

MAINE STATE LEGISLATURE

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FIFTY-NINTH LEGISLATURE.

SENATE

No. 48.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND EIGHTY.

AN ACT amendatory of chapters seventeen and twenty-seven of the revised statutes in relation to common nuisances, and the sale of intoxicating liquors.

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

SECTION 1. Section one of chapter seventeen of 2 the revised statutes, is hereby amended by insert- 3 ing after the word "liquors" the words, "and all 4 places of resort where intoxicating liquors are 5 kept, sold, given away, drank, or dispensed in any 6 manner not provided for by law," so that the sec- 7 tion as amended shall read as follows :

8 *Sect. 1.* All places used as houses of ill-fame, 9 resorted to for lewdness or gambling, for the illegal

10 sale of intoxicating liquors, and all places of resort
11 where intoxicating liquors are kept, sold, given
12 away, drank, or dispensed in any manner not pro-
13 vided for by law, are common nuisances.

SECT. 2. Section twenty-two of chapter twenty-
2 seven of the revised statutes, as amended by chap-
3 ter two hundred and fifteen of the public laws of
4 eighteen hundred and seventy-seven, is hereby
5 further amended by inserting after the word "pur-
6 poses" the words "or as a beverage," so that said
7 section shall read as follows:

8 *Sect. 22.* No person shall be allowed at any
9 time, to sell, by himself, his clerk, servant or agent,
10 directly or indirectly, any intoxicating liquors, of
11 whatever origin, except as hereinafter provided;
12 wine, ale, porter, strong beer, lager beer, and all
13 other malt liquors, and cider when kept or deposited
14 with intent to sell the same for tippling purposes,
15 or as a beverage, as well as all other distilled
16 spirits, shall be considered intoxicating within the
17 meaning of this chapter; but this enumeration
18 shall not prevent any other pure or mixed liquors
19 from being considered intoxicating.

SECT. 3. Section twenty-five of chapter twenty-
2 seven of the revised statutes, is hereby amended
3 by inserting after the word "case," the words

4 "when sold in quantities of five gallons or up-
5 wards, delivered and taken away at one time," so
6 that said section shall read as follows:

7 *Sect. 25.* The provisions of this chapter shall
8 not extend to the manufacture and sale of unadul-
9 terated cider in any case, when sold, in quantities
10 of five gallons or upwards, delivered and taken
11 away at one time, nor to wine made from fruit
12 grown in this state, nor to the sale by agents ap-
13 pointed under the provisions of this chapter, of
14 pure wines for sacramental and medicinal uses.

SECT. 4. Upon petition and representation of
2 thirty or more well known tax-payers in any
3 county, that the provisions of chapters seventeen
4 and twenty-seven of the revised statutes, and acts
5 additional thereto and amendatory thereof, are not
6 faithfully enforced by county or local officers, it
7 shall be the duty of the governor and council to
8 inquire into such representation, and if, in their
9 judgment, such representations are well founded,
10 the governor, by and with the consent of the
11 council, shall appoint two or more constables for
12 such county, whose duty shall be to diligently en-
13 force the provisions of said chapters and acts, and
14 for this purpose such constables shall have like
15 powers and duties as sheriffs and deputies. For

16 such services said constables shall receive the
17 same compensation as is provided by law for
18 sheriffs and deputies.

SECT. 5. To amend chapter sixty-two public
2 laws, relating to sheriffs and county attorney, by
3 striking out section four of said chapter and sub-
4 stituting therefor the following: "Whenever the
5 governor shall (after investigation and hearing of
6 the parties) be satisfied that any county attorney
7 has willfully refused or neglected to discharge the
8 duties imposed upon him by this act, it shall be his
9 duty to remove such attorney from office, and fill
10 his place by appointment."

SECT. 6. Section forty-nine of chapter twenty-
2 seven of the revised statutes, as amended by chap-
3 ter two hundred and fifty-five of the public laws
4 of eighteen hundred and seventy-four, is hereby
5 amended by adding after the last word in said sec-
6 tion, the following words, viz: "But said punish-
7 ment, or any part thereof, shall not be remitted
8 unless the prisoner, under oath, gives information
9 from whom and where he procured the liquors
10 upon which he became intoxicated," so that said
11 section as amended shall read:

12 *Sect. 49.* Any person hereafter found intoxi-
13 cated in any streets or highways, or being intoxi-

14 cated in his own house, or any other building or
15 place, who shall become quarrelsome, or in any
16 other way disturb the public peace or that of his
17 own or any other family, so as to render it necessary
18 for the police or peace officers to interfere, may be
19 taken into custody by any sheriff, deputy sheriff,
20 constable, marshal, deputy marshal, police officer
21 or watchman, and committed to the watch house or
22 restrained in some other suitable place, till a com-
23 plaint can be made and warrant issued in due form,
24 upon which he may be arrested and tried, and if
25 found guilty of being intoxicated in the streets or
26 highways, or of being intoxicated in his own house
27 or any other building or place, and becoming quar-
28 relsome and disturbing the public peace, or that of
29 his own or any other family, he shall be punished
30 by fine not exceeding ten dollars, or by imprison-
31 ment in the common jail or house of correction,
32 not exceeding thirty days. For the second offense
33 such person may be punished by fine not exceed-
34 ing twenty dollars, or by imprisonment not more
35 than ninety days. The judge or justice may remit
36 any portion of said punishment, and order the
37 prisoner discharged, whenever he shall become
38 satisfied that the objects of this law and the good
39 of the public and the prisoner would be advanced

40 thereby. But said punishment or any part thereof
41 shall not be remitted unless the prisoner, under
42 oath, gives information from whom and where he
43 procured the liquors upon which he became intox-
44 icated.

