

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1831. Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1831.

1 William IV – Chapter 24

An Act to regulate Inns, Taverns, and Houses for selling strong or spirituous Liquors, and to repeal all the Laws now in Force relating to the same. Passed 31st March 1831.

'Whereas the several Acts now in Force for the Regulation and licensing of Inns, Taverns, and Houses for selling strong or spirituous Liquors, are defective in some of their Provisions, and intricate by reason of their Number and the Inconvenience of Reference to them: And Whereas it is expedient to embody in One Act all necessary Provisions for the due Regulation of the same:'

I. Be it therefore enacted by the President, Council, and Assembly, That an Act made and passed in the Twenty sixth Year of the Reign of King George the Third, intituled An Act for regulating Innholders, Tavernkeepers and Retailers of spirituous Liquors; and another Act made and passed in the Twenty seventh Year of the same Reign, intituled An Act to empower the Justices of the General Sessions of the Peace, in the several Counties in this Province, to grant Licences to Tavernkeepers and Retailers of spirituous Liquors; also another Act made and passed in the Thirty fourth Year of the same Reign, intituled An Act to alter and amend an Act, intituled An Act for regulating Innholders, Tavernkeepers and Retailers of spirituous Liquors; and also another Act made and passed in the Fifty fourth Year of the same Reign; intituled An Act for the better Regulation of Licences to Inns, Taverns, and Houses for selling strong Liquors by Retail; and also another Act made and passed in the Sixth Year of the Reign of His late Majesty King George the Fourth, intituled An Act to alter and amend the Acts relating to the granting of Licences to Tavernkeepers, and Retailers of spirituous Liquors, be and the said several Acts are hereby repealed from and after the last Day of June; and that this Act shall commence and take Effect on the First Day of July in the present Year: Provided always, that all Licences granted under the aforesaid Acts, or any of them, shall continue and be of the same Force and Effect as if the said Acts had not been repealed; and all Rules and Regulations made under the aforesaid Acts, or any of them, for the due ordering of Inns and Taverns shall also remain in Force until new Rules and Regulations shall be made under the Provisions of this Act.

II. And be it further enacted, That no Licence shall be granted to any Person to keep an Inn or Tavern but at the General Sessions of the Peace to be holden in and for the several and respective Counties in this Province; and that no Licence shall be made or given for a longer Period than One Year.

III. And be it further enacted, That no Tavernkeeper, Innkeeper or Retailer, shall sell any Wine, strong Beer, Ale, Brandy, Rum or other spirituous Liquors, mixed or unmixed, to any Person whatsoever; on the Lord's Day commonly called 'Sunday,' under the Penalty of a Sum not exceeding Five Pounds nor less than Twenty Shillings for each and every Offence, to be recovered, levied and applied as is hereinafter provided and directed in and by the Seventh Section of this Act.

IV. And be it further enacted, That the Justices of the Peace for the several and respective Counties, at any General Sessions of the Peace as aforesaid, are hereby authorised and empowered to give and grant Licences to such and so many Persons as they in their Discretion shall think fit, being of good Fame and Character, to license each and every of them to keep a Tavern or Inn; and it shall and may be lawful for the said Justices, or the Major Part of them then and there assembled, to ask, demand and receive, for every such Licence by them given and granted, such Sum as they in their Discretion shall think fit, not exceeding Ten Pounds nor less than Twenty Shillings for each Licence for One Year; which Sums so to be received shall forthwith be paid by the Clerks of the Peace for the respective Counties into the hands of the respective County Treasurers, to defray such necessary contingent Expenses of the County as such Justices, or the Major Part of them, shall from Time to Time by their Orders in General Sessions direct; such Clerks retaining for their Trouble Two Shillings and Sixpence for each Licence and no more; and all Persons so licensed to keep an Inn or Tavern as aforesaid shall have included in such Licence a Licence to sell by Retail any strong Liquor whatsoever, without a separate Licence so to sell by Retail.

