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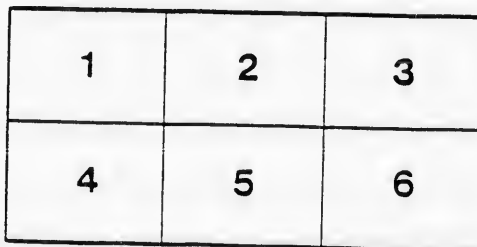
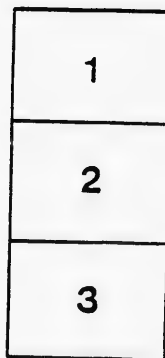
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OF

1170

CONSOLIDATION AND REVISION

OF THE

LICENSE LAWS.



MONTREAL :

TYP. CARMEL, 27 & 29 St. Vincent Street

1888.




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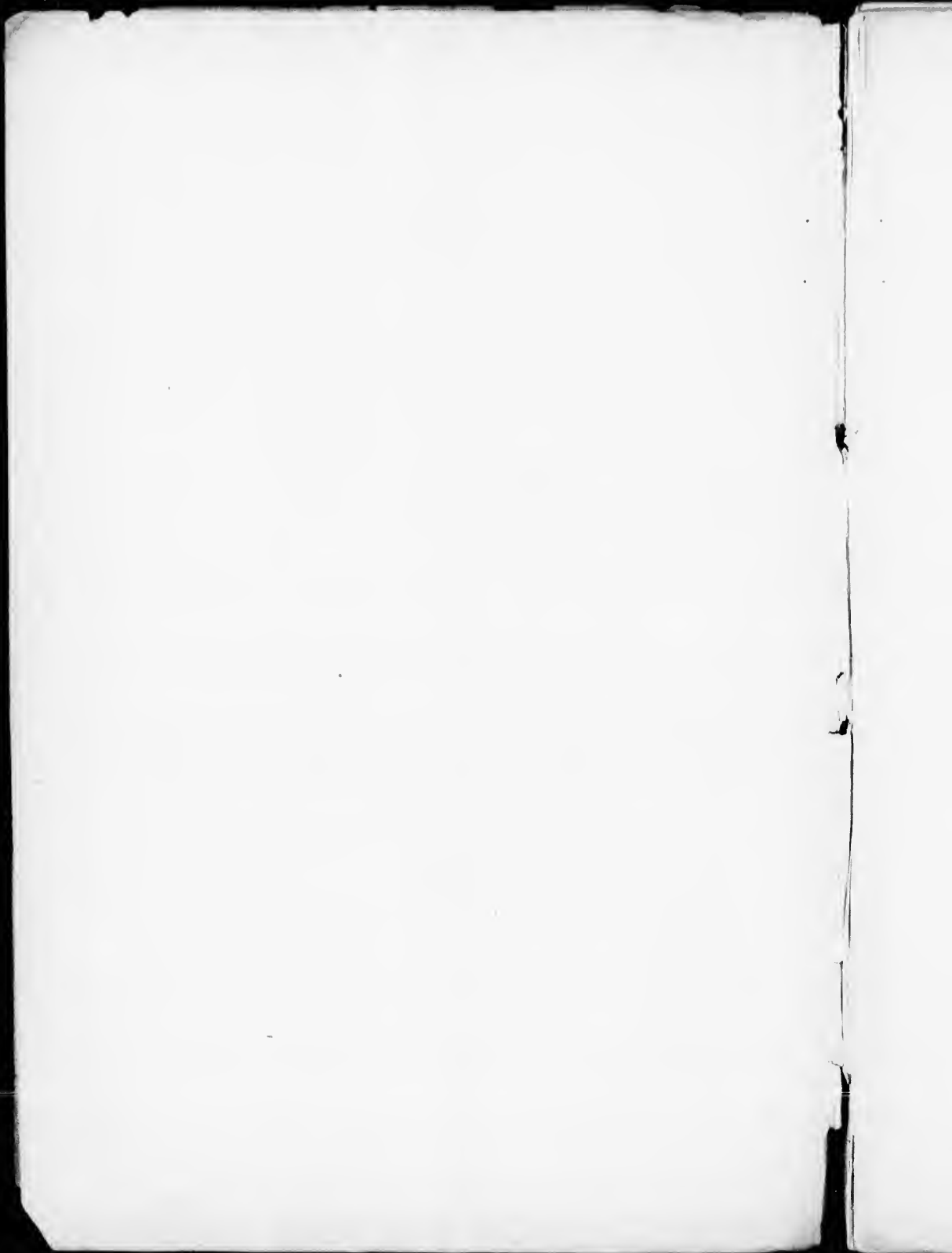
LICENSE LAWS.



MONTREAL :

Typ. CARMEL, 27 & 29 St. Vincent Street

1888.



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CONSOLIDATION AND REVISION
OF THE
LICENSE LAWS.

THIS ACT MAY BE QUOTED UNDER THE TITLE
"LICENSE ACT OF 1888."

Interpretation and definitions.

In the present act, unless the text should require a different meaning :

"Intoxicating liquors" mean and embrace all liquors containing an alcoholic and intoxicating principle ;

"Temperance liquors" mean and embrace all liquors in which there is no alcoholic and intoxicating principle ;

An "hotel" is an establishment where, in consideration of payment, food and lodging are habitually furnished, and where intoxicating liquors are sold in quantities not exceeding one pint, imperial measure ;

The "temperance hotel" differs from the "hotel" in so far that the sale of intoxicating liquors is there prohibited ;

The "hotel-keeper" is he who keeps an "hotel" or a "temperance hotel."

A "restaurant" is an establishment where, in consideration of payment, food (without lodging) is habitually furnished, and where intoxicating liquors are sold in quantities not exceeding one pint, imperial measure ;

The "restaurant keeper" is he who keeps a "restaurant."

The license to sell intoxicating liquors in an hotel or a restaurant, shall be granted only if it be ascertained that the establishment is useful, either for receiving or lodging travellers or providing food.

A "*buvette*" is a place established for the sale of intoxicating liquors, in a steamboat or any other vessel.

A "buffet" is a restaurant established in a railway station.

A "tavern" is an hotel kept within a radius of nine miles from the place where gold mining is being prosecuted.

A "liquor shop" is any shop where intoxicating liquors are sold, without food or lodging being provided;

"Liquor shops" are divided into wholesale and retail shops.

A "wholesale liquor shop" is that wherein are sold, at any one time, intoxicating liquors in quantities not less than two gallons, imperial measure, or one dozen bottles, of not less than one pint, imperial measure, each;

A "retail liquor shop" is that wherein, with the exception of cigars and cigarettes, nothing else can be sold but intoxicating or temperance liquors, and that in quantities not less than one pint, imperial measure, at any one time.

No retail liquor shop can form part of another commercial establishment, nor communicate with such establishment.

Every delivery of intoxicating liquor made otherwise than gratuitously, constitutes a sale thereof;

~~The gratuitous character~~ of the delivery is inferred from the circumstances under which the delivery is made and from the intention of the persons, respectively, delivering and receiving the liquors;

Every delivery, ~~not gratuitous~~, is considered as a sale, without it being necessary to prove the delivery of any payment in money therefor, or of any object having a pecuniary value, as price of the sale of such liquors

The license to sell intoxicating liquors in an hotel, a restaurant, a *burette*, a *buffet* or a tavern, includes the permission that the liquors so sold be drunk on the premises, but it is forbidden to any person licensed to keep a liquor shop, whether wholesale, or retail :

1. To allow that any intoxicating liquor, sold by him, or in his possession, be drunk within his establishment or dependencies, or in any place communicating, in any way, with said establishment, unless it be to allow a *bona fide* customer to make a choice of liquors.

2. To treat or furnish any intoxicating liquor within the same premises, unless it be to a person habitually residing there, or received, at one's own house, as *bona fide* guest.

“Pawning” means the loan for a profit, either impliedly or expressly stipulated, in favor of him who lends a sum of money or any thing convertible into money, or having a pecuniary value, in taking a pledge to secure the restitution of the sum of money or thing loaned, with or without the profit aforesaid ;

He who loans and receives the pledge is a pawnbroker ; he who receives the sum of money or thing loaned and gives the pledge, is the pawner ;

The business of pawnbroking is carried on, when such loans are habitually made ;

To establish that such business is carried on, it is not necessary that several loans secured by pledge should be proved ;

A single loan secured by pledge, preceded or followed by one or more loans, or accompanied or preceded by circumstances which, in the opinion of the tribunal charged with the cause, establish the habit of making such loans, or the intention of carrying on the business aforesaid, constitutes, for the purpose of the present act, sufficient proof that the lender follows the business of pawnbroking.