SECT. 7. Section thirty-five of chapter twenty-
2 seven of the revised statutes is hereby amended by
3 substituting the words "one hundred" for the word
4 "fifty" in the twenty-ninth line; in the thirty-first
5 line by substituting the word "ninety" for the word
6 "thirty," and adding after the word "jail" the words
7 "at hard labor;" in the thirty-second line, by sub-
8 stituting the word "six" for the word "three," and
9 by adding after the word "month," "at hard labor";
10 in the thirty-seventh line, by substituting the word
11 "six" for the word "three," and adding after the
12 word "months" the words "at hard labor," so that
13 said section as amended shall read:

14 *Sect. 35.* If any person competent to be a wit-
15 ness in civil suits shall make complaint upon oath
16 or affirmation before any judge of any municipal or
17 police court or trial justice that he believes intoxi-
18 cating liquors are unlawfully kept or deposited in
19 any place in the state by any person or persons,
20 and that said liquors are intended for sale within
21 this state in violation of law, such magistrate shall

22 issue his warrant directed to any officer having
23 power to serve criminal process, commanding such
24 officer to search the premises described and speci-
25 ally designated in such complaint and warrant, and
26 if said intoxicating liquors are there found, to seize
27 the same, with the vessels in which they are con-
28 tained, and them safely keep until final action on
29 the same, and make immediate return of said war-
30 rant. The name of the person so keeping as afore-
31 said, said liquors, if known to the complainant,
32 shall be stated in such complaint, and the officer
33 shall be commanded by said warrant if he shall find
34 said liquors, or shall have reason to believe such
35 person has concealed them about his or her person,
36 to arrest such person or persons and have him or
37 them forthwith before such magistrate for trial. If
38 the name of the person keeping such liquors is un-
39 known to the complainant, he shall so allege in his
40 complaint, and such magistrate shall thereupon
41 issue his warrant as provided in the first clause of
42 this section. If upon trial, the court upon the evi-
43 dence adduced shall be of the opinion that the liquor
44 was so as aforesaid kept and intended for unlawful
45 sale by the person or persons named in said com-
46 plaint, or by any other person or persons with his
47 or their knowledge or consent, he or they shall be

48 found guilty thereof, and sentenced to pay a fine of
49 one hundred dollars and costs of prosecution, and
50 in default of payment thereof to be imprisoned
51 ninety days in the county jail, at hard labor, or in-
52 stead of such fine shall be imprisoned in the county
53 jail six months at hard labor. On every subsequent
54 conviction after the first offense described in this
55 section, the person or persons found guilty shall
56 pay a fine of one hundred dollars and cost of pros-
57 ecution, and stand committed until the same be
58 paid; and in addition thereto shall be imprisoned
59 in the county jail six months at hard labor.

SECT. 8. This act shall take effect when approved.

Report of Committee on Temperance and Prohibitory Laws.

The law restricting the sale of intoxicating liquors, commonly called the prohibitory law, has been in operation in this State in some of its modified forms, more than a quarter of a century. The people of the State have had ample opportunity to observe its workings, to judge of its efficiency in restricting the sale of liquors, and in suppressing the vice of intemperance. A large majority of the citizens of Maine, we are confident, believe that it is a righteous law, and that it has proved an effective agency in shutting up liquor shops and restricting the sale and use of intoxicating liquors.

“The principle of prohibition,” says Gov. Davis in his message, and we fully endorse the statement, “has been so long the settled policy of the State, and has been found so useful and effective in suppressing the liquor traffic, that no party or class of men now dare to assail it.”

While relying mainly upon moral forces to reform inebriates, and to train the youth of our State to temperate and virtuous habits, the friends of temperance desire and reasonably demand that the law shall be vigorously enforced against those who, in defiance of public sentiment and the appeals of suffering, persist in selling intoxicating liquors.

The assertion sometimes made, that the prohibitory law has not diminished the consumption of liquor, but simply changed the manner of selling it, is not supported by the testimony of those who appeared before your committee. It is not denied that the suppression of public drinking places has caused those engaged in the traffic to resort to a variety of methods for the purpose of evading the law, and has multiplied club rooms and other places of resort, where liquor is secretly sold, but there is no evidence to support the statement that the secret sale of liquor has increased in the same ratio that its public sale has decreased. In fact, the testimony of those who appeared before the committee showed

conclusively that where the law has been vigorously enforced it has largely suppressed the private as well as the public sale. Any failure to accomplish this is due more to the negligence of officers than to the defects of the law.

The objection made by some against the law on account of the expense of enforcing it, is not deemed valid. The enforcement of all laws for the protection of society is expensive, but this is not regarded as a sufficient reason for not enforcing them. No one would argue that a person guilty of crime against society should be allowed to escape the penalty of the law because it would cost something to arrest and convict him. And surely the expense of enforcing the law for the suppression of the liquor traffic, the most fruitful cause of crime, poverty and wretchedness, is not a sufficient reason for neglecting to enforce it. A due regard to economy requires a rigid enforcement of the law, for it would compel offenders to pay large sums into the treasury of the State as well as diminish crime and pauperism.

The law is in the main satisfactory. Your committee do not recommend any radical changes. A few amendments are proposed, chiefly for the purpose of securing a more faithful enforcement. These amendments are recommended in response to a large number of petitions from all parts of the State.

E. D. LAMSON.

G. R. FERNALD.

A. R. CRANE.

G. C. GOSS.

W. HILLS.

E. JEWETT.

L. S. HEAL.

J. D. BAKER.

STATE OF MAINE.

IN SENATE, March 1, 1880.

Reported by Mr. LAMSON, from Committee on Temperance,
and tabled to print under Joint Rule, together with accompanying
report.

C. W. TILDEN, *Secretary.*