

The Provincial Statutes of Lower-Canada, Being the second session of the fifteenth Provincial Parliament of Lower-Canada. Quebec: John Carleton Fisher & William Kemble, Law Printer to the King's Most Excellent Majesty, 1836.

6 William IV – Chapter 14

An Act for the further regulation of Taverns and Tavern-Keepers, and for other purposes therewith connected. (21st March, 1836.)

Whereas it is expedient and necessary to consolidate the provisions of certain Acts passed by the Legislature of this Province, relating to persons obtaining licenses to keep Houses of Public Entertainment, and to retail spirituous liquors in the Country Parishes, Seigniories and Townships of the Province, which said Acts will expire on the first day of May, one thousand eight hundred and thirty-six;—Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America,' And to make further provision for the Government of the said Province;" and it is hereby enacted by the authority of the same, that from and after the said first day of May, one thousand eight hundred and thirty-six, no licence shall be granted to any person or persons, for keeping any House or other place of public entertainment, within any Country Parish or Township, unless that the person or persons applying for the same shall produce a certificate, to the effect hereinafter required, from the senior Justice, of the Peace, the Officer of the Militia, the highest in grade, and the Church-Warden in Office; or when there is not a Justice of the Peace residing or present within such Parish or Township, from the two Officers of Militia, the highest in grade, and the Church-Warden, in office, or where there are no Church-Wardens residing or present in such Parish or Township, from the senior Justice of the Peace and the two Officers of Militia, the highest in grade; or when there is no Church-Warden nor Justice of the Peace, from the three Officers of Militia, the highest in grade, (or a majority of them) residing within the Parish or Township for which such licence is applied; nor shall any person receive any such licence unless the certificate of his being a fit and proper person to obtain such licence, shall also state that he has entered into a Bond to His Majesty, before one or more Justices of the Peace, jointly and severally, with two sureties, to the satisfaction of the persons granting such certificate, for the payment of all penalties, which such persons may be condemned to pay for any offence against the provisions of this Act, during the time for which such licence shall be obtained. Provided always, that the person or persons demanding such certificates shall not be at the same time traders or retailers of spirits, brandy, wine or any other kind of spirituous liquors.

II. Provided always, and be it further enacted by the authority aforesaid, that nothing herein contained, shall prevent the Justices of the Peace in General Quarter Sessions, whensoever they shall deem it expedient so to do for the public benefit, and that of

travellers, or in Special Sessions to be convened for the purpose, by written notices specifying the object of the Meeting, from granting certificates for licences for Houses of public entertainment on the main roads, having previously ascertained that the morals and character of the applicant render him worthy to have a licence; and that such power shall not be exercised by the said Quarter or Special Sessions, unless it shall appear that there are no persons empowered to grant certificates for licences in the Parish or Township of such applicant or applicants, or that such persons, so empowered to grant certificates for licences, shall have unduly refused or withheld such certificate.

III. And be it further enacted by the authority aforesaid, that from and after the first day of May aforesaid, no person shall receive a licence to keep a House of Public Entertainment, and to retail spirituous liquors therein, unless to the certificate of his being a fit and proper person to obtain such licence, there shall be annexed an affidavit in the form of schedule A, duly made and sworn to by him or her, before some one of His Majesty's Justices of the Peace, (who is hereby authorized and empowered to administer the necessary oath,) and every person who shall in making such affidavit, wilfully swear falsely, shall on being thereof convicted in due form of law, be liable to the pains and penalties of wilful and corrupt perjury.

IV. And be it further enacted by the authority aforesaid, that on any day between the first day of February and the first day of April in each and every year after the first day of May aforesaid, the persons above named and authorized to grant certificates as herein above mentioned, or a majority of them, shall, and they are hereby authorized and required to assemble and meet within their respective Parishes or Townships, at such time and place as may be appointed by the senior Justice of the Peace, (or in his default the Officer of Militia highest in grade,) who shall give due notice thereof to the persons aforesaid; and the said persons shall then and there determine and fix the number of licences for keeping Houses of Public Entertainment, or for retailing spirituous liquors, which may be necessary for their respective Parishes or Townships, for the year then next ensuing, and shall also grant certificates for licences, in the form of the schedule B, to such applicants as they or the majority of them shall deem and consider to be fit and proper persons to keep Houses of Public Entertainment, or to retail spirituous liquors; and the senior Justice of the Peace, or (where there shall be no Justice of the Peace,) the Officer of Militia highest in grade, shall preside at such meeting, and shall, within fifteen days from the time of granting such certificates, transmit to the Clerks of the Peace within their respective Districts, a list of the persons to whom certificates have been granted in their respective Parishes or Townships.

