

Laws of Her Majesty's Province of Upper Canada, passed in the year 1850. Toronto: Stewart Derbshire & George Desbarats, 1850.

13 & 14 Victoria – Chapter 27

An Act for the more effectual suppression of Intemperance. 10th August, 1850.

Whereas experience hath shewn that the laws now in force are insufficient to suppress the great evils arising out of the abuse of spirituous liquors: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so much of the Act passed in the Parliament of Lower Canada, in the thirty-fifth year of the Reign of His Majesty King George the Third, and intituled, *An Act for granting to His Majesty Duties on Licenses to Hawkers, Pedlars and Petty Chapmen, and for regulating their trade; and for granting additional Duties an Licenses 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*, as relates to the selling of spirituous liquors and the granting of Tavern Licenses; and the Ordinance of the Special Council of the said Province, passed in the third Session of the said Council held in the second year of Her Majesty's Reign, and intituled, *An Ordinance to amend a certain Act therein mentioned, and to provide for the better regulation of Taverns and Tavern-keepers*; and the Ordinance of the said Special Council, passed in the Session held in the third and fourth years of the same Reign, and intituled, *An Ordinance to repeal in part, and to amend and to render permanent as amended, a certain Ordinance therein mentioned, relative to Taverns and Tavern-keepers, and to make further provision relative to the same subjects*; and the Ordinance of the said Special Council, passed in the fourth year of the same Reign, and intituled, *An Ordinance to amend the Law relative to the granting of Licenses to keep houses of public entertainment, and to enable the Magistrates resident in the City of Montreal, to hold another Special Session for granting Certificates on which Licenses may be granted during the present year*; and all Acts, or provisions of Law in force in either section of this Province inconsistent with this Act, shall be and the same are hereby repealed, except as to penalties already incurred; but no Act thereby repealed shall revive.

II. And be it enacted, That the following authorities shall alone be entitled in Lower Canada to grant certificates for obtaining licenses for the sale of spirituous or malt liquors, that is to say, the senior Magistrate of the Township, Parish or Locality in which the party applying for such certificate shall reside; the Senior Officer of Militia of the Battalion within the limits whereof such Township, Parish or Locality shall be, and resident in such Parish or locality; and the Churchwarden in office, (*Marguillier en charge*) of such Parish; and certificates shall only be granted by the said authorities at a special meeting which shall take place between the tenth and twentieth days of April inclusively, in every year, at such place as may be determined upon by the said authorities; and due notice of the time and place of such meeting shall be given at the Church doors after

Divine Service or at some other public place within the said Township, Parish or locality at least fifteen days before the day so appointed: Provided that if the said authorities may deem expedient they may appoint any other special meeting for granting such license, and in case there shall be a difference of opinion between any of the said authorities on any question relative to such certificates, the signature of any two of them to any such certificate shall be sufficient; and none but persons obtaining such certificates shall receive licenses.

III. And be it enacted, That no certificate for a tavern license shall be granted in Lower Canada, unless the party applying for the same shall prove by a requisition signed by the majority of the municipal electors in his Municipality, that a tavern is necessary at the place where he asks for license to keep one.

IV. And be it enacted, That the authorities hereby empowered to grant certificates for tavern licenses, shall not grant any such certificate, unless the party applying for the same shall prove to their satisfaction that he holds, at the place at which his intention is to keep a Tavern, property either real or personal, of the value of at least One Hundred Pounds currency, and shall furnish two good and sufficient sureties in the sum of Fifty Pounds each, and himself in One Hundred Pounds, for his good behaviour; nor unless he shall also produce a certificate from two Justices of the Peace or ten Municipal Electors in his Municipality, to the effect that he enjoys an unblemished reputation and is not addicted to drink; and such certificate shall be published and posted up at the most public place in such Municipality, at least eight days before his application for a certificate, with the names of the signers thereof thereunto attached.

V. And be it enacted, That on production of such certificate, it shall be lawful for the Governor of this Province, or any other person whom he shall authorize for that purpose, to grant a Tavern License to the party producing the same, on payment by the said party of the sum of Ten Pounds currency, over and above the duty imposed by Act of the Imperial Parliament; provided that all such licenses shall be in force until the first day of June in the year next after the granting thereof.

