PROHIBITION BILL READY TO SUBMIT

Draft by Committee of One Hundred Has O. K. of Other Organizations.

NO LOOPHOLE IS BELIEF

Measure Not Regarded as "Blue Law" but "Drys" Will Only Guarantee Effectiveness if Left Intact by Legislators.

A bill intended to make effective the prohibition amendment enacted by the people of Oregon at the November election has been drafted by the legal committee of the Committee of One Hundred, assisted by representatives of the Anti-Saloon League, the Woman's Christian Temperance Union, the Prohibition party and other "dry" workers throughout the state.

The measure will be introduced at the forthcoming session of the Legislature with the recommendation that it be passed without change or amendment. The "dry" forces declare that the measure in its present form is sane and effective, that it would preserve the spirit of the amendment passed by the people with a majority of more than 26,000 votes and that it would offer no loopholes through which the law's violators could escape with impunity.

The "dry" forces contend, however, that if the Legislature changes the measure in any particular, it cannot guarantee its effectiveness.

Importation Is Permitted.

The bill is not regarded as a "blue law." It permits the importation of liquor from other states for private consumption but does not permit it to be sold in any form within Oregon. The only exceptions to this latter provision is made in the case of wholesale druggists, who may sell pure grain alcohol to retail druggists for use in preparing compounds, and retail druggists, who may be permitted to sell wine, upon order of an authorized clergyman, for sacramental uses.

Druggists are not permitted to sell liquor in any other manner—even upon prescription of a physician, according to the draft, and strict prohibition is prescribed against private clubs and hotels.

The penalties are not unusually severe. Enforcement of the laws is placed in the hands of the local authorities in each county, but other interested persons may employ additional counsel at their own expense and have such counsel vested with the authority of the state.

Immediately after the election, when the "dry" victory was apparent, the Committee of One Hundred, which had been largely instrumental in conducting the campaign, arranged to disband. But they were requested by at least 18 members of the Legislature to continue their activities and draw up a prohibition bill. Accordingly, they appointed a committee, consisting of Arthur M. Churchill, H. H. Esterly, Robert J. Brock, S. Fred Wilson and A. L. Veazie. This committee consulted with the various other prohibition forces, with George M. Brown, Attorney-General-elect, and with members of the Legislature and District Attorneys in various parts of the state.

The Prohibition party, through J. P. Newell, state chairman, stated yesterday that it will support the measure. At a recent meeting members of the Prohibition party voted unanimously to take this stand.

Mrs. Jennie M. Kemp, president of the W. C. T. U., and Mrs. Henrietta M. Brown, vice-president-at-large, have given the measure their personal approval pending formal action by a convention of W. C. T. U. workers in Portland this week, when formal indorsement will be sought.

"As a whole, I like the proposed law," writes Mrs. Kemp. "Generally speaking, it seems to me that every possible point has been covered."

The Anti-Saloon League forces insisted that an emergency clause be attached to the measure. This would have prevented a referendum. It is expected, however, that the Anti-Saloon League will consent to have the measure go to the Legislature without the emergency clause. Inasmuch as the amendment does not take effect until January 1, 1916, it is considered by the Committee of One Hundred that the emergency clause is inadvisable. If a referendum is desired, a special election can be held before that date.

It is understood that the allied "wet" interests are preparing to submit the legislative action to a referendum of the people in any event.

Full Text Is Given.

The measure in full is as follows:

Be it enacted by the people of the State of Oregon:

Be it enacted by the Legislative Assembly of the State of Oregon:

Section 1. This entire act shall be deemed an exercise of the police powers of the state for the protection of the public health, peace and morals, and all of its provisions shall be liberally construed for the attainment of that purpose.

Section 2. The words "intoxicating liquor" as used in this act shall be construed to embrace all spirituous, malt, vinous, fermented or other intoxicating liquors; and all mixtures or preparations reasonably likely or intended to be used as beverages, which shall contain in excess of one-half of 1 per centum of alcohol by volume, shall be deemed to be embraced within such term, independently of any other test of their intoxicating character; and all mixtures, compounds or preparations, whether liquid or not, which are intended, when mixed with water or otherwise, to produce, by fermentation or otherwise, an intoxicating liquor, shall also be deemed to be embraced within such term.

Section 3. The term "magistrate," where used in this act, shall mean any Justice of the Peace, District Judge, Judge of a Municipal Court or any other officer authorized and empowered to exercise the powers of a Justice of the Peace as provided by the laws of this state.

Section 4. The term "prosecuting officer," where used in this act, shall mean any District Attorney or deputy or assistant District Attorney for any county or counties within his jurisdiction and the Attorney-General of the state, or any assistant Attorney-General, in any county for which he may be appointed or to which he may be assigned by the Attorney-General for the purpose of enforcing any of the provisions of this act.

Manufacture, Sale or Barter Denied.

Section 5. Except as hereinafter provided, it shall be unlawful for any person to manufacture, sell or barter intoxicating liquor within this state.