V. And be it further enacted by the authority aforesaid, that no licence shall be granted for keeping any such House or other place of Public Entertainment, until the person or persons applying for the same, shall have entered into a Bond to His Majesty, before one or more Justices of the Peace, in the sum of forty pounds currency, with two sureties in the sum of twenty pounds currency each, to do, perform, and observe the conditions required by an Act passed in the thirty-fifth Year of the Reign of His Majesty, King George the Third, Chapter

eight, which Bond shall, within one month from the time of taking the same, be transmitted by the said Justice or Justices, to the Clerks of the Peace for their respective Districts.

VI. And be it further enacted by the authority aforesaid, that for every certificate, bail bond, or other entry whatsoever, and for executing any of the duties prescribed by this Act or otherwise, the Clerks of the Peace shall only be entitled to the sum of one shilling and three pence currency, any Usage, Tarif, or Law to the contrary notwithstanding.

VII. And be it further enacted by the authority aforesaid, that all licences to be granted by the Governor, Lieutenant Governor, or Person administering the Government of this Province, in the manner provided by the Act last aforesaid, shall be renewed between the first and the twentieth days of May in each year, any Law, Usage, or Custom to the contrary notwithstanding.

VIII. And be it further enacted by the authority aforesaid, that it shall not be lawful for any person or persons who shall or may have obtained a licence or licences in the manner hereinbefore mentioned, to proceed to sell or retail spirituous liquors, or to keep a House or Houses of Public Entertainment, until he, she, or they shall have exhibited such licence or licences to the person or persons who shall have presided at the Meeting hereinbefore directed to be held; which person or persons shall, on the first Sunday thereafter, cause such licence to be publicly read at the Church door of the Parish, Seigniorie [Seigneurie], or Township for which the same shall be granted, immediately after Divine Service in the forenoon, or where there shall be no Church, then at the place of most public resort in the Seigniorie or Township for which such licence shall be granted, and shall fix or cause to be affixed on the door of such Church, or where there is no Church, at the place of most public resort, a notification that the person to whom such licence hath been granted, hath been, and is, duly qualified and authorized to sell spirituous liquors, or to keep a house of public entertainment in such Parish or place; and every such person holding such licence who shall sell spirituous liquors, or keep a House of Public Entertainment, before he, she, or they shall have exhibited such licence in the manner herein before provided, shall be considered and deemed to be liable to the penalty, or penalties of Law imposed on persons selling spirituous liquors, without licence.

IX. And be it further enacted by the authority aforesaid, that every person who shall obtain a licence to keep a House of Public Entertainment, and to retail spiritous liquors therein, shall place upon his house, in an exposed situation, a notice in legible characters, and in the language of the majority of the inhabitants of the place, shewing that such person is so licenced as a Tavern-Keeper; and every person who shall refuse or neglect so to do, shall incur a penalty of not less than twenty shillings, nor more than forty shillings currency, and shall be liable, for a second offence, to the forfeiture of his licence, which he may be condemned to forfeit on complaint brought before two Justices of the Peace.

X. And be it further enacted by the authority aforesaid, that whenever any person holding a licence to keep a House of Public entertainment, and to retail spirituous liquors, shall be

convicted of having kept a disorderly house, or convicted before two Justices of the Peace, of knowingly vending spirituous liquors during the Divine Service on Sundays or Holydays, (except for the use of the sick or travellers,) or of suffering any seamen, soldiers, apprentices, servants, or minors, to remain tippling in his or her house, after seven o'clock in the evening in winter; or after nine in the evening in summer, or having committed any felony; the Court or such Justices of the Court of King's Bench, or the Provincial Judge, or the Justices of the Peace, before whom such person shall have been convicted, shall, if he or they see fit, adjudge and order, that the licence thus held by any such person so convicted, shall be forfeited, and that he or she shall no longer keep a house of entertainment, or retail spirituous liquors in virtue thereof, and that he or she shall be incapable of having or holding any licence, for such purpose thereafter.

