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No. 366.

1st Session, 4th Parliament, 16 Victoria, 1853.

BILL.

An Act to repeal certain Duties of Excise so far as regards Upper Canada, and to vest certain powers in the Municipal Authorities of that part of this Province.

Received and Read a First time, Thursday, 21st April, 1853.

Second Reading, Tuesday, 26th April, 1853.

HON. MR. HINCES.

QUEBEC:

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BILL.

An Act to repeal certain Duties of Excise, so far as regards Upper Canada, and to vest certain powers in the Municipal Authorities of that part of the Province.

WHEREAS it is expedient to repeal all Provincial Acts and parts of Acts, imposing Duties in Upper Canada, on Licenses to sell Spirituous Liquors in any quantity or in any place, or to keep Houses of Public Entertainment, or on Licences to Hawkers and Pedlars, or on keepers of Billiard Tables, or on Auctioneers, or on the sale of goods by Auction, and generally all Duties commonly called Excise Duties, except only those imposed on Distillers and the spirituous liquors distilled by them, and all enactments providing for the collection of such duties, and to vest certain powers with regard to the matters aforesaid in the Municipal authorities of Upper Canada ; Be it therefore enacted, &c.,

Preamble.

That the Act of the Legislature of Upper Canada passed in fifty-sixth year of the Reign of King George the Third, and intituled, "An Act for granting to His Majesty Duties on Licenses to Hawkers, Pedlars and Petty Chapmen, and other trading persons therein mentioned ;" and the Act of the said Legislature, passed in the fifty-eighth year of the same Reign, and intituled, "An Act to continue and repeal part of, and amend an Act passed in the fifty-sixth year of His Majesty's Reign, intituled, 'An Act for granting to His Majesty Duties on Licences to Hawkers, Pedlars and Petty Chapmen, and other trading persons therein mentioned, and to extend the provisions of the same ;' " and the Act of the said Legislature, passed in the ninth year of the Reign of King George the Fourth, and intituled, "An Act to continue an Act intituled, 'An Act to continue for a limited time, an Act passed in the fifty-eighth year of His late Majesty's Reign, intituled, 'An Act to continue, repeal part of, and amend an Act passed in the fifty-sixth year of His Majesty's Reign, intituled, 'An Act for granting to His Majesty Duties on Licences to Hawkers, Pedlars and Petty Chapmen, and other trading persons therein mentioned, and to extend the provisions of the same ;' " " and the Act of the said Legislature, passed in the second year of Her Majesty's Reign, and intituled, "An Act to continue and make permanent an Act passed in the third year of the Reign of King William the Fourth, intituled, 'An Act to continue the Duty upon Licences to Hawkers and Pedlars ;' " and the Act of the said Legislature passed in the fiftieth year of the Reign of King George the Third, and intituled, "An Act for granting to His Majesty a duty upon Billiard Tables," and the eighth and ninth Sections of the Act of the said Legislature, passed in the third year of Her Majesty's Reign, and intituled, "An Act to regulate the time for making Returns and Payments by Collectors and other persons receiving the Public Revenues of the Province, and for other purposes therein mentioned ;" and the tenth Section of the Act of the Legislature passed

Acts and parts of Acts repealed. Upper Canada 56 Geo., cap. 34.

Upper Canada, 58 Geo. 8, cap. 5.

Upper Canada, 9 Geo. 4, cap. 8

Upper Canada, 2 Vic. cap. 23.

Upper Canada, 50 Geo. 3, cap. 6.

Upper Canada, 3 Vic., cap. 9.