Section 6. The provisions of this act shall not be construed to prevent anyone from manufacturing wine or cider for his own domestic consumption; nor to prevent the manufacture or sale of vinegar, non-intoxicating cider or unfermented grape juice, or of wood and denatured alcohol for art, scientific or mechanical purposes; nor to prevent the manufacture or sale at wholesale, by any person engaged in the wholesale drug business within this state, and having a stock of drugs, exclusive of alcohol, of the value of not less than $50,000, to persons in good faith engaged in the retail drug business, of undiluted pure grain alcohol for mechanical, pharmaceutical, scientific or medicinal purposes, or wine for sacramental use by religious bodies; nor to prevent the sale, by registered pharmacists only, of undiluted, pure grain alcohol for mechanical, pharmaceutical, scientific or medicinal purposes, or for external use or application, or of wine for sacramental use by religious bodies upon the written order of a clergyman. But no pharmacist shall sell any such alcohol except for mechanical, pharmaceutical, scientific or medicinal purposes, or for external use or application, and in no event shall he sell such alcohol when he has reasonable ground to believe or suspect that it is likely or intended to be used as a beverage; and no pharmacist shall sell such alcohol unless he, or the person or firm by which he is employed, shall have operated a pharmacy within the same municipality (or county, if such drugstore be located outside of the limits of any municipality) for a period of at least one year next preceding such sale, nor, in cities having a population of 100,000 or over, unless he shall have a stock of drugs exclusive of alcohol of at least $1000; nor unless he shall keep an alcohol register which shall state the amount of the purchase, the price paid and the purpose for which the alcohol is to be used, also the personal signature and address of the purchaser, which register shall at all times be open to the inspection of any state, county or municipal officer upon demand; nor shall the provisions of this act be construed to prevent any regularly licensed physician, in good standing in his profession and following the practice of medicine as a principal and usual calling, from administering or providing for the administering of intoxicating liquor to any patient, when the same is actually necessary as a medicine in the treatment of any disease or malady; but nothing in this paragraph contained shall authorize the sale of such intoxicating liquor by such physician; and the giving away of such liquor by such physician, where not thus actually necessary as medicine or where the same is reasonably likely or intended to be used as a beverage, shall be deemed an unlawful sale within the meaning of this act; and in any prosecution of any physician for such giving away of liquor, the burden of proof shall be upon such physician to show that any such giving away of such liquor was for necessary medicinal use.

Mail Order Soliciting Barred.

Section 7. It shall be unlawful for any person to solicit, take or receive within this state any order for intoxicating liquor or make any contract for the sale of any intoxicating liquor, except in cases where the sale of such liquor within the state is permitted by law.

Section 8. The giving away or furnishing of intoxicating liquor for the purpose of evading the provisions of this act, or any other shift, device or subterfuge whatsoever to evade the provisions of this act shall be deemed an unlawful selling within the meaning of this act.

Section 9. It shall be unlawful for any person, directly or indirectly, to keep or maintain, by himself or by associating or combining with others, or in any manner to aid, assist or abet in keeping or maintaining any locker-room, clubroom or other similar place in which intoxicating liquor is received or kept for the purpose of use, gift, barter or sale as a beverage, or for distribution or division among the members of any club or association by any means whatsoever; and it shall be unlawful for any person to use, barter, sell or give away, or assist or abet another in bartering, selling or giving away any intoxicating liquors so received or kept.

Section 10. It shall be unlawful for any person to carry intoxicating liquor to any dance or dancehall or to have intoxicating liquor in his possession at such dance or dancehall, and any person who shall thus carry intoxicating liquor to, or have the same in his possession at such dance or dancehall shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $200, or by imprisonment in the County Jail not more than 60 days.

Record of Deliveries Required.

Section 11. It shall be unlawful for any minor or any habitual drunkard or any person other than the original consignee whose name is marked on the package containing the same as required by law, to receive intoxicating liquor from any common carrier; and it shall be unlawful for any person to receive any intoxicating liquor from any other person who shall transport the same into this state, or to possess the same, unless such person transporting such liquor into this state be a common carrier which keeps the records required by and otherwise complies with the provisions of chapter 250 of the General Laws of the State of Oregon enacted by the Legislative Assembly of the year 1913; and it shall be unlawful for any one person or family within this state to receive from any common carrier more than five gallons of spirituous or vinous liquors or more than 20 gallons of malt liquors within the period of four successive weeks, but this shall not apply to any receiving of pure grain alcohol, and any person who shall receive intoxicating liquor in violation of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $50 or by imprisonment in the County Jail not more than 30 days. And it shall be unlawful for any person, other than a common carrier keeping such records and complying with such law as in this section hereinbefore provided, to deliver intoxicating liquor thus transported into this state to any other person; and any such delivery shall be deemed an unlawful selling within this state, within the meaning of this act; and it shall be unlawful for any common carrier or other person to deliver intoxicating liquor to any minor or to any person known to be a habitual drunkard; and it shall be unlawful for any common carrier or officer, agent or employe of any common carrier to deliver intoxicating liquor to any other person than the original consignee whose name is marked on the package containing the same as required by law; and it shall be unlawful for a common carrier or officer, agent or employe of any common carrier to deliver to any one person or family within this state more than five gallons of spirituous or vinous liquors or more than 20 gallons of malt liquors within the period of four successive weeks, but this clause shall not apply to delivery of pure grain alcohol and it shall be unlawful for any person to haul, transport or carry on or through any street, road or other public highway within this state, for the purpose of delivery to any other person, any package containing intoxicating liquor unless such package shall be marked as required by section one of said chapter 250 of the General Laws of the State of Oregon, enacted by the Legislative Assembly of the year 1913.