The word "district," when used alone, means the district allotted to any collector of provincial revenue;

The "collector of provincial revenue" is, for the purpose of the present act, an officer appointed under articles 7 and 11 of the "Treasury Law," and the words "collector of revenue," when used alone, designate the same officer.

"Organized territory" is such portion of the territory of the Province as is erected into a municipality, and "non-organized territory," is such portion of said territory as is not municipally erected.

The word "powder" means every explosive substance, (powder for cannon, or gunpowder or mining powder, or nitro-glycerine, or any other substance of that nature), and "powder magazine," is the place wherein powder is stored.

The "informer" is the person who gives the particulars whereon a prosecution for the contravention of the present act is brought, and who, not being incompetent to render testimony, deposes to the principal facts in the trial;

The "informant" is the person who institutes such a prosecution, in the form *qui tam* for the same contravention.

"The competent authorities" are the authorities appointed to confirm, or reject, the license certificates for the sale of intoxicating liquors.

The words "billiard table," in addition to their proper meaning, mean all boards used for the games of pigeon-hole, mississippi or bagatelle.

A "bottler" is a person who bottles fermented liquors, sells or delivers them, on his own premises or at those of the purchaser, in quantities of at least one dozen bottles at a time.

A "club" is an association, in which the profits arising from the sale of intoxicating liquors and use of billiard tables, belong to the members of the club, who are proprietors *bona fide* of all the moveable effects contained

in the said club, and who are the proprietors or lessees of the establishment.

GENERAL PROHIBITIONS.

It is forbidden to all persons, corporations or clubs, under pain of the fines and penalties, hereinafter promulgated, to keep within the limits of this Province :

1. Any hotel, or temperance hotel ;
2. Any restaurant, or *buvette* ;
3. Any liquor store, wholesale or retail ;
4. Any *buffet* or tavern ;

As also :

5. To sell intoxicating liquors ;
6. To carry on the trade or business of auctioneer, of pawnbroker, of pedlar, or of ferry-man between the banks of the river St. Lawrence at certain points hereinafter indicated ;
7. To keep for gain any billiard table ;
8. To keep any powder magazine or to sell powder ;
9. To give equestrian representations and exhibitions of wild animals, known and designated under the name of circus and menagery ;
10. To carry on the trade of bottler ;

Without having previously obtained from the government in the manner and form, and after payment of the duties and fees hereinafter mentioned, a special license then in full force.

BY WHOM LICENSES ARE ISSUED, THEIR DURATION.

With the exception of licenses for taverns in mining divisions, which are granted by the officer appointed under the mining law (which licenses are subject to such duties as the Lieutenant-Governor in Council may determine, such duties however not being less than fifty dollars for each license,) every license is granted in the name of the Lieutenant-Governor, by one of the collectors of provincial revenue or by his deputy.

Each collector of provincial revenue delivers the licenses to be used within the limits of the district assigned to him, (with the exception of pedlars' licenses, which may be issued for all judicial districts, by the same

officer) and he collects the duties and fees imposed upon those licenses by law.

In the case of a *burette* license, this duty devolves on the collector of provincial revenue for the district, in which resides the proprietor, master or person in charge of such steamboat or vessel, for which such license is required; and, in the event of such steamboat or vessel belonging to a company, on the collector of revenue for the district, in which the company holds its head office, or principal place of business.

The deputy-collector of revenue may also deliver licenses and collect the duties and fees.

The Lieutenant-Governor in council may, nevertheless, authorize a person or persons to sign and deliver those licenses to the collector of provincial revenue. He may likewise determine on their form and the date of their delivery.

With the exception of ferry licenses concerning which the present act contains special provisions, of *burette* licenses, which expire when the boats go into winter quarters, and of licenses for taverns at the mines, which are of monthly duration, licenses are granted for one year, or portion of a year only, and expire on the first day of the month of May subsequent to their issue.

SECTION FIRST.

§ 1. LICENSES FOR THE SALE OF INTOXICATING LIQUORS.

Hotel licenses, general mode of obtaining them.

To obtain a license to keep an hotel, the following formalities shall be observed :

Previous to the obtaining of a license to keep an hotel in any part of the organized territory of this Province, the applicant shall furnish the collector of provincial revenue with a certificate, according to form A, annexed to the present act, signed by twenty-five municipal electors, whether resident or having their place of business, (or a majority of municipal electors resident or having their place of business, if they number less than fifty), of the parish, township, village, town or ward of

reports

the city in which is situated the house for which such license is applied for, to the effect that he (the applicant) is personally known to the signers, that he is honest, sober, and of good reputation, and that he is qualified to keep an hotel, and that his establishment contains the lodging room required by the law and is useful.

This certificate shall be accompanied by an affidavit of the applicant, made in accordance with form B, and sworn to before a justice of the peace, declaring that he is in every respect, qualified to keep an hotel, that the establishment to which the certificate applies, is in good order, that it affords proper lodging room, and that it contains the necessary requisites to be carried on; if there be reference to an hotel, that the applicant intends regularly receiving, lodging and victualling travellers, and if there be reference to a restaurant, that he intends regularly providing meals.

always require early

Such certificates (except those connected with applications for licenses in the city of Montreal, and in the city of Quebec,) shall be confirmed by a decision of the council of the municipality in which the house is situated, drawn in accordance with form C, annexed to the present act, and such confirmation is certified under the signature of the mayor and city clerk, or secretary-treasurer of the council.

If, on the day appointed for the meeting of the council before which the confirmation of the certificates comes into deliberation, there be no quorum, the meeting is postponed, from day to day, until there is a quorum and until the question is decided.

expansions by part in default

The council, to which this certificate is presented, shall ascertain, by procuring such information as it may deem proper, if the requisite number of duly qualified electors have signed the same. The authenticity of the signatures attached thereto, shall also be established under oath before one of the members of the council, and if the result of such double enquiry be, in whole or in part, unfavorable to the applicant, the confirmation applied for shall be refused.

reports

Such certificate shall also be refused, if it be proved to the satisfaction of the council :

1. That the petitioner is a person of bad character, having already allowed or permitted drunkenness or disorder in his establishment ;

2. That, during the two years previous to the date of his demand for a license, he has been twice condemned to a fine for having sold liquor without a license ;

3. In the case of a petitioner for a new establishment, that the demand is opposed in writing by the majority or the two thirds of all the municipal electors, residing or having their place of business in the locality in which it is intended to open an establishment.

or contrary to law

prohib. des. Sect -

If this certificate refer to a house situated within the limits of a city, it, as well as the license, shall contain the designation of the ward and street where it is situated. The license is of no effect outside the establishment for which it has been issued, unless a regular transfer be made thereof, in accordance with the formalities hereto after established.

EXCEPTIONAL PROVISIONS FOR THE CITIES OF MONTREAL AND QUEBEC.

Such certificate is granted or refused, in the city of Montreal, at the police court, by the two judges of the Sessions and the recorder; in the city of Quebec, at the police court, by the judge of the Sessions, or the recorder.

In the said cities, certificate shall be signed by at least twenty-five municipal electors, having their residence or place of business in the electoral district of the ward where is situate the establishment referred to.

Majority in both cases -

Nevertheless, this certificate, shall no longer be required of any person who shall have been once licensed after the present law is passed and under its authority, provided the business continues to be carried on in the same establishment.

Bad example

The said person, previously licensed, shall have a right to the renewal of the license for the same establishment, by simply producing to the collector of provincial revenue, a declaration on the part of the competent authorities, stating that his certificate, previously confirmed, is still in force, provided moreover that he

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conform to the other conditions of the law, and that he pay the duties and fees stipulated.

The competent authorities, in the said cities, shall not grant the confirmation of the certificate of any petition for the opening of a new establishment, if the majority or the two thirds of the municipal electors, having their residence or place of business in the electoral district of the ward where is situated the establishment to which the license should apply, object to the same, by petition signed by them, and delivered to the clerk of the peace, previous to the day appointed for the taking into consideration of the said certificate.

The competent authorities may authorize the inspector of provincial revenue to grant, in the city of Montreal only, twenty special licenses, for the exclusive sale of wine, apple cider and beer, in quantities not exceeding one pint, imperial measure, and, in this case, they may dispense the persons thus licensed from the obligation of having the proper lodging-room or even of providing food.

No counter (bar) shall be kept in those special establishments.

It shall then be forbidden all persons having obtained such dispensation, to have within their establishment or its dependencies, any other kind of intoxicating liquors, under any pretence whatsoever, unless it be with the authorization of the said competent authorities, for sickness or special purposes, under penalty of a fine of \$100, confiscation of the said liquors and immediate annulling of the license.

