

# MAINE STATE LEGISLATURE

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# DOCUMENTS

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# THE LEGISLATURE

OF THE

STATE OF MAINE.

1867.

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# FORTY-SIXTH LEGISLATURE.

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SENATE.

No. 53.

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SIXTY-SEVEN.

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AN ACT additional to and amendatory of chapter thirty-three of the laws of eighteen hundred and fifty-eight, for the suppression of drinking-houses and tippling-shops.

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

SECTION 1. Any person convicted of selling intoxicating liquors in violation of section seven of the act approved March twenty-fifth, eighteen hundred and fifty-eight, for the suppression of drinking-houses and tippling-shops, shall not only be punished as provided in said section, but in addition thereto, he shall on the first conviction be imprisoned in the county jail thirty

8 days; and on the second conviction he shall be imprisoned in the county jail sixty days.

SECT. 2. Any person convicted of being a common seller of intoxicating liquors in violation of section eight of the act aforesaid, to which this is additional, shall not only be punished as provided in said section, but in addition thereto he shall on the first conviction be imprisoned in the county jail three months; and on the second conviction he shall be imprisoned in the county jail four months, as now provided by said section on the third and every subsequent conviction.

SECT. 3. Any person convicted of keeping a drinking-house and tippling-shop in violation of section ten of the act aforesaid to which this is additional, shall not only be punished as provided in said section, but in addition thereto, on the first conviction he shall be imprisoned in the county jail three months, and on the second and every subsequent conviction he shall be imprisoned in the county jail six months.

SECT. 4. The second clause of section fourteen of the act aforesaid, to which this is additional, shall be amended by inserting after the first line the words, "if known to the complainants," so that it shall read as follows: "The name of the person so, as aforesaid, keeping said liquors, if known to the complainants,

7 shall be stated in such complaint," &c.; and said  
8 clause shall be further amended by adding thereto the  
9 words, "If the name of the person keeping said  
10 liquors with intent to sell the same in this state in  
11 violation of law, is unknown to the complainants, they  
12 shall so allege in their complaint, and such magistrate  
13 shall thereupon issue his warrant as provided in the  
14 first clause of this section"; and the third clause of  
15 said section shall be amended, by inserting after the  
16 word complaint, in the fourth line thereof, the words,  
17 "or by any other person or persons, with his or their  
18 knowledge or consent"; and any person convicted under  
19 said fourteenth section, as so amended, or under the  
20 nineteenth or the twentieth sections of said act, shall  
21 not only be punished as provided therein, but he shall,  
22 in addition thereto, be imprisoned in the county jail  
23 three months.

SECT. 5. Section sixteen of the act aforesaid, to  
2 which this is additional, shall be amended by striking  
3 out from the first clause thereof, after the word "for-  
4 feited," the words "to the city, town or plantation in  
5 which they were seized"; and by striking out the  
6 same words from the last clause of said section after  
7 the word "forfeited"; and section thirteen of said act

8 is hereby amended by striking out therefrom all after  
9 the word "forfeited" in the fourth line thereof.

SECT. 6. The seventeenth section of the act afore-  
2 said, to which this is additional, is hereby repealed,  
3 and the following section shall be inserted and is here-  
4 by enacted in its place, so that it shall read as follows :  
5 " *Sect. 17.* No warrant shall be issued to search a  
6 dwelling house, actually occupied as such, unless it, or  
7 some part of it, is used as an inn or shop, or for pur-  
8 poses of traffic, or unless the magistrate before whom  
9 the complaint shall be made, shall be satisfied by evi-  
10 dence presented to him, and shall so allege in said  
11 warrant that intoxicating liquor is kept in such house,  
12 or its appurtenances, and that said liquor is intended  
13 for sale in this state, in violation of law."