Deliveries Are Safeguarded.

Section 12. It shall be unlawful for any person to transfer, within this state, to another person any bill of lading, shipping receipt, order or other receipt calling for delivery of any intoxicating liquor; and no common carrier, officer, agent or employe of any common carrier shall deliver any intoxicating liquor to any person on such transfer or bill of lading, shipping receipt, order, or other receipt; and any violation of this section of this act shall be deemed a misdemeanor and any person convicted thereof shall be punished by a fine of not more than $500 or by imprisonment in the County Jail for not more than 90 days.

Section 13. It shall be unlawful for any bank incorporated under the laws of this state, or any National bank or any individual firm or association to present, collect or in any wise handle any draft, bill of exchange or order to pay money, to which draft, bill of exchange or order to pay money or money is attached a bill of lading, or order or receipt for intoxicating liquors or which draft is inclosed with, connected with or in any way related to, directly or indirectly, any bill of lading, order or receipt for intoxicating liquors; and any violation of this section of this act shall be deemed a misdemeanor and any person convicted thereof shall be punished by a fine of not less than $25 or more than $500, or by imprisonment in the County Jail for not more than 90 days.

Section 14. All premises, buildings, vehicles, boats and all other places where intoxicating liquors are manufactured, sold, bartered or given away, in violation of law, or where persons are permitted to resort for the purpose of drinking intoxicating liquors as a beverage, or where intoxicating liquors are kept for sale, barter or delivery, in violation of law, and all intoxicating liquors, bottles, glasses, kegs, pumps, bars and other property kept in and used in maintaining such premises, building, vehicle, boat or other place, are hereby declared to be a common nuisance; and every person who maintains or assists in maintaining such common nuisances shall be held guilty of a misdemeanor, and upon conviction shall be punished for each offense as provided in section 38 hereof for offenses under this act.

Prosecution Provided For.

Section 15. Any prosecuting officer or any citizen of the county where the nuisance as herein defined exists, or is kept, or is maintained, may maintain a suit in the name of the state to abate and perpetually enjoin the same. The injunction shall be granted at the commencement of the suit and no bond shall be required. Any person violating the terms of any injunction granted in such proceeding shall be punished for contempt by a fine of not less than $100 nor more than $500 and by imprisonment in the County Jail for not less than 30 days nor more than one year, in the discretion of the court or the judge thereof. In case decree is rendered in favor of the plaintiff in any suit brought under the provisions of this section, the court rendering the same shall also render decree for a reasonable attorney's fee in such suit in favor of the plaintiff and against the defendant therein, which attorney's fee shall be taxed and collected as other costs therein, and be paid when collected to the attorney or attorneys for the plaintiff therein.

Section 16. Upon its being shown to any court or judge thereof that any injunction granted by such court or judge, under the provisions of the act, is being violated, such court or judge may make an order commanding forthwith the enforcement of such injunction by such measures or means as in the judgment of the court or judge may be necessary to prevent further violation of such injunction.

Section 17. If the tenant of a building or tenement uses such premises or any part thereof in maintaining a common nuisance as herein defined, or knowingly permits such use by another, such use shall render void the lease under which he holds and the right to possession shall revert to the owner or lessor, who may, without process of law, make immediate entry upon the premises, or may avail himself of the remedy provided by law for the forcible detention thereof.

Section 18. Anyone who knowingly permits any building or tenement owned or leased by him or under his control, or any part thereof, to be used in maintaining a common nuisance, as defined in this act, or who, after being notified in writing of such use, omits to take all proper measures to eject therefrom the person or persons so using the same, shall be deemed guilty of assisting in the maintaining of such nuisance.

Forfeitures Provided For.

Section 19. Upon the filing of a complaint, information or indictment charging that a place is kept or maintained as a common nuisance by any person or persons and that intoxicating liquors, bottles, glasses, kegs, pumps, bars or other property are kept or used therein in keeping and maintaining such place as a common nuisance, a warrant shall be issued commanding the officer to whom it is directed to arrest the person or persons charged or described as the keeper or keepers, and to search the place described in such complaint, information or indictment, and to seize and take into his custody all intoxicating liquors, glasses, bottles, kegs, pumps, bars or other property described in said complaint or information which he may find at such place, and safely keep the same subject to the orders of the court. The complaint or information shall be supported by oath or affirmation and shall describe the place to be searched with sufficient particularity to identify the same, and shall describe the intoxicating liquors, or other property alleged to be used in maintaining the same, as particularly as practicable; but any description, however general, that will enable the officer executing the warrant to identify the property to be seized shall be deemed sufficient. Upon the return of the warrant the court shall proceed as in other cases against the person or persons arrested.

