

Acts of the General Assembly of His Majesty's Province of Lower Canada passed in the year 1795. Quebec: William Vondenvelden, Printer to the King's Most Excellent Majesty, 1795.

35 George III – Chapter 8

An Act for granting to his Majesty Duties on Licences to hawkers, pedlars and petty chapmen, and for regulating their trade; and for granting additional Duties on licences to persons for keeping houses of public entertainment, or for retailing wine, brandy, rum or other spirituous liquors in this Province, and for regulating the same; and for repealing the Act or Ordinance therein mentioned.

Most Gracious Sovereign,

We your Majesty's most dutiful and loyal subjects the Representatives of your people of the province of Lower-Canada in Legislature assembled, towards raising the Supplies which we have freely and voluntarily granted to your Majesty in this Session of the Legislature, have resolved to give and grant unto your Majesty the several new and additional Rates and Duties upon licences herein after mentioned; and do therefore most humbly beseech your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and House of 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 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 there shall be raised, levied, collected and paid unto and for the use of his Majesty, his Heirs and Successors the several and respective Duties herein after mentioned for and upon the several and respective licences, to be taken out in manner and by the persons herein after mentioned, that is to say, on or before the fifth day of April one thousand seven hundred and ninety-six, there shall be taken out a licence by every hawker, pedlar, petty chapman, and every trading person or persons going from town to town or to other men's houses, and travelling either on foot, or with horse or horses or otherwise within this Province, carrying to sell or exposing to sale any goods, wares or merchandizes, for which licence there shall be paid the sum of two pounds current money of this Province at the time such licence shall be taken out; and on or before the said fifth day of April one thousand seven hundred and ninety-six, there shall be paid by every person or persons who shall take out a licence for keeping a house or any other place of public entertainment, or for retailing wine, brandy, rum or other spirituous liquors within this Province, in a less quantity than three gallons at one time, under the Act of the Parliament of Great Britain passed in the fourteenth year of his Majesty's reign, chapter eighty-eight; the sum of two pounds current money of this Province, over and above the Duty now payable by him, her or them for such licence under the said Act of Parliament, and such additional sum shall be paid before the delivery of such licence. Provided always that persons in partnership shall not be obliged to take out more than one licence in any one year for keeping a house or other place of public entertainment, or for retailing wine, brandy, rum or other spirituous liquors as aforesaid; but that no one licence which shall be granted, shall authorize or

empower any person or persons to whom the same shall be granted, to carry on his, her or their said business in more than one house or place by himself, herself or themselves, or by any person or persons employed by him, her or them.

II. And be it further enacted by the authority aforesaid, that all and every person or persons that shall take out any such licences as aforesaid, is and are hereby required to take out a fresh licence on or before the fifth day of April in every year, before he, she or they shall presume so to travel and trade, or to keep a house or any other place of public entertainment, or to retail wine, brandy, rum or other spirituous liquors as aforesaid, and in the same manner to renew such licence from year to year, paying down the like sum for each and every year and renewed licence, as is by this Act required for the first licence.

III. And be it further enacted by the authority aforesaid, that no licence shall be granted to any person or persons for keeping any house, or other place of public entertainment within the cities of Quebec or Montreal, or the town of Three Rivers or the suburbs or banlieue of any of them respectively, until the person or persons applying for the same, shall have been approved of by two or more of his Majesty's Justices of the Peace, in their General Quarter or Special Sessions, as a fit and proper person for keeping such house or other place of public entertainment, and that no licence shall be granted for keeping any such house in any other part of the Province, unless that the person or persons applying for the same, shall produce a certificate under the hands of three respectable house-holders of the parish, one of which shall be a Church Warden thereof, where such house is intended to be kept, certifying that the person or persons so applying is or are fit and proper persons for keeping such house or other place of public entertainment.

IV. 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 till the person or persons applying for the same shall have entered into bond before two or more Justices of the Peace, in the sum of ten pounds current money of this Province, with two surties in the sum of five pounds same currency each, to do his or her utmost to keep the peace and an orderly house, and not to vend any spirituous liquors during divine service on Sundays or holy-days, except for the use of the sick or travellers, nor to suffer any seamen, soldiers, apprentices or servants to remain tippling in his, her or their house after nine o'clock in the evening in winter, or after ten in the evening in summer, nor until a certificate from the Clerk of the Peace of such bond being entered into, shall be produced to the Secretary of this Province or to his Deputy or Agent.

