

MAINE STATE LEGISLATURE

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SEVENTH REVISION

THE
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OF THE
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CHAPTER 137.

Intoxicating Liquors.

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Manufacture.

Sec. 1. Manufacturing intoxicating liquors prohibited; exception for extracts. R. S. c. 127, § 17. 1921, c. 62. 1923, c. 162. Whoever manufactures or attempts to manufacture any intoxicating liquors, except cider, and whoever has in his possession any wort or mash fit for distillation or for the production of distilled spirits; or has in his possession any worm, still, or other device for the purpose of manufacturing intoxicating liquors, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars and costs of prosecution, and by imprisonment for not less than two months nor more than six months, and in default of payment of fine and costs be imprisoned for not less than sixty days nor more than six months additional; and said wort, mash, worm, still, or other device shall be seized by any officer having authority to seize intoxicating liquors and shall be declared forfeited by the court or magistrate having cognizance of the case, and ordered destroyed. Alcohol may be used in the manufacture of flavoring extracts and syrups, Jamaica ginger not included, provided such extracts and syrups contain no more alcohol than is necessary for extraction, solution, and preservation, and measure up to the standards prescribed and published by the commissioner of internal revenue and are unfit for use as beverages or for intoxicating beverage purposes.

124 Me. 46; *128 Me. 293.

Transportation.

Sec. 2. Traveling liquor peddlers, dealers, and solicitors; penalty. R. S. c. 127, § 19. 1917, c. 291, § 1. No person shall travel from town to town, or from place to place, in any city, town, or plantation, on foot or by public or private conveyance, either by land or water, carrying for sale or offering for sale intoxicating or fermented liquors, and no person shall solicit, obtain, or offer to obtain orders for the sale or delivery of any intoxicating or fermented liquors, in any quantity. Any person violating the provisions of this section shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars and costs, and in addition thereto by imprisonment for not less than two months nor more than six months, and in default of payment of said fine and costs by imprisonment for six months additional.

Sec. 3. Transportation of intoxicating liquors without federal permit prohibited; penalty. R. S. c. 127, § 20. 1917, c. 291, § 2. 1923, c. 167, § 1. 1925, c. 116, § 1. No person shall knowingly transport into this state or from place to place therein any intoxicating liquor, or aid any person in such transportation without being in possession of a permit therefor duly issued under authority conferred by the provisions of the national prohibition act of October twenty-eight, nineteen hundred nineteen, and amendments thereto, providing for the enforcement of the eighteenth amendment to the constitution of the United States. Whoever violates the provisions of this section shall be punished by a fine of not less than three hundred dollars, nor more than six hundred dollars and costs, and in addition thereto, by imprisonment for not less than three months nor more than six months, and in default of payment of fine and costs by imprisonment for six months additional; provided, that if the person so convicted shall have been theretofore convicted of a violation of any of the provisions of this chapter he shall be punished by a fine of not less than five hundred dollars, nor more than one thousand dollars and costs, and in addition thereto by imprisonment for not less than six months nor more than eleven months and in default of payment of said fine and costs by imprisonment for six months additional.

122 Me. 287; 125 Me. 319, 432.

Sec. 4. Transportation of intoxicating liquors in another's vehicle without written consent; penalty. 1923, c. 204, § 3. Any person who transports into this state or from place to place therein contrary to law, any intoxicating liquor in any automobile, truck, wagon, boat, vessel, or vehicle of any kind, not a common carrier, without the consent in writing to such transportation signed by the owner thereof and also by the mortgagee thereof and also by all parties to any agreement by which said automobile, truck, wagon, boat, vessel, or vehicle is to remain the property of the seller until paid for, whether said agreement is or is called a note, lease, conditional sale, purchase on instalments, or by any other name or in whatever form it may be, and also by all other persons who have any right, title, and interest in such automobile, truck, wagon, boat, vessel, or vehicle, shall be punished by a fine of not less than five hundred dollars, nor more than one thousand dollars and costs, and in addition thereto by imprisonment for not less than six months, nor more than two years, and in default of payment of fine and costs, by imprisonment for six months additional, and such sentence shall be additional to any other sentence imposed for any other offense committed by such person.

Sec. 5. Express companies, etc., to require receipt from consignee or agent, before delivery of intoxicants; penalty. 1917, c. 209. It shall be unlawful for any transportation company, express company, corporation or individual to deliver any intoxicating liquors at any place other than the regular place of business of said company or individual or to deliver any intoxicating liquors to any person, firm, or corporation other than the person, firm, or corporation to whom it has been consigned, unless upon the written order in each instance of the bona fide consignee, or to any fictitious person, or to any person under a fictitious name; and in all cases, before delivery is made, said company or individual shall require the consignee, or his agent, in each instance duly authorized thereto in writing, personally to sign a receipt in a book kept for such purpose, which said receipt shall reveal the name of the person to whom the liquors were shipped, the amount and kind and the date when delivered and the persons by whom and to whom delivered, except that in case of partnerships and corporations, a partner or duly authorized officer of the corporation may receipt for liquors consigned to their principals, and the book of receipts above

described shall be kept permanently in such places of business and shall be open to inspection by any state, county, or municipal officer during regular business hours, and such book shall constitute prima facie evidence of the facts therein stated and be admissible as evidence in any court in this state having jurisdiction over offenses named in this chapter and chapter twenty-six. Any officer of any transportation company or express company or any other person who knowingly delivers intoxicating liquors contrary to the provisions hereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars and costs and by imprisonment for not less than two months nor more than six months and in default of payment of said fine and costs by imprisonment for six months additional. Any person who knowingly receipts for any intoxicating liquors contrary to the provisions of this section shall be punished by imprisonment for not less than two months.

Sale.

Sec. 6. Sale of intoxicating liquors prohibited; definition. R. S. c. 127, §§ 18, 21. 1919, c. 235. 1923, c. 188. 1925, c. 77, § 2. 1927, c. 127. 1929, c. 229. No person shall at any time, by himself, his clerk, servant, or agent, directly or indirectly, sell any intoxicating liquors, of whatever origin; wine, ale, porter, strong beer, lager beer, and all other malt liquors and cider, (except new cider which shall have not so far advanced in the natural process of fermentation as to contain more than one-half of one per cent of alcohol by volume, and cider which has been so treated as to prevent fermentation and which does not contain one-half of one per cent of alcohol by volume, and cider sold to manufacturers of vinegar to be used in the manufacture of vinegar, and for no other purpose) and all distilled spirits, as well as any beverage containing one-half of one per cent of alcohol by volume, are declared intoxicating within the meaning of this chapter; but this enumeration shall not prevent any other pure or mixed liquors from being considered intoxicating.

118 Me. 198; 121 Me. 83, 137, *339, *438, *522; *122 Me. 162; 126 Me. 153.

Sec. 7. Penalty for selling. R. S. c. 127, § 22. 1917, c. 291, § 3. 1923, c. 206. Whoever by himself, clerk, servant, or agent, sells any intoxicating liquors, or who knowingly sells any extract or syrup for intoxicating beverage purposes, or who sells any of the same under circumstances from which the seller might reasonably adduce the intention of the purchaser to be to use them for such purposes, in violation of law, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars and costs and in addition thereto by imprisonment for not less than two months nor more than six months, and in default of payment of said fine and costs by imprisonment for not less than two months nor more than six months additional, and on each subsequent conviction he shall be punished by a fine of five hundred dollars and costs and in addition thereto by imprisonment for six months, and in default of payment of said fine and costs by imprisonment for six months additional. Any person who aids in the sale of intoxicating liquor, by acting as agent, broker, clerk, employee, servant, or otherwise, or in any manner aids or assists in violating any provision of law relating to intoxicating liquors, is equally guilty with the principal and shall suffer like penalties.

