

her own name with or without the consent of her husband, and the damages she recovers shall go to her separate use.

Husband or wife may testify.

38. Upon the trial of any action under either of the preceding sections the plaintiff, or the wife, or husband of the plaintiff, may be examined as a witness on the part of the plaintiff, any law or rule to the contrary notwithstanding.

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Illegality of sale presumed until the contrary shown.

39. Upon the trial of any complaint, suit, or information, under this Act, proof of the keeping, delivery, sale or barter of Intoxicating Liquor by the defendant, shall be sufficient to sustain an allegation that the same was unlawful, and unless he proves the contrary, judgment shall be rendered against him.

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Penalty for contravention of this Act.

40. Any person violating any of the provisions of this Act shall be liable to a fine of not less than *twenty-five dollars*, nor more than *one hundred dollars* and the costs of prosecution, in the discretion of the convicting Justice, which fine shall belong, one-half to the prosecutor, and the other to the Municipality where the offence is committed; unless the prosecution be brought in the name of the Corporation of the Municipality, which, in such case, shall receive the whole amount of the fine; and in default of payment of any such fine and all costs, the offender shall be imprisoned at hard labor until the same be paid; such imprisonment, however, not to be less than ten days nor more than two calendar months, as the convicting Justice may direct.

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Imprisonment if fine be not paid.

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Unlawful sale to disqualify as Juror.

41. No person proved to have been engaged in the unlawful sale of Intoxicating Liquor, within one year of the time of any trial under this Act, shall be competent to sit as a juror thereon; and if his disqualification be known he shall be challenged when called as such juror.

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And for any municipal office.

42. No person who has been engaged in the unlawful sale of Intoxicating Liquor shall, for one year from the time he was so engaged, be qualified to be elected to any office under the Act respecting the Municipal Institutions of Upper Canada.

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Liquors, &c., not subject to *replevin*.

43. Liquors seized under this Act, and the vessels containing them, shall not be taken from the custody of the officer in charge by writ of *replevin* or any other process, while the proceedings herein provided for are pending, and final judgment thereon shall, in all cases, be a bar to all suits for the recovery of the liquor or casks seized, or the value of the same, or any alleged damages by reason of such seizure and detention.

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Appeal from conviction.

44. Either the complainant, or other person prosecuting on his own behalf, or that of a Municipality, or the defendant, in any action arising under this Act, may appeal from the decision of a Justice of the Peace, and the laws regulating appeals from decisions of Justices shall apply in all cases under this Act.

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Officers, &c., bound to enforce this Act.

45. It shall specially be the duty of all Peace Officers, Municipal Officers, Justices of the Peace, and Collectors of Customs, to enforce the provisions of this Act, and every person legally required to enforce, or to assist in enforcing its provisions, refusing or neglecting so to do, shall be deemed an offender against this Act.

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Act not to prevent

46. Nothing in this Act shall be construed to prevent the making of cider from apples, or wine from grapes, currants, or other fruit grown