Section 20. Whenever any intoxicating liquor or other property shall be seized under such a warrant, whether an arrest has been made or not, a notice shall issue within 48 hours after the return of the warrant in the same manner as a summons, directed to the defendant or defendants in such action, and to all persons claiming any interest in the intoxicating liquors, or other property, and fixing a time not less than five days from the service thereof, and a place, at which any and all persons claiming any interest therein may appear and answer the complaint made against such intoxicating liquors or other property, and show cause, if any they have, why the same shall not be adjudged a nuisance and ordered destroyed. Such notice shall be served upon the defendant or defendants in such action in the same manner as a summons if they be found within the jurisdiction of the court, or otherwise by publication according to the laws governing publication of summons in civil suits, and a copy thereof shall also be posted in a conspicuous place upon the premises where such property was seized. If, at the time for filing answer, such notice has not been duly served, or other sufficient cause appear therefor, the time for answering may be, by the court, extended and such other notice issued as will supply any defect in the previous notice and give reasonable time and opportunity for all persons interested to appear and answer. At or before the time fixed by notice, any person claiming an interest in the intoxicating liquors, or other property seized, may file his answer in writing, setting up his claim therein, and shall thereupon be deemed a party defendant to the proceedings against such liquor or other property.

The complaint or information and answer or answers that may be filed shall be the only pleadings required; and at the time fixed for answer, or any other time then to be fixed by the court, a trial shall be had in a summary manner before the court, sitting without a jury, of the allegations of the complaint or information against the liquors or other property seized; and whether any answer shall be filed or not, it shall be the duty of the District Attorney to appear and adduce evidence in support of such allegations.

Equipment to Be Destroyed.

Section 21. If the court shall find that said intoxicating liquors or other property, or any part thereof, were, at the time the complaint or information was filed, being used in maintaining a common nuisance, he shall adjudge forfeited so much thereof as he shall find was being so used, and shall order the officer, in whose custody it is, publicly to destroy the same. So much of the intoxicating liquor or other property as the court shall not find to have been used in maintaining a common nuisance, he shall order returned by the officer in whose custody it is, to the place or as near as possible to the place from which it was taken, or delivered to the person establishing his claim to the same. If the court shall find that any of such liquors or other property was, at the time the complaint or information was filed, being used in maintaining a common nuisance, and shall also find that it was being used by any person served with the notice provided for in the previous section of this act, or by any person filing an answer, as in said section provided, so that it was then owned or claimed by any such person and by him knowingly allowed to be so used, the court shall render judgment against such person for the costs of the proceedings, against the intoxicating liquors or other property so used or owned by him. If the court shall not find that any of the said intoxicating liquors or other property seized was, at the time the complaint or information was filed, being used in maintaining a common nuisance, he shall not find that any of it was being so used, or owned and allowed to be used, by any person served with the notice aforesaid, or voluntarily becoming a party as aforesaid, the costs of the proceedings against such property shall be paid as in other criminal cases. Either the state or any defendant or other person claiming the property seized may appeal from the judgment of the court in any such special proceeding against property seized, in the manner provided for the taking of appeals in criminal cases, except that the appeal must be taken within 10 days, unless the time be by the court, for good cause shown, extended; and any claimant of such property who appeals, in order to stay the proceedings, must give an undertaking with two or more sureties to the State of Oregon, to be approved by the trial court, in a sum of not less than $100 nor less than double the costs adjudged against him, conditioned that he will prosecute his appeal without unnecessary delay and that if judgment be rendered against him on appeal, he will satisfy such judgment and costs. No bond shall be required for an appeal by the state, and such appeal shall stay the execution of judgment.

Damage Suits Blocked.

Section 22. Intoxicating liquors or other property, which shall have been seized as hereinbefore provided, shall not be taken from the custody of the officer in whose possession they are by any writ of replevin or other process while the proceedings herein provided for are pending, and final judgment of conviction in such proceedings shall in all cases be a bar to all suits for the recovery of any intoxicating liquors or other property seized or of the value of the same, or for damages alleged to arise by reason of the seizing and detention thereof.

Section 23. All cities may provide by ordinances for the prohibition of the sale of intoxicating liquors contrary to law and the suppression of common nuisances as hereinbefore defined, and for the search of premises where such common nuisances are maintained, and for the seizure and destruction of all intoxicating liquors, bottles, glasses, kegs, pumps, bars and other property used or kept in maintaining the same. Such ordinances may be enforced by imposing for the violation of the same the penalties set forth in section 38 hereof for each offense and the payment of the costs, and shall provide for commitment until fines and costs are paid. In prosecutions for violations of such ordinances it shall not be necessary to describe in the complaint the kind of liquor sold or used, or the place where so sold or kept, except where the charge is for maintaining a common nuisance; nor shall it be necessary to state the name of the person to whom sold.