126 Me. 353.

Sec. 8. Sale of substances which when compressed produce intoxicating liquid prohibited; penalty. 1929, c. 216. No person shall sell any substance which when compressed produces a liquid containing more than one-half of one per cent of alcohol with a knowledge or having reasonable cause to believe

that the same is to be so compressed and the liquid so produced is to be used as a beverage. Any person violating the provision of this section shall be punished by a fine of not less than three hundred dollars nor more than five hundred dollars and by imprisonment for not less than three months nor more than six months.

Sec. 9. Sale of cider, prohibited; exceptions. 1927, c. 127, § 2. The sale of cider which shall contain more than one-half of one per cent of alcohol by volume is hereby declared to be unlawful, except that it may be sold to manufacturers of vinegar to be used in the manufacture of vinegar and for no other purpose. Manufacturers of vinegar shall make use of cider purchased by them as authorized by this section in the manufacture of vinegar, and for no other purpose, and shall keep a record of all such purchases of cider, which shall be retained by them and which shall be open at all reasonable times to the inspection of any officer charged with the duty of the enforcement of law, for a period of three years from the date of such purchase, and which shall show as to each purchase, its date, the quantity purchased, the price at which purchased, and the name and address of the seller.

Sec. 10. Penalties. 1927, c. 127, § 3. Whoever is convicted of violation of any of the provisions of section nine shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars and costs and in addition thereto by imprisonment for not less than two months nor more than six months, and in default of payment of said fine and costs by imprisonment for not less than two months nor more than six months additional, and on each subsequent conviction he shall be punished by a fine of five hundred dollars and costs, and in addition thereto by imprisonment for six months, and in default of payment of said fine and costs by imprisonment for six months additional, provided that in case of violation of the provisions relating to the making and keeping of record of purchases punishment by imprisonment shall be in the discretion of the court.

Sec. 11. Label required on all liquors containing alcohol. 1917, c. 209. All ale, beer, and other liquors kept for sale in this state of which alcohol is an ingredient or constituent part, shall be plainly labeled by having conspicuously affixed on the vessels in which they are contained, a paper label showing in print the percentage of alcohol contained in said liquors. Any liquors not so labeled shall be deemed to be intoxicating liquors within the meaning of the statute, shall be subject to seizure and shall be disposed of in the manner provided for disposing of intoxicating liquors. Any person who keeps and offers for sale any such liquors not so labeled shall be punished by a fine of one hundred dollars and costs and by imprisonment for not less than two months nor more than six months, and in default of payment of said fine and costs by imprisonment for six months additional.

Sec. 12. Common sellers; penalty. R. S. c. 127, § 23. 1917, c. 291, § 4. No person shall be a common seller of intoxicating liquors. Whoever violates this section shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars and costs, and in addition thereto by imprisonment for not less than two months nor more than six months, and in default of payment of said fine and costs by imprisonment for six months additional.

121 Me. 137; 124 Me. 267, 333.

Sec. 13. Drinking-houses and tippling-shops; penalty. R. S. c. 127, § 24. 1917, c. 291, § 5. No person shall keep a drinking-house and tippling-shop. Whoever sells intoxicating liquors in any building, vessel, or boat, contrary to

law, if the same are there drank, is guilty of keeping a drinking-house and tippling-shop, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars and costs and in addition thereto by imprisonment for not less than two months nor more than six months, and in default of payment of said fine and costs by imprisonment for six months additional.

Sec. 14. Advertising liquors for sale; penalty. R. S. c. 127, § 25. Whoever advertises or gives notice of the sale or keeping for sale of intoxicating liquors, or knowingly publishes any newspaper in which such notices are given, shall be punished by a fine of twenty dollars and costs, to be recovered by complaint. One-half of said fine shall be paid to the complainant and one-half to the town in which said notice is published.

97 Me. 488; 101 Me. 483; *104 Me. 291.

Sec. 15. Furnishing liquors to persons in confinement; penalty. R. S. c. 127, § 26. Whoever gives or delivers to a person confined in any jail, house of correction, or other place of confinement, or to a person in custody of any officer qualified to serve criminal processes, any spirituous or intoxicating liquor, or has in possession, within the precincts of any jail, house of correction, or other place of confinement, any such liquor, with intent to convey or deliver the same to any person confined therein, unless under the direction of the physician appointed to attend said prisoner, or of the officer in charge of said place of confinement, shall be punished by a fine of not more than twenty dollars, or by imprisonment for not more than thirty days.

See c. 147, § 1.

Possession.

Sec. 16. Deposit, possession, etc., with intent of sale. R. S. c. 127, § 27. 1917, c. 291, § 6. 1923, c. 167, § 2. No person shall deposit, or have in his possession, or order, transport, or cause to be transported into the state, or from place to place therein, any intoxicating liquors with intent to sell the same, or with intent that the same shall be sold by any person or aid or assist any person in such sale. Whoever violates this section shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars and costs, and in addition thereto by imprisonment for not less than two months nor more than six months, and in default of payment of said fines and costs, by imprisonment for six months additional.

117 Me. 235, *335; 118 Me. 202, 314; 121 Me. 362, 519; *122 Me. 44; *124 Me. 226; 125 Me. 302; 126 Me. 340, 363.

Sec. 17. Loitering with liquor on person; penalty. 1917, c. 209. No person shall loiter on or about the streets and highways or in or about any building or place of business with intoxicating liquors about his person. Whoever violates this section shall be punished by a fine of one hundred dollars and costs and by imprisonment for thirty days, and in default of payment of said fine and costs, by imprisonment for sixty days additional.

Intoxication.

Sec. 18. Intoxication and disturbance; penalty. R. S. c. 127, § 37. Whoever is found intoxicated in any street, highway, or other public place, shall be punished for the first offense by a fine of not more than ten dollars, or by imprisonment for not more than thirty days, and upon any subsequent conviction by imprisonment for not more than ninety days, except that in any county where a county farm for the reformation of inebriates has been established,

any male person who has been previously convicted of intoxication may be sentenced to said farm for a period of not less than ninety days or not more than eleven months. Whoever is found intoxicated in his own house, or in any other building or place, disturbing the public peace, or the peace of his own or any other family, shall be punished for the first and any subsequent conviction, as provided in the preceding clause of this section. Any such intoxicated person shall be taken into custody by any sheriff, deputy sheriff, constable, marshal, police officer, or watchman, and committed to the watch-house or police station or restrained in some other suitable place, until a complaint can be made and a warrant issued against him, upon which he may be arrested and tried.

Penalty for intoxication on part of engineer, conductor, brakeman, motorman, or switchman on railroad, c. 64, § 64.

