

# MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1861.



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1861.

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# FORTIETH LEGISLATURE.

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HOUSE.

No. 60.

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## REPORT

OF THE

### COMMITTEE ON AMENDMENT OF LIQUOR LAW.

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The Joint Select Committee, to whom were referred certain petitions and memorials, praying for amendments to the law "for the Suppression of Drinking Houses and Tippling Shops," have had the same under consideration, and beg leave to report:

That, impressed with the importance of the question for the investigation and consideration of which the Committee was selected, and fully aware of the deep interest felt upon the subject by the people of the State, they have endeavored to give that earnest attention and careful consideration to their work which its importance and the expectation of the people in reference to it would seem to demand. The number of petitioners who have asked for alterations and amendments of the law, are very considerable. And gentlemen have appeared before the Committee from various parts of the State—men of the most eminent ability and of life-long devotion to the cause of temperance—advocating changes of greater or less moment. And, on the other hand, gentlemen of equal ability and of no less eminent a record for devotion to the principles and practice of temperance, have appeared before the Committee, deprecating all material alterations of the law, and urging that future time be given for a trial of the law as it is.

All these arguments, as well as the facts presented in support of them, the Committee have tried to weigh carefully.

An argument often urged by those who deprecate any alteration of the law as enacted in 1858, is the fact that the bill was submitted to the people in a special election, and by them adopted by a very large relative majority, and that it has, therefore, a more solemn sanction than laws enacted in the ordinary routine of legislation.

Undoubtedly there is some force in the argument. And yet, the Committee feel unwilling that any action of the present Legislature should be interpreted as giving to that law the character and authority of a *finality*.

In the June election of 1858, the people of the State unquestionably gave their sanction to the principle of prohibition. And it was upon that principle rather than upon the various provisions of the law that they voted. Any alteration of the law that should take from it the prohibitory principle, would be in contravention of the will of the people as then solemnly expressed. If, when the law has been fairly tried, it shall be found unequal to the accomplishment of the end for which it was enacted—if, when the penalties it provides, have been brought home to the various classes of offenders against its provisions—it shall be found that the law is defective in operation, and its penalties too light, then it will be both the right and the duty of the Legislature to revise the law and increase its penalties; for the Committee have no doubt that it was and is the intention of the people of Maine to secure a law by means of which, when faithfully and judiciously used, the traffic in intoxicating liquors may be wholly suppressed.

But the time has not yet come, in our opinion, for any legislative action upon the law looking to a material change of its provisions. In every instance where complaint has been made to us that the law is insufficient—its penalties not severe enough, or its guards too loose—it has appeared upon inquiry that no earnest and continued effort has been made by the people or the municipal authorities to execute it. And the Committee unanimously agree that in communities where the controlling public sentiment does not demand, or will not sanction the infliction of the penal provisions of the present statute, a law armed with sharper weapons of punishment would be even less likely to be put in operation against offenders.

It is alike the dictate of reason and experience that legislation should not go very far in advance of public sentiment.

In those sections of the State where the present law has been most applied, the fewest complaints have come up of its insufficiency.

For the reasons thus briefly suggested, the Committee unanimously recommend that, with the exception of the single brief explanatory enactment hereafter mentioned, the law of 1858 be allowed to remain intact upon the statute book, until an advanced public sentiment, having used the means afforded by the present law, shall demand a change.

As hinted above, the Committee deem some legislation necessary on one important point, but not involving any change in the original intention of the law. In different parts of the State magistrates have given different interpretations to the term, "*intoxicating liquors*," used in the various sections of the law of 1858. More generally the term has been understood as including *ale*, *strong beer*, *lager beer*, and *porter*. But in some localities these malt liquors have not been understood as included in the term "*intoxicating liquors*," and the law, therefore, not enforced against the sale of them.

The Committee have no doubt that the law was intended to include these malt liquors, and to prohibit the sale of them in the same manner and to the same extent that it prohibits the sale of distilled intoxicating liquors. And to remove all doubt upon the question, the Committee recommend the passage of a brief explanatory bill which is herewith submitted.

Per Order.

J. A. MILLIKEN.

# STATE OF MAINE.

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

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AN ACT explanatory of “ An act for the suppression of  
drinking houses and tippling shops,” approved March  
twenty-five, eighteen hundred fifty-eight.

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

SECTION 1. The words “intoxicating liquor” and  
2 “intoxicating liquors,” wherever they occur in the  
3 “Act for the Suppression of Drinking Houses and  
4 Tippling Shops,” approved March twenty-five, eight-  
5 een hundred fifty-eight, shall be understood and con-  
6 strued to include strong beer, lager beer, ale, porter  
7 and other malt liquors.

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

STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
March 6, 1861. }

Reported by Mr. MILLIKEN, from Committee on Amendments of Liquor Law, and on motion of Mr. DYER, 350 copies ordered to be printed for the use of the Legislature.

CHARLES A. MILLER, *Clerk.*