Section 24. It shall be the duty of District Attorneys in this state diligently to prosecute any and all persons violating any of the provisions of, and otherwise to enforce, this act in their respective counties, and to bring suit upon all bonds or recognizances forfeited, immediately upon the happening of such forfeiture and to recover the penalty therefor. If any District Attorney shall fail, neglect or refuse faithfully to perform any duty imposed upon him by this act, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than $100 nor more than $500, or may be imprisoned in the County Jail for not less than 10 days nor more than 90 days, and such conviction shall be a forfeiture of his office; and the court, before whom such conviction is had, shall at once order such forfeiture of such office, in addition to imposing the penalty hereinbefore provided.

And whenever a District Attorney shall be unable, or shall neglect or refuse to enforce the provisions of this act in his county, or where, from any reason whatever, the provisions of this act shall not be enforced in any county, it shall be the duty of the Attorney-General to enforce the same in such county. For that purpose he may employ as many assistant Attorney-Generals as he may deem necessary, who shall be removable at his pleasure, and he and his assistants shall be authorized to sign, verify and file all complaints, informations and petitions and other papers, the same as the District Attorney is authorized to sign, verify and file, and to do and perform any and all the acts that the District Attorney or Attorney-General may lawfully do or perform.

The Attorney-General in appointing such assistants shall designate the salary or other compensation which they shall receive, which salary or compensation, however, shall not exceed the sum of $200 per month for time actually employed in such service.

County Receives Fines.

Section 25. All fines, costs, forfeitures on bonds, penalties or other sums collected in prosecutions under this act shall be paid at once into the county treasury to be applied to such funds as the County Court may direct, but this provision shall not be construed to require any fee allowed by the court to any attorney in an abatement or injunction suit to be thus paid to said county; and the salary or other compensation allowed by the Attorney-General to any assistant Attorney-General appointed by him under this act shall be paid by the County Court of the county to which said assistant may be assigned, during the time he may be there employed; and all expenses incurred and disbursements made by or under the direction of the District Attorney or Attorney-General, in obtaining or attempting to obtain evidence, or otherwise, in prosecuting violators or suspected violators of this act, shall be paid by the County Court of the county in which such violation shall be alleged to have been committed, upon the voucher of said District Attorney or Attorney-General, out of the general fund of said county.

All Officials Held Amenable.

Section 26. It shall be the duty of all Sheriffs, Deputy Sheriffs, magistrates, Mayors, Marshals, police officers and all other peace officers of any city, town or county having notice, knowledge or reasonable ground of suspicion of any violation of the provisions of this act to notify the District Attorney of such county of the fact of the violation and to furnish him with the names and addresses of any witnesses within the knowledge of such officer by whom any fact tending to show such violation can be proved. If any such officer shall fail to comply with any of the provisions of this section, he shall, upon conviction, be fined in a sum of not less than $50 nor more than $500, and such conviction shall be a forfeiture of the office held by such person, and the court before whom such trial is had, in addition to the imposition of the fine aforesaid, shall order and adjudge the forfeiture of his said office.

Section 27. For any failure or refusal or neglect of official duty in the enforcement of any of the provisions of this act on the part of such county, municipal or state officer herein referred to, such officer may be removed by civil action, and such failure, refusal or neglect of duty shall be deemed an act done making such office forfeitable within the meaning of paragraph numbered two of section 366 of Lord's Oregon Laws.

Section 28. Any citizen may employ an attorney to assist any prosecuting officer to perform his duties under this act, and such attorney shall be recognized by such officer as associate counsel in such proceedings; and no prosecution shall be dismissed over the objection of such associate counsel unless the reasons of such officer for such dismissal, together with the objections thereto of such associate counsel, shall have been filed in writing, argued by counsel and considered by the court.

Section 29. Officers shall receive the same fees and mileage for serving subpenas issued by a prosecuting officer under the provisions of this act as provided in criminal cases. Witnesses shall receive the same fees for attendance as provided for witnesses in cases before a Justice of the Peace. Such fees shall be certified to the County Commissioners by such prosecuting officer and paid by the county as witness fees for attendance before a grand jury are paid. All witnesses shall attend, upon such prosecuting officer when served with a subpena without the payment of fees in advance. If any prosecution begun by the District Attorney or Attorney-General or by a citizen with the written consent or approval of the Attorney-General under the provisions of this act shall fail, the costs of such prosecution, unless otherwise specified herein, shall be paid by the county in which such prosecution or action was begun, the same as other bills are audited and paid in said county.

Authority Given Officials.

Section 30. If any prosecuting officer shall be notified or have knowledge of or reason to suspect any violation of any of the provisions of the laws of this state relating to intoxicating liquors, it shall be his duty forthwith diligently to inquire into the facts of such violation. For such purpose said officer may issue his subpena for such person or persons as he has reason to believe may have information or knowledge of any violation of said laws to appear before him, at a designated time and place, to be examined in relation thereto; or said prosecuting officer may file with any magistrate in said county a written statement signed by such officer, alleging a violation of the laws of this state relating to intoxicating liquors, and may issue his subpena for such person or persons as he has reason to believe may have such information or knowledge of any such violation, commanding such witnesses to be and appear before such magistrate at a time to be designated in such subpena, then and there to testify concerning any violation of the provisions of said law. Such subpena may be served by the Sheriff or any Constable of the county or by any citizen of the county, and shall be served and returned in the same manner that subpenas are served and returned in criminal cases.