V. And be it further enacted by the authority aforesaid, that every person or persons before receiving his, her or their licence under this Act as a hawker, peddler, or petty chapman, or under the aforesaid Act of Parliament, for keeping a house or other place of public entertainment, shall take and subscribe in court in General Quarter or Special Sessions of the Peace for the district in which he, she or they shall reside, the oath of allegiance to his Majesty required by law, which oath the Justices of the Peace in such Sessions are hereby empowered and required to administer, and for granting a certificate that such oath has been taken, the Clerk of the Peace shall be entitled to demand and receive the sum of one shilling current money aforesaid, and no more; provided always, that in order to avoid the unnecessary repetition of oaths, if any such person shall have

once taken such oath on receiving a licence, he or she shall not be required to take the same again on receiving a renewed licence.

VI. And be it further enacted by the authority aforesaid, that the licences herein before mentioned, shall be granted by the Governor, Lieutenant-Governor or Person administering the Government for the time being; and for every such licence that shall be delivered at Quebec, there shall be paid by the person or persons applying for the same to the Secretary of the province for countersigning such licence to be granted under the aforesaid Act of Parliament or under this Act, and for delivering the same, the sum of five shillings current money of this Province, and no more, over and above the sum to be paid unto and for the use of his Majesty, his Heirs and Successors for such licence: and for every such licence that shall be delivered at the city of Montreal or town of Three Rivers, or at any place within the inferior district of Gaspé, which licences the said Secretary is hereby required to deliver by himself or his Deputy or Agent at such city, town or place respectively, if demanded, for the accommodation by those who shall reside within the districts of Montreal or Three Rivers, or inferior district of Gaspé, there shall be paid by the person or persons so applying to the said Secretary, or his Deputy or Agent, and for which Deputy or Agent the said Secretary shall be responsible, for countersigning such licence as aforesaid, and for delivering the same at such city, town or place, the sum of seven shillings and six-pence current money aforesaid, and no more, over and above the sum to be paid unto and for the use of his Majesty, his Heirs and Successors for such licence. And there shall also by every person or persons so taking out a licence for keeping a house or other place of public entertainment, be paid to the Clerk of the Peace for entering the bond to be by such person or persons entered into, for granting a certificate thereof, and for any entry he may make concerning the same, the sum of two shillings and six-pence current money aforesaid, and no more.

VII. And be it further enacted by the authority aforesaid, that if any such hawker, peddler, petty chapman or other trading person, travelling as aforesaid, shall from and after the said fifth day of April one thousand seven hundred and ninety-six, be found travelling, as aforesaid, without first taking out such licence, and renewing the same yearly, as aforesaid, or contrary to or otherwise than as shall be allowed by such licence or renewed licence, every such person shall for each and every such offence forfeit the sum of ten pounds current money aforesaid; to be recovered and applied as hereinafter mentioned; and that if any person so travelling under and by virtue of any licence or renewed licence to him or her granted, as aforesaid, upon demand being made by any Justice of the Peace, Officer of militia, Constable or Peace Officer of the district, county, town or place where, he or she shall so trade, shall refuse to produce and shew his or her licence or renewed licence for so trading, as aforesaid, or shall not have his or her licence or renewed licence, for so trading as aforesaid ready to produce and shew unto such Justice of the Peace, Officer of Militia, Constable or Peace Officer, that then the person so refusing or not having his or her licence or renewed licence shall forfeit the sum of ten pounds current money as aforesaid, to be recovered and applied as herein after mentioned; and that if any person or persons after the period aforesaid, shall keep any house or other place of public entertainment, or shall retail any wine or spirituous liquors, as aforesaid, in a less quantity than three gallons at one time, without having paid the additional duty or sum of two pounds current money aforesaid, imposed by this Act upon licences to be granted under the aforesaid Act of Parliament, every such person shall, for

every such offence, forfeit the penalty of ten pounds sterling money of Great Britain, imposed by the aforesaid Act of Parliament, upon any person for keeping any such house or place of entertainment, or retailing any such liquors without such licence.

VIII. Provided always and it is hereby enacted, that nothing herein contained shall be construed to extend to prohibit or prevent any such hawker, peddler or petty chapman from having and employing a servant to accompany him or her for the sole purpose of carrying or assisting to carry his or her package or packages of goods, wares and merchandizes, without taking out or paying for a licence for any such servant so accompanying him or her.