47 Me. 464; *78 Me. 421.

Sec. 19. Responsibility for injuries by drunken persons. R. S. c. 127, § 38. Every wife, child, parent, guardian, husband, or other person who is injured in person, property, means of support, or otherwise, by any intoxicated person, or by reason of the intoxication of any person, has a right of action in his own name against any one who by selling or giving any intoxicating liquors, or otherwise, has caused or contributed to the intoxication of such person; and in such action the plaintiff may recover both actual and exemplary damages. The owner, lessee, or person renting or leasing any building or premises, having knowledge that intoxicating liquors are sold therein, is liable, severally or jointly with the person selling or giving intoxicating liquors as aforesaid. And in actions by a wife, husband, parent, or child, general reputation of such relationship is prima facie evidence thereof, and the amount recovered by a wife or child shall be her or his sole and separate property.

*66 Me. 472; 67 Me. 519; *69 Me. 81, 84; 76 Me. 213; *95 Me. 559; 96 Me. 88;
*99 Me. 366.

Enforcement.

Sec. 20. Indictment when necessary; jurisdiction; bail. R. S. c. 127, § 40. 1919, c. 108. 1923, c. 51. Prosecutions for manufacturing liquors in violation of law, for keeping drinking-houses and tippling-shops, and for being common sellers of intoxicating liquors, shall be by indictment; but in all other prosecutions under this chapter, except when otherwise expressly provided, judges of municipal and police courts and trial justices have by complaint, jurisdiction, original and concurrent with the superior court. All prosecutions in the superior court shall be by indictment. Said magistrates, in cases not within their jurisdiction, may examine and hold to bail. And in appeals from any judgment or sentence before such magistrate, the penal sum in every recognizance shall be not less than five hundred dollars. No recognizance before such magistrate or court, shall be in a sum less than five hundred dollars. And in no case shall the penal sum of the recognizance be reduced after being fixed by the court.

*122 Me. 44; *128 Me. 293.

Sec. 21. Previous convictions to be alleged; indictments not to be dismissed, but by order of court; penalty for failure to prosecute. R. S. c. 127, § 41. Every trial justice, recorder, clerk and judge of a municipal or police court, and every county attorney, having knowledge of a previous conviction of any person accused of violating any of the provisions of this chapter, in preparing complaints, warrants, or indictments, shall allege such previous conviction

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thereon; and after such indictment is entered in court, no county attorney shall dismiss or fail to prosecute it except by special order of said court. If any trial justice, recorder, clerk or judge of a municipal or police court, or county attorney, neglects or refuses to allege such previous conviction, or if any county attorney fails so to prosecute, he forfeits one hundred dollars in each case, to be recovered in an action of debt, to be brought by the attorney-general in behalf of the state.

Sec. 22. Appeal; affirmation of judgment; penalties not remitted nor surety discharged by surrender of principal after default, unless sentenced. R. S. c. 127, § 43. In appeals, the proceedings shall be the same in the appellate court as they would be in the court of the magistrate, and shall be conducted in said appellate court by the attorney for the state. The jury shall find specially under the direction of the court, on all facts necessary to determine the adjudication thereof; and if a claimant or other respondent fails to appear for trial in the appellate court, the judgment of the court below, if against him, shall be affirmed. No portion of the penalty of any recognizance taken under the provisions of this chapter shall be remitted by any court in any suit thereon, nor shall a surety in any such recognizance be discharged from his liability therein by a surrender of his principal in court after he has been defaulted upon his recognizance unless the principal has been actually sentenced upon the indictment or complaint on which the recognizance was taken. The appeals of claimants provided for in section thirty-five, shall be entered as all other appeals in criminal cases, and be subject to the requirements of law appertaining to them.

See c. 145, § 26; 33 Me. 573; 37 Me. 161; 48 Me. 581; 49 Me. 286; *60 Me. 105; 61 Me. 117; 93 Me. 43; 115 Me. 513; 124 Me. 58.

Sec. 23. Action not maintainable upon promise to pay for liquors. R. S. c. 127, § 44. No action shall be maintained upon any claim or demand, promissory note, or other security contracted or given for intoxicating liquors sold in violation of any of the provisions of this chapter, or for any such liquors purchased out of the state with intention to sell the same or any part thereof in violation thereof; but this section shall not extend to negotiable paper in the hands of a holder for a valuable consideration and without notice of the illegality of the contract.

44 Me. 54; 46 Me. 527; 47 Me. 60, 126, 473; 48 Me. 188, 552; 50 Me. 79; 51 Me. 255; 55 Me. 356, *431, 541; 57 Me. 180, 359; 59 Me. 443; 63 Me. 31; 66 Me. 141; *70 Me. 257; 72 Me. 279; *87 Me. 518; *89 Me. 140; 92 Me. 388, 421; 93 Me. 299; 94 Me. 444; 95 Me. 536; 96 Me. 457; 100 Me. *246, 544; 102 Me. 219; 108 Me. 340; 110 Me. 182.

Sec. 24. Evidence of sale; duty of officials to prosecute; previous convictions alleged; amendment of process. R. S. c. 127, § 45. 1917, c. 291, § 8. Whenever an unlawful sale is alleged, and a delivery proved, it is not necessary to prove a payment, but such delivery is sufficient evidence of sale. A partner in business is liable for the unlawful keeping or selling by his co-partner, done in the co-partnership business, or by any other person, in any shop, store, or other place of business of such co-partnership, with his knowledge, or assent. A principal and his agent, clerk, and servant, may all be included in the same complaint and process. The mayor or aldermen, selectmen, or assessors, may cause a suit to be commenced on any bond or recognizance given under this chapter in which the city, town, or plantation is interested, and the same shall be prosecuted to final judgment unless paid in full with costs. The mayor, aldermen, selectmen, assessors, and constables, in every city, town, and plantation, shall make complaint and prosecute all violations and promptly enforce

the provisions of this chapter; and the wilful or corrupt neglect or refusal of any of the said officials to enforce the said provisions shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than eleven months. If a municipal officer, after being furnished with a written notice of a violation of this chapter, signed by two persons competent to be witnesses in civil suits, and containing the names and residences of the witnesses to prove such offense, wilfully neglects or refuses to institute proceedings therefor, he shall be punished by a fine of not less than twenty dollars, nor more than fifty dollars, to be recovered by indictment. The oath required of any such officer to the complaint may be, in substance, that from a written notice signed by two persons competent to be witnesses in civil suits, he believes the complaint signed by him to be true. If an execution or other final process, issued in any civil or criminal suit instituted under this chapter is placed in the hands of any proper officer to be by him executed and he unreasonably neglects or refuses so to do, an action may be commenced against him by any voter in the county, and prosecuted to final judgment, which shall be for the full amount of the judgment and interest on such execution; and if it is a process that requires him to take and commit an offender to prison, the damages shall not be less than fifty dollars, nor more than five hundred dollars. Selectmen of towns herein mentioned include assessors of plantations. In suits, complaints, indictments, or other proceedings for a violation of any provision of this chapter, other than for the first offense, it is not requisite to set forth particularly the record of a former conviction, but it is sufficient to allege briefly that such person has been convicted of a violation of any particular provision, or as a common seller, as the case may be, and such allegation in any criminal process, legally amendable in any stage of the proceedings before final judgment, may be amended without terms and as a matter of right. Any process civil or criminal, legally amendable, may, in any stage of the proceedings, be amended in any matter of form, without costs, on motion at any time before final judgment.