Each witness shall be sworn to tell the truth and answers to make to all questions propounded to him touching the matters under investigation, and the testimony of such witness shall be reduced to writing and signed by the witness.

For the purpose of this act any such prosecuting officer is authorized and empowered to administer oaths or affirmations to any such witness appearing before him. Any disobedience to the subpena of such prosecuting officer or any refusal of such witness to be sworn or to sign the testimony given by him, or refusal to answer any question propounded by such officer in such inquiry before such officer, shall be a misdemeanor, and the person found guilty thereof shall upon conviction be punished by a fine of not more than $300 or by imprisonment in the County Jail for not more than three months, or by both such fine and imprisonment.

Any magistrate when acting under the provisions of this act shall have power to adjourn such proceedings from time to time, to punish such witness or witnesses for contempt for any failure to appear, or refusal to be sworn, or to answer any question put to him as a witness, or to sign his testimony, and the attendance of such witness may be compelled by such magistrate by attachment.

If the testimony so taken discloses that an offense has been committed, the prosecuting officer shall at once prosecute the person or persons committing such offense, either by bringing such testimony to the attention of the grand jury or by filing same together with his complaint or information against such person or persons committing such offense, in some court of competent jurisdiction, and such testimony, together with the information or complaint of the prosecuting officer, when sworn to by him upon information and belief, shall have the same effect as if such information or complaint had been verified positively, and thereupon a warrant shall issue for the arrest of such person or persons, as in criminal cases.

"John Doe" Warrants Permissible.

Section 31. If the sworn statement of any witness so taken before any prosecuting officer or magistrate, as in the last preceding section provided, shall disclose the fact that intoxicating liquors are being kept for unlawful sale or purpose, or are being sold by an unknown person or persons, particularly describing such unknown person or persons, contrary to the provisions of this act, at any place, particularly describing the place to be searched and the property to be seized, as hereinafter provided, within such county, it shall be the duty of such District Attorney forthwith to file his complaint or information charging such offense as shall appear to have been committed, together with such statement, with some court of competent jurisdiction, against such place and the unknown keepers thereof, which information or complaint, when verified by such District Attorney upon information and belief, and filed together with such statement as aforesaid, shall have the same effect as if such information or complaint had been sworn to positively; and thereupon a warrant shall issue, directed to the proper officer, commanding him to search the premises described in the information or complaint, and to seize all intoxicating liquors and all vessels or bottles containing the same, and arrest the keeper or keepers thereof, and said person or persons when arraigned before the court shall plead to his or their real name or names, and shall be tried upon such complaint or information, and if found guilty shall be punished as provided in section 38 hereof for offenses under this act; and the court before whom such conviction may be had shall also order all the property seized by the officer as aforesaid to be publicly destroyed; provided, said court shall also find and adjudge such property was being used by the defendant at the time of such search and seizure for the purpose of unlawfully selling or bartering intoxicating liquors, as provided for in this act.

Section 32. It shall be and is hereby made the duty of all courts of this state, before whom a grand jury is summoned, to charge said grand jury especially concerning this act and to direct said grand jury to inquire particularly into all violations of any of the provisions of this act.

All Courts Given Authority.

Section 33. Justices of the Peace, District Courts and other courts having the jurisdiction of the Justices of the Peace shall have concurrent jurisdiction with the Circuit Courts of all prosecutions for violations of the provisions of this act, except when such prosecutions are for the committing of a felony.

Section 34. In prosecutions under this act, whether begun by indictment, complaint or information, it shall not be necessary to state the kind or quantity of liquor manufactured or sold, and it shall not be necessary to describe the place where the same was manufactured or sold, except in prosecutions for the keeping and maintaining of a common nuisance as defined by this act, or when a lien is sought to be established against the place where such liquor was illegally sold; and it shall not be necessary to state the name of the person to whom the same was manufactured or by whom the same was sold, nor to state the name of the person to whom the same was sold; and it shall not be necessary in the first instance for the state to allege or prove that the party charged did not have legal authority to sell such liquor or was not within any of the exceptions provided by this act.

Section 35. In all prosecutions under the laws of this state relating to intoxicating liquors, the prosecuting attorney may, in any complaint, information or indictment against any defendant, include therein any number of offenses, stating each offense under a separate count, and, upon the filing of such complaint, information or indictment, the proceedings thereunder upon said ment, the proceedings thereunder upon said several charges shall be the same as though one offense only were charged therein: Provided that, upon the trial of such defendant thereunder he may be convicted of one or more of the offenses charged in such complaint, information or indictment as the evidence may warrant. The failure of the jury to find the defendant guilty under any count shall be deemed an acquittal of the offense contained in such count, unless such jury shall report a disagreement and be discharged without having agreed. But the number of peremptory challenges permitted in the selection of a jury to either side at such a trial upon several counts shall not be greater than is permitted by the criminal laws of this state in the trial of a single offense.

