

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-FIRST LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1851.

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Published by the Secretary of State, agreeably to resolves of June 28, 1820, February 26, 1840, and March 16, 1842.

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PUBLIC LAWS

OF THE

STATE OF MAINE.

1851.

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CHAP. 210.

SECT. 2. All acts or parts of acts inconsistent with the provisions of this act, are hereby repealed.

[Approved May 31, 1851.]

### Chapter 210.

An act to amend the seventy-sixth chapter of the revised statutes.

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

Liability of  
stockholders of  
corporations.

SECT. 1. Whenever a stockholder of any incorporation named in the eighteenth, nineteenth and twentieth sections, of the seventy-sixth chapter of the revised statutes, shall have paid and satisfied any just and legal debt or debts of such corporation, and shall produce a certificate under the hand of the treasurer of such corporation, that he has paid such debt or debts, and that the same has not been refunded to him, such stockholder shall thereby be exempted from further liability in his private property and estate for an amount of the debts of such corporation, equal to the amount of debts so paid, notwithstanding the provision of the aforesaid chapter of the revised statutes and whether such debts shall or shall not have been demanded by an officer holding an execution against said corporation for such debts.

SECT. 2. This act shall take effect and be in full force from and after its approval by the governor.

[Approved June 2, 1851.]

### Chapter 211.

An act for the suppression of drinking houses and tippling shops.

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

Sale of intoxicating liquors.

SECT. 1. No person shall be allowed at any time, to manufacture or sell, by himself, his clerk, servant or agent, directly or indirectly, any spirituous or intoxicating liquors, or any mixed liquors a part of which is spirituous or intoxicating, except as hereafter provided.

SECT. 2. The selectmen of any town, and mayor and alder-

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men of any city, on the first Monday of May annually, or as soon thereafter as may be convenient, may appoint some suitable person, as the agent of said town or city, to sell at some central and convenient place within said town or city, spirits, wines or other intoxicating liquors, to be used for medicinal and mechanical purposes and no other ; and said agent shall receive such compensation for his services as the board appointing him shall prescribe ; and shall in the sale of such liquors, conform to such rules and regulations, as the selectmen or mayor and aldermen as aforesaid, shall prescribe for that purpose. And such agent, appointed as aforesaid, shall hold his situation for one year, unless sooner removed by the board from which he received his appointment, as he may be at any time, at the pleasure of said board.

Cities and towns may appoint agents for the sale thereof.

Rules and regulations.

Term of said agency.

SECT. 3. Such agent shall receive a certificate from the mayor and aldermen or selectmen by whom he has been appointed, authorizing him as the agent of such town or city, to sell intoxicating liquors for medicinal and mechanical purposes only ; but such certificate shall not be delivered to the person so appointed, until he shall have executed and delivered to said board, a bond with two good and sufficient sureties, in the sum of six hundred dollars, in substance as follows :

Certificate of appointment to be given the agent upon filing bond.

Know all men that we, ——— as principal, and ——— and ——— as sureties, are holden 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 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 ———, A. D. —.

Form of bond.

The condition of this obligation is such, that whereas the above bounden ——— has been duly appointed an agent for the town (or city) of ——— to sell within, and for and on account of said town (or city,) intoxicating liquors for medicinal and mechanical purposes and no other, until the ——— of ———, A. D. —, unless sooner removed from said agency.

Now if the said ——— shall in all respects conform to the provisions of the law relating to the business for which he is appointed, and to such rules and regulations as now are or shall be from time to time established by the board making the appointment, then this obligation to be void ; otherwise to remain in full force.

SECT. 4. If any person, by himself, clerk, servant or agent, shall at any time sell any spirituous or intoxicating liquors, or

Penalty for selling liquors in

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violation of the provisions of this act.

any mixed liquors, part of which is intoxicating, in violation of the provisions of this act, he shall forfeit and pay on the first conviction, ten dollars and the costs of prosecution, and shall stand committed until the same be paid; on the second conviction he shall pay twenty dollars and the costs of prosecution, and shall stand committed until the same be paid; on the third and every subsequent conviction, he shall pay twenty dollars and the costs of prosecution, and shall be imprisoned in the common jail, not less than three months, nor more than six months, and in default of the payment of the fines and costs prescribed by this section, for the first and second convictions, the convict shall not be entitled to the benefit of chapter one hundred and seventy-five of the revised statutes, until he shall have been imprisoned two months; and in default of payment of fines and costs provided for the third and every subsequent conviction, he shall not be entitled to the benefit of said chapter one hundred and seventy-five of the revised statutes, until he shall have been imprisoned four months. And if any clerk, servant, agent or other person in the employment or on the premises of another, shall violate the provisions of this section, he shall be held equally guilty with the principal, and on conviction, shall suffer the same penalty.

