

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1856.

PART SECOND.

Augusta:

FULLER & FULLER, PRINTERS TO THE STATE.

1856.

THIRTY-FIFTH LEGISLATURE.

SENATE.

No. 16.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND FIFTY-SIX.

AN ACT to regulate the sale of Intoxicating Liquors.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECTION 1. All sales of spirituous and intoxicating
2 liquors, shall be made only in conformity with the
3 provisions of this act.

SECT. 2. All imported liquors, upon which a duty
2 has been paid to the United States, may be sold by
3 the importer, or by any one who holds the same by
4 assignment, made before payment of duty, in the
5 original casks and packages, and in quantities not less
6 than the revenue laws of the United States prescribe
7 for the importation thereof; but no sale of such

8 liquors shall be made, in any vessels or packages, or
9 in any quantity, by any other person than the importer
10 or his assignee, as aforesaid, except by those regularly
11 authorized by this act. Any person may manufacture
12 and sell domestic wines and cider, except to persons
13 of known intemperate habits; and may manufacture
14 and sell all other alcoholic liquors, to persons author-
15 ized by this act to sell the same for medicinal and
16 mechanical purposes, and also for making any article
17 consisting in part of alcohol, which cannot be used as
18 a drink, but such manufacture shall not be allowed
19 for any other purpose.

SECT. 3. Physicians, apothecaries and druggists,
2 chemists, artists and manufacturers, shall be allowed
3 to sell alcoholic liquors, when combined with other
4 ingredients in the necessary proportions, to form such
5 compounds as are sold in the proper exercise of their
6 art, trade or profession; and all persons may sell, in
7 in the ordinary course of trade, such article, com-
8 pounded in part of alcohol, as cannot be used for a
9 drink.

SECT. 4. The selectmen of every town, *shall*,
2 annually, between the first and tenth day of May,
3 (after seven days previous notice in writing, posted in
4 two public places in said town, defining the time, place

5 and purpose of meeting,) meet at said time and place,
6 and *shall* select one man of suitable character and
7 location, if any such apply, to sell spirituous and
8 intoxicating liquors therein, until the tenth day of May
9 in the next succeeding year, with the purpose that
10 said liquors shall be applied to medicinal and mechan-
11 ical uses only; and if none such apply at said meet-
12 ing, then the selectmen, at any time within the year
13 after, upon such suitable application, *shall* make such
14 selection and give such authority; and in all towns,
15 the selectmen *may* select men, and give them
16 authority as aforesaid; and in towns containing more
17 than three thousand inhabitants, and not more than
18 six thousand, there may be persons so
19 selected; and in all towns containing more than six
20 thousand inhabitants, there may be persons
21 so selected and authorized; and every person so
22 selected, shall, upon request of the selectmen, furnish
23 to them all required information as to the purchase of
24 liquors sold, and the expense of the same; and if it
25 shall appear that such person has sold any such liquors
26 above the rate of per cent. advance upon the
27 price by him paid, with the necessary cost of trans-
28 portation; or if it shall be found that such person has
29 reduced or allowed to be reduced, any liquors pur-

30 chased and sold under his said authority, by the addi-
31 tion of any other liquid, without giving notice thereof
32 to the purchaser; such acts, or either of them, shall
33 constitute a breach of the bond named in this section.
34 Every person, before being allowed to sell as aforesaid,
35 shall give bond to the inhabitants of the town in which
36 he is selected to sell, with two sufficient sureties, in
37 the penal sum of five hundred dollars, which bond
38 shall have the approval of the selectmen endorsed
39 thereon, conditioned that he will in all respects con-
40 form to the provisions of this act, relating to the bus-
41 iness which he is authorized to transact, during the
42 time in which he is so authorized, and to such regu-
43 lations as may be from time to time established and
44 prescribed in writing to said person, by the board
45 granting such authority; and the court before whom
46 any action may be pending for breach of said bond,
47 shall have such chancery powers therein, as the
48 supreme judicial court now has, in all cases of forfeit-
49 ure of penalties to the state.

SECT. 5. Every individual, who shall by himself or
2 by any other person, sell any intoxicating liquors ex-
3 cept as authorized by this act, shall be subject to a
4 fine of not more than twenty dollars for each offense;
5 and for being a common seller thereof, contrary to

6 law, shall be subject to a fine of not less than fifty, nor
7 more than one hundred dollars and costs, upon the
8 first conviction. For the second and every subse-
9 quent conviction, he shall be subject to a fine of not
10 less than one hundred, nor more than two hundred
11 dollars, and in addition thereto, may be imprisoned
12 for a time not exceeding three months. Proof of six
13 sales, made at different times within one year, next
14 prior to the finding of the indictment, shall be sufficient
15 to constitute the offense of being a common seller.
16 The manufacture of alcoholic liquors in violation of
17 law shall be subject to the same penalties as are above
18 provided against the common seller.