V. And be it further enacted, That the said Justices of the Peace for the several and respective Counties at any General Sessions of the Peace, or at any Special Sessions to be for that Purpose holden, are hereby authorized and empowered to give and grant Licences to such and so many Persons as they in their Discretion shall think fit being of good Fame and Character, to license each and every of them to sell Wine, Brandy, Rum, Beer, Ale or strong Liquors of any Kind whatsoever within their respective Counties, by Retail or small Measure, in any Quantity under Five Gallons and not less than One Pint; and it shall and may be lawful for such Justices then and there assembled to ask demand and receive, for each and every Retail Licence so granted, such Sum as they in their Discretion may think fit, not exceeding Seven Pounds and Ten Shillings nor less than Two Pounds for each Licence for One Year, together with a Fee of Two Shillings and Sixpence to the Clerk; which Sums so received shall be paid and applied in the same Manner, and for the like Purposes, as Sums received for Tavern Licences are in and by the next preceding Section of this Act directed to be paid and applied.

VI. And be it further enacted, That every Person, licensed as aforesaid to keep an Inn or Tavern, shall at the Time of taking such Licence enter into Recognizance with Two good and sufficient Sureties (not being Tavernkeepers) to His Majesty, in the Sum of Forty Pounds, to keep an orderly House, and obey such Rules and Regulations as the Justices in their General Sessions, or the Major Part of them then and there assembled, shall from Time to Time make and ordain, to be observed by Tavernkeepers or Innkeepers in such County; which Rules and Regulations the said Justices in their General Sessions as aforesaid, are hereby authorized and empowered make.

VII. And be it further enacted, That if any Person whatsoever shall sell any Wine, Brandy, Rum, Beer, Ale or any strong Liquor whatsoever, to any Person or Persons whatsoever, in any Quantity, under Five Gallons, without Licence first had and obtained for that Purpose as aforesaid, and if an Innkeeper or Tavernkeeper without first entering into Recognizance as aforesaid, or if any Retailer after having obtained Licence to retail as aforesaid shall sell any such Liquor in any Quantity less than One Pint, every Person so offending shall for each and every Offence, forfeit and pay a Sum

not exceeding Five Pounds, to be recovered upon Complaint being made to any One of His Majesty's Justices of the Peace in the County where such Offence shall be committed, upon the Oath of One or more credible Witness or Witnesses, and levied by Warrant of Distress and Sale of the Offender's Goods and Chattels under the Hand and Seal of such Justice, directed to any Constable of the Town or Parish where such Offence shall be committed, rendering the Overplus, if any, after deducting the Costs and Charges of such Distress and Sale, to the Offender; and if no Goods shall be found whereon to levy such Distress, it shall and may be lawful for such Justice, by Warrant under his Hand and Seal, to commit such Offender to the common Gaol of the County where such Offence shall be committed, there to remain, without Bail or Mainprize, for such Time, not exceeding Twenty Days, as such Justice in his Discretion shall think fit, unless such Penalty and Forfeiture, together with the Costs and Charges, shall be sooner paid; One Half of all which Penalties and Forfeitures shall be paid into the hands of the Overseers of the Poor for the Town or Parish where such Offence shall be committed, for the Use of the Poor thereof, and the other Half to the Person who shall make Complaint, and sue for the same.

VIII. And be it further enacted, That if any Person licensed as aforesaid shall die or remove from a Tavern, Inn or other House for selling such Liquor by Retail as aforesaid, it shall and may be lawful for the Justices aforesaid, at any General or at any Special Sessions of the Peace, to grant to the Person succeeding to such Tavern, Inn or other House for selling Liquors by Retail, a Licence to keep on and continue the said Tavern, Inn or other House as aforesaid during the Residue of the Term of the Licence granted to the Person so dying or removing, on Condition that the Person so succeeding shall, if to keep an Inn or Tavern, enter into Recognizance, with Two good and sufficient Sureties, for keeping an orderly House, and obeying the Orders and Regulations of the Justices of the Peace in their General Sessions as in the Case of the Person First obtaining Licence for such Tavern, Inn or House; and that no Licence granted by virtue of this Act shall entitle any Person to keep a Tavern or Inn, or to sell any strong or spirituous Liquors by Retail, in any other House or Place than that in which they were First kept and sold by virtue of such Licence, which shall be null and void with regard to any other Place.

