

such witness from . . . all proceedings and penalties" under this section. Though the obtaining liquor during prohibited hours strikes one as an offence one degree more serious than the mere being found in a bar room during prohibited hours, there is no power conferred upon the magistrate to exempt a witness from the penalty prescribed for the last named offence. The anomaly is partially explained by the fact that both sections were grafted on the Act as amendments, s. 59 in 1885, and s. 57 in 1886. For some now inscrutable reason it appears to have been thought unwise, or perhaps not worth while, in the last named year to give the mere found witness the protection that had the previous year been given to the drinking witness. But for the fact that both sections were, as I am informed, enacted at the request of the temperance people, it might be suggested that the intention of the Legislature in 1886 was to encourage persons being in bar rooms during prohibited hours to convert themselves with as little delay as possible into persons drinking in rooms during prohibited hours, thus entitling themselves to ask the cloak of the magistrate's certificate.

Whatever the intention of the Legislature, the practical utility of the sections, except for mischief, is an exceedingly doubtful quantity. Prosecutions under them are rare. But they have an effect that was certainly not foreseen by the good people who promoted them. When a witness against a license holder charged with selling during prohibited hours is put into the box, he, at once, by reason of ss. 57, 59, becomes entitled to the protection given by s. 5 of the Evidence Act, which provides that no person shall be "compellable to answer any question tending to subject him to criminal proceedings or to subject him to prosecution for a penalty," and if he be an unwilling witness, counsel for the defence will not fail to inform him of his privilege and he will not fail to exercise it. Then the prosecution is up a tree, the only escape from which is to adjourn the case, lay an information against the witness under s. 57 or 59, force him to give evidence against himself under s. 9 of the Evidence Act, and then, having convicted him and thus destroyed his privilege, compel him to