Sec. 25. Persons engaged in liquor traffic not to sit on jury. R. S. c. 127, § 46. No person engaged in the unlawful traffic in intoxicating liquors is competent to sit as a juror in any case arising under this chapter; and when information is communicated to the court that a member of any panel is engaged in such traffic, or that he is believed to be so engaged, the court shall inquire of the juror of whom such belief is entertained; and no answer which he makes shall be used against him in any case arising under this chapter; but if he answers falsely, he shall be incapable of serving on any jury; but he may decline to answer, in which case he shall be discharged by the court from all further attendance as a juror.

See c. 120, § 3.

Sec. 26. Proceedings under this chapter not barred within six years; absence deducted. R. S. c. 127, § 47. The offenses described in this chapter fall within section seventeen of chapter one hundred forty-three, and no such offense is barred by any period of time less than six years after the commission thereof. No portion of time during which the offender is not usually and publicly a resident in this state shall be a part of said six years.

Sec. 27. Law applies to importations in original package. R. S. c. 127, § 48. All the provisions of this chapter, chapter twenty-six, section twenty-five of chapter one hundred forty-five, and section one of chapter one hundred forty-seven, so far as they relate to intoxicating liquors, are hereby made to apply to all intoxicating liquor imported in the original package.

Sec. 28. Special duty of sheriffs, deputies and county attorneys; penalty for refusal or neglect. R. S. c. 127, § 49. Sheriffs and their deputies and county attorneys shall diligently and faithfully inquire into all violations of law, within their respective counties, and institute proceedings in case of violations or supposed violations of law, and particularly the law against illegal sale of intoxicating liquors, and the keeping of drinking-houses and tippling-shops, gambling-houses, or places, and houses of ill fame; sheriffs and their deputies shall promptly enter complaints before a magistrate and execute the warrants issued thereon, or shall furnish the county attorney promptly and without delay, with the names of alleged offenders, and of the witnesses. Any sheriff, deputy sheriff, or county attorney, who shall wilfully or corruptly refuse or neglect to perform any of the duties required by this section, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than eleven months.

See c. 135, §§ 13-16; 67 Me. 375; 101 Me. 353; 111 Me. 34, *429; 122 Me. 297.

Sec. 29. Attorney-general to take charge of investigations before grand jury under certain conditions. R. S. c. 127, § 50. The attorney-general shall take charge of all investigations before the grand jury in case of refusal or neglect of any sheriff, deputy sheriff, or county attorney, to perform any of the duties required by the preceding section, and, in case of the finding of an indictment, shall conduct all subsequent proceedings in court in behalf of the state as prosecuting attorney. In all such prosecutions the attorney-general shall act in place of the county attorney, and is hereby invested with all the rights, powers, and privileges of the county attorney for that purpose, the powers of the county attorney with respect to prosecutions under this section being hereby suspended.

Sec. 30. Compensation of deputy sheriffs. R. S. c. 127, § 51. For services under the two preceding sections deputy sheriffs acting under the direction of the sheriffs, shall receive the same per diem compensation as is now allowed for attendance on the supreme judicial court, the same fees for travel as for the service of warrants in criminal cases, together with such necessary incidental expenses as are just and proper; bills for which shall be audited by the county commissioners, and paid from the county treasury. But said commissioners shall not allow any per diem compensation to said deputies, for any day for which they are entitled to fees or compensation for attendance at or service in any court. The provisions of this section as to compensation of deputy sheriffs and the provisions of section four of chapter one hundred twenty-six shall not apply to the deputies of the sheriff of Cumberland county, acting under the provisions of this section.

See c. 94, § 27; c. 125, § 42; c. 126, § 4; 91 Me. 316; 111 Me. 33.

Sec. 31. Duty of county attorneys. R. S. c. 127, § 52. County attorneys shall cause to be summoned promptly before the grand jury all witnesses whose names have been furnished them by any sheriff or his deputies, as provided in section twenty-eight, and shall faithfully direct inquiries before that body into violations of law, prosecute persons indicted, and secure the prompt sentence of convicts.

Search and Seizure.

Sec. 32. Liquors kept or deposited for unlawful sale forfeited; seizure without warrant. R. S. c. 127, § 28. 1923, c. 167, § 3. Intoxicating liquors kept or deposited in the state, intended for sale, and the vessels in which they are

contained, are contraband and shall be forfeited to the county in which they are seized. And in all cases where an officer may seize intoxicating liquors or the vessels containing them, upon a warrant, he may seize the same without a warrant, and keep them in some safe place for a reasonable time until he can procure such warrant.

118 Me. 202.

Sec. 33. Warrants for search and seizure; fluids poured out to prevent seizure may be held to have been intended for unlawful sale; notice of liquors for sale, prima facie evidence of common sellers. R. S. c. 127, § 29. 1917, c. 291, § 7. If any person competent to be a witness in civil suits makes sworn complaint before any judge of a municipal or police court or trial justice, that he believes that intoxicating liquors are unlawfully kept or deposited in any place in the state by any person, and that the same are intended for sale in violation of law, such magistrate shall issue his warrant directed to any officer having power to serve criminal process, commanding him to search the premises described and specially designated in such complaint and warrant, and if said liquors are there found, to seize the same, with the vessels in which they are contained, and then safely keep until final action thereon, and make immediate return of said warrant. The name of the person so keeping said liquors as aforesaid, if known to the complainant, shall be stated in such complaint, and the officer shall be commanded by said warrant if he find said liquors to arrest said person and hold him to answer as keeping said liquors intended for unlawful sale. Any person who may be suspected of selling from, or keeping for illegal sale in his pockets, intoxicating liquors, may be searched in the same manner and by the same process as is provided for the search of places, and if liquors are found upon his person, may be held to answer as though such liquors were kept and deposited by him in any place. If fluids are poured out or otherwise destroyed by the tenant, assistant, or other person, when premises are about to be searched, manifestly for the purpose of preventing their seizure by officers authorized to make such search and seizure, such fluids may be held to have been intoxicating and intended for unlawful sale, and the penalties shall be the same as if said liquors had been seized. If the name of the person keeping such liquors is unknown to the complainant, he shall so allege in his complaint, and the magistrate shall thereupon issue his warrant as provided in the first sentence of this section. If upon trial, the court is of the opinion that the liquor was so kept and intended for unlawful sale, by the person named in said complaint, or by any other person with his knowledge or consent, he shall be found guilty thereof, and punished by a fine of not less than one hundred dollars nor more than five hundred dollars and costs and in addition thereto by imprisonment for not less than two months nor more than six months, and in default of payment of said fine and costs by imprisonment for six months additional. Notice of any kind in any place of resort, indicating that intoxicating liquors are there sold, kept, or given away unlawfully shall be held to be prima facie evidence that the person or persons displaying said notices, are common sellers of intoxicating liquors, and the premises so kept by them common nuisances.

See § 40; c. 147, § 1; 33 Me. 530, 561, 569; 38 Me. 288; 42 Me. 305; 46 Me. 526; 47 Me. 360, 392, 429; 48 Me. 581; 49 Me. 286; 53 Me. 173; 54 Me. 36; 56 Me. 92; 59 Me. 384; 62 Me. 262, 422; 63 Me. 217; 64 Me. 431, 537; 66 Me. 130; 67 Me. 250, 425; 68 Me. 410, 411, 421; 70 Me. 201; 71 Me. 454; 78 Me. 38, 403; 79 Me. 54, 99, 104; 80 Me. 57, 93; 85 Me. 307, 463; 86 Me. 427, 529; 90 Me. 451; 95 Me. 198; 96 Me. 172; 97 Me. 275; 98 Me. 460; 99 Me. 251; 101 Me. 164; 102 Me. 291; 103 Me. 65, 390, 469; 104 Me. 392; 105 Me. 162; 107 Me. 94; 109 Me. 253; 110 Me. 262; 111 Me. 17, 503; *115 Me. 513; 122 Me. 44, 285; 123 Me. 176, 220; 124 Me. 35.