Appeal Is Permitted.

Section 36. An appeal to the Supreme Court may be taken by the state from the judgment or order of the Circuit Court in all cases arising under this act upon a judgment for the defendant founded upon a motion to quash the indictment or upon a judgment of acquittal entered on a verdict, whether ordered by the court or otherwise, for the purpose of determining questions of law, but not for the purpose of obtaining a new trial; but nothing in this section contained shall be construed to abridge any right of appeal which the state may have otherwise under the criminal laws of this state.

Section 37. In any action or proceeding under this act or under any other law relating to the unlawful disposition or possession of intoxicating liquor, no person shall be excused from testifying concerning any offense committed by another in any court or before any grand jury or before any prosecuting officer on the ground that his testimony may incriminate him; but such testimony shall not be used against him in any prosecution for any crime or misdemeanor under the laws of this state.

Section 38. Any person or persons who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, except in cases where the punishment therefor is herein otherwise specifically provided, shall be punished by a fine of not more than $500 or by imprisonment in the County Jail not more than six months or by both such fine and imprisonment, in the discretion of the court. And for a second violation of any of the provisions of this act, not thus otherwise herein specifically provided for, such person shall, upon conviction, be punished by a fine of not less than $100 nor more than $500 and by imprisonment in the County Jail not less than 30 days nor more than one year. And any person who, having twice been duly convicted of violating any of the laws of this state prohibiting the sale of intoxicating liquor, and who shall thereafter, directly or indirectly, violate any of the provisions of such law, shall be considered a persistent violator of such law and shall be deemed guilty of a felony and upon conviction thereof shall be confined in the State Penitentiary at hard labor for not more than one year: Provided that sentence shall not be suspended by any court or judge upon a second or any subsequent conviction of any violation of this act.

Section 39. A certified transcript from the docket of any Justice of the Peace or District Court or a certified copy of the journal entry of judgment or other proper court record, under seal of the clerk of any court of record shall be prima facie evidence of any previous conviction or convictions of violations of this act.

Physicians Not Immune.

Section 40. If any person licensed to practice medicine or surgery or licensed or registered as a pharmacist under the laws of this state shall once have been convicted of violating any of the provisions of this act and shall thereafter be found guilty of further violating the provisions of this act, said second conviction, unless otherwise provided by the court in its discretion, shall operate as a revocation of said license of said person to practice medicine, surgery or pharmacy, and the court or judge before whom said second conviction shall have been had shall forward a copy of such judgment to the Board of Medical Examiners or the State Board of Pharmacy, as the case may be, which shall have issued any such license, or such board or official as may have authority in the matter.

Section 41. All fines and costs assessed against any person or persons for any violations of this act shall be a lien upon the real property of such person or persons until paid, and in case any person or persons shall let or lease any buildings or premises and shall knowingly suffer the same to be used and occupied for the sale of intoxicating liquor, contrary to the provisions of this act, the premises so occupied and used shall be subject to be sold for the payment of all fines and costs assessed against any such occupant for any violation of this act, and such liens may be enforced by civil action in the name of the county by any court having jurisdiction. Provided the person against whom such fines or costs are assessed may also be committed to the County Jail until such fines or costs are paid.

Section 42. In all prosecutions, either under the state law or under municipal ordinances, for maintaining a common nuisance as hereinbefore defined, or in suits or other proceedings to abate or enjoin the same, the finding of intoxicating liquors in the possession of one not legally authorized to sell the same, except in a private dwelling house, not used in connection with a place of business, shall be prima facie evidence that such liquors are kept for sale or use in violation of law; and the finding in a place fitted up with a bar or counter or glasses or other paraphernalia usually connected with places where intoxicating liquors are sold as a beverage, or in a place used for the manufacture or storage of intoxicating liquors, of a stamp or receipt showing the payment by any person of the United States internal revenue special tax for the manufacture or sale of distilled or malt liquor at such place, for a period not then expired, shall be prima facie evidence that the person or persons to whom the same was issued were, at the time of finding such special tax stamp, maintaining a common nuisance at such place; and evidence of the general reputation of the place designated in the complaint, information or indictment shall be admissible to prove the existence of such nuisance.

Federal Tax Evidence.