Any power granted to the judges of the sessions and to the recorder, in the city of Montreal, may be exercised by the three acting conjointly, or by the majority amongst them.

The clerk of the peace, in both cities, acts as clerk to the competent authorities.

Any person desirous of obtaining the confirmation of a certificate, shall depose the same at the Peace office, and shall pay to the clerk of the peace the sum of fifty cents, for the entry of the certificate and all proceedings connected therewith.

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The clerk of the peace shall prepare a list giving the date of inscription of the application, the names, occupation and residence of the applicant, the situation of the house to which the license applies, and the day on which it will be taken into consideration.

*June 21
Clear days
4. 18. 18*

This list shall be posted up in a conspicuous place in his office, which shall be open to the public.

No application can be taken into consideration by the competent authorities, unless it has been inscribed on this list for at least fifteen days, and unless it be made from the first day of January to the fifth day of March, inclusively.

1st day

However in the case of reference to an hotel containing at least thirty rooms, such application can be made at any time whatsoever of the year, and taken into consideration on the day and hour appointed by the clerk of the peace, provided that otherwise all formalities for the ordinary certificates have been fulfilled.

*21. 18. 18
18. 18. 18*

All applications for the confirmation of a certificate, made in the month of January, shall be taken into consideration on the following twentieth day of February, at two o'clock of the afternoon, if the day be legal; if not, on the following legal day at the same hour, or any other day and hour that may be appointed by the said competent authorities.

All applications for the confirmation of a certificate, made from the first of February to the fifth of March, shall be taken into consideration on the twentieth day of the same month of March, at two o'clock of the afternoon, if the day be legal; if not, on the following legal day at the same hour, and any other day and hour that the said competent authorities may appoint.

In every electoral district, where no hotel or restaurant is yet established, the ^{in the case of} two-thirds of the municipal electors, residing or having their place of business therein, may by a petition addressed to the competent authorities, declare that they oppose the granting of any such license in the said district.

*X majority
in each
electoral
district*

In this case, the competent authorities shall not confirm any certificate for such district, so long as the same proportion of the said municipal electors, shall not have demanded, in the same manner, that this prohibition be cancelled.

Notice of such prohibition or of its rescision, shall be given by the competent authorities, at the costs of the applicant and during the space of a month, in the *Official Gazette*, and in two newspapers published in the locality, one of which being in French, the other in English.

It shall be the right and privilege of ten or more municipal electors qualified to sign the certificate, to object by petition to the confirmation of such certificate, provided the said petition be produced before the clerk of the peace, previous to the day appointed for the taking into consideration of the application for confirmation of such certificate. The objections by them made to the granting of this confirmation, shall be one or several of the following :

1. That the petitioner bears a bad character, that during the last five years, he has been condemned for felony, or for obtaining money under false pretences; that a license in his favor has already been annulled, that he has been twice convicted for having sold intoxicating liquors without license in the course of the two previous years.

2. That the establishment to which the certificate applies, is in bad order, and that it does not afford proper lodging room or the necessary requisites to be carried on.

3. That the establishment is not necessary in that locality, or that it is but one hundred yards or less distant of a place of public worship, of an hospital, of a school or any other place frequented by young men. In the last mentioned cases the opposition shall moreover be signed by the directors or patrons of these institutions, or by one of them.

The same opposition may be made to the continuation of a certificate previously obtained, under the authority of the present act, for one or the other of the following reasons :

1. That the petitioner bears a bad character as hotel-keeper, that he has been convicted of felony, perjury, or

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of obtaining money under false pretences, since this first certificate was granted, and during the five preceding years ;

2. That the establishment has, since the granting of the licence, fallen in bad order, and no longer affords proper lodging room or the necessary requisites to be carried on ;

3. That the petitioner, his licence once obtained, has neglected or refused to receive, lodge and provide food for travellers, if it refer to an hotel, or to provide food, if it refer to a restaurant, without serious reasons.

If there be or not opposition, the competent authorities shall always have the right to ascertain, by such means as they may deem fit and proper, the qualification of the applicant as also the condition of the establishment, and to refuse the confirmation or the continuation of the certificate, for any of the above mentioned reasons.

The said authorities may, to that end, take into consideration all documents, hear or cause to be heard by some competent person, all persons whom, from the personal knowledge of the said authorities, or, on the indication of the objecting parties, or of others, they believe to be able to give information, and generally to resort to any other source of information.

When the competent authorities wish to obtain information from officers or members of the Quebec or Montreal police force respectively, they may, through the medium of the chief of police, order those functionaries to appear before them and to make all such inquiries as may be deemed necessary.

Any opposition to an application for the confirmation or the continuation of a certificate, shall be decided, in the city of Montreal, by the two judges of the sessions and the recorder, or the majority of them, and in the city of Quebec, by the judge of the sessions and the recorder.

In the case when an applicant for the confirmation of a licence certificate should, for want of necessary formalities or other causes, withdraw his demand, after an

opposition has been produced, the same opposition may serve against any new demand made before the following first of May for the same establishment, by the same individual or by any other person acting in his interest.

The same opposi-
tion shall
be given against
any subsequent
application.

The granting of the confirmation of the certificate, or the refusal thereof, for any cause herebefore mentioned, rests exclusively with the competent authorities, and their decision is final and without appeal.

In the case when any opposition is produced, the clerk of the peace shall appoint a day for the hearing thereof as soon as possible, after the day appointed for the taking into consideration of the demand for confirmation of the certificates.

A notice of at least three days, to this effect, shall by him be given to the petitioner and to the attorney for the opponents, if they appear by attorney, if not, in this latter case, to the person who has produced the opposition.

If the competent authorities cannot hear the opposition on the day appointed, or if it become necessary to adjourn the hearing until another day, they may do so.

signature to
be given
party & certificate

The municipal electors qualified to sign such certificate, or object to the confirmation thereof, are those whose names are inscribed on the list of municipal voters, in force previous to the first of January of each year, and who have their residence or place of business in the electoral district, where is situated the establishment for which the license is solicited.

The clerk of the peace shall, each year, procure a copy, certified by the city clerk, of such list of municipal electors, which list shall form *prima facie* proof.

The signatures, whether on the certificate or on any opposition, shall not be taken before the first of January, when the confirmation of the certificate is demanded for a license which comes in force on the following first of May only.

The authenticity of the signatures, as also the apparent qualification of the signers, whether on the cer-

tificate or on any opposition, shall be confirmed, under oath, by a person worthy of credit, and shall then be admitted as proved, until the contrary be established.

In the case when the authenticity of the signatures and the qualification of the signers should be contested, the persons making such contestations, shall make special mention of each of the signatures and qualifications they intend contesting, and allege, under oath, that they are acting in good faith, and that they believe their contestation to be well founded.

The competent authorities shall deliver judgment upon all petitions, as also on all oppositions that may be made, according to such proof as may appear to them sufficient, such proof being strictly legal or not.

The petitioner, the opponents and the witnesses, may be heard under oath.

No license shall be granted by the collector of provincial revenue, to a new petitioner unless there be deposited in his hands a certificate, signed by the competent authorities, attesting the granting of said confirmation, nor to any person previously licensed, unless he produces the declaration mentioned in the section.

The clerk of the peace shall prepare a list of the certificates, which the said authorities have confirmed and which are then in force, and keep it posted up in the police court or in his office.

§ 2.—*Other provisions applicable to all licenses for hotels and restaurants.*

On each confirmation and continuation of a certificate, for the purpose of obtaining a license for the cities of Quebec and Montreal, the sum of eight dollars is paid to the corporation of each of those cities, and a sum not exceeding twenty dollars may be demanded by other corporations for the same object, within the limits of their jurisdiction.

The preceding provision does not deprive incorporated cities and towns of the rights which they may have by their charters or by-laws.

Before obtaining his license, the applicant shall moreover furnish two solvent securities, who bind themselves to pay, to the amount of five hundred dollars each, to the provincial treasurer, all the fines and penalties to which the petitioner might be condemned, for contravention to the present act, during the period his license is in force, and which he would neglect or refuse to pay.

These amounts may be recovered, in the name of the collector of provincial revenue, who has granted the license, in the same manner, as any other fine imposed in virtue of the present act.

The bail-bond is drawn according to the form indicated in schedule G, annexed to the present act.

It must be executed in the presence of the collector of provincial revenue for the district, or in the presence of one or more of the members of the municipal council, or justices of the peace, who confirmed the certificate, and the solvability of the securities is left to their approbation.

The bail-bonds as also the certificates, are deposited in the office of the collector of provincial revenue, who shall not issue the license, until it be established to his satisfaction, that the sums mentioned in article of the present act, have been paid.