Sec. 34. Duty of officer on seizure; proceedings. R. S. c. 127, § 30. When liquors and vessels are seized as provided in the preceding section, the officer

who made such seizure shall immediately file with the magistrate before whom such warrant is returnable, a libel against such liquors and vessels, setting forth their seizure by him, describing the liquors and their place of seizure, and that they were deposited, kept and intended for sale in violation of law, and pray for a decree of forfeiture thereof, and such magistrate shall thereupon fix a time for the hearing of such libel, and shall issue his monition and notice of the same, to all persons interested, citing them to appear at the time and place appointed, and show cause why said liquors and the vessels in which they are contained should not be declared forfeited, by causing a true and attested copy of said libel and monition to be posted in two public and conspicuous places in the town or place where such liquors were seized, ten days at least before the day to which said libel is returnable.

33 Me. 561, 573; 47 Me. 400; 48 Me. 188, 581; 53 Me. 172; 54 Me. 37; 61 Me. 523; 62 Me. 265; 80 Me. *93, 207; 122 Me. 285; 123 Me. 176.

Sec. 35. Forfeiture in case no claimant appears; proceedings when claimant to be admitted as a party. R. S. c. 127, § 31. If no claimant appears, such magistrate shall, on proof of notice as aforesaid, declare the same forfeited to the county in which they were seized. If any person appears and claims such liquors, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with the magistrate such claim in writing, stating specifically the right so claimed, and the foundation thereof, the items so claimed, the time and place of the seizure and the name of the officer by whom the same were seized, and in it declare that they were not so kept or deposited for unlawful sale, as alleged in said libel and monition, and also state his business and place of residence, and shall sign and make oath to the same before said magistrate. If any person so makes claim, he shall be admitted as a party to the process; and the magistrate shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libelant or claimant. If the magistrate is, upon the hearing, satisfied that said liquors were not so kept or deposited for unlawful sale, and that the claimant is entitled to the custody of any part thereof, he shall give him an order in writing, directed to the officer having the same in custody, commanding him to deliver to said claimant the liquors to which he is so found to be entitled, within forty-eight hours after demand. If the magistrate finds the claimant entitled to no part of said liquors, he shall render judgment against him for the libelant for costs, to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said liquors forfeited to the county where seized. The claimants may appeal and shall recognize with sureties as on appeals in civil causes from a magistrate.

See § 37; 48 Me. 583; 61 Me. 523; 62 Me. 422; 69 Me. 525; 73 Me. 279; 83 Me. 161; *101 Me. 164; *110 Me. 181; 112 Me. 141; 113 Me. 494; *119 Me. 13; 123 Me. 176.

Sec. 36. Warrant to search dwelling-house, when to be issued. R. S. c. 127, § 32. No warrant shall be issued to search a dwelling-house occupied as such, unless it, or some part of it, is used as an inn or shop, or for purposes of traffic, or unless the magistrate before whom the complaint is made is satisfied by evidence presented to him, and so alleges in said warrant, that intoxicating liquor is kept in such house or its appurtenances, intended for sale in violation of law.

62 Me. 422; 79 Me. 82; *85 Me. 471; *86 Me. 529; 101 Me. 49; 106 Me. 399; 109 Me. 253; 113 Me. 13, *31.

Sec. 37. Disposal of forfeited liquors. R. S. c. 127, § 33. 1923, c. 151. 1927, c. 51. All spirituous and distilled liquors and all other liquors, declared forfeited by any court under this chapter, which shall have been found by said

court to contain more than twenty per cent of alcohol, shall, by order of the court rendering final judgment thereon, be turned over to the sheriff of the county where such seizure was made, by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to said court; and said sheriff shall receipt to said officer therefor; said sheriff shall mingle said liquors together and as soon as he has accumulated a quantity equal to five barrels, he shall ship the same to some responsible rectifying distiller, outside of this state, and have the alcohol redistilled therefrom, as is hereinafter provided. Said sheriffs shall annually contract with some responsible rectifying distiller, outside the limits of this state, to take such liquors and distill the alcohol therefrom, and to account for and pay over to the treasurer of the county from which said liquors are received, in cash, at an agreed price for each gallon of one hundred degrees strength, determined by the United States internal revenue inspector at place of rectification. Before delivering any liquor under the aforesaid contract, the said sheriff shall take a bond, with sureties residing in this state, and to be approved by the treasurer of the county, from said rectifying distiller to the treasurer of his county, in the penal sum of one thousand dollars, conditioned that all of said liquors so received under said contract, shall be rectified and the alcohol distilled therefrom, and that the contractor will account for and pay over to the treasurer of said county from which said liquors are received, in cash, the amount due under said contract. In all suits upon bonds given under this section the damages shall be the full penal sum of said bond. All other liquors, and whenever by reason of the operation of any federal law or regulation it is impractical otherwise to comply with the provisions of this section, all liquors, except cider, declared forfeited by any court under this chapter, shall, by order of the court rendering final judgment thereon, be destroyed by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to said court. Such liquors shall be destroyed by pouring them upon the ground or into some public sewer. A record of vessels forfeited shall be kept by each officer, and returned to the county commissioners once in each three months, and once in six months, or oftener, if they deem it advisable the commissioners shall order such officers to sell the vessels at public or private sale, and pay the proceeds thereof into the county treasury.

All cider, declared forfeited by any court under this chapter, shall by order of the court rendering final judgment thereon, be turned over to the sheriff of the county where such seizure was made, by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to said court; and said sheriff shall receipt to said officer therefor. Said sheriffs may sell and dispose of such cider to be used in the manufacture of vinegar and for no other purpose. A record of such sales shall be kept by each sheriff and he shall pay the proceeds from such sales into the county treasury. Before delivering any cider under any sale made in accordance with the provisions of this section, the said sheriff shall take a bond, with sureties residing in this state, and to be approved by the treasurer of the county, from the purchaser of such cider in the penal sum of double the amount of the value of such cider, conditioned that all of said cider so received under such sale, shall be used in the manufacture of vinegar and for no other purpose.

122 Me. 282.

Sec. 38. Warrant, when to issue against claimant. R. S. c. 127, § 34. If complaint is made upon oath to any magistrate against any claimant under this chapter, alleging that the liquors so claimed by him were, prior to, and at

the time when the same were seized, kept, or deposited by said claimant, or by some person by his authority, and intended for unlawful sale in this state, either by such person, or the said claimant, the magistrate shall issue his warrant against such claimant so charged, and he shall be arrested thereon, and be brought before such magistrate, and on conviction shall be punished as is provided in section thirty-three.

See c. 147, § 1.