SECT. 7. The eighteenth section of the act afore-  
2 said, to which this is additional, is hereby repealed,  
3 and the following section shall be inserted, and is here-  
4 by enacted in its place, so that it shall read as follows :  
5 " *Sect. 18.* All liquors declared forfeited by virtue  
6 of the provisions of this act, shall, by the court ren-  
7 dering final judgment thereon, be ordered to be des-  
8 troyed, by being poured upon the ground, by any of-  
9 ficer competent to serve the warrant on which the same  
10 was seized ; and all vessels forfeited under the pro-

11 visions of this act, shall, by said court, be ordered to  
12 be sold by such officer, at public or private sale, and  
13 the proceeds thereof shall be disposed of in the man-  
14 ner provided for the disposition of fines in such cases.”

SECT. 8. The second section of the act aforesaid, to  
2 which this is additional, shall not authorize the manu-  
3 facture for sale of any intoxicating liquors except pure  
4 rum and alcohol. The manufacture for sale, of all  
5 other kinds of intoxicating liquors, except cider, is  
6 hereby prohibited; and any person convicted of vio-  
7 lating this section shall be punished the same as is  
8 provided in section three of the act aforesaid, to which  
9 this is additional, for a violation thereof.

SECT. 9. All prosecutions against persons for manu-  
2 facturing liquors in violation of law, for keeping  
3 drinking-houses and tippling-shops, and for being com-  
4 mon sellers of intoxicating liquors, shall be by indict-  
5 ment; and in all other prosecutions under this act,  
6 and the act aforesaid to which this is additional, judges  
7 of municipal and police courts, justices of the peace,  
8 and trial justices, in their several counties, shall have  
9 jurisdiction, by complaint, original and concurrent with  
10 the supreme judicial court. All prosecutions in the  
11 supreme judicial court shall be by indictment. The  
12 magistrates aforesaid, in cases not within their juris-

13 diction, may examine and hold to bail, as in case of  
14 other offences punishable by indictment. And in all  
15 appeals from any judgment or sentence of any such  
16 magistrate, in any proceedings under this act, and the  
17 act to which this is additional, the penal sum in every  
18 recognizance shall be two hundred dollars. No recog-  
19 nizance, in proceedings under said acts, before any  
20 such magistrate, shall be in a less sum than two hun-  
21 dred dollars; and no recognizance in the supreme  
22 judicial court, in proceedings under said acts, shall be  
23 in a penal sum less than five hundred dollars.

SECT. 10. It shall be the duty of every justice of  
2 the peace, trial justice, recorder and judge of a munic-  
3 ipal or police court and every county attorney, having  
4 knowledge of any previous conviction of any person  
5 accused of violating this act, or the act aforesaid to  
6 which this is additional, in preparing complaints, war-  
7 rants or indictments, to allege such previous convictions  
8 therein; and after an indictment in any such case is  
9 entered in court, no county attorney shall dismiss or  
10 fail to prosecute the same, except by special order of  
11 said court.

SECT. 11. Section twenty-three of the act aforesaid,  
2 to which this is additional is hereby repealed; and  
3 section twenty-nine of chapter one hundred and twen-



4 ty-four of the revised statutes of this state is repealed,  
5 a different penalty for the offence therein named being  
6 provided by section twenty-six of the act aforesaid.

SECT. 12. This act shall take effect on the fifteenth  
2 day of March, eighteen hundred and sixty-seven ; but  
3 none of its provisions shall apply to cases pending un-  
4 der the act aforesaid to which this is additional, nor to  
5 any violations thereof before this act shall take effect ;  
6 and all the provisions of the act aforesaid shall be con-  
7 tinued in force for the punishment of violations thereof  
8 prior to the time when this act shall take effect.

STATE OF MAINE.

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IN SENATE, February 13, 1867.

Reported by Mr. DENISON, from the Committee on Liquor Law, and on motion of Mr. CROSBY laid on the table, and 1,000 copies ordered to be printed.

THOMAS P. CLEAVES, *Secretary.*