner.

—penalty.

—dumps and appliances for preventing seizure or identification of liquors, shall be taken and presented to grand jury for consideration.

Deputy sheriff dying, etc.
R. S., c. 27, § 47.

—other officer dying, duty of magistrate.

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Person drunk
in streets shall
be punished.
R. S., c. 27, § 48.
1893, c. 149.
1897, c. 278.

—person drunk
in his own
house, and
disturbing the
peace, shall be
punished.
47 Me., 464.
78 Me., 421.
14 Atl. 942.

—formal ar-
rest and trial.

Responsibility
for injuries
by drunken
persons.

R. S., c. 27, § 49.
66 Me., 472.
67 Me., 519.
69 Me., 81, 84.
76 Me., 213.
95 Me., 559.
96 Me., 88.

—damages.

—owner or
lessee of build-
ing.

—proof of
relationship.

Liquors and
vessels seized,
not replevia-
ble, pending
proceedings.
R. S., c. 27, § 50.
62 Me., 535.

—final judg-
ment, effect.
91 Me., 479.

Prosecutions,
how com-
menced and
conducted.
R. S., c. 27, § 51.
See §§ 17, 33, 67,
68.
8 Me., 113.
54 Me., 556.
60 Me., 107.
84 Me., 28.

—penalties of
recognizances.

Previous con-
victions to be
alleged.
R. S., c. 27, § 52.

SEC. 57. Any person found intoxicated in any street, highway or other public place, shall be punished for the first offense by a fine not exceeding ten dollars, or by imprisonment not exceeding thirty days, and upon any subsequent conviction by imprisonment not exceeding ninety days. Any person found intoxicated in his own house, or in any other building or place, who is disturbing the public peace, or the peace of his own or any other family, shall be punished for the first and any subsequent conviction, as provided in the preceding clause of this section. Any such intoxicated person shall be taken into custody by any sheriff, deputy sheriff, constable, marshal, deputy marshal, police officer or watchman, and committed to the watch-house or police station or restrained in some other suitable place, until a complaint can be made and a warrant issued against him, upon which he may be arrested and tried. (a)

SEC. 58. Every wife, child, parent, guardian, husband or other person who is injured in person, property, means of support or otherwise, by any intoxicated person, or by reason of the intoxication of any person, has a right of action in his own name against any one who by selling or giving any intoxicating liquors, or otherwise, has caused or contributed to the intoxication of such person; and in such action the plaintiff may recover both actual and exemplary damages. The owner, lessee or person renting or leasing any building or premises, having knowledge that intoxicating liquors are sold therein, are liable, severally or jointly with the person selling or giving intoxicating liquors as aforesaid. And in actions by a wife, husband, parent or child, general reputation of such relationship is prima facie evidence thereof, and the amount recovered by a wife or child shall be her or his sole and separate property.

SPECIAL PROVISIONS FOR THE ENFORCEMENT OF THE LAW.

SEC. 59. Liquors seized as hereinbefore provided, and the vessels containing them, shall not be taken from the custody of the officer by a writ of replevin or other process while the proceedings herein provided are pending; and final judgment in such proceedings is in all cases a bar to all suits for the recovery of any liquors seized or the value of the same, or for damages alleged to arise by reason of the seizure and detention thereof.

SEC. 60. Prosecutions for manufacturing liquors in violation of law, for keeping drinking houses and tippling shops, and for being common sellers of intoxicating liquors, shall be by indictment; but in all other prosecutions under this chapter, except when otherwise expressly provided, judges of municipal and police courts and trial justices have by complaint, jurisdiction, original and concurrent with the supreme judicial and superior courts. All prosecutions in the supreme judicial and superior courts shall be by indictment. Said magistrates, in cases not within their jurisdiction, may examine and hold to bail. And in appeals from any judgment or sentence before such magistrate, the penal sum in every recognizance shall be two hundred dollars. No recognizance before such magistrate, shall be in a sum less than two hundred dollars; nor in the supreme judicial or superior court in less than five hundred dollars.