XI. And be it further enacted by the authority aforesaid, that all and every the provisions contained in this Act shall extend to and have force and effect in all and every Township and Seigniorie, and all and every extra-parochial part or parts of Townships and Seigniories [Seigneuries].

XII. And be it further enacted by the authority aforesaid, that any person or persons (except any such persons who has or may have obtained licences to keep Houses or other place of entertainment,) who shall sell or retail ale, or other malt liquors or cider, to be drunk in their house, out house, yard, garden, orchard; or other place, shall be considered and deemed to be liable to the penalty or penalties which are by Law imposed on persons keeping houses, or some other place of public entertainment without a licence, and such penalty or penalties, shall be sued for, recovered, distributed, and applied in the manner and form provided by Law.

XIII. And whereas various persons do, under pretext of selling beer and other drinks and cakes, sell spirituous and intoxicating liquors, mixed or unmixed, or otherwise dispose thereof, under pretext of receiving payment for the said beer, drinks and cakes, or otherwise; for remedy thereof, Be it further enacted by the authority aforesaid, that no person shall in the Country Parishes of this Province, open any house or put up any sign for the sale of beer, drinks, or cakes, or shall otherwise publicly sell or dispose of any such articles, at any stand or place in any such Parish, without first obtaining a licence, signed by the Church-Warden in office, or by the nearest Justice of the Peace, which licence must be renewed every year; and every person obtaining such licence shall exhibit the same whenever he shall be thereunto required by any Peace Officer or Officer of Militia, and every person who shall in any way offend against the provisions of this Section or any of them, shall for every such offence, and being duly convicted thereof by the oath of one credible witness, other than the informer, before any Justice of the Peace, incur a penalty not exceeding ten pounds currency, one moiety whereof shall belong to His Majesty, and shall be paid into the hands of the Receiver General, for the public uses of the Province, and the other moiety shall belong to the informer, and the Justice of the Peace before whom such conviction shall take place, shall, and he is hereby authorized, if such penalty be not

forthwith paid, to commit the offender to the Common Gaol of the District, for a period not exceeding thirty days, or until such penalty be paid.

XIV. And be it further enacted by the authority aforesaid, that upon complaint before any two Justices of the Peace, residing within the Parish, Seigniory, or Township, of any offence against this Act, such Justices may issue their Summons, under their hand and seal, enjoining the party complained of, to appear before them, and answer such complaint, and upon due proof of such offence by the evidence of any one or more credible witness or witnesses, other than the informer, such Justices shall adjudge that the Defendant has forfeited a penalty not exceeding ten pounds currency, for his said offence, one moiety thereof to His Majesty, and the other to the informer, with costs, and may levy such penalty and costs by warrant of distress, to seize and sell the defendant's goods and chattels, in satisfaction of the judgement, and for want of sufficient distress, may issue their warrant to cause the defendant to be apprehended and conveyed to the Gaol of the District, there to remain in safe custody, until the said penalty and costs shall have been paid; Provided always, that no person shall be detained in such custody longer than three months, by virtue of any such warrant.

XV. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, no Brewer of ale, beer, or other malt liquor, nor any Distiller, vender of spirits, brandy, or other spirituous liquors, shall act as a Justice of the Peace or Officer of Militia, under this Act; and any order, judgment or other thing whatsoever given or made by such person, as a Justice of the Peace or Officer of Militia, in or concerning any matter relative to this Act, shall be entirely null, and any person acting as a Justice of the Peace or Officer of Militia, in contravention of this Act, shall for each such offence incur a penalty of ten pounds currency, recoverable, with costs, by civil action in any Court of competent jurisdiction, and one moiety of such penalty shall belong to the King, and the other moiety to the person suing for the same.