Forfeiture, how recovered and disposed of.

SECT. 5. Any forfeiture or penalty arising under the above section, may be recovered by an action of debt, or by complaint before any justice of the peace, or judge of any municipal or police court, in the county where the offense was committed. And the forfeiture so recovered shall go to the town where the convicted party resides, for the use of the poor; and the prosecutor or complainant may be admitted as a witness in the trial. And if any one of the selectmen or board of mayor and aldermen shall approve of the commencement of any such suit, by endorsing his name upon the writ, the defendant shall in no event recover any costs; and in all actions of debt arising under this section, the fines and forfeitures suffered by the defendant, shall be the same as if the actions had been by complaint. And it shall be the duty of the mayor and aldermen of any city, and selectmen of any town, to commence an action in behalf of said town or city, against any person guilty of a violation of any of the provisions of this act, on being informed of the same, and being furnished with proof of the fact.

Defendant not to recover costs in certain cases.

Duty of mayor and aldermen and selectmen to commence suits.

Appellant shall recognize to prosecute his appeal, and give

SECT. 6. If any person shall claim an appeal from a judgment rendered against him by any judge or justice, on the trial of such action or complaint, he shall, before the appeal shall be

allowed, recognize in the sum of one hundred dollars, with two good and sufficient sureties, in every case so appealed, to prosecute his appeal, and to pay all costs, fines and penalties that may be awarded against him, upon a final disposition of such suit or complaint. And before his appeal shall be allowed, he shall also, in every case, give a bond with two other good and sufficient sureties, running to the town or city where the offense was committed, in the sum of two hundred dollars, that he will not, during the pendency of such appeal, violate any of the provisions of this act. And no recognizance or bond shall be taken in cases arising under this act, except by the justice or judge before whom the trial was had; and the defendant shall be held to advance the jury fees in every case of appeal in an action of debt; and in the event of a final conviction before a jury, the defendant shall pay and suffer double the amount of fines, penalties and imprisonment awarded against him by the justice or judge from whose judgment the appeal was made. The forfeiture for all bonds and recognizances given in pursuance of this act, shall go to the town or city where the offense was committed, for the use of the poor; and if the recognizances and bonds mentioned in this section shall not be given, within twenty-four hours after the judgment, the appeal shall not be allowed; the defendant in the mean time to stand committed.

SECT. 7. The mayor and aldermen of any city, and the selectmen of any town, whenever complaint shall be made to them that a breach of the conditions of the bond given by any person appointed under this act, has been committed, shall notify the person complained of, and if upon a hearing of the parties it shall appear that any breach has been committed, they shall revoke and make void his appointment. And whenever any breach of any bond given to the inhabitants of any city or town in pursuance of any of the provisions of this act, shall be made known to the mayor and aldermen, or selectmen, or shall in any manner come to their knowledge, they or some one of them shall, at the expense and for the use of said city or town, cause the bond to be put in suit in any court proper to try the same.

SECT. 8. No person shall be allowed to be a manufacturer of any spirituous or intoxicating liquor, or common seller thereof, without being duly appointed as aforesaid, on pain of forfeiting on the first conviction, the sum of one hundred dollars and costs of prosecution, and in default of the payment

bond not to violate the provisions of this act during its pendency.

Recognizances and bonds, before whom taken.

Defendant held to advance jury fees.

Fines and penalties in the court of final conviction.

Forfeiture for bonds and recognizances, how disposed of.

Recognizances and bonds to be given in twenty-four hours.

Selectmen to revoke appointments of offenders, and to prosecute for breach of bond.

Penalty for manufacturing, or being a common seller without being duly appointed.

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thereof, the person so convicted shall be imprisoned sixty days in the common jail ; and on the second conviction, the person so convicted shall pay the sum of two hundred dollars and costs of prosecution, and in default of payment, shall be imprisoned four months in the common jail ; and on the third and every subsequent conviction, shall pay the sum of two hundred dollars and shall be imprisoned four months in the common jail of the county where the offense was committed ; said penalties to be recovered before any court of competent jurisdiction, by indictment, or by action of debt in the name of the city or town where the offense shall be committed. And whenever a default shall be had of any recognizance arising under this act, scire facias shall be issued, returnable at the next term, and the same shall not be continued, unless for good cause satisfactory to the court.

Persons engaged in such unlawful traffic, not competent to sit upon a jury in any case arising under this act.