SEC. 61. Every trial justice, recorder, clerk and judge of a municipal or police court, and every county attorney, having knowledge of a previous conviction of any person accused of violating this chapter, in preparing

(a) Penalty for intoxication on part of engineer, conductor, brakeman, motorman or switchman on railroad, c. 52, § 74.

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complaints, warrants or indictments, shall allege such previous conviction thereon; and, after such indictment is entered in court, no county attorney shall dismiss or fail to prosecute it except by special order of said court. If any trial justice, recorder, clerk or judge of a municipal or police court, or county attorney, neglects or refuses to allege such previous conviction, or if any county attorney fails so to prosecute, he forfeits one hundred dollars in each case, to be recovered in an action of debt, to be brought by the attorney general in behalf of the state.

—indictments not to be dismissed, but by order of court.
—neglect to allege former conviction, or failure to prosecute, penalty.

SEC. 62. When a person has been convicted in the supreme judicial or superior court, of a violation of this chapter, the county attorney shall have him sentenced at the same term, unless for reasons satisfactory to the court, the case is continued for sentence one term, but no longer.

County attorney to cause speedy sentence.
R. S., c. 27, § 53.

SEC. 63. In appeals, the proceedings shall be the same in the appellate court as they would be in the court of the magistrate, and shall be conducted in said appellate court by the attorney for the state. The jury shall find specially under the direction of the court, on all facts necessary to determine the adjudication thereof; and if a claimant or other respondent fails to appear for trial in the appellate court, the judgment of the court below, if against him, shall be affirmed. No portion of the penalty of any recognizance taken under so much of this chapter as relates to intoxicating liquors shall be remitted by any court in any suit thereon, nor shall a surety in any such recognizance be discharged from his liability therein by a surrender of his principal in court after he has been defaulted upon his recognizance unless the principal has been actually sentenced upon the indictment or complaint on which the recognizance was taken. The appeals of claimants provided for in section fifty-one, shall be entered as all other appeals in criminal cases, and be subject to the requirements of law appertaining to them. (a)

Appeal, proceedings in case of.
R. S., c. 27, § 54.

—jury to find specially.

—affirmation of judgment.

recognizances.

—penalties not remitted, nor surety discharged by surrender of principal, unless sentenced. See c. 134, § 26.

SEC. 64. No action shall be maintained upon any claim or demand, promissory note or other security contracted or given for intoxicating liquors sold in violation of this chapter, or for any such liquors purchased out of the state with intention to sell the same or any part thereof in violation thereof; but this section shall not extend to negotiable paper in the hands of a holder for a valuable consideration and without notice of the illegality of the contract. (b)

Action not maintainable for liquors sold or kept in violation of law.
R. S., c. 27, § 56.

—exception.

SEC. 65. Whenever an unlawful sale is alleged, and a delivery proved, it is not necessary to prove a payment, but such delivery is sufficient evidence of sale. A partner in business is liable for the unlawful keeping or selling of his copartner, done in the copartnership business, or by any other person, in any shop, store or other place of business, of such copartnership, with his knowledge or assent. A principal and his agent, clerk and servant, may all be included in the same complaint and process. The mayor or aldermen, selectmen or assessors, may cause a suit to be commenced on any bond or recognizance given under this chapter in which his city, town or plantation is interested, and the same shall be prosecuted to final judgment unless paid in full with costs. The mayor and aldermen, selectmen, assessors and constables, in every city, town and planta-

Delivery, evidence of sale.
R. S., c. 27, § 57.

—partner liable.

—who may be included in complaint.

—town officers, may commence suit on bond.

—duty to prosecute for violation.

(a) 33 Me., 573; 37 Me., 161; 48 Me., 581; 49 Me., 286; 60 Me., 105; 61 Me., 117; 93 Me., 43.

