

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1835.

AUGUSTA:
WILLIAM J. CONDON,.....PRINTER.

1835.

FIFTEENTH LEGISLATURE.

NO. 44.

HOUSE.

STATE OF MAINE.

IN THE YEAR OF OUR LORD, ONE THOUSAND EIGHT HUNDRED AND THIRTY-FIVE.

AN ACT in relation to Innholders, Retailers, and common Victuallers.

SECTION 1. *Be it enacted by the Senate and*
2 House of Representatives, in Legislature as-
3 ssembled, That no person shall be allowed to be
4 a common victualler, or seller of wine, brandy,
5 rum, or any strong liquors, by retail, or in
6 less quantity than twenty-eight gallons, and that
7 delivered and carried away all at one time, ex-
8 cept such person be duly licensed, as is herein-
9 after provided, on pain of forfeiting the sum of
10 fifty dollars; and if any person shall at any time
11 sell any spirituous, or any mixed liquors, part of
12 which is spirituous, without license therefor, du-

13 ly had and obtained according to law, he shall
14 forfeit and pay for each offence the sum of ten
15 dollars.

SECT. 2. *Be it further enacted, That*
2 it shall be the duty of the Selectmen, Trea-
3 surer and Town Clerk of each and eve-
4 ry town, and the Assessors, Treasurer and
5 Clerk of each plantation, and the Aldermen and
6 City Clerk of each city in this State, to meet on
7 the first Monday of September annually, or on
8 the succeeding day, at such time on either or
9 both of said days, and at the place they shall
10 appoint, by posting notice thereof in two public
11 places in each town, plantation or city, seven
12 days before the time of such meeting, and at
13 such meeting may license to be victuallers, inn-
14 holders, or sellers of wine, brandy, rum, or oth-
15 er strong liquors, by retail, in such town, plan-
16 tation or city, for one year from that date, as
17 many persons of sober life and conversation, and
18 of good moral character, and suitably qualified
19 for the employment for which they may sever-
20 ally apply, to be licensed as they may deem ne-
21 cessary, if they shall be thereto authorized by
22 their respective towns, plantations and cities, as

23 is provided in the section of this Act.
 24 Each person who shall be so approved, shall,
 25 before being licensed, give a bond, with sufficient
 26 surety or sureties, to the Treasurer of the town,
 27 plantation or city, in which said license shall be
 28 granted, in the penal sum of three hundred dol-
 29 lars, which bond shall be in form following:

Know all men by these presents, that we, within the
 (town of) in the State of Maine, innholder, and stand
 firmly bound and obliged, unto A. B. Treasurer of said town of
 in the full sum of three hundred dollars, to be paid to
 the said A. B. and his successor in said office, to the true pay-
 ment whereof we do bind ourselves, and each of us, and our
 heirs, executors and administrators, jointly and severally by
 these presents. Sealed with our seals. Dated the day
 of in the year of our Lord one thousand eight hundred
 and The condition of this obligation is such, that where-
 as the above named having been duly licensed as an
 innholder (or as the case may be) within the said town of
 for one year next ensuing the date hereof: now if the said
 shall in no respect violate any of the provisions of the
 Act for the regulation of Innholders, Retailers and common
 Victuallers, then the above written obligation shall be void and
 of none effect; or else shall abide and remain in full force and
 virtue. And each of the persons who shall be so licensed, shall
 pay to the Selectmen of towns, Assessors of plantations, and
 Aldermen of the several cities, one dollar, or such sum as may
 be agreed on and voted in town and the Clerks
 respectively shall make a record of all licenses granted, and
 said Selectmen, Treasurer and Clerk, Assessors, Treasurer, and
 Clerk, or Aldermen and Clerk, may, at any other time, at
 a meeting held for that purpose, license any person suitably
 qualified as aforesaid, and all licenses shall expire on the first
 Monday in September after granting the same.

SECT. 3. *Be it further enacted*, That it shall
 2 be the special duty of Selectmen of towns, As-
 3 sessors of plantations, and Aldermen of cities, to

4 cause suits and complaints to be entered and
5 prosecuted in every case of offence against any
6 of the provisions of this Act, as soon after the
7 offences are committed as may be; but nothing
8 contained within this Act, shall exclude any
9 right of action which may accrue to any oth-
10 er person or persons, under any of the pro-
11 visions of this Act, and it shall not be lawful
12 for any prosecuting officer to discontinue any
13 suit or any legal process under this Act, except
14 by the special direction of the Court before whom
15 the same shall be tried.

