

A. C. Chambers



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THE MAINE LIQUOR LAW.

SECTION 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 liquors, or intoxicating liquors, or any mixed liquors, a part of which is spirituous or intoxicating, except as herein after provided.

SECTION 2. The selectmen of any town, and mayor and aldermen 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 medical 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.

SECTION 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 medical and mechanical purposes only; but such certificate shall 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:

Know all men that we, as principal, 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.

The condition of this obligation is such, that whereas the above bounden has been duly appointed agent for the town (or city) of to sell within, and for and on account of said town (or city) intoxicating liquors for medical and mechanical purposes and no other, until the day 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.

SECTION 4. If any person, by himself, clerk, servant or agent, shall at any time sell any spirituous 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 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 175 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 175 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.

SECTION 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 offence 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 the proof of the fact.

SECTION 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, recognise 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 the 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 good and sufficient sureties, running to the town or city where the offence was committed, in the sum of two hundred dollars, that he will not, during the pendency of such appeal, violate any provisions of the 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 of all bonds and recognizances given in pursuance of this act, shall go to the town or city where the offence 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.

SECTION 7. The mayor and aldermen of any city, and the selectmen of any town, when a complaint shall be made to them, or either of them, of the conditions mentioned in any person appearing to be in violation of this act, has been committed, 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 a 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.

SECTION 8. No person shall be allowed to be a manufacturer of any spirituous or intoxicating liquor, or a common seller thereof, without being duly appointed as aforesaid, on the pain of forfeiting on the first conviction, the sum of one hundred dollars and costs of prosecution, and in default of the payment 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 the costs of prosecution, and in default of payments 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 offence 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 offence shall be committed. And whenever a default shall be had of any recognizance, arising under this act, sequestrations shall be issued, returnable at the next term, and the same shall not be continued, unless for good cause satisfactory to the court.

SECTION 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 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.

SECTION 10. All cases arising under this act, whether by action, indictment, or complaint, which shall come before the supreme 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.

SECTION 11. If 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 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 held 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 they 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 shall 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 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 purpose 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 they are contained in the original packages, the custom-house certificate of importation and proof 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.

SECTION 12. If the owner, keeper, or possessor of liquor seized under the provisions of this act, shall be unknown to the officers seizing the same, they shall not be condemned and destroyed until they shall have been advertised, with the number and description of the packages as near as may be, for two weeks, by posting up a written description of the same in some public place, that if such liquors are actually the property of any city or town in the state, and were so at the time of the seizure, purchased for sale by the agent of said city or town, for medical and mechanical purposes only, in pursuance of the provisions of this act, they may not be destroyed; but upon satisfactory proof of such ownership, within said two weeks, before the justice or judge by whose authority said liquors were seized, said justice or judge shall deliver to the agent of said city or town an order to the officer having said liquors in custody, whereupon said officer shall deliver them to said agent, taking the receipt therefor upon the back of said order, which shall be returned to said justice or judge.

SECTION 13. If any person claiming any liquors, seized as aforesaid, shall appeal from any 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 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 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 quantities of distilled liquors as he may have occasion to use in his art or trade, but not for sale.

SECTION 14. It shall be the duty of any mayor, alderman, or 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.

SECTION 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 proceedings 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 shall be remitted or reduced by the prosecuting officer of the court. In any suit, complaint, indictment, or other proceedings against any person for a violation of any of the provisions of this act, other than for the first offence, 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 a matter of right.

SECTION 16. All payments of compensation for liquors sold in violation of law, whether in money, labor or 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 good conscience; and all sales, transfers, conveyances, mortgages, lines, 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 liquors, shall be utterly null and void against all persons and in all cases, and no right of any kind shall be acquired thereby; and in any action either in 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.

SECTION 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.

SECTION 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.

ANOTHER WARNING.—Capt. Laughlin was killed in a rencontre with ex-alderman Silk, in New Orleans, a few days ago. They had been drinking together in a bar-room, and got into a difficulty as they were leaving.

This is another sad instance of the effects of intemperance.

BE KIND TO YOUR MOTHER.—"What would I give," said Charles Lamb, "to call my mother back to earth one day, to ask her pardon upon my knees, for all those acts by which I gave her gentle spirit pain."

The Liquor Law. Opinion of the U. S. S. Court.—A correspondent requests us to publish the opinions of the Judges of the Supreme Court of the United States, in the Massachusetts case, argued against the Massachusetts law by Mr. Webster and Mr. Choate. The Judges were unanimous in sustaining the Massachusetts law, and in affirming the power of the States, not only to restrain and regulate the liquor traffic, but to prohibit it.

Chief Justice Taney said, "If any State deems the retail and internal traffic in ardent spirits injurious to its citizens, I see nothing in the Constitution to prevent it from regulating and restraining the traffic, or from prohibiting it altogether."

Mr. Justice McLean said, "No person can introduce into a community malignant diseases, or any thing which contaminates its morals or endangers its safety."

Mr. Justice Gatron said, "If the State has the power of restraint by license to any extent, she may go to the length of prohibiting sales altogether."

Mr. Justice Daniel said of imports that are cleared of all control of the Government, "They are like all other property of the citizen, whether owned by the importer or his vendee, or may have been purchased by cargo, package, bale, piece or yard, or by hogheads, casks, or bottles." In answering the argument that the importer purchases to sell when he pays duties to Government, Justice Daniel continues to say, "No such right is purchased by any importer; he cannot purchase from the Government that which it could not insure to him—a sale independently of the law and policy of the State."

And Mr. Justice Grier said, "It is not necessary to array the appalling statistics of misery, pauperism and crime, which have their origin in the use and abuse of ardent spirits. The police power, which is exclusively in the State, is alone competent to the correction of these great evils, and all measures of restraint or prohibition necessary to effect the purpose are within the scope of that authority. All laws for the restraint or punishment of crime, or the preservation of the public peace, health, and morals, are, from their very nature, of primary importance, and lie at the foundation of social existence. They are for the protection of life and liberty, and necessarily compel all laws on subjects of secondary importance, which relate only to property, convenience or luxury, to recede when they come in contact or collision. Salus populi suprema lex. The exigencies of the social compact require that such laws be before and above all others. It is for this reason that quarantine laws, which protect public health, compel mere commercial regulations to submit to their control. They restrain the liberty of the passengers; they operate on the ship, which is the instrument of commerce, and its officers and crew, the agents of navigation.—They seize the infected cargo and cast it overboard. All these things are done, not from any power which the State assumes to regulate commerce, or to interfere with the regulations of Congress, but because police laws for the prevention of crime and protection of the public welfare must of necessity have full and free operation, according to the exigency that requires their interference. If a loss of revenue should accrue to the United States from the diminished consumption of ardent spirits, she will be the gainer a thousand fold in the health, wealth, and happiness of the people."

Thus all the Judges of the United States Supreme Court, reaffirmed and corroborated the decision of each subordinate State Court, that the entire control of the sale of intoxicating drinks is within the legitimate province of the State Legislature.—Augusta Age.

EQUITY.—An eternal rule of right, implanted in the heart. What it asks for ourselves it is willing to grant to others. It not only forbids us to do wrong to the meanness of God's creatures, but it teaches us to observe the golden rule. "All things whatsoever ye would that men should do unto you, do ye even so to them."

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