(b) 44 Me., 54; 46 Me., 527; 47 Me., 60, 126, 473; 48 Me., 188, 552; 50 Me., 79; 51 Me., 255; 55 Me., 356, 431, 541; 57 Me., 180, 359; 59 Me., 443; 63 Me., 31; 66 Me., 141; 70 Me., 257; 72 Me., 279; 87 Me., 518; 89 Me., 140; 92 Me., 388, 421; 93 Me., 299; 94 Me., 444; 95 Me., 536; 96 Me., 457.

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—penalty for municipal officers neglecting to execute process, is liable.

—officer, neglecting to execute process, is liable.

—judgment.

—assessors.

—plantations. See c. 1, § 6, ¶ xix.

—allegation of previous conviction sufficient.

—any process may be amended as to form.

Persons engaged in unlawful traffic not to sit upon jury. R. S., c. 27, § 58. See c. 108, § 3.

Proceedings under this chapter not barred within six years. R. S., c. 27, § 59. —absence deducted.

Law applies to importations in original package. 1891, c. 45.

Special duty of sheriffs, deputies and county attorneys, to en-

tion, shall make complaint and prosecute all violations of this chapter, and promptly enforce the laws against drinking houses. If a municipal officer, after being furnished with a written notice of a violation of this chapter, signed by two persons competent to be witnesses in civil suits, and containing the names and residences of the witnesses to prove such offense, wilfully neglects or refuses to institute proceedings therefor, he shall be fined not less than twenty, nor more than fifty dollars, to be recovered by indictment. The oath required of any such officer to the complaint may be, in substance, that from a written notice signed by two persons competent to be witnesses in civil suits, he believes the complaint signed by him to be true. If an execution or other final process, issued in any civil or criminal suit instituted under this chapter, is placed in the hands of any proper officer to be by him executed, and he unreasonably neglects or refuses so to do, an action may be commenced against him by any voter in the county, and prosecuted to final judgment, which shall be for the full amount of the judgment and interest on such execution; and if it is a process that requires him to take and commit an offender to prison, the damages shall not be less than fifty, nor more than five hundred dollars. Selectmen of towns herein mentioned include assessors of plantations. In suits, complaints, indictments or other proceedings for a violation of any provision of this chapter relating to intoxicating liquors, other than for the first offense, it is not requisite to set forth particularly the record of a former conviction, but it is sufficient to allege briefly, that such person has been convicted of a violation of any particular provision, or as a common seller, as the case may be, and such allegation in any criminal process, legally amendable in any stage of the proceedings before final judgment, may be amended, without terms, and as a matter of right. Any process civil or criminal, legally amendable, may, in any stage of the proceedings, be amended in any matter of form, without costs, on motion at any time before final judgment. (a)

SEC. 66. No person engaged in the unlawful traffic in intoxicating liquors is competent to sit as a juror in any case arising under this chapter; and when information is communicated to the court that a member of any panel is engaged in such traffic, or that he is believed to be so engaged, the court shall inquire of the juror of whom such belief is entertained; and no answer which he makes shall be used against him in any case arising under this chapter; but if he answers falsely, he shall be incapable of serving on any jury; but he may decline to answer, in which case he shall be discharged by the court from all further attendance as a juror.

SEC. 67. The offenses described in this chapter fall within section fifteen of chapter one hundred and thirty-two, and no such offense is barred by any period of time less than six years after the commission thereof. No portion of time during which the offender is not usually and publicly a resident in this state shall be a part of said six years.

SEC. 68. All the provisions of this chapter, chapter twenty-two, section twenty-five of chapter one hundred and thirty-four, and section one of chapter one hundred and thirty-six, so far as they relate to intoxicating liquors, are hereby made to apply to all intoxicating liquor imported in the original package.