Upper Canada, 3 Vic., cap. 20, Sec. 10. the same year of the same Reign, and intituled, "*An Act for further regulating the manner of granting Licences to Inn Keepers and Keepers of Ale and Beer Houses within this Province,*" and the Act of the said Legislature passed in the fifty-eighth year of the Reign of King George the Fourth and intituled, "*An Act for granting to His Majesty a duty on Licences to Auctioneers, and on goods, wares and merchandize sold by auction,*" and the Act of the said Legislature, passed in the third year of Her Majesty's Reign and intituled: "*An Act to revive and make perpetual An Act of granting to Her Majesty a duty on Licences to Auctioneers and on goods, wares and merchandize sold by auction,*" 10 and the second Section of the Act of the said Legislature passed in the third year of Her Majesty's Reign, and intituled, "*An Act to make perpetual an Act passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled, 'An Act to repeal and amend certain parts of an Act passed in the thirty-sixth year of the Reign of King George 15 the Third, intituled, 'An Act to amend an Act for regulating the manner of Licensing Public Houses and for the more easy conviction of persons selling Spirituous Liquours without Licence, and also for regulating the duty to be levied on Licences to shopkeepers,'*" and the Act of the Parliament of this Province, passed in the Session held in the fourth 20 and fifth years of Her Majesty's Reign, and intituled, "*An Act to amend the Laws relative to Hawkers and Pedlers,*" and so much of the Act of the Parliament of this Province passed in the Session held in the third and fourth years of Her Majesty's Reign, and intituled "*An Act to make certain alterations in the Laws relative to the duty upon sales of 25 property by auction*" as imposes or continues any duty on Auctioneers or on goods, wares, or merchandize sold by auction in Upper Canada, shall be and the said Acts and parts of Acts are hereby repealed, with all other Acts or parts of Acts whether of the Parliament of this Province, or of the Legislature of Upper Canada imposing or continuing any duty in Upper 30 Canada on Auctioneers or on the sales of goods, wares or merchandize by auction, or on Hawkers, Traders or Petty Chapmen, or on keepers of Billiard Tables, or on persons selling wine, brandy or spirituous liquors, ale or beer by retail in any place, or on keepers of houses of public entertainment, or requiring that any person should take out any licence in order 85 to enable him lawfully to sell goods, wares or merchandize by auction, or to act as Hawker or Pedlar, Trader or Petty Chapman, or to keep any Billiard Table for hire or otherwise, or to sell wine, brandy or spirituous liquors, ale or beer by retail, except only as regards any penalty incurred under the Acts and parts of Act hereby repealed, before this act shall be in 40 force, which may be sued for, levied and collected as if this act had not been passed: Provided always that nothing herein contained shall be construed to repeal or affect any duty or sum payable under any By-law of any Municipality in Upper Canada made under authority of the Act of the Parliament of the Province, passed in the Session held in the 13th 45 and 14th years of Her Majesty's Reign and intituled, "*An Act to amend the Laws relative to Tavern Licences in Upper Canada,*" or in any way to impair the effect of any By-law made under the authority of the said Act, or to repeal, alter or affect any Act of law concerning distilleries or Distillers or any duties imposed on the spirituous liquors distilled or 50 made by them.

Proviso: not to affect By-laws under 13 and 14 Vic., cap 65.

General repeal of Acts imposing duties of certain kinds in Upper Canada.

Canada, 13 and 14 Vic., cap. 7.

Canada, 4 and 5 Vic., cap. 21.

Upper Canada, 58 Geo. 3, cap. 6.

Upper Canada, 3 Vic., cap. 23,

Upper Canada, 3 Vic., cap. 22, Sec. 2.

Municipal Councils of Counties,

II. And be it enacted, That the Municipal Council of any County or City in Upper Canada shall have full power and authority to make By-laws for regulating and governing Hawkers and Petty Chapmen, and

other trading persons going from place to place or to other men's houses, or who have not become householders by permanent residence in any Town or place within such County or City, or travelling either on foot or with a horse or horses, mule or mules, or other beast or beasts bearing
 5 or drawing burthen, boat or boats, decked vessel or vessels or other craft, or otherwise within such County or City carrying to sell or exposing to sale any goods, wares or merchandize, and for requiring any such person to take out a licence from such officer of the Municipality as shall be designated in such By-law, before it shall be lawful for him to
 10 exercise any such calling as aforesaid within such County or City, and for fixing the same, which shall be payable for such licences and the time during which the same shall be in force, and for imposing penalties for the contravention of any such By-law.

Cities, Towns, may impose duties on and Pedlers. Hawkers

III. And be it enacted, That the Municipal Council of any Township, Incorporated Village or Town or City in Upper Canada, shall have full power and authority to make By-laws for all or any of the following purposes, that is to say :

Other Municipal Councils may impose By-laws for certain purposes.