SECT. 6. Any person or persons who shall sell
2 intoxicating liquors in violation of law, to any other
3 person who shall do any damage or injury to the per-
4 son or property of any one, while in a state of intoxi-
5 cation consequent upon the sale of such liquors, shall
6 be liable in an action of the case, to the party so
7 damaged or injured in the same manner and to the
8 same extent, as the person so committing the damage
9 or injury may be liable by law.

SECT. 7. Any one who shall compound liquors, a
2 part of which is spirituous with any noxious ingredi-
3 ents, and shall offer, or sell the same, or any such

4 compounded by others, of which he shall have knowl-
5 edge, to any individual, for medicinal purposes, or as
6 a drink, shall be punished by a fine of not less than
7 two hundred nor more than five hundred dollars, or
8 by imprisonment of not less than three nor more than
9 six months, or by fine *and* imprisonment, as the court
10 before whom the trial may be had, shall deem proper.

SECT. 8. Complaint may be made against any per-
2 son found drunk, and upon conviction thereof, he
3 shall be subject to a fine of not more than twenty
4 dollars; and any person hereafter found intoxicated
5 in any of the streets or highways, or being intoxicated
6 in his own house, or in any other place, who shall be-
7 come quarrelsome, or in any way disturb the public
8 peace, or that of any individual, may be taken into
9 custody by any sheriff, deputy sheriff, constable, mar-
10 shal, deputy marshal, police officer or watchman, and
11 committed to the watch house, or restrained in some
12 suitable place till a complaint can be made and war-
13 rant issued in due form, upon which he may be ar-
14 rested and tried; or such offender may be arrested
15 and tried upon complaint of any individual, and war-
16 rant thereon, without such previous detention; and if,
17 in either case, found guilty of such disturbance, he
18 shall be punished by imprisonment for a time not ex-

19 ceeding thirty days, or by fine not exceeding twenty
20 dollars.

SECT. 9. Any justice of the peace, or judge of any
2 municipal or police court, shall have, within their
3 several limits, original jurisdiction over all offenses
4 against any of the provisions of this act, when the
5 penalty, upon conviction, does not exceed a fine of
6 twenty dollars, or imprisonment for a term of thirty
7 days ; and where judgment may be for the forfeiture
8 of any liquors seized, and the vessels containing them,
9 and in all other cases arising under this act, proceed-
10 ings shall be by indictment in any court proper to try
11 the same. Imprisonment, by force of any provisions
12 herein contained, shall be in the county jail of the
13 county where the offense shall be committed.

SECT. 10. In all cases of appeal arising under this
2 act, when the judgment shall be for payment of fine
3 of not more than ten dollars, the appellant shall recog-
4 nize with two sufficient sureties, in the sum of fifty
5 dollars, to prosecute his appeal with effect, and abide
6 the order of court thereon ; and in all other cases of
7 appeal, the appellant shall recognize, as aforesaid,
8 with two sufficient sureties, in the sum of one hundred
9 dollars ; which recognizance shall be taken only by
10 the judge or justice before whom the trial was had, or

11 by some qualified magistrate appointed by said judge
12 or justice for that purpose ; and if not given within
13 twenty-four hours after judgment, (Sundays exclusive)
14 the appeal shall not be allowed.

SECT. 11. In all cases of appeal arising under this
2 act, and of a judgment for the payment of any fine,
3 where no appeal is taken, the defendant shall stand
4 committed until recognizance be given, or the judg-
5 ment of the court or magistrate be complied with ;
6 and when he is under sentence in more than one
7 case, the keeper of the prison is required to note upon
8 each mittimus, the order of time in which it is pre-
9 sented to him, and to detain the defendant in custody,
10 at the close of his commitment upon each, in their
11 order, until judgment in all such cases has been com-
12 plied with, or he be otherwise discharged, by due pro-
13 cess of law.