IX. And be it further enacted, That no Innkeeper or Tavernkeeper who shall sell upon Trust or Credit any Wipe, Brandy, Rum, strong Beer, Ale or any other strong or spirituous Liquors whatever, mixed or unmixed, to any Soldier, Sailor, Servant or other Person whatsoever or whomsoever, to the Amount of any Sum exceeding Five Shillings, shall have any Remedy to recover the same, either at Law or in Equity, against any of the Persons aforesaid, their Executors or Administrators; and no Retailer, not being a Tavernkeeper or Innkeeper, who shall sell any such Liquors as aforesaid upon Credit, to the Amount of any Sum exceeding Five Shillings, to any Soldier, Sailor or Servant, shall have any Remedy, either at Law or in Equity, to recover the same against any such Soldier, Sailor or Servant, their Executors or Administrators: Provided always, that nothing herein contained shall extend, or be construed to extend, to debar any Retailer, Innkeeper or Tavernkeeper from furnishing any Traveller or Boarder in his Family, of good Fame or Report, with necessary Refreshment on Credit.

X. And be it further enacted, That in case any Soldier, Sailor, Servant, Apprentice, bound Servant or other Person whatsoever, shall leave any Pawn or Pledge as a Security for the Payment of any

Sum exceeding Five Shillings contracted in such Manner, such Soldier, Sailor, Apprentice or bound Servant, or other Person, or the Master or Mistress of such Servant, Apprentice or bound Servant, may complain to any Justice of the Peace where such Retailer, Tavernkeeper or Innkeeper receiving such Pawn or Pledge usually resides, that such Pledge or Pawn is detained from him or her by such Retailer, Tavernkeeper or Innkeeper, and having made Proof thereof by the Oath of One or more credible Witness or Witnesses, such Justice of the Peace is hereby required, by Warrant under his Hand and Seal, to compel such Retailer, Tavernkeeper or Innkeeper, by Distress and Sale of his Goods, to restore the aforesaid Pawn or Pledge to the Party complaining, or to make him or her Satisfaction for the Loss or Abuse thereof, and shall further be subject to a Fine not exceeding Five Pounds, to be recovered in the same Manner as other Fines and Penalties may be recovered in and by the Seventh Section of this Act, and paid and applied in like Manner for the Use of the Poor of the Town or Parish where such Fine shall be imposed.

XI. And be it further enacted, That no Retailer, Tavernkeeper, Innkeeper, or other Person whatsoever, shall permit or suffer any Apprentice, Servant or Minor, to sit or remain drinking in his or her House, nor give or sell, nor suffer to be given or sold, to such Apprentice, Servant or Minor, any strong Liquor whatever, without the Order or Allowance of their respective Masters or Mistresses, Parents or Guardians, on pain of forfeiting a Sum not exceeding Five Pounds for each and every such Offence, together with the Charges of Prosecution, to be recovered upon Conviction on the Oath of One credible Witness before any One of His Majesty's Justices of the Peace within the County where the Offence shall be committed, or by the View of such Justice, or by such other Proof as shall be satisfactory to such Justice; and to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of such Justice; and for Want of sufficient Distress, such Justice shall and may commit such Offender to the common Gaol of the County, there to remain for a Term not exceeding Twenty Days, or until he shall have paid and satisfied the same, together with the Costs of Conviction, and such Distress and Sale; and such Sums so levied shall be paid to the Overseers of the Poor for the Town or Parish where the Offence shall have been committed, to be by them applied to the Use of the Poor thereof.