VI. And be it enacted, That whenever any person shall have drunk spirituous liquors in any Inn or Tavern with the permission or sufferance of the keeper thereof, and shall, while in a state of intoxication or drunkenness arising out of the use of such spirituous liquors, come to his death by committing suicide, or by drowning or perishing from cold, or any other accident, such Keeper of any such Inn or Tavern shall be guilty of a misdemeanor, and being convicted thereof, after having been indicted and tried for such offence in due course of law, shall be liable to be imprisoned in the Common Gaol of the District in Lower Canada, or County in Upper Canada, in which such offence shall have been committed, for a period of time not less than two and not more than six months, and to pay a penalty of not less than Twenty-five Pounds nor more than One Hundred Pounds; the amount of which penalty shall by the Court before which such conviction shall take place, be ordered to be paid to such one or more of the heirs, legal representatives or surviving relatives of the deceased, as the said Court may consider to be most in need or deserving of the same.

VII. And be it enacted, That whenever any person shall adduce proof of his honesty and good moral character by a certificate under the hand of four Municipal Electors of his locality, and shall be seized of real or personal property to the value of One Hundred Pounds, such person shall be entitled to receive from the Municipal Council for his locality, a License to keep a Temperance Hotel for the reception of travellers; and for such License, such person shall pay to the said Municipal Council, a sum not exceeding at any time Seventy-five Shillings, nor being less than Twenty Shillings currency: Provided always, that no person who shall be licensed to keep a Temperance Hotel, shall sell nor give nor cause to be sold or given to drink any spirituous or malt liquor, under a penalty of Ten Pounds for every such offence; and any person who shall be convicted of retailing intoxicating liquors without license, or of keeping a disorderly house, or of selling intoxicating liquors on Sundays and Holidays, shall for every such offence incur a penalty of Ten Pounds currency.

VIII. And be it enacted, That except as otherwise provided by this Act, all complaints against parties contravening the Provisions of this Act, shall be summarily disposed of by one or more Justices of the Peace on the evidence of one credible witness; and any party who shall be found guilty of any offence under this Act shall, in default of immediate payment of the fine to which he shall be condemned for such offence, be imprisoned under Warrant of such Justice until payment of such fine and of the costs incurred for the recovery thereof.

IX. And be it enacted, That in Lower Canada all Taverns for the sale of intoxicating liquors, and all Temperance Hotels, shall contain at least three rooms with the same number of beds for travellers, over and above those used by the family, and in the country parts, at least three stalls for horses, with hay and provender, to the satisfaction of the Revenue Inspector who will certify the same in his semi-annual visits; and if the Keeper of any Tavern or Temperance Hotel shall not provide such accommodation, it shall be lawful for the Governor of this Province, on a representation being made to that effect by the authorities who shall have granted the certificate, to revoke his License after the said authorities shall have given him fifteen days' notice of their intending to make such representation in default of his providing such accommodation.

X. And be it enacted, That no person who shall not be licensed to keep a temperance hotel or as an apothecary, shall vend or retail any description of liquor known as a temperance drink, such as spruce beer, sarsaparilla, raspberry vinegar, ginger beer, essence or juice of lemons or of oranges or lemonade, under a penalty of Ten Pounds for every contravention of the provisions of this Section.

XI. And be it enacted, That a list of the licensed Taverns and temperance hotels shall be transmitted in every year by the officer or other person by whom the licenses have been issued to the Clerk of the Peace for the District or County in which the same shall be, and which shall be published in at least one newspaper of the County or District, and in Lower Canada a proper sign shall be hung up at each of the said taverns or temperance houses for the information of travellers; and any person not licensed who shall hang up or place near his house any sign which may induce travellers to think that he has a license, shall thereby incur a penalty of Five Pounds; and in Lower Canada, all persons licensed as Tavern or Temperance Hotel Keepers shall be bound,

under a penalty of Ten Pounds currency, to keep their license constantly exposed to public view, hung up in a frame, with a glass facing, in the most conspicuous part of their bar room or store.

XII. And be it enacted, That any person may be a competent witness under this Act, although he be related, allied or of kin to, or in the service of any party who may bring a complaint or who may be complained against for any infringement of the provisions of this Act, and if any witness legally summoned to appear on any such complaint shall refuse or neglect so to do, without reasonable cause, he shall incur a penalty of Five Pounds, and if any person shall be convicted of endeavouring to prevent any witness from appearing to give evidence, such person shall incur a penalty of Twenty Pounds.

XIII. And be it enacted, That if it be within the personal knowledge of any Magistrate, or on a complaint upon oath made by any one before such Magistrate, that any person shall have been seen in a state of intoxication in any public place whatsoever or in any place in which such intoxicated person shall be exposed to public view, such Magistrate shall cause such person to be brought before him, and place him in custody until he shall have recovered his reason; and the person so found intoxicated shall incur and pay a penalty of not less than Five Shillings nor more than Twenty-five Shillings for his said offence, together with the cost of suit, the expenses of arresting the person so found intoxicated, and in keeping him in safe custody; and in default of payment shall be imprisoned in the house of correction or other place of confinement for a space of time not exceeding one month.