TRANSFER OF LICENSES.

If the licensee die before the expiration of the year for which the license has been granted, or fails, sells, or gives up his business, or removes from the place of business to which the license applies, he himself, his legal representatives, or those having claims, according to the case, may exercise all his rights in the house therein indicated, or (if such house be situated within the organized territory of the Province) in any other building, situated within the limits of the territory over which, the competent authorities having granted the license, have jurisdiction, provided that the approval of the said competent authorities has been previously obtained, that all the usual formalities required for obtaining a new certificate be fulfilled, and that there be no creditable opposition, as heretofore mentioned.

This transfer shall be so made within the three months following the death of the licensee, his giving up of the license or his abandonment of his house, failing which the license is of no avail.

Except in the case of death of the licensee and that hereinafter mentioned, the transfer of a license shall be made, and no demand of a authorization to do so, shall be received until after the expiration of three months from the date on which the license shall have been issued by the collector of provincial revenue.

When a person licensed for the sale of intoxicating liquors shall have been legally evicted from the establishment to which the license applies, or shall have ceased occupying the same, or shall have been declared unworthy for contravention to the law, and that, for those reasons, the proprietor shall be liable to lose his rent, the said competent authorities, on the demand that shall be made in writing by the said proprietor, may, without further formality, and after having ascertained that he had no knowledge of the action of his tenant and that he had not given his assent thereto, that, in other respects, he offers the required guarantees of respectability and that he has committed no contravention or offense that renders him unworthy or incapable, authorize such proprietor or his agent, or any other qualified person whom he may present, to continue the business of the establishment until the end of the year, in the same manner as if this license had been formally transferred.

At the end of the year, the carrying on of such establishment shall not however be continued, until after the fulfilment of all the formalities required in the case of a new petitioner.

An additional fee of fifteen dollars shall be paid for each transfer of license or permission herebefore mentioned.

No municipal councillor, being, at the same time, a brewer, distiller, or dealer in intoxicating liquors, shall sign the certificate mentioned in article of this title, under a penalty of twenty dollars for each contravention.

No person shall, knowingly, sign such certificate,

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unless duly qualified to do so, under a like penalty of twenty dollars for each contravention.

To obtain a license for an hotel, in a non-organized territory, it is only necessary to give previously, in the presence of the collector of provincial revenue, the security required by the articles and

The application for the said licenses must however be first submitted to the provincial treasurer, and are subject to his approval.

No license for the sale of intoxicating liquors, except for wholesale liquor shops, shall be granted to a grocer, or any person carrying on any business whatsoever, in the same establishment.

§ 3.—*Restaurant licenses.*

The conditions and formalities imposed, relative to the certificates required to obtain a license for an hotel, apply, *mutatis mutandis*, to restaurant licenses, including the provisions established for the cities of Montreal and Quebec.

§ 4.—*Burette and temperance hotel licenses.*

Burette and temperance hotel licenses are granted simply upon payment to the proper collector of provincial revenue of the required duties and fees.

§ 5.—*Liquor shop licenses.*

The conditions and formalities, imposed relative to the certificates required to obtain a license for an hotel or a restaurant are, in like manner, applicable, *mutatis mutandis*, to the obtaining of a license for retail liquor shops, except that instead of the signatures of twenty-five municipal electors, or the majority of the said electors when they are less than fifty in number, the signatures of three upon the certificate are sufficient.

Any person who shall have been once licensed, in virtue of the last section, shall have a right to the renewal of his license, on simply presenting to the inspector of provincial revenue, a declaration on the part of the competent authorities, that his certificate, already confirmed

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is still in force, provided that he otherwise conform to the other conditions of the law, as to the duties stipulated, and has not rendered himself unworthy.

Wholesale liquor shop licences are granted simply upon payment to the proper collector of provincial revenue of the required duties and fees.

No certificate is required to obtain a license for a retail liquor shop, in a non-organized territory, but the application for such license is subject to the approval of the provincial treasurer.

The provisions which apply to wholesale liquor stores, shall apply, *mutatis mutandis*, to bottlers, in so far as relates to the obtaining of licenses (except the amount to be paid therefor) and the penalties for contravention the present action.

§ 6.—*Licenses of railway buffets and taverns at the mines.*

Upon a petition presented by any railway company, the Lieutenant-Governor in council may authorize the collector of provincial revenue, to deliver to the person indicated a license to sell intoxicating liquors, at the railway station therein mentioned, to travellers upon such railway, but to none others.

With the exception of the provisions contained in the present act from articles to , and also the provisions hereinafter mentioned, relative to the accommodation which must be provided for travellers, by the master of an hotel, to the prohibition to sell intoxicating liquors, to keeping the bar closed during certain days and certain hours, and also to the obligation receiving and accommodating travellers, the other provisions of the present act shall apply, *mutatis mutandis*, to licenses of railway buffets, in so far as they are not incompatible with such licenses.

One person only shall be licensed for each station.

§ 7.—*General restriction.*

Whenever a municipal by-law shall have been passed and confirmed according to the law, prohibiting the

sale of intoxicating liquors within the limits of its jurisdiction, and a copy of such by-law shall have been transmitted to the collector of revenue of the district, the collector of provincial revenue is forbidden to issue any of the licenses herebefore mentioned for the sale of such liquors, excepting *buvette* licenses and licenses of railway buffets, such licenses not being affected by the present restriction.

Notwithstanding the quashing by judgment of a court of justice, of such a by-law, the collector of provincial revenue shall not grant any of such licenses, within two months from the rendering of such judgment, unless such judgment be final.

In municipalities where there exists a by-law prohibiting the sale of intoxicating liquors, or where there is no person licensed to retail spirituous liquors, the sale of such liquors is permitted to a person licensed for that purpose, as provided in article hereinafter, for medicinal purposes only, or for use in divine worship, on the certificate of a physician or clergyman, residing in the municipality, and not otherwise.

Such certificate can be given by a resident physician, only to a patient under his immediate care, or by a clergyman, only to a person whose spiritual adviser he is, *bona-fide*, under penalty of a fine of twenty to fifty dollars, for each contravention.

In any case, not more than one imperial pint, shall, at any one time, be sold in virtue of the said certificate, and no liquor, so sold, shall be allowed to be drunk on the premises, under a penalty of twenty to fifty dollars for each contravention.

The permission to sell intoxicating liquor, in the case mentioned in article , is confined to a single person in each municipality; such person to be appointed for that purpose by a resolution of the municipal council, a certified copy of which must be deposited with the collector of provincial revenue of the district, who, on receipt thereof, and upon receipt of the license duties as hereinafter provided, shall issue in favor of the person named in such resolution a license to sell intoxicating liquors for medicinal purpose, or for use in divine worship only.

The person who has obtained such a license, is bound to make a report, sworn to before a justice of the peace on the first of every month, to the collector of provincial revenue, showing the names of the persons to whom he has sold liquor during the previous month, the quantity sold in each case, and upon whose certificate the sale was made, which certificate shall accompany the report.

SECTION SECOND.

OTHER LICENSES.

§ 1.—*Auctioneers' Licenses.*

Previous to the issue of any auctioneer's licenses every individual desirous of obtaining one must become personally bound towards the provincial treasurer, with two sufficient sureties taken before the collector of provincial revenue, or before some person by him thereto authorized, in an amount of which the maximum is two thousand dollars and the minimum five hundred dollars for each, in the discretion of such collector, to guarantee the payment of all moneys for duties, which the applicant for license shall or ought to receive, and for the faithful execution of the obligations imposed upon him by this chapter.

Such security bond shall be in duplicate, whereof one duplicate shall be transmitted to the treasurer, and the other whereof shall be retained in the archives of the revenue office. Each surety shall justify on oath his sufficiency before the officer receiving such bond.

§ 2.—*Pawnbrokers' Licenses.*

The issue of a pawnbroker's license by a collector of provincial revenue requires no other formality than the payment of the duty; and persons carrying on the business of pawnbroking in co-partnership, in one and the same house, shop or place of business, require but one license.

§ 3.—*Pedlars Licenses.*

Every pedlar is obliged to take out a license from the

proper collector of provincial revenue, without the observance of any other formality than the payment of the duty, but the necessity of obtaining such license has not the effect of preventing a licensed pedlar from employing a servant to assist him in carrying about his bales of goods or merchandize, without being obliged to take out a second license for such servant.

No enactment of this act obliges a pedlar to take out a license, nor does it apply to persons employed by a temperance society, nor by a benevolent or religious society in this province, for the purpose of peddling and selling temperance tracts and other moral and religious publications under the direction of such society.