IX. And be it further enacted by the authority aforesaid, that it shall and may be lawful for any Officer of militia, Constable or Peace Officer, to seize and detain any such hawker, peddler, petty chapman or other trading person as aforesaid, who shall be found trading without a licence contrary to this Act, or who being found trading, shall refuse or neglect to produce a licence according to this Act, after being required so to do for a reasonable time, in order to his or her being carried, and they are hereby required to carry such persons so seized, unless they shall in the mean time produce their respective licences, before two of his Majesty's Justices of the Peace, the nearest to the place where such offence or offences shall be committed; which said two Justices of the Peace are hereby authorized and strictly required, either upon the confession of the party offending or due proof by witness, other than the informer, upon oath, which oath they are hereby empowered to administer, that the person or persons so brought before them had so traded as aforesaid without licence, and in case no such licence shall be produced by such offender or offenders before such Justices, by warrant under their hands and seals directed to a Constable or Peace Officer, to cause the said sum of ten pounds, with reasonable costs, to be forthwith levied by distress and sale of the goods, wares or merchandizes of such offender or offenders, or of the goods with which such offender or offenders shall be found trading as aforesaid, rendering the overplus, if any there be, to the owner or owners thereof, after deduction of the reasonable charges for raking the said distress, and out of the sale to pay the said respective penalties and forfeitures with costs aforesaid.

X. And be it further enacted by the authority aforesaid, that if any person or persons whatsoever shall forge or counterfeit any licence or licences by the aforesaid Act of Parliament, or by this Act required to be granted, or shall travel with or have in his or her possession such forged or counterfeited licence or licences for any of the purposes aforesaid, knowing the same to be forged or counterfeited, every such person shall for every such offence, forfeit the sum of fifty pounds current money aforesaid, to be recovered and applied as herein after mentioned.

XI. And be it farther enacted by the authority aforesaid, that in case any persons shall let out to hire or lend any licence to him or her granted as aforesaid, or shall so trade, keep a house or any place of public entertainment, or retail any wines or spirituous liquors with or under colour of any licence granted to any other person whatsoever, or of any licence in which his or her own real name shall not be inserted, as the name of the person to whom the same is granted, the person letting out to hire, or lending any such licence, and the person so trading, keeping a house or retailing as aforesaid, with or under colour of any licence granted to any other person, or any licence in which his or her own real name shall not be inserted, as the name of the person to

whom the same is granted, shall each of them forfeit the sum of ten pounds current money of this Province, to be recovered and applied as herein after mentioned.

XII. And be it further enacted by the authority aforesaid, that if any person hailing a licence so to trade or keep a house or place of public entertainment, shall be convicted in any of his Majesty's courts of King's Bench in this Province of holding seditious discourses, uttering treasonable words, maliciously spreading false news, publishing or distributing libellous or seditious papers, written or printed, tending to excite discontent in the minds and to lessen the affections of his Majesty's subjects, or to disturb the peace and tranquility of this Province, such, his or her licence shall be from henceforth forfeited and void, and he or she shall be utterly incapable of havhaving any licence again granted to him or her for so trading, or for keeping a house or place of public entertainment, and shall also be subject to such other penalty or punishment as by law may be inflicted for such offence.

XIII. Provided always and it is hereby enacted, that nothing in this Act contained shall extend or be construed to extend to prohibit any person or persons, from selling any Acts of the Legislature, prayer books or church catechisms, proclamations, gazettes, almanacs or other printed papers that shall be licensed by authority, or any fish, fruits or victuals, nor to hinder any person or persons who are the real makers or workers of any goods, wares or manufactures, or his or their children, apprentices, agents, or servants to such real workers or makers of such goods, wares or manufactures only, from carrying abroad, exposing to sale and selling by retail or otherwise any of the said goods, wares or manufactures of his, her or their own making in any part of this Province; nor any tinkers, coopers, glaziers, harness menders or other persons usually trading in mending kettles, tubs, household goods or harness whatsoever, from going about and carrying with him, her or them proper materials for mending the same without having a licence as aforesaid; provided also that this Act shall not be construed to extend to prohibit hucksters or persons having stalls or stands in the markets in the towns within this Province, from selling or exposing to sale without having a licence as aforesaid, any fish, fruits, or victuals or goods, wares and merchandizes in such stalls or stands, they complying with such rules and regulations of police as by the Justices in their General Quarter Sessions of the Peace, are or may be established in such towns respecting such stalls and stands.

XIV. And be it further enacted by the authority aforesaid, that all pecuniary penalties which shall be incurred under this Act, of a greater sum than ten pounds current money of this Province, shall be recovered together with colts of suit in any of his Majesty's courts of Record in this Province by action of debt, bill, plaint or information.