XIV. And be it enacted, That it shall not be lawful for any distiller, merchant or trader who shall not have a Tavern license, to sell intoxicating liquors in less quantities than one gallon, except wine which may be sold by the bottle; and such liquor when sold shall be taken away from the premises of such merchant or trader within twenty- four hours after the purchase thereof: Provided always, that when any person shall produce a certificate from, a Physician, a Priest or a Minister of Religion, stating that such person really requires it as a remedy, then in such case only, it shall be lawful for such merchant or trader, to sell to such person any quantity he shall require.

XV. And be it enacted, That it shall not be lawful for any person in Lower Canada who shall be in the habit of vending fruits, creams, cakes, biscuits and other pastry, and who shall not have a Tavern license nor a license to keep a Temperance Hotel, to sell any intoxicating liquors whatsoever, nor any of the beverages known as Temperance drinks, such as spruce beer, ginger beer, the juice of oranges, lemons or limes, lemonade, raspberry vinegar or sarsaparilla, under a penalty of Five Pounds currency.

XVI. And be it enacted, That if any Tavern-keeper or keeper of a Temperance Hotel in Lower Canada shall refuse to receive and make suitable provision for any stranger or traveller, without just cause, he shall on conviction thereof, incur a penalty not exceeding Five Pounds currency.

XVII. And be it enacted, That the Inspector of Revenue, or his Deputy, in every Revenue District, shall visit twice in every year, all breweries, distilleries, and stores in which intoxicating liquors are sold in their respective Revenue Districts, in order to examine whether the said liquors are

adulterated, and on information by any such Revenue Inspector or his Deputy before any Justice of the Peace, that any such liquor is adulterated, the party in whose possession such adulterated liquor shall be found, shall be condemned to pay a penalty of not less than Ten Pounds, and the said Inspector or his Deputy shall spill the said liquor; the said Inspector or his Deputy shall also, twice in every year, visit the Taverns and Temperance Hotels, within their respective Revenue Districts, in order to ascertain whether every thing is carried on according to law in such Taverns and Temperance Hotels, and the proprietors and keepers of such Breweries, Distilleries, Taverns, Stores and Temperance Hotels, refusing admission to the Revenue Inspector, or his Deputy into their Breweries, Distilleries, Taverns, Stores and Temperance Hotels, shall be liable on conviction, on the Oath of the Inspector or his Deputy, to a penalty of Five Pounds currency, and shall make a report thereof to the Municipal Council of the City, Town, Township, Village or County in which such Tavern or Temperance Hotel shall be, and the said Inspector or his Deputy shall be entitled to receive from the owner of any such Distillery, Brewery, Store, Tavern or Temperance Hotel, the sum of Five Shillings, for every such certificate, and it shall also be lawful for the said Inspector or his Deputy, to visit any house in which it shall be suspected that spirituous liquors are retailed without a license; and if they find any adulterated liquors therein, they shall spill the same, and on the information of any such Inspector or his Deputy, any such person in whose possession such adulterated liquors shall be found, shall be condemned to pay a penalty of Five Pounds current money.

XVIII. And be it enacted, That all Justices of the Peace before whom any trial shall be had under this Act, shall take down minutes in writing of the proceedings and evidence at such trial, in case an appeal shall be brought from any judgment rendered by them.

XIX. And be it enacted, That one half of any penalty imposed under this Act shall go to the prosecutor, and the other half to the Municipality, who shall not be authorized to remit the same; and if there be no Municipality, the same shall be paid over to the Treasurer of the School Trustees or School Commissioners of the locality, to be expended for the support of Common Schools and the purchase of books for them.

XX. And be it enacted, That no person shall, in any City or Town in Lower Canada, obtain a certificate for a Tavern license, unless he shall produce a memorial signed by Twenty-five Municipal Electors of such City or Town, or by at least Six Magistrates in a special meeting and residing therein, stating that such Tavern is necessary, provided that none of the said Magistrates shall be the proprietor or holder of any house in such City or Town, in which spirituous liquors are sold or retailed; and if any Magistrate, so disqualified, shall sign such memorial, he shall forfeit and pay a sum not exceeding Ten Pounds.

XXI. And be it enacted, That no Tavern Keeper or Keeper of a Temperance Hotel in Lower-Canada shall suffer any person resorting to his house to play any game whatsoever, at which money may be lost, on pain of forfeiting Ten Pounds for every such offence.

XXII. And be it enacted, That this Act shall take effect upon, and after the Fifth day of April next.