SECT. 9. No person engaged in the unlawful traffic in intoxicating liquors shall be competent to sit upon any jury in any case arising under this act ; and when information shall be communicated to the court, that any member of any panel is engaged in such traffic, or that he is believed to be so engaged, the court shall inquire of the jurymen of whom such belief is entertained ; and no answer which he shall make shall be used against him in any case arising under this act ; but if he shall answer falsely, he shall be incapable of serving on any jury in this state ; but he may decline to answer, in which case he shall be discharged by the court from all further attendance as a jurymen.

Proceedings in superior court upon cases arising under this act.

SECT. 10. All cases arising under this act, whether by action, indictment or complaint, which shall come before a superior court, either by appeal or original entry, shall take precedence in said court of all other business, except those criminal cases in which the parties are actually under arrest, awaiting a trial ; and the court and prosecuting officer shall not have authority to enter a nolle prosequi, or to grant a continuance in any case arising under this act, either before or after the verdict, except where the purposes of justice shall require it.

Justices of the peace or judges of municipal or police courts, may grant warrants of search, in certain cases.

SECT. 11. If any three persons, voters in the town or city where the complaint shall be made, shall before any justice of the peace or judge of any municipal or police court, make complaint under oath or affirmation, that they have reason to believe, and do believe that spirituous or intoxicating liquors are kept or deposited, and intended for sale, by any person not authorized to sell the same in said city or town under the

provisions of this act, in any store, shop, warehouse or other building or place in said city or town, said justice or judge shall issue his warrant of search to any sheriff, city marshal or deputy, or to any constable, who shall proceed to search the premises described in said warrant, and if any spirituous or intoxicating liquors are found therein, he shall seize the same, and convey them to some proper place of security, where he shall keep them until final action is had thereon. But no dwelling house in which, or in part of which, a shop is not kept, shall be searched unless at least one of said complainants shall testify to some act of sale of intoxicating liquors therein, by the occupant thereof, or by his consent or permission, within at least one month of the time of making said complaint. And the owner or keeper of said liquors, seized as aforesaid, if he shall be known to the officer seizing the same, shall be summoned forthwith before the justice or judge by whose warrant the liquors were seized, and if he fails to appear or unless he can show by positive proof, that said liquors are of foreign production, that they have been imported under the laws of the United States, and in accordance therewith—that they are contained in the original packages in which they were imported, and in quantities not less than the laws of the United States prescribe, they shall be declared forfeited, and shall be destroyed by authority of the written order to that effect, of said justice or judge, and in his presence, or in the presence of some person appointed by him to witness the destruction thereof, and who shall join with the officer by whom they have been destroyed, in attesting that fact upon the back of the order, by authority of which it was done; and the owner or keeper of such liquors shall pay a fine of twenty dollars and costs, or stand committed for thirty days, in default of payment, if in the opinion of the court said liquors shall have been kept or deposited for the purposes of sale. And if the owner or possessor of any liquors seized in pursuance of this section, shall set up the claim that they have been regularly imported under the laws of the United States, and that they are contained in the original packages, the custom house certificates of importation and proofs of marks on the casks or packages corresponding thereto, shall not be received as evidence that the liquors contained in said packages are those actually imported therein.

SECT. 12. If the owner, keeper or possessor of liquors seized under the provisions of this act, shall be unknown to the officer seizing the same, they shall not be condemned and

Proceedings in case spirituous or intoxicating liquors are found.

Proceedings in case the owner is unknown to the officer seizing said liquors.

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*In case of appeal by any person claiming liquors seized as aforesaid.*

SECT. 13. If any person claiming any liquors, seized as aforesaid, shall appeal from the judgment of any justice or judge by whose authority the seizure was made to the district court, before his appeal shall be allowed, he shall give a bond in the sum of two hundred dollars with two good and sufficient sureties to prosecute his appeal, and to pay all fines and costs which may be awarded against him; and in the case of any such appeal, where the quantity of liquors so seized shall exceed five gallons, if the final decision shall be against the appellant, that such liquors were intended by him for sale, he shall be adjudged by the court a common seller of intoxicating liquors, and shall be subject to the penalties provided for in section eight, of this act; and said liquors shall be destroyed as provided for in section eleven. But nothing contained in this act shall be construed to prevent any chemist, artist or manufacturer in whose art or trade they may be necessary, from keeping at his place of business such reasonable and proper quantity of distilled liquors as he may have occasion to use in his art or trade, but not for sale.