SECT. 4. *Be it further enacted,* That no
2 innholder, victualler or retailer, shall suffer any
3 revelling, riotous or disorderly conduct, in his
4 house, shop or dependences thereof, and no inn-
5 holder, victualler or retailer, shall suffer any per-
6 son to drink to drunkenness or excess, in his or
7 her house or shop, or suffer any minor or servant
8 to remain drinking there, or have any strong
9 drink there, under the pain of incurring the for-
10 feiture of their said bond.

SECT. 5. *Be it further enacted,* That the
2 Selectmen of each town, the Assessors of each
3 plantation, and the Aldermen of each city, may

4 deliver to each innholder and retailer by them
 5 licensed, at the time of granting such license,
 6 and as often afterwards as the case shall occur,
 7 the name of any person known by them to be
 8 addicted to the intemperate use of strong liquor,
 9 and every innholder or retailer, who shall sell,
 10 or in any manner furnish to any such person
 11 any wine, spirituous or mixed liquors, part of
 12 which is spirituous, shall forfeit the penalty of
 13 their bond.

SECT. 6. *Be it further enacted,* That when-
 2 ever any person shall by idleness, or excessive
 3 drinking of spirituous liquors, so mispend, waste
 4 or lessen his estate, as thereby either to expose
 5 himself or his family to want or indigent circum-
 6 stances, or the town to which he belongs to a
 7 charge or expense, for the maintenance or sup-
 8 port of himself or his family, or shall so indulge
 9 himself in the use of spirituous liquors, as great-
 10 ly to injure his health, or to endanger the loss
 11 thereof, such Selectmen, Assessors, or Alder-
 12 men, shall, in writing, under their hands, forbid
 13 all licensed persons in their respective towns and
 14 plantations, and cities, to sell to any of said mis-
 15 spenders of time and estate, any spirituous liq-

16 uors in this Act mentioned, for the space of one
17 year, and shall in like manner forbid licensed
18 persons of any other town or plantation, to which
19 such misspender may resort for the same; and
20 if any of the persons mentioned in the said pro-
21 hibition, shall not in the opinion of the Select-
22 men, Assessors or Aldermen, or the major part
23 of them, have reformed during the year afore-
24 said, in such case the Selectmen of such town,
25 Assessors of such plantation, or Aldermen of
26 such city, shall renew the prohibition in manner
27 as aforesaid; and if any licensed victualler, inn-
28 holder or retailer of spirituous or strong liquors,
29 shall, during any such prohibition, sell to any
30 person named therein, any spirituous liquors in
31 this Act mentioned, he shall incur the penalty
32 of his said bond.

SECT. 7. *Be it further enacted,* That the
2 Selectmen, Treasurer and Clerk of each town,
3 the Assessors, Treasurer and Clerk of each plan-
4 tation, and the Aldermen and City Clerk of
5 each city, are hereby empowered, and it shall
6 be their duty in every instance which shall come
7 to their knowledge, of a violation of any of the
8 provisions of this Act, by any innholder, or re-
9 tailer, or victualler, to revoke or make void the

10 license of such innholder, or retailer, or victual-
11 ler, and to cause the bond of such innholder or
12 retailer to be prosecuted, after complaint made
13 and hearing thereon.

SECT. 8. *Be it further enacted*, That when-
2 ever the Selectmen of any town, the Assessors
3 of any plantation, or the Aldermen of any city,
4 shall have forbidden licensed persons selling to
5 any person addicted to the intemperate use of
6 strong liquors, or to any misspenders of their
7 time and estate, any spirituous or strong liquors
8 agreeable to the direction of this Act, it shall
9 not be lawful for any person to purchase, or pro-
10 cure for and in behalf of such prohibited person
11 for his use, any spirituous or strong liquors, and if
12 any person or persons shall purchase, procure
13 or sell, or cause to be purchased, procured or
14 sold, any spirituous or strong liquors, to or for
15 the use of such prohibited person, during the
16 continuance of such prohibition as aforesaid, he
17 shall forfeit and pay the sum of ten dollars.

SECT. 9. *Be it further enacted*, That all fines,
2 forfeitures and penalties, incurred under this
3 Act, which shall be recovered in the manner in
4 this section provided, shall be for the use of the
5 town, plantation or city, within which the of-

6 fence shall have been committed, and the same
 7 may be prosecuted, sued for and recovered in
 8 any Court of competent jurisdiction, in an action
 9 of debt in the name of the inhabitants of said
 10 town, plantation or city, provided prosecution
 11 for the same shall not have been previously com-
 12 menced in the manner hereinafter provided.