For regulating and governing Auctioneers and other persons selling or putting up for sale, goods, wares, merchandize or effects, by public
 20 auction or outcry, or to the highest or best bidder, within such Municipality, and for requiring any such person to take out a Licence from such Municipal Officer as shall be designated in such By-law, before it shall be lawful for him to act as an Auctioneer or to sell or put up to sale, as aforesaid, any goods, wares, and merchandize or effects within
 25 such Municipality, and for fixing the sum which shall be payable for each such licence and the time during which it shall be in force, for making such further provisions as may be deemed necessary for giving full effect to such By-law, and for imposing Penalties for the contravention thereof :

Auctioneers.

2. For regulating and governing all shop-keepers, store-keepers, and others selling wine, brandy, or other spirituous liquors, ale or beer, by retail, in places other than houses or places of public entertainment, and for requiring any such person to take out a licence from any Municipal Officer to be designated in each By-law, before it shall be lawful
 35 for him to sell any wine, brandy or other spirituous liquor, ale or beer, as aforesaid, within such Municipality, and for fixing the sum which shall be payable for each such licence, and the time during which it shall be in force, or for limiting the number of persons to whom and the houses or places for which such licences shall be granted within
 40 the Municipality, or for preventing absolutely the sale of wine or brandy or other spirituous liquors, ale or beer, or any of them by retail within the Municipality, and for making such further enactments as may be deemed necessary for giving full effect to any such By-law, and for imposing penalties for the contravention thereof: Provided always that
 45 the selling of any wine, brandy, or other spirituous liquors, ale or beer, in the original packages in which the same were received from the importer or manufacturer and not containing respectively less than five gallons or one dozen bottles, shall not be held to be a selling by retail within the meaning of this Act.

Selling intoxicating liquors by retail.

Proviso.

3. For regulating and governing all persons who shall within such Municipality keep or have in their possession or on their premises any

Billiard Tables.

Billiard Table or Tables, set up for hire or gain, directly or indirectly, or being in any house or place of public entertainment, or house or place of public resort, whether such Billiard Table or Tables be used or not, and for requiring any such person to take out a license from any Municipal Officer to be designated in such By-law, before it shall be lawful for him 5 to keep or have in his possession or on his premises any Billiard Table or Tables, and for fixing the sum which shall be payable for any such license and the time during which it shall be in force, and for making such further enactments as may be deemed necessary for giving full effect to any such By-law, and for imposing penalties for the contraven- 10 tion thereof.

By-laws may be repealed &c., exception.

IV. And be it enacted, That any By-law made under the authority of this Act may be repealed, altered or amended by the Municipal Council by which it shall have been made, saving always that no person shall be required to take out a new licence for any purpose, during the 15 time for which a licence shall have been granted to him for the same purpose, or to pay any additional sum upon such licence during such time; No penalty to be imposed by any By-law to be made under the authority of this Act, shall exceed the amount to which Municipal Councils may impose penalties under the Municipal Corporation Acts of Upper Canada, 20 and the penalties imposed by By-laws under this Act, shall be recoverable and applicable in the manner provided by the said Acts with regard to penalties imposed by By-laws made under the authority thereof: all sums of money levied under By-laws made under this Act, shall form part of the General Funds of the Municipality in which they shall be 25 levied, and they shall be levied and collected by such Municipal Officers as shall be appointed for the purpose: Provided always, that no By-law made under the authority of this Act, which shall be intended absolutely to prevent the sale of wine, brandy or other spirituous liquor, ale or beer, within any Municipality, at any place other than a house of 30 public entertainment, or shall require the payment of a greater sum than *ten pounds* per annum for any licence to sell the same, or to exercise any other calling, or to do any other thing for which a licence may be required under this Act,—nor any By-law to be made after the passing of this Act, under the authority of the Act passed in the Session held in the 35 13th and 14th years of Her Majesty's Reign, and intituled, "*An Act to amend the Laws relative to Tavern Licences in Upper Canada,*" for prohibiting the sale of wine or spirituous liquors, ale or beer, in any house of public entertainment in such Municipality,—shall have force or effect, unless before the final passing thereof, it shall have been adopted and ap- 40 proved by a majority of the qualified Municipal Electors of the Municipality, (to be ascertained in such manner as shall be determined by a By-law to be previously passed for that purpose) after public notice containing a copy of the proposed By-law, shall have been inserted at least four times in each Newspaper printed within the limits of the Municipality, 45 or if none be printed therein, then in some one or more Newspaper or Newspapers printed in the City or Town nearest to such Municipality and circulated therein, and also posted up in at least four of the most public places in such Municipality.