No person is obliged to take out a license to peddle and sell :

1. Acts of legislature ;
2. Prayer books and catechisms ;
3. Proclamations, gazettes, almanacs or other documents printed and published by authority ;
4. Fish, fruit and victuals ;
5. Goods, wares and manufactures, when they are peddled, and sold by the actual maker or worker, he being a British subject and a resident of this Province, or by his children, apprentices, agents or servants, excepting always drugs, medicines and patent remedies.

Nor does this act compel the following persons to take a pedlar's license ;

6. Tinkers, coopers, glaziers, harness repairers, or other persons carrying on the trade of repairing kettles, casks, household furniture and utensils, to go along the highway and carry on their business ;
7. Nor hucksters, nor persons having stalls or stands on markets, in cities or towns, for the sale of fish, fruit or victuals, or goods, wares, and merchandise, in such stalls or stands, on their complying with the police regulations of the locality.

§ 4.—*Ferry Licenses.*

Except between the city of Montreal and the town of Longueuil, between the said city and Laprairie, and between Lachine and Caughnawaga, and the places and limits indicated in the license by the collectors of provincial revenue, no license is required to carry on the voca-

tion of ferryman between the banks of the river St. Lawrence.

No provision of this act applies to the proprietors or masters of any vessels, plying between two ports of this province, or regularly entered or cleared by the officers of Her Majesty's Customs at any such ports, or in any way affects any privilege granted by the legislature of the late Province of Lower Canada, of the late Province of Canada, or of this Province, to the proprietors of any bridge, or to any railway company, or other road company.

No license for a ferry can be granted for a period exceeding twelve months unless it be by public competition, and to persons who give the security required by the Lieutenant Governor in Council, after notice inserted at least four times, in the course of four weeks, in the *Official Gazette*, and in one or more newspapers published in the district in which such ferry is situate, and if there be no newspaper published in the district, then in the nearest adjoining district in which a newspaper is published; and no ferry is leased and no license is granted in that respect for a period exceeding ten years.

§ 5.—*Billiard Table Licenses.*

To obtain a license to keep a billiard table for gain, the applicant must furnish personal security with two sufficient securities, who, as well as the applicant, bind themselves jointly and severally, towards the provincial treasurer in the sum of two hundred dollars each, as security that the license will not knowingly allow, during the term of his license, any apprentice, schoolboy or servant, to play on on any billiard table kept by him, or any person whomsoever to play thereon for money.

The surety bond must be taken in duplicate, one duplicate to be transmitted to the treasurer, and the other to be kept in the office of the collector of provincial revenue.

§ 6.—*Powder Magazine Licenses.*

Every person keeping a magazine for the storage of powder, or who sells and holds for sale any quantity of

powder, must obtain from the collector of provincial revenue a license to that effect.

No license can be granted for keeping a powder magazine within a radius of five miles of the cities of Montreal and Quebec, nor unless the building be erected according to the following rules :

1. Every magazine shall be built of stone at least two feet in thickness, covered with a fire proof roof made of metal, and adhering to the building by its own weight only ;

2. It shall be enclosed, at a distance of at least ten feet clear, by a stone or brick wall at least ten feet high, with a stone coping, having a single opening, of which the door shall be covered with brass, copper or zinc, and shall be so placed as not to open on any public highway, or on the side on which is the door of the magazine ;

3. In the construction of the magazine, or in the surrounding wall, only stone, brick, copper, brass, wood, glass, tin, slate, zinc or leather can be used ;

4. It must have but one entrance, to which two doors shall be placed with copper fastenings—one inside and one outside the wall ; both made of brass, copper or zinc, or covered with the same material ;

5. The floors shall be tongued and grooved and close-jointed, and each part thereof on which any person might walk, or place his foot, shall be covered with leather ;

6. It shall be provided with two lightning rods, to be approved of by the collector of provincial revenue.

Any powder magazine may, with the consent of the Lieutenant-Governor in council, be constructed in a different manner.

§ 7.—*Circus Licenses.*

Any person opening a circus or exhibiting a menagerie shall first obtain a license therefor from the collector of provincial revenue.

Such license shall specify the number of days for which the duties have been paid, and ceases with the last of these days.

One license suffices for the opening and exhibition, at the same place, of a circus and of a menagerie, if they form the same troupe.

SECTION THIRD.

DUTIES AND FEES PAYABLE ON ALL LICENSES.

In addition to a fee of one dollar on the granting of each license, the duties, comprised in the following tariff, shall be payable by the applicant therefor, to the collector of provincial revenue preliminary to the granting of the different licenses, mentioned in the present act.

TARIFF OF DUTIES PAYABLE FOR LICENSES
UNDER THE PRESENT LAW.

§ 1.—*Licenses for the sale of Intoxicating Liquors.*

1. On each license to sell intoxicating liquor in an hotel, a restaurant, or a railway buffet :
 - a. In the city of Montreal :
 1. For hotels containing more than thirty beds, one thousand dollars.
 2. For the other hotels, as also for all restaurants and buffets, five hundred dollars.
 - b. In the city of Quebec :
 1. For hotels containing more than thirty beds, eight hundred dollars.
 2. For the other hotels, as also for all restaurants and buffets, four hundred dollars.
 - c. In every other city, two hundred dollars.
 - d. In every incorporated town, one hundred and fifty dollars.
 - e. In every village, regulated under the authority of the Municipal Code, one hundred dollars.
 - f. In every section of organized territory outside of any city, town or village, seventy-five dollars.
 - g. In every non-organized territory, fifty dollars.
2. On each license for the sale of intoxicating liquors in a club :
 - a. In the city of Montreal, eighty dollars.
 - b. In the city of Quebec, fifty dollars.
 - c. In every other part of the Province, forty dollars.
3. On each license for a *buvette*, for the sale therein of intoxicating liquors, two hundred dollars.
4. On each license for the sale of intoxicating liquors at the mines, or in any mining division or district, such sum as the lieutenant-governor in council may determine,

provided that, in no case, shall such sum be less than seventy-five dollars.

5. On each retail liquor shop license :

- a. In each of the cities of Montreal and Quebec, two hundred dollars.
- b. In every other city, one hundred dollars.
- c. In every incorporated town, seventy-five dollars.
- d. In every other part of organized territory, fifty dollars.
- e. In every non-organized territory, twenty-five dollars.

6. On each wholesale liquor shop license :

- a. In each of the cities of Montreal and Quebec, two hundred and fifty dollars.
- b. In every other city, one hundred and twenty dollars.
- c. In every incorporated town, one hundred dollars.
- d. In every other part of organized territory, seventy-five dollars.

7. On each license for the sale of fermented liquors, bottled by the holder of such license :

- a. In the cities of Montreal and Quebec, seventy-five dollars.
- b. In any other part of the Province, fifty dollars.

8. In special cases, such as meals, bazaars, etc., on payments of the sum of ten dollars for each day, the collector of provincial revenue may, at his own option, authorize proper parties to sell intoxicating liquors, on unlicensed grounds.

9. On each license to sell liquors, for medicinal purposes or for use in divine worship, in municipalities in which a prohibitory by law is in force :

- a. In every city, twenty dollars ;
- b. In every incorporated town, ten dollars ;
- c. In every village two dollars ;
- d. In every part of organized territory, outside of a city, town, or village, one dollar.

Special licenses for the sale of wine, apple cider, and beer.

On each special license to sell wine, apple cider, and beer, in the city of Montreal only, three hundred dollars.

Licenses for temperance hotels.

10. On each license to keep a temperance hotel, five dollars.

§ 2.—*Auctioneers' Licenses.*

11. On each auctioneer's license :
- a. In each of the cities of Montreal and Quebec, eighty five dollars ;
 - b. In all other cities and towns, sixty dollars ;
 - c. In every other part of the Province, twenty five dollars.

12. On all separate licenses, taken out by an auctioneer, for the employment of an assistant agent, servant or partner, as crier :

- a. In each of the cities of Montreal and Quebec, thirty five dollars ;
- b. In all other cities and towns, twenty five dollars ;
- c. In every other part of the Province, fifteen dollars.

§ 3.—*Pawnbrokers' Licenses*

13. On each pawnbroker's license, one hundred and twenty five dollars.

§ 4.—*Pedlars' Licenses.*

14. On each license for a pedlar, for one judicial district, twenty dollars, and, for each additional judicial district, ten dollars.