SEC. 69. Sheriffs and their deputies and county attorneys shall diligently and faithfully inquire into all violations of law, within their respective counties, and institute proceedings in case of violations or supposed

(a) 54 Me., 563; 65 Me., 247, 273; 67 Me., 129; 69 Me., 576; 78 Me., 40; 79 Me., 104; 80 Me., 118; 92 Me., 427.

violations of law, and particularly the law against 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 entering a complaint before a magistrate and executing the warrants issued thereon, or by furnishing the county attorney promptly and without delay, with the names of alleged offenders, and of the witnesses. For services under this section, sheriffs, and their deputies acting under their directions, shall receive the same per diem compensation, as for attendance on the supreme judicial court, the same fees for travel as for the service of warrants in criminal cases, together with such necessary incidental expenses as are just and proper; bills for which shall be audited by the county commissioners, and paid from the county treasury. But said commissioners shall not allow any per diem compensation to said sheriffs or their deputies for any day for which said sheriffs or their deputies are entitled to fees or compensation for attendance at or service in any court. The provisions of this section as to compensation of sheriffs and their deputies, and the provisions of section five of chapter one hundred and seventeen shall not apply to the sheriff of Cumberland county, and his deputies acting under the provisions of this section.

SEC. 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.

SEC. 71. The clerk of courts, shall within thirty days after the adjournment of any superior or supreme judicial court, publish in some newspaper of the county, the disposition of each appealed case and indictment for violation of the laws regulating the use and sale of intoxicating liquors.

SEC. 72. The forms herein set forth, with such changes as adapt them for use in cities, towns and plantations, are sufficient in law, for all cases arising under the foregoing provisions, to which they purport to be adapted; and the costs to be taxed and allowed for the libel, shall be fifty cents; for entering the same, thirty cents; for trying the same, one dollar; for monition, fifty cents; for posting notices and return, one dollar; order to restore or deliver, twenty-five cents; executing the order, fifty cents. (a)

Form of indictment in case of common seller.

STATE OF MAINE.

"—, ss. — At the supreme judicial or superior court begun and held at —, within and for the county of —, on the — Tuesday of —, in the year of our Lord one thousand nine hundred and —:

The jurors for said state upon their oath present, that A. B., of —, in said county, at —, in said county of —, on the — day of —, in the year of our Lord one thousand nine hundred and —, and on divers others days and times between said — day of — aforesaid and the day of the finding of this indictment, without lawful authority, license or permission, was a common seller of intoxicating liquors, against the peace of said state, and contrary to the form of the statute in such case made and provided;" (in case of a former conviction add): "and

(a) 59 Me., 384; 65 Me., 247, 273; 67 Me., 129; 69 Me., 576; 80 Me., 94; 86 Me., 527.

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force provisions of this chapter.
R. S., c. 27, § 60.
1897, c. 317.
67 Me., 375.
See c. 125, § 9.

—per diem pay allowed for services.
91 Me., 316.

See c. 82, §§ 23-31 as to officers in Cumberland Co.

—provisions of sec. 69 and of c. 117, § 5, shall not apply to sheriff of Cumberland county.

Similar duty of county attorneys.
R. S., c. 27, § 61.

Clerk of courts shall publish disposition of appealed cases and indictments.
1887, c. 44.

What forms are sufficient.
R. S., c. 27, § 63.

—costs, taxable.

—form of indictment.
80 Me., 113.

Form of recognizance in case of a single sale.

"Be it remembered, that at a justice court held by me, the subscriber, one of the trial justices within and for the county of —, at my office in —, in said county, on the — day of —, in the year of our Lord one thousand nine hundred and —, personally appeared —, — and —, and severally acknowledged themselves to be indebted to the State of Maine, in the respective sums following, to wit:

—form of
recognizance
for single sale.