XVI. And be it further enacted by the authority aforesaid, that every person keeping a House of Public Entertainment, who shall be convicted of any offence against this Act, shall thereby be deprived of his licence, and become incapable of holding any licence for a like purpose, during the continuance of this Act.

XVII. And be it further enacted by the authority aforesaid, that every person to whom shall be entrusted the expenditure of any portion of the public monies under the authority of this Act, shall make up detailed accounts of such. expenditure, showing the sum advanced to the accountant, the sum actually expended, the balance, (if any) remaining in his hands, and that every such account shall be supported by vouchers, therein distinctly referred to by numbers corresponding to the items in such account, which shall be made up to and closed on the tenth day of April and the tenth day of October in each year, during which such expenditure shall be made, and shall be attested before a Justice of the Court of King's Bench, or a Justice of the Peace, and shall be transmitted to the Officer whose duty it shall be to receive such account, within fifteen days next after the expiration of the said periods respectively.

XVIII. And be it further enacted by the authority aforesaid, that the due application of the monies expended under the authority of this Act, and of the fines and penalties received under the authority thereof, shall be accounted for to His Majesty, His Heirs and Successors, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct.

XIX. And be it further enacted by the authority aforesaid, that this Act shall be and remain in force until the first day of May, one thousand eight hundred and thirty eight, and no longer.

SCHEDULE A.

Province of Lower Canada, }
District of }

I, _____, of the Parish of _____ in the County
of _____ in the District of _____ being duly sworn, depose
and say, that I, the said _____ am duly qualified according to the Laws of
this Province, to obtain a Licence to keep a House of Public Entertainment, and to retail
spirituous liquors therein.—So help me God.

Sworn before me at the _____ in the District of _____ this
day of _____ one thousand eight hundred and _____

J. P.

SCHEDULE B.

District of }
Parish (or Township) of }

We, the undersigned, the Senior Justice of the Peace, the Senior Officer in grade (or Officers, as the case may be) of Militia, of the Parish (or Township) of _____ in the District of _____ do hereby certify that at a Meeting held according to the provisions of the Act in such case, made and provided at the said Parish (or Township) of _____ on the day of _____ in the present year, for determining and fixing the number of Houses of Public Entertainment, and for retailing spirituous liquors in the said Parish (or Township) for the ensuing year, it was resolved,—That a Certificate to that effect be granted in favor of _____ and we accordingly hereby certify that the said _____ is a fit and proper person to obtain such Licence.

Dated at the said Parish (or Township) of _____ this _____ day of _____ one thousand eight hundred and thirty _____

SCHEDULE C.

District of
Parish (or Township) of }
}

At a Meeting convoked by the Senior Justice of the Peace (or by the Officer of Militia highest in grade, as the case maybe,) of the Parish (or Township) of _____ in the District of _____ and held at the House of _____ of _____ in the said Parish (or Township) of _____ on _____ the _____ day of _____ in the present year of Our Lord, one thousand eight hundred and thirty _____ held according to the provisions of the Act, Sixth William the Fourth, Chapter _____ for the purpose of determining and fixing the number of Licences for keeping Houses of Public Entertainment, or for retailing spirituous liquors which may be necessary for the said Parish (or Township) for the year ensuing, and to grant Certificates accordingly.

Present

Senior Justice of the Peace (or Officer of Militia, highest in grade, as the case may be.)
Church Warden in office,
Second Officer of Militia,
Third Officer of Militia.

It was unanimously resolved by the said Meeting (or by a majority thereof, as the case may be,)—That it be and it is hereby determined and fixed, that _____ Houses of Public Entertainment and for retailing spirituous liquors are all that are necessary for the said Parish (or Township) of _____ for and during the ensuing year, and it was accordingly resolved, that the necessary Certificates required by the said Act, to obtain such Licences, be, and the same have been accordingly granted in favour of the following persons, namely:—

In faith and testimony whereof, we have respectively signed these presents.

Dated at the Parish (or Township) of _____ this said _____ day
of _____ one thousand eight hundred and thirty _____

Senior Justice of the Peace (or Officer of Militia, highest in grade, as the case may be.)
Church Warden in Office,
Second Officer of Militia,
Third Officer of Militia.