

Laws of His Majesty's Province of Upper-Canada; Passed in the First Session of the Provincial Parliament of Upper Canada, Met at Newark, on the Second day of June, in the Thirty-Fourth Year of the Reign of our Sovereign Lord George the Third (1794). Niagara: Gideon Tiffany, Printer to the King's Most Excellent Majesty, 1795.

34 George III – Chapter 12

An Act for regulating the manner of licencing Public Houses, and for the more easy convicting of, Persons selling spirituous Liquors, without Licence.

Whereas the provisions contained in a certain ordinance of the late province of Quebec, passed in the twenty-eighth year of his majesty's reign, entitled, "An Act or ordinance for the better security of the revenue arising on the retail of wine, brandy, rum or spirituous liquors, have been found inconvenient; and whereas it is expedient to make other and more easy regulations respecting licences to houses of public entertainment; Be it 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 Upper-Canada, conflicted and assembled by virtue of, and under the authority of an Act passed in the parliament of Great-Britain, entitled an Act to repeal certain parts of an Act passed in the fourteenth year of his majesty's reign, entitled, "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of the said province," and by the authority of the same, That the said Act or ordinance shall be and the same is hereby repealed.

II. And be it further enacted by the authority aforesaid, That from and after the twentieth day of March next, no licence shall be granted to any person to keep an inn or public house for the purpose of vending wine, brandy, rum or other spirituous liquors; unless he shall first have obtained a certificate of his being a proper person to keep an inn or public house from the magistrates of the division wherein he resides or is about to reside, to be granted to him as herein after specified; and all licences which shall be hereafter granted to the contrary hereof shall be null and void.

III. And be it further enacted by the authority aforesaid, That for the said purpose, it shall and may be lawful for the magistrates acting in each and every division of the several districts of this province, to limit the number of inns and public houses in their several divisions, and to appoint a day of public meeting in each division in either of the two last weeks in the month of March in every year, at a convenient place within their several divisions, by a warrant under their hands and seals, or under the hands and seals of any two of them, at least ten days before such meeting, directed to the high constable or other peace officer, requiring him to give notice in the most public manner of such intended meeting, and then and there to hear and receive applications from all such persons as desire to take out licences for opening inns or public houses within their said several divisions, and the said magistrates shall upon hearing and receiving any application from any person praying to have a licence granted to him, enquire into the life, character and behaviour of the person so applying, and if it shall appear to the greater part of the justices then and there assembled, that it is expedient to encrease the number of inns or public houses and that

the party applying is a sober, honest and diligent man, and a good subject of our lord the king, they shall then and there grant a certificate accordingly under the hands and seals of any two of them, which certificate shall enable the party holding the same, to apply for and take out a licence on or before the said fifth day of April then next ensuing the day of the said certificate, and such certificate shall be a proper and sufficient warrant for the secretary of the province or his agent, to grant to the said person holding the said certificate such licence on receiving payment of such duties as are already imposed, or may hereafter be imposed by law on the same.

IV. And be it further enacted by the authority aforesaid, That no certificate to obtain such licence shall be granted to any person not licenced the year preceeding, unless such person shall produce to the justices at the said meeting, should they require it, a testimonial under the hands off the parson and church or town wardens, or of four reputable and substantial householders and inhabitant of the said division wherein the said inn or public house is intended to be kept setting forth, that such person is of good same, sober life and conversation and that he has taken the oath of allegiance to our sovereign lord the king.

V. Provided nevertheless, That if any licenced person shall die or remove from the inn or public house kept by him, it shall and may be lawful for the person succeeding to the occupation of such house, to keep on the said inn or public house during the residue of the term of such licence, on condition that such person shall obtain an assignment endorsed on the back of the licence granted to the person so deceased or removed; which assignment shall be executed in the presence of a magistrate, and shall within thirty days after the death or removal of such person obtain a testimonial as aforesaid, in order to its being produced at the next division meeting; and if such assignment be not executed as aforesaid, and such testimonial obtained and signed within the said thirty days, then and in such case immediately from and After the expiration thereof, such licence shall be null and void; and no licence so assigned shall entitle any person to keep an inn or public house in any other division than that in which it was originally kept by virtue of the said licence, such licence being with regard to all other places, and the same is hereby declared to be null and void.