SECT. 10. *Be it further enacted, That in*
 2 addition to the mode of recovery provided for in
 3 the preceding section, any fine, forfeiture or pen-
 4 alty incurred under this Act, by any person or
 5 persons who shall not have taken license, and
 6 given bond as required by law, may, unless the
 7 same shall have been recovered, or action shall
 8 be then pending therefor, as provided in the
 9 section of this Act, be prosecuted for and re-
 10 covered by complaint before any Justice of the
 11 Peace, within and for the county in which such
 12 offence shall have been committed, by any citi-
 13 zen of the town, plantation or city, in which the
 14 offence shall be committed, or by indictment be-
 15 fore the Grand Jury, at any session of the Su-
 16 preme Judicial Court, or Court of Common
 17 Pleas, for the county in which the offence was
 18 committed.

SECT. 11. *Be it further enacted, That when-*

2 ever upon complaint and examination under this
 3 Act, before a Justice of the Peace, it shall ap-
 4 pear to him, that a sum has been forfeited ex-
 5 ceeding twenty dollars, to which extent inclu-
 6 sively his jurisdiction shall extend so far as this
 7 Act is concerned, he shall order the offender to
 8 recognize with sufficient surety or sureties for
 9 his appearance to answer for his offence, at the
 10 next Supreme Judicial Court, or next Court of
 11 Common Pleas, to be holden in his county, at
 12 his the said Justice's discretion, and shall also
 13 require material witnesses in such cases, and in
 14 all cases of appeal, to recognize as in other crim-
 15 inal cases.

SECT. 12. *Be it further enacted,* That at
 2 the annual meeting in towns, cities and planta-
 3 tions, for the choice of city, town or plantation
 4 officers for the year, immediately after the choice
 5 of moderator and clerk, and before proceeding
 6 to the choice of other officers, it shall be the du-
 7 ty of the moderator, whether there be any arti-
 8 cle in the warrant for that purpose or not, to
 9 put the following question to the voters then and
 10 there assembled, viz.—Shall licenses be grant-
 11 ed to sell wine, rum, brandy and other spiritu-

12 ous liquors?—and upon this question the num-
13 ber of voters and the sense of the meeting shall
14 be ascertained, by polling the house and count-
15 ing and recording the number on each side, and
16 after the vote shall have been taken and record-
17 ed, it shall not be reconsidered, unless by a lar-
18 ger number of qualified voters than appears of
19 record to have voted on the first decision. And
20 if the question shall be decided in the affirma-
21 tive, and not otherwise, the city, town and plan-
22 tation officers shall be empowered to grant li-
23 censes, according to the second section of this
24 Act. And at such town, city or plantation
25 meeting, the qualified voters may fix such sum
26 to be paid by any person licensed to sell, accor-
27 ding to the second section of this Act, as they
28 may deem expedient, for the use of the town,
29 city or plantation, and in such case, no license
30 shall be granted until the sum so fixed, shall
31 have been previously paid to the town, city or
32 plantation Treasurer, and a certificate from him
33 exhibited to the board granting the license. *Pro-*
34 *vided nevertheless*, that the Selectmen, Treas-
35 urer and Town Clerk, may license, till the annu-
36 al meetings in 1836, at their discretion, such per-

37 sons as they would be authorized to license, if
38 the town had voted in the affirmative, as named
39 in this section.

SECT. 13. *Be it further enacted,* That if
2 any person or persons shall sell, or expose for
3 sale, within one mile of the place of holding any
4 town or plantation meetings, during the day of
5 such meetings, any ardent spirits, wine or strong
6 beer, he shall forfeit and pay the sum of ten dol-
7 lars, two thirds for the benefit of the town in
8 which such offence shall have been committed,
9 and the other third for the benefit of any per-
10 son who may sue therefor, in an action of debt,
11 before any Justice of the Peace within the coun-
12 ty, and the person or persons so offending, in de-
13 fault of the payment of said fine, shall be commit-
14 ted to the county gaol for the term of thirty days;
15 and all such liquors, and the carriages and vessels
16 containing the same, may be taken into custody
17 by the constable of the town, and detained un-
18 til the close of said meeting, then to be deliv-
19 ed, on demand, if demanded within thirty days,
20 after which they shall be forfeited, and become
21 the property of the town: **Provided,** that noth-
22 ing in this Act shall prohibit licensed persons
23 from selling in their shops or houses where they
usually sell on other days.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
March 14, 1885. }

The foregoing Bill was read first and second time, and Wednesday next, at 10 o'clock, assigned for a third reading, and 500 copies ordered to be printed for the use of the Legislature.

[Extract from the Journal of the House.]

Attest: JAMES L. CHILD, Clerk.