SECT. 12. It shall be the duty of any alderman,
2 selectman, assessor, city marshal, or his deputy, con-
3 stable or police officer, sheriff or deputy sheriff, of any
4 place, if he shall have information that any intoxicat-
5 ing liquors are kept and sold in violation of law, in
6 any place except a dwelling house, at or near the
7 place where any public assembly is convened, and
8 shall believe such information to be true, forthwith to

9 enter a complaint before some judge of a court, hav-
10 ing jurisdiction thereof, or justice of the peace, against
11 the keeper or keepers of such place, alleging in such
12 complaint, that he has reason to believe, and does
13 believe, that such liquors are sold in such place, (de-
14 scribing the same) in violation of law ; and upon such
15 complaint, the said judge or justice shall issue his
16 warrant, commanding the officer who may serve the
17 same, to search the place described in said complaint,
18 and which shall be described in said warrant, and if
19 he shall find upon said premises any such liquors, to
20 seize the same, with the vessels in which they are
21 contained, and to arrest the keeper or keepers there-
22 of, and have said keeper or keepers, with the liquors
23 and vessels so seized, as soon as may be, before some
24 judge or justice having cognizance thereof, to be
25 dealt with according to law. And the officer to
26 whom said warrant shall be committed, shall forth-
27 with execute the same, and the keeper or keepers
28 when arrested, shall be tried in due course of law ;
29 and upon satisfactory proof that said liquors are in-
30 toxicating, and that they have been sold as aforesaid,
31 he or they shall be found guilty, and sentenced to pay
32 a fine of not more than twenty dollars, or to be im-

33 prisoned not more than thirty days, and to pay all
34 legal costs of such proceedings. And the liquors and
35 vessels, so seized, shall be declared forfeited to the
36 town in which the offense shall be committed, and the
37 same shall be delivered by the officer on court, hav-
38 ing the same in charge, to any person authoized to
39 sell intoxicating liquors in said town by section four
40 of this chapter, and shall be by him disposed of for
41 the benefit of said town. But in case said alleged
42 keeper or keepers shall all be discharged, then said
43 liquors and vessels shall be re-delivered to any one
44 of them by order of said court or magistrate.

SECT. 13. If any two creditable persons living in
2 the same town with the defendant, shall make com-
3 plaint, upon oath, before any justice of the peace or
4 judge of any municipal or police court, that they have
5 reason to believe and do believe that the defendant
6 aforesaid, has intoxicating liquors, in his store, shop,
7 warehouse or other place, except a dwelling house,
8 with intent to sell the same in violation of this act,
9 such judge or justice, being satisfied that there is prob-
10 able cause to believe the allegations in said com-
11 plaint, shall issue his warrant thereon, requiring the
12 officer serving the same to search the place described

13 in the warrant, and if any such liquors are found, to
14 seize the same, with the vessels in which they are
15 contained ; and, in case of such seizure, to arrest the
16 person complained of ; and such further proceedings
17 shall be had in relation to the trial of the defendant,
18 and the judgment of the court or magistrate upon
19 such defendant, and in regard to liquors and vessels
20 so seized, as is provided in section twelve of this
21 chapter ; and satisfactory proof of keeping such
22 liquors with intent to sell the same, shall be sufficient
23 ground of conviction, and of a judgment for the same
24 penalty as provided in said twelfth section. Upon
25 complaint, on oath, made as aforesaid, by two credible
26 persons, that intoxicating liquors have been sold by
27 the person named in said complaint, in any dwelling
28 house within their town, contrary to law, within one
29 month next preceding the complaint, and that they
30 have reason to believe, and do believe, that such
31 liquors are kept by said person, in said dwelling house,
32 at the time of such complaint, with the intent to sell
33 the same, contrary to law, then such proceedings
34 may be had in relation to search in such dwelling
35 house, seizure, arrest, trial and judgment, as herein
36 before provided in relation to other places. And all

37 liquors, seized by virtue of this act, which upon trial
38 shall be proved to be impure or corrupted, shall be
39 destroyed by order of the court having jurisdiction
40 thereof.