§ 5.—*Ferry Licenses.*

15. For each license for a ferry, such sum as may be fixed by the Lieutenant Governor in Council under sections

§ 6.—*Billiard table Licenses.*

16. For billiard table licenses, other than for those in a club :

- a. In incorporated cities and towns ;
 1. For each table, where not more than two tables are kept by the same person, and in the same building, forty dollars ;
 2. When there are more than two,—for the third and fourth tables, twenty dollars each ;
 3. For the fifth and sixth tables, fifteen dollars each ;

- 4. And for each table beyond six, ten dollars ;
- b. And, in every other part of organized territory, twenty dollars for each table.
- 17. On each license for a billiard table in a club :
 - a. In the city of Montreal, twenty dollars ;
 - b. In the city of Quebec, fifteen dollars ;
 - c. In every other part of the Province, ten dollars.
- 18. For each bagatelle, pigeonhole, or mississippi board :
 - In every part of organized territory, fifteen dollars.

§ 7.—*Powder magazine Licenses.*

- 19. For each license to keep or use a powder magazine fifty dollars.
- 20. For each license for the sale of powder or to keep it on sale :
 - a. In the cities of Montreal and Quebec ;
 - 1. By wholesale and retail, twenty dollars ;
 - 2. By retail only, eight dollars ;
 - b. In every other city ;
 - 1. By wholesale and retail, ten dollars ;
 - 2. By retail only, five dollars ;
 - c. In every incorporated town ;
 - 1. By wholesale and retail, five dollars ;
 - 2. By retail only, two dollars and fifty cents ;
 - d. In any other organized part of the Province ;
 - 1. By wholesale and retail, two dollars and fifty cents ;
 - 2. By retail only, one dollar.

A quantity of twenty five pounds or more, or a dozen canisters, of one pound each, sold at any one time, is deemed to be sold wholesale, and a less quantity than that, hereinabove mentioned, is deemed to be a sale by retail.

§ 8.—*Circus and menagerie Licenses.*

- 21. For each license to open and exhibit a circus or equestrian representation, menagerie, or caravan of wild animals ;
 - a. In the cities of Montreal and Quebec, and within a radius of three miles of each of these cities, two hundred dollars, for each day of the representation or exhibition of the same ;—and for every side-show, twenty dollars for each day ;

b. In other parts of the Province, one hundred dollars for each day;—and for every side-show, ten dollars for each day.

§ 9.—*Powers of the Lieutenant Governor as to the reduction of the duties on licenses, and other provisions.*

The Lieutenant Governor in council may, by regulation, when and so often as he deems it expedient, reduce the rate of duty on licenses, as mentioned in article of the present act, provided that this rate be not below the rate imposed by the fifth section of the Imperial Act fourteenth George III, chapter eighty-eight.

The lieutenant governor in council may, upon the recommendation of the permanent exhibition committee appointed by the council of agriculture and the council of arts and manufactures, grant licenses, at reduced rates, to sell intoxicating liquors, on the grounds set apart for exhibition purposes, to have effect only during the provincial exhibition.

The duties imposed by this act on licenses for hotels, restaurants, *burettes*, buffets or liquor shops, include those imposed by the said imperial act; but, should the same be hereafter repealed, such repeal shall not have the effect of reducing the amount of such duties.

No other licenses than those issued under the present act are necessary to be obtained, by any person, for the same objects, from any corporation or municipal bodies.

The obligation to take out a license for the sale of intoxicating liquors, and for billiard tables, applies to all places where such liquors are sold and where billiard tables are kept, notwithstanding that such places and tables are used by a club or association of any kind.

§ 10.—*Duties of collectors of provincial revenue as regards the issuing of Licenses.*

Excepting the restrictions and exceptions hereinabove imposed, it is the duty of each collector of provincial revenue, on proof being furnished to him of the fulfilment of all the formalities, on payment being made to him of

the requisite duties for the issue of the licenses hereinabove mentioned, and on application being made to him, to issue, within the limits of his jurisdiction, each of the above licenses

The same rule applies to the officer named for the issuing of licenses for tavern at the mines.

SECTION FOURTH.

PENALTIES.

§ 1.—*Penalties for infractions of this act by illicit sale of intoxicating liquors and certain fraudulent practices.*

Any one who keeps, without a license, to that effect, still in force, as hereinabove prescribed, an hotel, restaurant, *buvette*, buffet, or liquor shop for the sale, by wholesale or retail of intoxicating liquors, is liable to a fine of fifty dollars for each day that the contravention lasts, or sells, in any quantity whatsoever, intoxicating liquors, in any part whatsoever of this Province, municipally organized, is liable for the first contravention, to a fine of one hundred and fifty dollars, if such contravention take place in the city of Montreal, and one hundred dollars if it has been committed in any other part of the organized territory; and, if the contravention take place in a non-organized territory, the penalty is fifty dollars.

Any one who keeps, without a license still in force to that effect, a temperance hotel, is liable, for each day of contravention, to a fine of twenty dollars.

Any person, thus convicted, who shall become guilty of a second offence, within the two years following the date of the first conviction, is liable to a fine double to that above mentioned; and on being convicted for a third and all subsequent offences, within the same period, shall be condemned to imprisonment in the common jail, for a term of three to six months.

If, on a prosecution for a second offence, the first conviction should not be proved, the tribunal may all the same condemn the defendant, if the proof be sufficient, and impose the penalty determined for a first offence; likewise on prosecution for a third, or all subsequent offences, the tribunal may impose the penalty, determined by the law for a second or a first offence, according to the

case, instead of imprisonment, if the prosecution does not prove the first or second, or the two previous convictions, although the thing be not asked.

Any trader, not licensed for the sale of intoxicating liquors, shall not keep any intoxicating liquors, within his place of business or its dependencies without being authorized thereto, as hereinafter mentioned, under penalty of confiscation of the said liquors and of the vessels containing the same, and of a fine of twenty to fifty dollars for each offence. Nevertheless, the collector of revenue may, in special cases, allow that a limited quantity of liquors be kept, provided that in all cases, it is not to be sold there. This permission may be withdrawn by the collector of revenue, at his discretion, after a written notice of fifteen days. This delay expired, the said trader shall not be allowed to have any liquor within his establishment and premises, under the penalties hereabove determined.

§ 2.—*Penalties for selling liquor without license in a mining division.*

Whosoever sells or barter any intoxicating liquors, within a radius of nine miles from any mine that is being worked in a mining division, without having first obtained a license for that purpose from the inspector of the division, under the law, is liable to a fine, not exceeding one hundred dollars and costs, (or in default of payment, to imprisonment for a period not exceeding two months,) in addition to the forfeiture of such intoxicating liquors, found in his possession.

Whosoever, by himself, or his clerk, his servant or agent, exposes or keeps for sale, directly or indirectly, under whatever pretext, or by any device, sells or barter for any consideration whatsoever, or gives to any other person any intoxicating liquor, incurs the penalties mentioned in the preceding article.

Whosoever, in the employment or on the premises of another, thus exposes or keeps for sale, or sells or barter or gives intoxicating liquor, in violation of the two preceding articles, is deemed to be equally guilty with his principal and incurs the same penalty.

The delivery of intoxicating liquor in or from any building, booth, or place, other than a private dwelling house or its dependencies, or in or from any dwelling house or its dependencies, if any part thereof be used as an hotel, restaurant, grocery shop, or other place of common resort,—such delivery, in either case, being to any one not *bona fide* a resident therein, is *prima facie* deemed sufficient evidence of a sale and barter of intoxicating liquor, in violation of the said mining act, and is punishable in consequence.

Any delivery of intoxicating liquor in or from a private dwelling house, or its dependencies, or in or from any other building or place whatever to any one, whether resident therein or not, with payment or promise of payment, either express or implied, before, on or after such delivery is *prima facie* deemed sufficient evidence of a sale and barter of intoxicating liquor in violation of the said act, and is punishable in consequence.

OTHER PENAL PROVISIONS.

Any one holding a retail liquor shop license, and who sells in such shop, or in any place whatsoever, within the limits of this Province, any intoxicating liquors in quantity less than one imperial pint, at one and the same time, or holding only a wholesale liquor shop license, sells in such shop or within the above mentioned limits, any of said liquors, in quantity less than two imperial gallons, or one dozen bottles, containing not less than one imperial pint each, at one and the same time, becomes liable to a fine of twenty to fifty dollars for each contravention.

The same fine is applicable to the case of a person holding a license, who sells, in any quantity whatsoever, intoxicating liquors, outside of the place and its dependencies, for which the license has been obtained.

The purchaser of intoxicating liquors, in a licensed shop, is forbidden to drink, or cause any one to drink, or to allow the said liquors to be drunk, in the shop where such liquors have been purchased, under a fine of twenty to fifty dollars for each contravention.

Every licensee to keep a temperance hotel, who allows intoxicating liquors to be drunk in his house or depen-

dependencies, incurs a fine of twenty to fifty dollars for each contravention.