VI. And be it further enacted by the authority aforesaid, That every person obtaining such certificate as aforesaid, shall at the same time enter into such recognizance as by a certain act of the legislature of this province, entitled, "An Act to establish a further fund for the payment of the salaries of the officers of the legislative council and house of assembly, and for defraying the contingent expences thereof," is directed, and that the clerk of every division meeting, or other person employed to draw out such recognizance shall at the execution thereof, demand and take from the person acknowledging the same, over and above the fee by law directed to be taken for such recognizance, the further sum of one shilling, to be paid to the clerk of the peace for filing the same, and the clerk of every division meeting, or other person drawing the said recognizance, shall and is hereby required to deliver or transmit the same to the clerk of the peace of the district, in order that the same may be filed, and that the clerk of the peace in each and every district shall file all recognizances that they may have taken, and shall be transmitted or delivered to them in manner aforesaid, to be kept among the records of the district; and the clerks of the peace within their several districts shall keep a register of all the recognizances that may have been transmitted

or delivered to them, and shall deliver or cause to be delivered to the justices of the peace in their quarter sessions assembled, next ensuing the fifth day of April yearly, a list of the names of the persons whose recognizances shall respectively have been filed, and any justice of the peace in any district where such licence shall be granted upon complaint or information that such licenced person hath done or committed any Act, offence or misdemeanor, whereby in the judgment of the said justice such recognizance may be forfeited, or the condition thereof broken, may by summons under his hand and seal, require such person so complained of or informed against, to appear at the next quarter sessions of the peace for the said district, then and there to answer the matter of such complaint or information; and also may bind the person or persons who shall make such complaint or information or any other person or persons concerned, in a recognizance to appear at such quarter sessions, and give evidence against the person so complained of, or informed against, and the justices of the peace in their quarter sessions assembled, shall and may have power to direct the jury which shall attend at such sessions, for the trial of traverses or some other jury of twelve honest and substantial men to be then and there impannelled by the sheriff without fee or reward, to enquire of the misdemeanor charged in the said complaint or information; and if such jury shall find that the person so complained of or informed against, hath done any Act whereby the condition of his recognizance is broken; such Act being specified in such complaint or information, it shall and may be lawful for the court at such quarter sessions, to adjudge such person guilty of the breach of such recognizance; which verdict and adjudication shall be final to all intents and purposes; and whereupon the said justices shall order the recognizance entered into by such offender to be estreated into his majesty's court of kings bench, to be levied to his majesty's use; and that the said offender shall, from and After such adjudication be utterly disabled to fell any wine, brandy, rum or spirituous liquors or strong waters for the space of three years; and any licence or licences granted or to be granted to such person during such time, shall be null and void.

VII. And be it further enacted by the authority aforesaid, That the secretary of the province or other person appointed to deliver licences to innkeepers or keepers of public houses, shall cause all monies that shall or may be by himself or his agents received for such licences as may have been issued in each and every district, to be paid into the hands of the treasurer of this province, for the time being, on or before the expiration of fix months next succeeding the year when such licences were issued and distributed.

VIII. And be it further enacted by the authority aforesaid. That the secretary of the province shall and is hereby required yearly and every year, to cause the names of the several persons who shall have taken out a licence for keeping an inn or public house, to be published in the Upper Canada Gazette, on or before the twenty-first day of June, and that the clerk of the peace in each and every district do cause the names of all such persons as shall have entered into such recognizance, to be affixed in two of the most public places in the district for public inspection.

Form of a Warrant to a Constable to give Notice.

To the high Constable or other Peace Officer of this District.

Home District }
Division } In pursuance of the Act in such case made and provided,
you are hereby required to give notice in the most public manner
to all licenced innkeepers or keepers of public houses, and also to
all persons unlicenced who do intend to offer themselves to be
licenced at the next general meeting of the said justices, for that
purpose, within this division; that they do personally appear before the said justices at the
_____ on the _____ at _____ hour of the forenoon of the same
day, to take or renew their licences for the year ensuing; and also to give them notice that every
person to be licenced, must personally enter into a recognizance often pounds before the clerk of
the peace of the district, together with two sureties in five pounds each, that they will not use or
suffer any unlawful games, and that they will keep good order and rule within their respective
houses; and if he, fire or they shall be hindered by sickness or other reasonable cause to be
allowed by the said justices, that he, she or they must procure two sureties to be then and there
bound in the like manner in ten pounds each. And unto such persons as have not been licenced
for the year preceeding; you are further to give notice, that no licence will be granted to any of
them unless every such person shall also at the same time and place, produce a testimonial,
should the same be required by the justices, under the hands of the minister and church or town
wardens, or otherwise of four respectable and substantial householders of the division; setting
forth, that he is of good same and sober life and conversation, and as they believe, a good subject
of our lord the king, having taken the oath of allegiance: hereof fail not.

Given under our hands this _____ day of _____ in the year of our lord _____.

A. B. }
C. D. } Justices of the peace
for the said division.