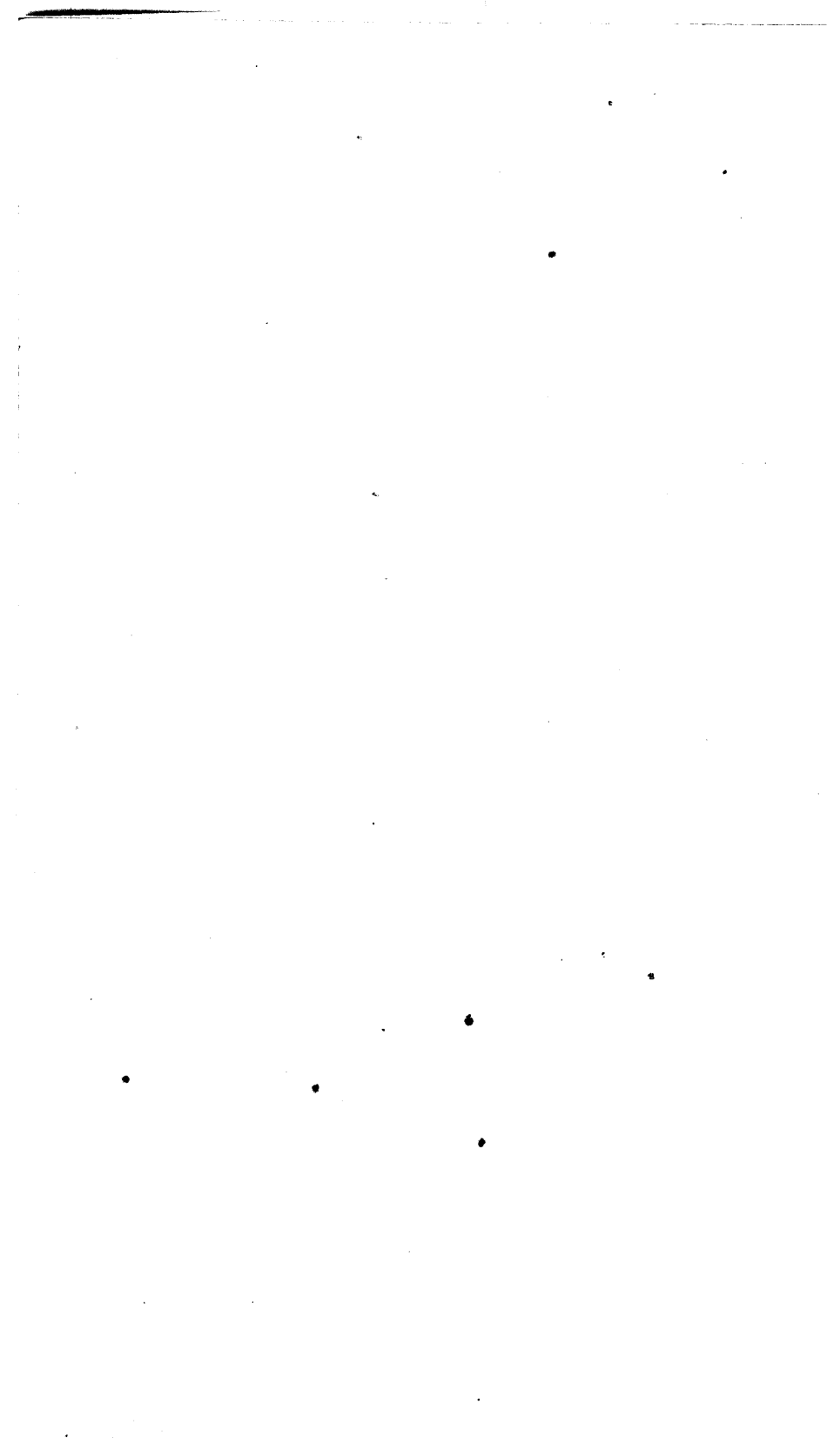
SECT. 14. If any appeal shall be taken from the
2 judgment of any court or magistrate, respecting
3 liquors that may be seized by force of this act, then
4 such liquors shall be kept by the officer seizing them
5 until the judgment of the appellate court is rendered ;
6 and such judgment shall be for the forfeiture, destruc-
7 tion, or restoration of the same, as the court shall de-
8 cide to be proper.

SECT. 15. Every public officer, municipal, civil, or
2 executive, who shall wilfully refuse or neglect to do
3 any duty required of him by any of the provisions of
4 this act, shall forfeit and pay for each such refusal or
5 neglect, not less than twenty-five, nor more than one
6 hundred dollars, to be recovered in an action of debt,
7 by any person living in the town with the officer so
8 neglecting or refusing, who shall sue for the same.
9 All fines, penalties, and costs, and all sums paid on
10 recognizances, not otherwise provided in this act,
11 shall be paid into the treasurers of the respective
12 counties for the use of the state. All the provisions

13 of this act in relation to the selectmen of towns, shall
14 apply equally to the mayor and aldermen of cities,
15 and assessors of plantations; and the powers and
16 duties herein given and prescribed to towns, and to
17 persons authorized to sell intoxicating liquors therein,
18 are hereby given and prescribed to all cities and plan-
19 tations, and to all persons so authorized in the same,
20 within this state.

SECT. 16. The act entitled "an act for the sup-
2 pression of drinking houses and tippling shops,"
3 approved March sixteenth, eighteen hundred and
4 fifty-five; and all acts and parts of acts, inconsistent
5 with this act, are hereby repealed.

SECT. 17. This act shall take effect on the first day
2 of May, eighteen hundred and fifty-six.



STATE OF MAINE.

IN SENATE, February 29, 1856.

ORDERED, That 2,500 copies of bill entitled "An Act to regulate the sale of intoxicating liquors," drawn by Mr. Wedgewood, one of the members of the Committee on the Judiciary, and presented, together with the report of that Committee of this date, upon the same subject, be printed for the use of the Legislature.

NATH'L C. REED, *Secretary pro tem.*