Every proprietor or master of a steamboat or vessel, holding a license under the present act, who allows the *burette* thereof to remain open, or who sells or allows intoxicating liquors to be sold on board, during the time that such steamboat or vessel is staying in a port, or at a wharf, or at any place of disembarkation, is liable to a fine of twenty to fifty dollars.

Any person, not being the holder of a license, who exhibits, causes to be exhibited, or allows the exhibition, in or on any part of his house or its dependencies or of his vehicles, of any sign, inscription, painting, or any other sign whatsoever, of a nature to induce the belief that the sale of intoxicating liquors is authorized therein, and that he is the holder of a license to that effect, is liable to a fine of twenty to fifty dollars for each contravention.

The same penalty is incurred by any licensee, who, by any of the means mentioned in this article, seeks to induce the belief that he holds a different license from that which has been granted to him.

Any one not being a licensee as hereinbefore mentioned and not being a trader, who keeps or allows to be kept within his house or dependencies, in storage or otherwise, any intoxicating liquor, for the purpose of making a sale thereof, shall be liable to a fine of twenty to fifty dollars.

The proof of facts anterior to, or foreign to the cause establishing the suspicion that such intoxicating liquors are kept, for the purpose of being sold, may be made before the tribunal hearing the case.

The judgment inflicting such fine, shall order the confiscation of the said liquors and the vessels containing same.

The collector of provincial revenue shall have the liquors and vessels confiscated either under this article, or any other authorizing the same confiscation, sold by private sale or by auction, according to the instructions which are given him by the provincial treasurer, and the

collector of provincial revenue shall retain one-third of the price realized, and remit the remaining two-thirds to the provincial treasurer.

§ 2.—*Obligations imposed upon licensees and penalties for contraventions.*

Each inn and temperance hotel, situated in a village, or in the country parts, shall, in addition to the lodging apartments of the family, contain at least three bedrooms, having each a good bed, for the use of travellers.

The master of every hotel, or temperance hotel, shall keep in an out-house, adjacent to the main building, stalls for at least four horses, and shall always be provided with eatables and provisions for travellers, and hay and grain for their horses.

Every hotel or temperance hotel, in a town or city, shall contain a kitchen of sufficient dimensions, all the utensils necessary to prepare meals for at least ten persons, a dining room with a suitable table whereon to lay the cloth, and at least five bedrooms for the use of travellers.

Every restaurant must be suitably furnished to the satisfaction of the authorities confirming the certificate.

The master of every such hotel, temperance hotel or restaurant shall, at all times, on demand of the collector of provincial revenue or his deputy, exhibit his license, which he shall keep constantly exposed to the view of the public, in the bar of his establishment, or in some other place approved of by the collector of provincial revenue.

He shall likewise cause to be printed in legible characters, at least three inches high and broad in proportion, immediately above the outside of the door of his house, his name in full, with the words, in the case of an hotel or restaurant, "Licensed to retail spirituous liquors," or "Licensed to retail intoxicating liquors," and, in the case of a temperance hotel, "Licensed to keep a temperance hotel," under the penalties mentioned in article

If such establishment be situated in the country

parts, the master thereof must moreover expose and keep exposed, during the whole period of his license, a similar inscription (or sign), composed of letters, not less than four inches high, and wide in proportion, on his house or on the top of a post, or several posts, of sufficient height close to his house, to indicate it to travellers, under the penalties mentioned in article

Every botiler shall cause to be painted in legible letters, of at least two inches in height and a proportionate width, on both sides of his vehicle, his name at full length, adding thereto the word : " licensed " under a penalty of twenty to fifty dollars for each contravention.

No gambling is allowed in an establishment thus licensed, under the penalty of twenty to fifty dollars, against the master of this establishment, for each contravention.

Not more than one drinking bar shall be kept therein, under the same penalty, for each day that the contravention lasts.

Intoxicating liquors shall not be sold therein, after eight o'clock at night, under the same penalty, to soldiers, sailors, apprentices or servants, known as such by the master of the house.

No intoxicating or temperance liquor shall be sold in an establishment licensed for an hotel, or restaurant, or tavern at the mines, from midnight until five o'clock in the morning, nor during the whole of any Sunday, unless on a special demand for medicinal purposes, signed by a medical practitioner, or by a justice of the peace, and produced by the purchaser. Any contravention to this article is punishable by a fine of fifty dollars.

The liquors, so sold on special demand, shall not be drunk on the premises.

During the prohibited time, all apartments containing intoxicating liquors shall be kept closed, and no intoxicating or temperance liquor shall be delivered to any person whomsoever, not even gratuitously, in the place of business or dependencies of same licensed person, unless it be to a traveller or *bona fide* boarder, in his room, or

during his meals. Any contravention to this article is punishable by a fine of fifty dollars.

No contravener to the provisions of the preceding article and of section of this act is subject to more than one condemnation for each day of contravention.

Whilst the license for the sale of intoxicating liquors is in force, with the exception of licenses for wholesale liquor shops, no other trade can be carried on within the establishment to which the license applies, under penalty of a fine of fifty to one hundred dollars, for each day of contravention.

No licensee to keep an hotel or temperance hotel can refuse to receive and harbor travellers without just cause.

No licensee to keep a restaurant can receive or harbor travellers.

The husband, wife, father, mother, brother, sister, curator, tutor, or employer of any person who has the habit of drinking intoxicating liquor to excess ;

The manager or person in charge of any asylum, hospital, or other charitable institution, in which such person resides or is kept ;

Or the tutor or curator of any child of such interdicted person ;

May give notice in writing, signed by him or her, to any person licensed to sell intoxicating liquors, not to sell or deliver the same to the person having such habit or to such interdicted person.

If, in the course of one year from the date of such notification, the person thus notified, either personally, or by his clerk, servant or agent, sells or delivers, such liquors otherwise than on a special demand, for medicinal purposes, signed by a medical practitioner, to the person having such habit, or to such interdicted person, the person who has given the notice may, by an action for personal damages (if the same be instituted within six months of the commission of the offence), recover from the person notified the sum of not less than fifty dollars nor more than five hundred dollars, as it shall be adjudged by the court or jury, as damages and interest.

Every married woman may, notwithstanding article 176 of the Civil Code, institute such an action in her own name, without the authorization of her husband. All damages recovered by her are, in such cases, for her sole use.

In the case of death of either of the parties to the suit, provided that the identity of the person, to whom the liquor is sold, be known to the seller at the time of such sale or delivery, the action and the right of action, given by the three preceding articles subsist in favor of or against their legal representatives respectively.

The master of any establishment where intoxicating liquors are sold, and every person employed by him in the establishment, are severally liable to an action of damages, towards the representatives of a person, who shall have become intoxicated in the establishment by means of liquors delivered to him, by the said master or employee, and who, by reason of his drunkenness, shall have committed suicide, or died from some accident occasioned by such intoxication.

This right of action, which lasts but for three months from the date of death, may be joint and several or distinct and separate, against each of the individuals so responsible: and the representatives of the person deceased may recover a sum of not less than one hundred dollars, and not exceeding one thousand dollars, under such action for damages and interest.

If a person in a state of intoxication commit an assault, or damage any property, the person who shall have delivered the liquor causing such intoxication, in contravention of this act, or any other law, is subject, as regards the person injured, to the same civil action of damages as he who committed the assault or damaged the property.

The responsibility is joint and several.

If a licensee to sell intoxicating liquors or to keep a temperance hotel be convicted of felony, of perjury or of obtaining money under false pretences, the tribunal pronouncing the sentence, may, *de proprio motu* revoke the certificate by virtue of which he obtained his license.

When the collector of provincial revenue has been informed of such revocation by the tribunal or by the clerk of the court, he shall notify the licensee of such revocation, and, thereupon, his license becomes null and void.

If the licensee, who has received regular notice of such revocation and annulment of his license, continue to keep the house or shop authorized by such license, and to sell intoxicating liquors therein, he becomes liable to the fines and penalties imposed by the present act on persons who keep such houses or sell such liquors, without a license.

Every payment in money, or in objects having a pecuniary value, for intoxicating liquors, furnished in contravention to the present act, is held to have been made without cause and against law.

The amount thereof may be recovered from the receiver thereof by the party who made such payment, or by his wife without the authorization of her husband, and his father or his tutor, if he be a minor; and all contracts and obligations whatever, in whole or in part, made and entered into, for or by reason of such furnishing of such liquors in violation of the law, are null, saving the rights of third parties.

No action can be maintained for or by reason of the delivery of liquors, furnished in contravention to the present act. This article does not affect the provisions of article 1481 of the Civil Code of Lower Canada.