XV. And be it further enacted by the authority aforesaid, that in all cases where the pecuniary penalty by this Act imposed, doth not exceed the sum of ten pounds current money aforesaid, or if imposed by the aforesaid Act of Parliament, where the same doth not exceed the sum of ten pounds sterling, it shall be recovered with costs of suit before any one of his Majesty's Justices of the courts of King's Bench or any Provincial Judge in the circuits of their respective districts, by law directed to be made, or before any two of his Majesty's Justices of the Peace of the district wherein the offence shall be committed, in the weekly sittings of such Justices directed by law to

be held at the cities of Quebec and Montreal and town of Three Rivers, except where it is otherwise provided ; on proof of the offence either by voluntary confession of the party or parties accused, or by oath of one or more credible witness or witnesses other than the informer, which oath all and every of the said justices and Judges are hereby empowered to administer, and in all cases of non-payment, shall be levied by distress and sale of the offender's goods and chattles by warrant under the hand and seal of such Justice of the court of King's Bench or Provincial Judge, or under the hands and seals of such Justices of the Peace directed to a Constable or Peace Officer, and the overplus of the money raised after deducting the penalty and costs of suit with the expences of the distress and sale, shall be returned to the owner; and for want of sufficient distress, the offender shall be sent by such Justice, Judge or Justices of the peace to the nearest gaol for such time not exceeding six months, nor less than one month as such Justice, Judge or Justices of the Peace shall think most proper.

XVI. Provided always, and it is hereby enacted, that no suit or action shall be brought or commenced against any person or persons, for any penalty by this Act imposed, that shall not be brought or commenced within twelve months after the offence or offences respectively committed.

XVII. And be it further enacted by the authority aforesaid that if any person or persons shall find himself, herself or themselves aggrieved by any judgment by any Justices of the peace given in pursuance of this Act, then he, she or they shall and may, upon giving security to the amount of the value of such penalty and forfeiture, together with such costs as shall be awarded in case any such judgment be affirmed, appeal to the Justices of the Peace at the next General Quarter Sessions of the peace for the district ; but if such Quarter Sessions are to be held within ten days, then the appeal may be to the General Quarter Sessions of the Peace following, who are hereby empowered to summon and examine witnesses upon oath and finally to hear and determine the same ; and in case the judgment of such Justices be affirmed, it shall be lawful for the Justices in such General Quarter Sessions, to award the person or persons to pay such costs, occasioned by such appeal, as to them shall seem meet.

XVIII. And be it further enacted by the the authority aforesaid, that if any person or persons shall be summoned as a witness or witnesses to give evidence before any Justices of the Peace touching any of the matters relative to this Act, and shall neglect or refuse to appear at the time and place for that purpose appointed, without reasonable excuse for such neglect or refusal, to be allowed of by such Justices, or appearing, shall refuse to be examined on oath and to give evidence before such Justices of the Peace, before whom the prosecution shall be depending, that then every such person shall forfeit, for every such offence, the sum of ten pounds current money aforesaid, to be levied, recovered and paid in such manner and by such means as are herein directed as to other penalties.

XIX. And be it further enacted by the authority aforesaid, that all the monies arising from the rates and duties herein before mentioned shall be paid by the person or persons receiving the same, into the hands of his Majesty's Receiver General of this Province for the time being, and the moiety of every pecuniary penalty or forfeiture by this Act imposed, shall belong to his Majesty, his

Heirs and Successors, and shall also be paid by the person or persons respectively receiving the same into the hands of the said Receiver General, and shall be applied to the purposes appointed in the Act passed in this Session of the Legislature, intituled *“An Act for granting to his Majesty additional and new duties on certain goods, wares and merchandises, and for appropriating the same towards further defraying the charges of the administration of Justice and support of the civil Government within this Province, and for other purposes therein mentioned,”* and the due application of such monies according to such appointment, shall be accounted for to his Majesty, his Heirs and Successors, through the Commissioners of his Majesty’s treasury for the time being, in such manner and form as his Majesty, his Heirs and Successors shall direct: and the other moiety thereof shall belong to the person or persons who shall sue or prosecute for the same.

XX. And be it further enacted by the authority aforesaid, that if any action or suit shall be brought or commenced against any person or persons for any thing done in pursuance of this Act, such action or suit shall be commenced within six months next after the matter or thing done, and not afterwards ; and the defendant or defendants in such action or suit may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon; and if afterwards judgment shall be given for the defendant or defendants, or the plaintiff or plaintiffs shall become non suited or discontinue his, her their action or suit after the defendant or defendants shall have appeared, then such defendant or defendants shall have treble costs awarded to him, her or them against such plaintiff or plaintiffs, and have the like remedy for the same as any defendant or defendants hath or have in other cases to recover costs at law.

XXI. And be it further enabled by the authority aforesaid, that an Act or Ordinance passed in the twenty-eighth year of his Majesty’s reign, intituled *“An Act or Ordinance for the better quality of the revenue arising on the retail of wine, brandy, rum or other spirituous liquors,”* be and the same hereby is from and after the fifth day of April, one thousand seven hundred and ninety six, repealed.