The said —, as principal, in the sum of — dollars, and the said — and —, as sureties, in the sum of — dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof of their bodies, to the use of the state, if default is made in the condition following:

The condition of this recognizance is such, that whereas said — has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath — of —, charging him, said —, with having sold at said —, one — of intoxicating liquor to one —, without lawful authority, license or permission therefor, against the peace of said state, and contrary to the form of the statute in such case made and provided. And said —, having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to —; and said — having appealed from said sentence to the supreme judicial" (or superior) "court, next to be held at —, within and for the said county of —, on the — Tuesday of —, in the year of our Lord nineteen hundred and —.

Now therefore, if said — shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license, then this recognizance shall be void; otherwise shall remain in full force and virtue.

Witness, —, *Trial Justice.*"

Form of mittimus.

STATE OF MAINE.

"County of —, ss. — To the sheriff of the county of —, or either of his deputies, or either of the constables of the town of —, and to the keeper of the jail in —, in our said county, GREETING.

—form of
mittimus.

[L. s.] Whereas E. F., of —, in our county of —, now stands convicted before me, A. B., esquire, one of the trial justices in and for the said county of —, on complaint of —, who, on his oath — complains that" — (here insert the substance of the complaint) "against the peace of the state, and contrary to the form of the statute in such case made and provided, for which offense, he, said E. F., is sentenced to pay a fine to the state, of — dollars, and costs of prosecution, taxed at — dollars and — cents, (and to stand committed until the sentence is performed, all which sentence said E. F., now before me, the said justice, fails and refuses to comply with and perform.)

These are therefore, in the name of the State of Maine, to command you, the said sheriff, deputies and constables, and each of you, forthwith to convey said E. F. to the common jail in —, in the county aforesaid, and to deliver him to the keeper thereof, together with this precept. And you the keeper of the said jail in — aforesaid, are

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hereby in like manner commanded, in the name of the State of Maine, to receive said E. F. into your custody, in said jail, and him there safely to keep until he shall comply with said sentence, or be otherwise discharged by due course of law.

Given under my hand and seal, this — day of —, A. D. —.
A. B., *Trial Justice.*"

Form of complaint in case of seizure.

STATE OF MAINE.

—form of complaint, in case of seizure.
47 Me., 431.
63 Me., 214.
64 Me., 532.
95 Me., 199.

"—, ss.—To A. B., esquire, one of the trial justices within and for the county of —.

A. B., of —, in said county, competent to be a witness in civil suits, on the — day of —, in the year nineteen hundred and —, in behalf of said state, on oath complains, that he believes, that on the — day of —, 19—, at said —, intoxicating liquors were, and still are kept and deposited by — —, of —, in said county, in —" (here describe with precision the place to be searched,) "said — — not being then and there authorized by law to sell said liquors within said —; and that said liquors then and there were, and now are intended by said — — for sale in the state in violation of law, against the peace of the state and contrary to the form of the statute in such case made and provided.

I therefore pray, that due process be issued to search the premises hereinbefore mentioned, where said liquors are believed to be deposited, and if there found, that said liquors and vessels be seized and safely kept until final action and decision be had thereon, and that said — — be forthwith apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against him.

A. B.

—oath.

—, ss.—On the — day of —, 19—, said A. B. made oath that the above complaint by him signed is true.

Before me, — —, *Trial Justice.*"

Form of warrant in case of seizure.

STATE OF MAINE.

—form of warrant, in case of seizure.
66 Me., 478.

"—, ss.—To the sheriff of our said county of —, or either of his deputies, or either of the constables of the town of —, or of either of the towns within said county.