XII. And be it further enacted, That no Retailer shall upon any Pretence whatever sell any strong or spirituous Liquors to any Person or Persons whomsoever, to be by him or them, or any other Person or Persons whomsoever, used or consumed in the House or licensed Premises of such Retailer, under the Penalty of Five Pounds for each and every Offence, to be recovered upon due Conviction upon the Oath of One or more credible Witness or Witnesses before any One of His Majesty's Justices of the Peace, or, if in the City of Saint John, before the Mayor, Recorder or any Justice of the Peace for the City and County of Saint John, and levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, and paid and applied in the same Manner as Penalties are in and by the Seventh Section of this Act.

XIII. And Whereas by the Charter of the City of Saint John, confirmed by Act of Assembly, it is among other Things provided that the Mayor of the said City for the Time being, and no other whatsoever, shall have Power to give and grant Licences under the Common Seal of the said City to all such Persons as he shall think fit, to license them or every of them to keep a Tavern, an Inn, an Ordinary, a Victualling or a Coffee House, or to sell Wine, Brandy, Rum, strong Waters, Punch,

Beer, Ale, or any exciseable or strong Liquors whatsoever, within the City of Saint John, or the Liberties or Precincts thereof, by Retail or the small Measure under the Quantity of Five Gallons; and that it shall and may be lawful to and for the Mayor of the said City for the Time being to ask, demand, and receive, for every such Licence by him to be granted as aforesaid, such Sum or Sums of Money as he and the Person to whom such Licence shall be given and granted shall agree for, not exceeding the Sum of Four Pounds for each Licence; all which Monies as by the said Mayor shall be so received, shall be used and applied to the public Use of the Mayor, Aldermen and Commonalty of the said City of Saint John; Be it further enacted, That it shall and may be lawful to and for the Mayor of the said City for the Time being to ask, demand and receive, for every such Licence by him to be given and granted as aforesaid, any such Sum or Sums of Money as he and the Person to whom such Licence shall be given and granted shall agree for in Manner and Form aforesaid, not exceeding the Sum of Ten Pounds for such Licence, to be applied for the public Use of the Mayor, Aldermen and Commonalty of the said City of Saint John: Provided always, that nothing in this Act contained shall apply, or be construed to apply, in any Manner to affect the Rights and Powers given by the said Charter to the Mayor of the said City, in granting Licences to Tavernkeepers and Retailers of spirituous Liquors, otherwise than in this Section is expressly mentioned and contained: Provided also, that all the Penalties, Forfeitures, Pains and Imprisonments to which Innkeepers and Retailers are liable for any Offences against the Provisions of this Act, shall extend and apply to all and every Innkeeper, Tavernkeeper, Retailer, Keeper of an Ordinary, Coffee House or Victualling House in the City of Saint John, as fully, to all Intents and Purposes, as the same extend and apply to Innkeepers, Tavernkeepers or Retailers in any other Part of this Province; any Thing in this Act contained to the contrary in any way notwithstanding.

XIV. And be it further enacted, That this Act shall be publicly read by the Clerk at the Opening of every Court of General Sessions of the Peace in the several Counties in this Province; and the Justices of such Court shall at the same Time cause a List of all the Tavernkeepers, Innkeepers and Retailers respectively in the respective Counties to whom Licence has been granted as aforesaid, to be delivered to the Grand Jurors at such Courts respectively; and it shall be particularly given in Charge to such Grand Jurors to make diligent inquiry and Presentment of all and every such Person and Persons as shall be guilty of any Breach of, or Offence against the Act, and also of any Breach of, or Offence against the same by any Person or Persons not licensed as aforesaid; and upon such Presentment, it shall and may be lawful for the Justices of the Court, or any One of them, to proceed against such Offenders, in the Manner herein before directed to One Justice to proceed for the Recovery of the Penalties herein before inflicted; and upon Conviction of such Offender before the Justices of such Court, or any One of them, such Penalty and Penalties shall, upon the Recovery thereof, be paid to the respective County Treasurers, to be applied for the same Uses and Purposes, and under the same Orders and Directions, as the Sums paid for Licences are herein before directed to be applied and subject to.