Sec. 39. Destruction of liquor to prevent seizure; proceedings; arrest of owner; appliances and evidences to be seized. R. S. c. 127, § 35. If an officer having a warrant, issued under this chapter, committed to him, directing him to seize any liquors, and to arrest the owner or keeper thereof, is prevented from seizing the liquors by their being poured out or otherwise destroyed, he shall arrest the alleged owner or keeper named in the warrant, and bring him before the magistrate, and make return upon the warrant that he was prevented from seizing said liquors by their being poured out or otherwise destroyed, as the case may be, and in his return he shall state the quantity so poured out or destroyed, as nearly as may be, and the magistrate shall put the owner or keeper so arrested upon trial; and if it is proved that such liquors as were described in the warrant were so poured out or destroyed, and that they were so kept or deposited and intended for unlawful sale, and that the person so arrested was owner or keeper thereof, he shall be punished in the same manner as if the liquors described in the warrant and in the return had been seized on the warrant and brought before the magistrate by the officer. All dumps or appliances for concealing, disguising, or destroying liquors, so that the same cannot be seized or identified, found in the possession or under the control of any person or persons, shall be taken by the officer making said search or seizure, so far as the same is practicable, together with all bottles and drinking-glasses or vessels found in the possession or under the control of any such person or persons, and carried before the next grand jury sitting in said county where said search and seizure is made, and the same, together with all evidences of such dumps or appliances for concealing, disguising, or destroying liquors, shall be presented to said grand jury for their consideration, and the same shall thereafter be subject to the order of the court issuing the warrant for said search and seizure.

47 Me. 360; 65 Me. 102; *103 Me. 391.

Sec. 40. Death of officer making seizure. R. S. c. 127, § 36. If any deputy sheriff, after having executed such warrant by a seizure, dies or goes out of office before final execution in the proceedings is done, the liquors shall be held in the custody of the sheriff or another deputy. If any other officer dies or goes out of office under like circumstances, the magistrate before whom the proceedings were commenced, shall designate in writing some officer lawfully authorized to execute such a warrant, who shall hold such liquors in his custody until final judgment and order of the court thereon.

Sec. 41. Liquors and vessels seized not repleviable pending proceedings. R. S. c. 127, § 39. Liquors seized as hereinbefore provided, and the vessels containing them, shall not be taken from the custody of the officer by a writ of replevin or other process while the proceedings herein provided are pending; and final judgment in such proceedings is in all cases a bar to all suits for the recovery of any liquors seized or the value of the same, or for damages alleged to arise by reason of the seizure and detention thereof.

62 Me. 535; 91 Me. 479.

Sec. 42. **Seizure and forfeiture of vehicles containing liquors.** 1917, c. 294, 1921, c. 63. 1923, c. 204, § 1. All automobiles, trucks, wagons, boats, or vessels and vehicles of every kind, not common carriers, containing intoxicating liquors intended for sale or containing intoxicating liquor in the possession of or in the control of any person transporting the same without being in possession of a permit therefor duly issued under authority of the provisions of the national prohibition act of October twenty-eight, nineteen hundred nineteen, and amendments thereto, providing for the enforcement of the eighteenth amendment to the constitution of the United States, found within the state in the possession or in the control of any person, shall be seized by any officer seizing the liquors transported therein, shall be libeled as is provided for the libeling of intoxicating liquors and the vessels in which they are contained under the provisions of this chapter, and shall be declared forfeited by the court and sold in the same manner as is provided for the sale of vessels containing intoxicating liquors.

See §§ 34, 35, 37; 117 Me. 232; 120 Me. *496; 122 Me. 280, 287; 123 Me. 176; *125 Me. 319.

Sec. 43. **Claim of title of person other than person in possession of vehicle or boat to be substantiated by proof that use was without his knowledge or consent.** 1923, c. 204, § 2. Any right, interest, or title of any person or corporation other than the person or persons in possession or control of any such automobile, truck, wagon, boat, vessel, or vehicle shall also be forfeited unless the use of the same for the transportation of intoxicating liquors as aforesaid was without his knowledge or consent. Any claimant of any right, interest, or title in such automobile, truck, wagon, boat, vessel, or vehicle must allege and prove that the use of the same for the transportation of intoxicating liquors as aforesaid was without his knowledge or consent and the court may determine in the proceeding on said claim the right, interest or title, if any, of said claimant.

Forms.

Sec. 44. **Forms; costs.** R. S. c. 127, § 54. The forms herein set forth, with such changes as adapt them for use in cities, towns, and plantations, are sufficient in law, for all cases arising under the foregoing provisions, to which they purport to be adapted; and the costs to be taxed and allowed for the libel, shall be fifty cents; for entering the same, thirty cents; for trying the same, one dollar; for a monition, fifty cents; for posting notices and return, one dollar; order to restore or deliver, twenty-five cents; executing the order, fifty cents.

59 Me. 384; 65 Me. 247, *273; 67 Me. 129; *69 Me. 576; *80 Me. 94; *86 Me. 527; 103 Me. 470; 113 Me. 16; *115 Me. 200; 123 Me. 222, 394.

Form of indictment in case of common seller.

STATE OF MAINE.

"——, ss. — At the superior court begun and held at ——, within and for the county of ——, on the —— Tuesday of ——, in the year of our Lord one thousand nine hundred ——:

The jurors for said state upon their oath present, that A. B., of ——, in said county, at ——, in said county of ——, on the —— day of ——, in the year of our Lord one thousand nine hundred ——, and on divers other days and times between said —— day of —— aforesaid and the day of the finding of this indictment, was a common seller of intoxicating liquors, against the peace of said state, and contrary to the form of the statute in such case made and provided;" (in case of a former conviction add,) "and the jurors aforesaid, upon their oaths aforesaid, do further present, that said ——, has been

_____ before convicted of being a common seller of intoxicating liquors, under the laws of the state of Maine regulating the sale of intoxicating liquors, to wit:—at a term of the _____ court, begun and held at a _____ within and for the county of B. on the third Tuesday of _____ in the year of our Lord one thousand nine hundred _____. A true bill:

_____, County Attorney. _____, Foreman.”

65 Me. 234; *80 Me. 118; *92 Me. 422; 94 Me. 60.

Form of complaint for single sale.

STATE OF MAINE.

“_____, ss.—To _____, esquire, a trial justice within and for the county of _____.

A. B., of _____, in said county, on the _____ day of _____, in the year of our Lord one thousand nine hundred _____, in behalf of said state, on oath _____ complains, that _____, of _____, in said county, on the _____ day of _____, 19____, at said _____, in said county of _____, did then and there sell a quantity of intoxicating liquors, to wit: one _____ of intoxicating liquor to one _____,” (or if the individual is unknown, “to some person to said complainant unknown,”) “against the peace of said state, and contrary to the form of the statute in such case made and provided.

A. B.

On the _____ day of _____, 19____, said _____ makes oath, that the above complaint, by _____ subscribed, is true.

Before me, _____ Trial Justice.”

*65 Me. 247.

Form of warrant upon the same.

STATE OF MAINE.

“_____, ss.—To the sheriff of our said county of _____, or either of his deputies, or either of the constables of the town of _____, or of either of the towns in said county. _____ Greeting.

[L. s.] Whereas, A. B., of _____, on the _____ day of _____, in the year of our Lord one thousand nine hundred _____, in behalf of said state, on oath _____ complained to me, the subscriber, one of the trial justices within and for said county of _____, that _____, of _____, in said county, on the _____ day of _____, 19____, at said _____, in said county of _____, did sell a quantity of intoxicating liquors, to wit: one _____ of intoxicating liquor to one _____, against the peace of said state and contrary to the form of the statute in such case made and provided.

