



No. 109.

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4th Session, 8th Parliament, 62 Victoria, 1899

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BILL.

An Act to further amend the Canada  
Temperance Act.

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First reading, May 5, 1899.

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MR. FLINT.

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OTTAWA

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An Act to further amend the Canada Temperance Act.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Subsection 1 of section 100 of *The Canada Temperance Act*, chapter 106 of the Revised Statutes, is hereby repealed and the following is substituted therefor:—

R.S.C., c. 106,  
s. 100 amend-  
ed.

“100. Every one who, by himself, his clerk, servant or agent exposes or keeps for sale, or directly or indirectly, on any pretence or by any device, sells or barter, or in consideration of the purchase of any other property, gives to any other person any intoxicating liquor, in violation of the second part of this Act shall, in summary conviction, be liable to a penalty, for the first offence of not less than fifty dollars or imprisonment for a term not exceeding two months with or without hard labour, and for the second offence to a fine of not less than one hundred dollars or imprisonment for four months with or without hard labour, and for the third and every subsequent offence, to imprisonment for a term not exceeding six months with or without hard labour.”

Punishment  
of sale, etc.,  
in violation  
of second part  
of this Act.

2. The section substituted for section 108 of the said Act by section 10 of chapter 34 of the statutes of 1888, is hereby repealed, and the following is substituted therefor:—

New section  
108. r

“108. Any policeman or constable or officer appointed by any incorporated town or municipality to enforce the provisions of this Act, may, for the purpose of preventing or detecting the violation of any of the provisions of this Act, at any time enter into any part of any hotel, shop, warehouse, or other place wherein intoxicating liquors are reputed or supposed to be sold, or where he believes that liquors are kept for sale contrary to the provisions of the second part of this Act, and may make searches in every part thereof and of the premises connected therewith as he thinks necessary for the purpose aforesaid.”

Officer may  
search for  
liquor.

“2. All policemen, constables, or other peace officers shall, on the demand of the officer appointed by any incorporated town or municipality to enforce the provisions of this Act, aid and assist him in carrying out the said provisions under a penalty of not less than twenty dollars.”

Assistance to  
be given him.

“3. Every person being therein or having charge thereof, who refuses or fails to admit such policeman or constable or officer demanding to enter in pursuance of this section in the execution of his duty, or who obstructs or attempts to

Refusing to  
admit officer.

obstruct the entry of such officer, policeman or constable on any such searches as aforesaid, shall be liable to a penalty of not less than fifty dollars."

Search  
warrant.

"4. Any one of the officers named in section 103 of this Act, if satisfied by information on the oath of a credible witness that there is reasonable ground for belief that intoxicating liquor is sold or being kept for sale contrary to the provisions of the second part of this Act, or of *The Temperance Act of 1864*, in any dwelling house, store, shop, warehouse, outhouse, garden, yard, croft, vessel or other place, may, in his discretion, grant a warrant under his hand by virtue whereof it shall be lawful for the person named in such warrant, at any time or times within ten days from the date thereof, to enter, by force if necessary, the dwelling house, store, shop, warehouse, outhouse, garden, croft, vessel or place named in the warrant, and every part thereof, or of the premises connected therewith, and to examine the same and search for intoxicating liquor therein; and for such purpose such person may, with such assistance as he deems expedient, break open any door, lock or fastening of such premises or any part thereof, or of any closet, cupboard, box or other article likely to contain such liquor; and in the event of any intoxicating liquor being found in any such dwelling house, store, shop, warehouse, outhouse, garden, yard, croft, vessel or place, the owner or occupant or person in possession thereof, shall, until the contrary is proved, be deemed to have such intoxicating liquor for the purpose of sale, contrary to the provisions of the second part of this Act; and any information to obtain a warrant under this section may be in the form M in the schedule to this Act, and any search warrant under this section may be in the form N in the said schedule."

Presumption,  
if liquor is  
found.

Forms.

Seizure of  
liquor and  
vessels.

Upon conviction,  
Magistrate may  
order destruction  
of liquor.

Destruction  
of liquor if  
ownership not  
established.

"5. When any policeman, constable or officer, in making or in attempting to make any search under or in pursuance of the authority conferred by subsection 1 of this section, or under the warrant mentioned in subsection 4 of this section, finds in any such dwelling house, store, shop, warehouse, outhouse, garden, yard, croft, vessel or place, or in the possession of any person or his servants, any intoxicating liquor which, in his opinion, is unlawfully kept for sale or disposal contrary to the provisions of the second part of this Act, he may forthwith seize and remove such liquor and the vessels in which it is kept; and upon the conviction of the owner, tenant or occupant of such house or place, or any dweller therein, or of any other person employed in or about it, for selling intoxicating liquor or of keeping intoxicating liquor for sale contrary to the provisions of the second part of this Act, the magistrate making such conviction may, in and by the said conviction, or by a separate or subsequent order, declare the said liquor and vessels to be forfeited to Her Majesty, and may order and direct that the said constable, policeman or other officer, shall destroy such liquor, and the said constable, policeman or other officer as aforesaid, shall forthwith destroy it, as directed by such conviction or order; and in case no conviction is made and no person establishes his ownership thereof, within two months after the seizure, to the satisfaction of the magistrate, then the magistrate may, at any time after the expiration of the said period of two months, order and direct that the said

constable, policeman or other officer, shall destroy the said liquor, and the latter shall thereupon forthwith destroy it accordingly."

3. Paragraph (a) of section 115 of the said Act is hereby Section 115  
5 amended by adding the following words at the end thereof:— amended.  
"If the accused is not present, the justices or magistrate or other officer shall proceed in the same manner as if he were present and denied that he was so previously convicted."