Penalties limited.

Application of duties on Licences. By-laws prohibiting the sale of intoxicating liquors, or imposing a duty of more than £10 for Licences for certain purposes, not to be valid unless previously approved by a majority of the Municipal Electors.

Monies payable for Licences to keep House of public entertain-

V. And be it enacted, That all sums of money payable for licences 50 to keep houses of public entertainment or other licences, under By-laws made by the Municipal Councils of Municipalities in Upper Canada under the authority of the Act passed in the Session held in the thirteenth

and fourteenth years of Her Majesty's Reign, and intituled, "*An Act to amend the Laws relative to Tavern Licences in Upper Canada,*" and any sum payable on such Licences under the Act of the Parliament of Great Britain cited in the Preamble to the said Act, shall be payable to and shall be collected and received by, such Municipal Officers as the Councils of such Municipalities respectively shall appoint to receive the same, and such licences shall be issued by such Municipal Officers as the said Councils respectively shall appoint to issue the same; and any licence to keep a house of public entertainment and to retail wines and spirituous liquors therein issued in the manner and form and by the Municipal Officer prescribed and appointed by By-law of the Municipality in which the same shall be granted, shall be taken and held to be a licence for the purpose of the said Act of the Parliament of Great Britain, and the duty imposed by the said Act shall be payable thereon.

VI. And for indemnifying the several Revenue Inspectors in Upper Canada for the loss of emoluments which they will sustain by the passing of this Act, be it enacted, That each Township, Village, Town or City Municipality in Upper Canada shall, within one year from the time when this Act shall come into force, pay over to the Receiver General of the Province, such sum as shall be estimated and certified to the Head of such Municipality by the Inspector General of this Province as being in his opinion equal to one year's income or emoluments of any Revenue Inspector or Inspectors arising from the duties and licenses which without this Act would be collected or issued by him or them in such Municipality, which sum the said Inspector General shall calculate on the basis of the income or emoluments received by any Revenue Inspector or Inspectors from the same source during the then last twelve months; and the sum so certified as payable by any Municipality shall be a debt due to the Crown by such Municipality, and if not paid within the period aforesaid may be recovered by the Crown from such Municipality in any way in which debts to the Crown may be recovered in Upper Canada; and the amount so received from the several Municipalities aforesaid shall be divided among and paid to the several Revenue Inspectors in Upper Canada, in proportion to the income or emoluments which they may have lost respectively by the passing of this Act, the sum to be paid to each being determined by the Inspector General on the basis aforesaid.

ment, to whom to be paid, &c.

Provision for Indemnifying Revenue Inspectors in Upper Canada for the loss of emoluments they will sustain by reason of this Act.

VII. And be it enacted, That the foregoing provisions of this Act shall have force and effect upon, from and after the first day of January, 1854, and not before; except that at any time after the passing of this Act any By-law may be passed for any purpose for which a By-law may be passed under this Act, and all things (if any) preliminary to the passing of each By-law may be done; provided such By-law be limited to come into force and effect upon or after the day last aforesaid and not before.

Commencement of this Act.

VIII. And be it enacted, That this Act shall apply only to Upper Canada, and that its provisions and the powers granted by it to the Municipal authorities in Upper Canada, and the provisions of the Act last aforesaid amending the Laws relative to Tavern Licenses in Upper Canada, and the powers therein granted to the said Municipal authorities, shall be subject to and limited and controlled by the provisions of any Act which may be passed during the present Session for prohibiting the granting of Licenses for the sale of intoxicating liquors on the line of any Public Work, or for otherwise prohibiting or limiting the sale of such liquors.

This Act and 13 and 14 Vic., cap. 65, to be controlled by any Act passed this Session for certain purposes.