Therefore, in the name of the state of Maine, you are commanded forthwith to apprehend said _____, if he may be found in your precinct, and bring him before me, the subscriber, or some other trial justice within and for said county, to answer to said state upon the complaint aforesaid.

Witness, my hand and seal at _____ aforesaid, this _____ day of _____, in the year of our Lord nineteen hundred _____.

_____, Trial Justice.”

Form of recognizance in case of a single sale.

“Be it remembered, that at a justice court held by me, the subscriber, one of the trial justices within and for the county of _____, at my office in _____, in said county, on the _____ day of _____, in the year of our Lord one thousand

nine hundred _____, personally appeared _____ and _____, and severally acknowledged themselves to be indebted to the state of Maine, in the respective sums following, to wit:

The said _____, as principal, in the sum of _____ dollars, and the said _____ and _____, as sureties, in the sum of _____ dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof of their bodies, to the use of the state, if default is made in the condition following:

The condition of this recognizance is such, that whereas said _____ has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath _____ of _____, charging him, said _____, with having sold at said _____, one _____ of intoxicating liquor to one _____, against the peace of said state, and contrary to the form of the statute in such case made and provided. And said _____, having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to _____; and said _____ having appealed from said sentence to the superior court, next to be held at _____, within and for the said county of _____, on the _____ Tuesday of _____, in the year of our Lord nineteen hundred _____.

Now therefore, if said _____ shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license, then this recognizance shall be void; otherwise shall remain in full force and virtue.

Witness, _____, Trial Justice."

Form of mittimus.

STATE OF MAINE.

"County of _____, ss.—To the sheriff of the county of _____, or either of his deputies, or either of the constables of the town of _____, and to the keeper of the jail in _____, in our said county, _____ Greeting.

[L. s.] Whereas, E. F., of _____, in our county of _____, now stands convicted before me, A. B., esquire, one of the trial justices in and for the said county of _____, on complaint of _____, who, on his oath _____ complains that" _____ (here insert the substance of the complaint) "against the peace of the state, and contrary to the form of the statute in such case made and provided, for which offense, he, the said E. F., is sentenced to pay a fine to the state, of _____ dollars, and costs of prosecution, taxed at _____ dollars and _____ cents, (and to stand committed until the sentence is performed, all which sentence said E. F., now before me, the said justice, fails and refuses to comply with and perform.)

These are therefor, in the name of the state of Maine, to command you, the said sheriff, deputies and constables and each of you, forthwith to convey said E. F. to the common jail in _____, in the county aforesaid, and to deliver him to the keeper thereof, together with this precept. And you the keeper of the said jail in _____ aforesaid, are hereby in like manner commanded, in the name of the state of Maine, to receive said E. F. into your custody, in said jail, and him there safely to keep until he shall comply with said sentence, or be otherwise discharged by due course of law.

Given under my hand and seal, this _____ day of _____, A. D. _____.

A. B., Trial Justice."

Form of complaint in case of seizure.

STATE OF MAINE.

“——, ss.—To A. B., esquire, one of the trial justices within and for the county of ——.

A. B., of ——, in said county, competent to be a witness in civil suits, on the —— day of ——, in the year nineteen hundred ——, in behalf of said state, on oath complains, that he believes, that on the —— day of ——, 19——, at said ——, intoxicating liquors were, and still are kept and deposited by —— ——, of ——, in said county, in ——” (here describe with precision the place to be searched,) “and that said liquors then and there were, and now are intended by said —— —— for sale in violation of law, against the peace of the state and contrary to the form of the statute in such case made and provided.

I therefore pray, that due process be issued to search the premises hereinbefore mentioned, where said liquors are believed to be deposited, and if there found, that said liquors and vessels be seized and safely kept until final action and decision be had thereon, and that said —— —— be forthwith apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against him.

A. B.

——, ss.—On the —— day of ——, 19——, said A. B. made oath that the above complaint by him signed is true.

Before me,

—— —— Trial Justice.”

47 Me. 431; 63 Me. 214; 64 Me. 532; 95 Me. 199.

Form of warrant in case of seizure.

STATE OF MAINE.

“——, ss.—To the sheriff of our said county of ——, or either of his deputies, or either of the constables of the town of ——, or of either of the towns within said county.

[L. s.] Whereas A. B., of ——, in said county, competent to be a witness in civil suits, on the —— day of ——, in the year nineteen hundred ——, in behalf of said state, on oath complained to the subscriber, one of the trial justices within and for said county, that he believes, that on the —— day of ——, 19——, at said ——, intoxicating liquors were and still are deposited and kept by —— ——, of ——, in said county, in ——” (here follows a precise description of the place to be searched,) “and that said —— —— then and there intended and now intends that the same shall be sold, in violation of law as fully appears by the complaint hereunto annexed, and prayed that due process be issued to search the premises hereinbefore mentioned, where said liquors are believed to be deposited, and, if there found, that said liquors and vessels be seized and safely kept until final action and decision be had thereon, and that said —— —— be apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against him:—

You are therefore required in the name of the state, to enter the —— before named, and therein to search for said liquors, and, if there found, to seize and safely keep the same, with the vessels in which they are contained, until final action and decision is had on the same; and to apprehend said —— —— forthwith, if he may be found in your precinct, and bring him before me, the

subscriber, or some other trial justice within and for said county, to answer to said complaint, and to do and receive such sentence as may be awarded against him.

Witness, _____, esquire, at _____ aforesaid, this _____ day of _____, in the year of our Lord nineteen hundred _____.

_____, Trial Justice."

66 Me. 478; *103 Me. 470; 113 Me. 16.

Form of recognizance in case of seizure.

"Be it remembered, that at a justice court held by me, the subscriber, one of the trial justices within and for the county of _____, at my office in said _____, on the _____ day of _____, in the year of our Lord nineteen hundred _____, personally appeared A. B., C. D. and E. F. and severally acknowledged themselves to be indebted to the state of Maine, in the respective sums following, to wit:

The said _____, as principal; in the sum of _____ dollars, and the said _____ and _____, as sureties, in the sum of _____ dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof, of their bodies, to the use of the state, if default is made in the condition following:

The condition of this recognizance is such, that whereas said _____ has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath, of G. H., of _____, a competent witness in civil suits, charging him, said _____, with having at _____, in the said county of _____, on the _____ day of _____, 19____, kept and deposited certain intoxicating liquors in _____" (here describe the place where the same are deposited) "with intent that the same should be sold in violation of law; and a search warrant having been issued upon said complaint, and said liquors above described, having been seized thereon, and said _____ arrested thereon; and said _____ having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to _____. And said _____, having appealed from said sentence to the superior court, next to be held at _____, within and for said county of _____, on the _____ Tuesday of _____, in the year of our Lord nineteen hundred _____:

Now therefore, if said _____ shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license; then this recognizance shall be void; otherwise shall remain in full force and virtue.

_____, Trial Justice."

Form of libel.

STATE OF MAINE.

"County of _____, ss.—To A. B., a trial justice, in and for said county:

The libel of C. D., of _____, shows that he has, by virtue of a warrant duly issued on the _____ day of _____, A. D. 19____, by _____, esquire, a trial justice in and for said county, seized certain intoxicating liquors and the vessels in which the same were contained, described as follows: _____" (here follows a description of the liquors,) "because the same were kept and deposited at _____" (describing the place) "in the said county of _____; and were intended

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for sale, in violation of law. Wherefore he prays for a decree of forfeiture of said liquors and vessels, according to the provisions of law in such case made and provided.