*Penalty if final decision shall be against the appellant.*

*Chemists and others allowed to keep such quantities as they have occasion to use in their art or trade.*

*Penalty for keeping or selling such liquors in tents, shanties, &c., near the ground of any cattle show, military muster, or other public occasion.*

SECT. 14. It shall be the duty of any mayor, alderman, selectman, assessor, city marshal or deputy or constable, if he shall have information that any intoxicating liquors are kept or sold in any tent, shanty, hut or place of any kind for selling refreshments in any public place on or near the ground of any cattle show, agricultural exhibition, military muster, or public occasion of any kind, to search such suspected place, and if such officer shall find upon the premises any intoxicating drinks, he shall seize them, and arrest the keeper or keepers of such

place, and take them forthwith, or as soon as may be, before some justice or judge of a municipal or police court, with the liquors so found and seized, and upon proof that said liquors are intoxicating, that they were found in possession of the accused, in a tent, shanty, or other place as aforesaid, he or they shall be sentenced to imprisonment in the county jail for thirty days, and the liquors so seized shall be destroyed by order of said justice or judge.

SECT. 15. If any person arrested under the preceding section and sentenced as aforesaid, shall claim an appeal, before his appeal shall be allowed, he shall give a bond in the sum of one hundred dollars, with two good and sufficient sureties, that he will prosecute his appeal and pay all fines, costs and penalties which may be awarded against him. And if on such appeal the verdict of the jury shall be against him, he shall, in addition to the penalty awarded by the lower court, pay a fine of twenty dollars. In all cases of appeal under this act from the judgment of a justice or judge of any municipal or police court, to the district court, except where the proceeding is by action of debt, they shall be conducted in said district court by the prosecuting officer of the government—and said officer shall be entitled to receive all costs taxable to the state in all criminal proceedings under this act, in addition to the salary allowed to such officer by law—but no costs in such cases shall be remitted or reduced by the prosecuting officer or the court. In any suit, complaint, indictment or other proceeding against any person for a violation of any of the provisions of this act, other than for the first offense, it shall not be requisite to set forth particularly the record of a former conviction, but it shall be sufficient to allege briefly that such person has been convicted of a violation of the fourth section of this act, or as a common seller, as the case may be, and such allegation in any civil or criminal process in any stage of the proceedings, before final judgment, may be amended without terms and as matter of right.

SECT. 16. All payments or compensations for liquors sold in violation of law, whether in money, labor other property, either real or personal, shall be held and considered to have been received in violation of law, and without consideration, and against law, equity and a good conscience, and all sales, transfers and conveyances, mortgages, liens, attachments, pledges and securities of every kind, which either in whole or in part, shall have been for or on account of spirituous or intoxicating

In case of appeal from such sentence.

Prosecuting officer entitled to fees in cases of appeal under the provisions of this act.

Payments and securities, in whole or in part for liquors sold in violation of law, shall be null and void.

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No action shall be had or maintained for such liquors or the value thereof.

liquors, shall be utterly null and void against all persons and in all cases, and no rights of any kind shall be acquired thereby ; and in any action either at law or equity, touching such real or personal estate, the purchaser of such liquors may be a witness for either party. And no action of any kind shall be maintained in any court in this state, either in whole or in part for intoxicating or spirituous liquors sold in any other state or country whatever, nor shall any action of any kind be had or maintained in any court in this state, for the recovery or possession of intoxicating or spirituous liquors, or the value thereof.

SECT. 17. All the provisions of this act relating to towns shall be applicable to cities and plantations ; and those relating to selectmen shall also be applied to the mayor and aldermen of cities and assessors of plantations.

SECT. 18. The act entitled "an act to restrict the sale of intoxicating drinks," approved August sixth, one thousand eight hundred and forty-six, is hereby repealed, except the thirteen sections from section ten to section twenty-two, inclusive, saving and reserving all actions or other proceedings, which are already commenced by authority of the same ; and all other acts and parts of acts inconsistent with this act are hereby repealed. This act to take effect from and after its approval by the governor.

[Approved June 2, 1851.]

### Chapter 212.

An act to repeal an act entitled "an act providing for inspectors of beef and pork," approved March eleventh, eighteen hundred forty-two.

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

Appointments of inspectors general of beef and pork.

SECT. 1. An act entitled "an act providing for inspectors of beef and pork," approved March eleventh, eighteen hundred forty-two, be, and the same is hereby repealed.

SECT. 2. Sections first, second, third, fourth and fifth of chapter fifty of the revised statutes, repealed by the act of eighteen hundred and forty-two aforesaid, be and are hereby re-enacted.

[Approved June 3, 1851.]