In all prosecutions for selling intoxicating liquor, whether in violations of the laws of this state or of any municipal ordinance, if delivery of such liquor be proved it shall not be necessary to prove a payment, but such delivery shall be prima facie evidence of such sale; and in any such prosecution evidence of other sales of intoxicating liquor at or about the same time by the same person or at the same place to other persons shall be admissible as tending to show the character of the business in which the defendant is engaged and the probability and credibility of such testimony as may be introduced of the particular sale or sales upon which the state shall rely for conviction; and in any such prosecution the issue of any internal revenue stamp or receipt in this section above described to any person other than a druggist shall be prima facie evidence that such person is engaged in the business of selling intoxicating liquor at the place of business where such stamp or receipt is posted, if, at the time, the stamp or receipt is in force and effect. A copy of such stamp or of the records of the United States internal revenue officer, deputy or assistant having charge of such records or stamps certified to by such officer which shows that the United States special liquor tax has been paid by any person charged with selling, bartering, giving away, furnishing or otherwise disposing of intoxicating liquor in violation of this act, shall be competent and prima facie evidence that the person whose name appears on said records or stamp, as shown by said certified copy, has paid a special liquor tax for the time stated therein.

Section 43. If any provision of this act shall be held void and unconstitutional, it is hereby provided that all other parts of the same which are not expressly held to be void or unconstitutional shall continue in full force and effect.

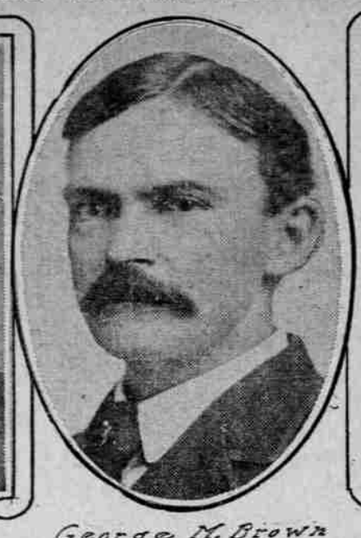
Section 44. All acts and parts of acts of this state in conflict with the provisions of this act shall be and the same are hereby repealed insofar as they are thus in conflict, such repeal to take effect and become operative from and after the first day of January, 1916. Provided that nothing herein contained shall be construed to relieve any person from prosecution for any violation of any act or acts hereby repealed which shall have occurred prior to said first day of January, 1916, but such violation shall be prosecuted and punished under the provisions of said act or acts notwithstanding such repeal, and said act or acts shall be continued in force for the purpose of such prosecutions and punishment only.

Section 45. This act shall take effect and be in force from and after the first day of January, 1916.

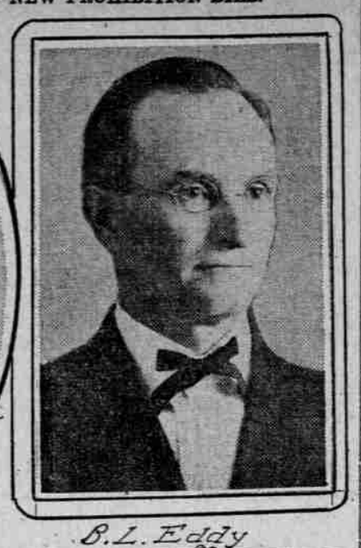
Of course there are some who still employ the Roman nose, but personally we use something more modern.

PROMINENT ATTORNEY WHO AIDED IN FRAMING NEW PROHIBITION BILL.

O. H. Porter



George M. Brown



B. L. Eddy

Isaac H. Van Winkle

G. S. Hill

PROPOSED PROHIBITION LAW IN A NUTSHELL.

Definition is broad enough to include not only familiar varieties of intoxicating liquors, but beer powders, etc.

Anything containing more than one-half of 1 per cent of alcohol intended as a beverage is defined as "intoxicating liquor."

Home manufacture of wines, cider or vinegar permitted—but it cannot be sold.

Sale of sacramental wine permitted on order of clergyman.

Drug stores cannot sell whiskey—even on prescription of physician. Licensed physicians may administer but not prescribe.

Taking of orders forbidden.

Giving away of liquor, when intended as a law evasion, forbidden.

Club locker-rooms forbidden.

Carrying intoxicating liquor to dance hall forbidden.

Only original consignee may receive liquor from without the state.

No habitual drunkard may import liquor from without the state.

Quantity that may be received at any one time from without the state within four weeks limited to five gallons spiritous or vinous liquors and 20 gallons of malt liquors.

Places where liquors are manufactured, sold or given away become common nuisances. This section covers motorboats and automobiles when they are not common carriers.

A search and seizure system is provided upon a warrant which may be obtained by any citizen from proper authorities.

All intoxicating liquors found in violation of law declared forfeited.

Appointment of Assistant Attorney-General to assist the local District Attorney at a salary of not over $200 a month is provided, but Legislature may change flat salary to fee system.

Fines collected under this law go to the county in which conviction is obtained.

Negligent officials may be removed by civil action.

Private citizens may employ attorneys with their own funds to be recognized as associate counsel in prosecuting violations.

Prosecuting officers are authorized to swear witnesses and to make them sign their testimony. Refusal of witnesses to be sworn is construed a misdemeanor subject to fine.

Exact definition of liquor sold is not required in complaint.

Any number of offenses may be included in one complaint, and trial be had as on one count.

State has right of appeal on legal questions.

Physicians or pharmacists convicted more than once of violating law will have licenses revoked.

Fines become lien on property in which violation took place.

Copy of internal revenue stamp prima facie evid