Dated at _____, in said county, this _____ day of _____, in the year of our Lord nineteen hundred _____.

(Signed.) _____.”

Form of monition and notice.

STATE OF MAINE.

“County of _____, ss.

[L. s.] To all persons interested in _____” (here insert the description of the liquors, as in the libel).

“The libel of C. D., hereunto annexed, this day filed with me, A. B., esquire, a trial justice, in and for said county, shows that he has seized said liquors and vessels, because” (insert as in the libel), “and prays for a decree of forfeiture of the same according to the provisions of law in such case made and provided.

You are, therefore, hereby notified thereof, that you may appear before me, the said justice, at _____, in said county, on the _____ day of _____, 19—, and then and there show cause why said liquors and the vessels in which they are contained should not be declared forfeited.

Given under my hand and seal at _____, on the _____ day of _____, in the year of our Lord nineteen hundred _____.

_____, Trial Justice.”

Form of complaint in case of seizure of automobile.

STATE OF MAINE.

“_____, ss.—To the Judge—Recorder—of our Municipal Court for the City of _____, in the County of _____:

A. B., of _____, in the said county, competent to be a witness in civil suits, on the _____ day of _____, A. D., 19—, in behalf of said state, on oath complains, that he believes that on the _____ day of _____ in said year, at said _____, in said county, a certain automobile, hereinafter described, was knowingly used for the illegal transportation of intoxicating liquors and intoxicating liquors were kept and deposited by persons unknown _____ of _____ in said automobile, situated on _____ street, in said _____, in said county, near number _____ on said street in said _____, and occupied by said persons unknown _____ said persons unknown _____ not being then and there authorized by law to transport liquors within said state, and said persons unknown _____ not being then and there in possession of a permit therefor duly issued under authority conferred by provisions of the National Prohibition Act of October twenty-eight, nineteen hundred nineteen, and amendments thereto providing for the enforcement of the Eighteenth amendment to the Constitution of the United States, and that the said liquors were then and there knowingly being transported within said state, in violation of law, against the peace of said state, and contrary to the form of the statute in such case made and provided; and that the said liquors were then and there intended by said persons unknown _____ for sale in violation of law, against the peace of said state and contrary to the form of the statute in such case made and provided.

And the said _____ on oath further complains that he, the said _____ at said _____ on the _____ day of _____, A. D., 19—, being then and

there an officer, to wit., a deputy sheriff, within and for said county, duly qualified and authorized by law to seize automobiles used for the illegal transportation of intoxicating liquors and intoxicating liquors kept and deposited for unlawful sale and the vessels containing them, by virtue of a warrant therefor issued in conformity with the provisions of the law, did find upon the above described premises, one ———, bearing engine number ———, and the 19— license number plates numbered ———, which said automobile then and there contained ———, which said automobile was not then and there a common carrier, and which said automobile was not then and there engaged in the business of a common carrier; and which said automobile was then and there in the possession, care and control of the said ——— and which said automobile was then and there knowingly used by the said ——— for the illegal transportation of intoxicating liquors from place to place in said ——— with intent that the said intoxicating liquors should be sold in violation of law; and which intoxicating liquors as aforesaid, and the vessels containing the same, were then and there kept, deposited and intended for unlawful sale as aforesaid, and said automobile was then and there being used for the illegal transportation of said liquors as aforesaid, within said state by the said persons unknown, they not being in possession of such federal license, and did then and there by virtue of this authority as a deputy sheriff as aforesaid, seize the above described automobile, intoxicating liquors and the vessels containing the same, to be kept in some safe place for a reasonable time, and hath since kept and does still keep said automobile, liquors and vessels to procure a warrant to seize the same.

He therefore prays, that due process be issued to seize said automobile, liquors and vessels, and them safely keep until final action and decision be had thereon, and that said persons unknown ——— be forthwith apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against them.

On the ——— day of ———, the said ——— ——— makes oath that the above complaint by him signed is true.

Before me, ——— ———, Said Judge—Recorder.”

Form of warrant in case of seizure of automobile.

STATE OF MAINE.

“——, ss.—To the sheriff of our county of ———, or either of his deputies, or either of the constables or police officers of the City of ———, or of either of the towns within said county:

[L. s.]

In the name of said state you are commanded to seize the automobile, liquors and vessels containing the same, named in the foregoing complaint of the said ——— ——— and now in his custody as set forth in said complaint, which is expressly referred to as a part of this warrant, and safely keep the same, until final action and decision be had thereon, and to apprehend the said persons unknown ——— forthwith, if they ——— may be found in your precinct, and them ——— bring before said court, holden at the municipal court room in said ———, to answer to said complaint, and to do and receive such sentence as may be awarded against them.

Witness, ——— ———, ——— ——— esquire, our said Judge—Recorder— at ———, aforesaid, this ——— day of ———, A. D., 19—.

Form of libel for automobile.

STATE OF MAINE.

"——, ss.—To the Judge—Recorder of our municipal court for the City of ——, in the county of ——:

The libel of —— shows that he has by virtue of a warrant duly issued by the Judge—Recorder—of the municipal court for the city of —— seized on the —— day of ——, A. D., 19—, a certain automobile, intoxicating liquors and the vessels in which the same were contained, described as follows:

One —— bearing engine number —— and the 19— license number plates numbered ——, which said automobile then and there contained ——, which said automobile was not then and there a common carrier, and which said automobile was not then and there engaged in the business of a common carrier; and which said automobile was then and there in the possession, care and control of the said ——, and which said automobile was then and there knowingly used by the said —— for the illegal transportation of intoxicating liquors from place to place in said ——, the said persons unknown not being then and there in possession of a permit therefor duly issued under authority conferred by provisions of the National Prohibition Act of October twenty-eighth, nineteen hundred nineteen, and amendments thereto providing for the enforcement of the Eighteenth amendment to the Constitution of the United States, and because the same were then and there kept, and deposited on the —— day of ——, A. D., 19—, on —— street, in said ——, in said county, near number —— on said street, in said ——, and because said automobile was being knowingly used for the illegal transportation of said liquors, without a permit as aforesaid, within the state in violation of law. Wherefore he prays for a decree of forfeiture of said automobile, liquors and vessels, according to the provisions of law in such case made and provided.

Dated at ——, in said county, the —— day of ——, A. D., 19—.

(Signed.) ——, Deputy Sheriff."

Form of monition and notice case of automobile.

STATE OF MAINE.

"——, ss.

[L. s.] To all persons interested in the automobile, liquors and vessels described in the foregoing libel:

"The libel of —— hereunto annexed, this day filed with the Judge—Recorder—of our municipal court for the city of ——, in the county of ——, shows that he has seized said automobile, liquors and vessels because the same were used, kept and deposited as set forth in said libel, and said automobile was then and there knowingly used for the illegal transportation of intoxicating liquors, without a permit as aforesaid, and prays for a decree of forfeiture of the same, according to the provisions of law in such case made and provided.

You are, therefore, hereby notified thereof, that you may appear before said court, at the municipal court room, in said ——, on the —— day of ——, A. D., 19—, at —— o'clock, A. M. and then and there show cause why said automobile, liquors and vessels in which they are contained should not be declared forfeited.

Witness, ——, Esquire, our said Judge—Recorder— at —— aforesaid, this —— day of ——, A. D., 19—."