[L. S.] Whereas A. B., of —, in said county, competent to be a witness in civil suits, on the — day of —, in the year nineteen hundred and —, in behalf of said state, on oath complained to the subscriber, one of the trial justices within and for said county, that he believes, that on the — day of —, 19—, at said —, intoxicating liquors were and still are deposited and kept by — —, of —, in said county, in —" (here follows a precise description of the place to be searched,) "and that said — — then and there intended and now intends to sell the same in the state, in violation of law as fully appears by the complaint hereunto annexed, and prayed that due process be issued to search the premises hereinbefore mentioned, where said liquors are believed to be deposited, and, if there found, that said liquors and vessels be seized and safely kept until final action and decision be had

thereon, and that said ——— be apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against him:—

You are therefore required in the name of the state, to enter the ——— before named, and therein to search for said liquors, and, if there found, to seize and safely keep the same, with the vessels in which they are contained, until final action and decision is had on the same; and to apprehend said ——— forthwith, if he may be found in your precinct, and bring him before me, the subscriber, or some other trial justice within and for said county, to answer to said complaint, and to do and receive such sentence as may be awarded against him.

Witness, ———, esquire, at ——— aforesaid, this ——— day of ———, in the year of our Lord nineteen hundred and ———.

—————, *Trial Justice.*”

Form of recognizance in case of seizure.

“Be it remembered, that at a justice court held by me, the subscriber, one of the trial justices within and for the county of ———, at my office in said ———, on the ——— day of ———, in the year of our Lord nineteen hundred and ———, personally appeared A. B., C. D. and E. F. and severally acknowledged themselves to be indebted to the State of Maine, in the respective sums following, to wit:

—form of recognizance, in case of seizure.

The said ———, as principal, in the sum of ——— dollars, and the said ——— and ———, as sureties, in the sum of ——— dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof, of their bodies, to the use of the state, if default is made in the condition following:

The condition of this recognizance is such, that whereas said ——— has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath, of G. H., of ———, a competent witness in civil suits, charging him, said ———, with having at ———, in the said county of ———, on the ——— day of ———, 19—, kept and deposited certain intoxicating liquors in ———” (here describe the place where the same are deposited) “with intent to sell the same in said ———, in violation of law; said ——— not being then and there authorized or appointed to sell the same in said ———, and a search warrant having been issued upon said complaint, and said liquors above described, having been seized thereon, and said ——— arrested thereon; and said ——— having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to ———. And said ———, having appealed from said sentence to the supreme judicial or superior court, next to be held at ———, within and for said county of ———, on the ——— Tuesday of ———, in the year of our Lord nineteen hundred and ———:

Now therefore, if said ——— shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license; then this recognizance shall be void; otherwise shall remain in full force and virtue.

—————, *Trial Justice.*”

Form of libel.

STATE OF MAINE.

—form of
libel.

“County of —, ss.—To A. B., a trial justice, in and for said county:
The libel of C. D., of —, shows that he has, by virtue of a warrant
duly issued on the — day of —, A. D. 19—, by — —, esquire,
a trial justice in and for said county, seized certain intoxicating liquors
and the vessels in which the same were contained, described as follows:
——” (here follows a description of the liquors,) “because the same
were kept and deposited at ——” (describing the place) “in the said
county of —, and were intended for sale within the state, in violation
of law. Wherefore he prays for a decree of forfeiture of said liquors
and vessels, according to the provisions of law in such case made and
provided.

Dated at —, in said county, this — day of —, in the year of
our Lord nineteen hundred and —.

(Signed.) — —.”

Form of monition and notice.

STATE OF MAINE.

—form of
monition and
notice.

“County of —, ss.

[L. s.] To all persons interested in ——” (here insert the description
of the liquors, as in the libel).

“The libel of C. D., hereunto annexed, this day filed with me, A. B.,
esquire, a trial justice, in and for said county, shows that he has seized
said liquors and vessels, because” (insert as in the libel), “and prays
for a decree of forfeiture of the same according to the provisions of law
in such case made and provided.

You are, therefore, hereby notified thereof, that you may appear before
me, the said justice, at —, in said county, on the — day of —,
19—, and then and there show cause why said liquors and the vessels
in which they are contained should not be declared forfeited.

Given under my hand and seal at —, on the — day of —, in
the year of our Lord nineteen hundred and —.

—— —, *Trial Justice.*”