The proprietor of all establishment licensed for the sale of intoxicating liquors, shall place above the entrance or within twenty feet of that establishment, a lamp which shall remain lighted every night, from sunset to sunrise, during the whole time his license is in force, under penalty of a fine not exceeding five dollars for each contravention.

The competent authorities may nevertheless dispose any such proprietor from conforming to this provision, in the case where they believe the locality where the said establishment is situated, to be sufficiently lighted, or for any other reason they may deem plausible.

Any licensed person, who shall receive in payment for intoxicating liquors given or furnished within or without the licensed establishment, any value other than current coin, or the debtor's check, or that of any other person, on a bank or a banker, shall, for each contravention of that nature, incur a fine of twenty to fifty dollars. The person to whom belongs the value thus given in payment, shall be, in justice, have the right to recover it, in justice, or its worth, without the licensee being able to recover therefor the value of the liquor sold or delivered.

No licensed person, shall receive in advance, whether directly or indirectly, by means of tickets, bonds, or counters given for games at billiards or other games, any payment whether in money or effects for any liquor to be furnished later, under penalty of a fine of twenty to fifty dollars for each contravention.

Any person, licensed for the sale of intoxicating liquors, who shall allow any person to become intoxicated within his establishment, or who shall suffer violent, quarrelsome, noisy or disorderly conduct therein, or who shall sell or deliver up any intoxicating liquor to any intoxicated person, or who shall allow any intoxicated person to drink intoxicating liquors within his establishment, or who shall suffer persons whose reputation is notoriously bad, to habitually assemble within his establishment, shall be subject to a fine of twenty to fifty dollars for each contravention.

In the case where it should be alleged and proved on any prosecution for contravention to the preceding article, that, by reason of the repetition of such contraventions, licensed establishment is a public nuisance, it shall be the duty of the magistrate hearing the case, to put an end to the license to the controvener.

Any licensed person, who shall knowingly receive within his establishment, any policeman, constable, or license inspector in uniform, unless it be in the discharge of his duties, or who shall furnish any of those officials in uniform with any liquor whatsoever, whether gratuitously or by sale, unless authorized to do so by some superior officer of these functionaries, or who shall bribe, or attempt to bribe them, so as to hinder the discharge of their duties, shall be subject to a fine of twenty to fifty dollars.

Any person licensed to sell intoxicating liquors, may refuse to admit within his establishment or may expel therefrom, any person intoxicated or becoming violent, quarrelsome or noisy, as also any person whose presence within his establishment would render him subject to a fine, in virtue of the present act; and any such person, who, after having been requested, conformably to the present section, by the licensee, or his representative, or a license inspector, or by a policeman, or constable, to quit the said establishment, shall refuse or neglect to do so, shall be subject to a fine of twenty to fifty dollars; and every policeman, constable, or license inspector, is obliged at the request of such licensed person, or his representative, to expel or help to expel any such person from this establishment, and may to this end employ the compulsory force required.

Any person who shall make, or use, or allow to be made, or used, any interior communication between an establishment licensed for the sale of intoxicating liquors, (with the exception of wholesale liquor shops,) and another establishment, shall be subject to a fine of twenty to fifty dollars, for each day during which the communication shall remain opened.

It is forbidden to any person licensed to keep an hotel or a restaurant, to furnish, within his establishment or elsewhere, by sale or otherwise, any kind of intoxicating liquor whatsoever to a minor unless it be at meals, or to receive him within his establishment, unless it be to lodge and furnish him with board, under penalty of a fine of twenty to fifty dollars for each contravention. X

Any person not of age who shall enter such establishment, unless he be there as ~~guest~~^{guest}, traveller or boarder, *bona fide*, or who shall therein drink intoxicating liquors, ~~unless it be at meals~~, or who in any other way shall procure the same from the said establishment, shall incur a penalty not exceeding twenty dollars for each contravention. 50 & 75

Every policeman, constable and license inspector specially authorized in writing by the justice of the peace, or any other functionary having the jurisdiction of a justice of the peace, after the above mentioned shall have been convinced by affidavit produced before him,

that there are sufficient reasons therefor, may enter any unlicensed establishment where there is reason to suspect intoxicating liquors are kept for the purpose of being sold, and search therefore, and open with any necessary assistance, and even by force, the cupboards and receptacles wherein he has reason to believe such liquors are stored; if any be discovered, he shall seize and remove such intoxicating liquors, together with the vessels containing them, and place them under the keeping and in the possession of the collector of revenue, until a judgment of the court shall have disposed thereof.

The Lieutenant-Governor in council may appoint a certain number of persons, designated as "License Inspectors," having their residence in Montreal, who shall be sworn in as constables, and who shall wear a special uniform ordered by the Governor in council, whose special duty shall be to have the present law respected and who shall be under the control of the competent authorities. The Lieutenant-Governor in council shall appoint the salary of such license inspectors.

It shall be the duty of those functionaries to prevent or verify the violation of any of the provisions of the present act, and for this purpose, they shall constantly visit all licensed establishments, where they shall have the right to enter at any hour of the day or night, provided they be in uniform. It shall be the duty of the proprietor of the licensed establishment, or of any person in charge thereof, or who is present, to receive the said inspectors, and allow them to visit the said establishment and its dependencies.

If, in making such investigation, the said functionaries verify the violation of any of the provisions of the present act, or have reason to suspect that any of the provisions of the present act have been violated, they may forthwith draw up verbal proceedings, note the name, address and quality of the persons there present, and take the proper measures to ascertain their identity, and summon them as witnesses.

Any person who shall refuse to give his name, quality and address, or who shall give a fictitious name or address, shall incur a penalty of ten dollars.

The collector of revenue shall judge if there be reason or not to institute proceedings, after the report that shall be made by the said officials.

Every policeman, or guardian of the peace, or constable in uniform, shall have the same rights and privileges as the license inspectors, as to visiting such establishment.

Whosoever, being present in the said establishment, its dependencies or its vicinity, whether as proprietor or otherwise, shall refuse to admit one of the said functionaries, seeking admittance in the discharge of his duty; or who shall deliberately prevent, obstruct or delay the admittance of the same, or who, in any way, shall oppose the least obstacle to the discharge of his duties, whether by deed, by threatening, or insulting language, or otherwise, shall be liable to a fine of twenty to fifty dollars.

Any infringement on the part of the proprietor of such establishment, to any provision of articles and following, shall authorize the said competent authorities either to put an end to the license already existing, or to refuse the continuation of the license at the end of the year.

Any second contravention to the present law, during the same year, by a person licensed for the sale of intoxicating liquors, in the case where another penalty is not imposed, is punishable by a fine double that determined for a first offence; and every subsequent offence by a fine of two hundred dollars, and in default of immediate payment of the last-mentioned fine, the controvener shall be condemned to six months' imprisonment, and his license shall be annulled.

Any person who shall violate any one of the provisions of the present act, if no fine be otherwise determined for this violation, shall incur a fine of twenty to fifty dollars.

When it shall be established, under oath, before two justices of the peace or any functionary having the jurisdiction of two justices of the peace, and to their satisfaction, that, by an excessive use of intoxicating liquors, a person lavishes, or wastes or diminishes his property, or does considerable harm to his health, or compromises or

troubles the peace and happiness of his family, those justices of the peace or this functionary shall, under their signature, forbid all person having a license, to sell, or provide with, or give any intoxicating liquor to this person, during the space of a year.

If, after this prohibition has been made, the said person holding a license, gives or sells, intoxicating liquors to this habitual drunkard, or causes to be sold or given, or provides him therewith, his person shall incur a fine of twenty to fifty dollars for each contravention.

Every conviction of second contravention, during the year, to the provisions of sections . . . and every conviction of a third contravention, during the year, to the provisions of sections . . . shall entail the confiscation of the license.

ADULTERATION.

Whosoever shall sell or retail any falsified liquor, containing mixtures injurious to the health, shall be punished by a fine of twenty to fifty dollars.

The falsified liquors found belonging to the seller thereof, shall be seized and confiscated.

The judgment sentence shall be posted up at the door of the establishment or residence of the offender during four weeks at the most.

Any person who shall have destroyed or lacerated the judgment sentence thus posted up, shall be condemned to a fine of fifty dollars, and to the costs of having the bill restored. Any person who shall oppose the posting up of such judgment text, shall be likewise punished.

In order to obtain the analysis of any liquor, it shall be allowed any justice of the peace, upon a denunciation made before him, under oath, that there is reason to believe that such liquor, adulterated or containing injurious ingredients, is kept in a licensed establishment, to authorize the seizure of this liquor, to have the same, or a sample thereof analyzed by some competent person, and to order the confiscation of the total quantity of the liquor analyzed and declared to be adulterated or containing some inju-

rious ingredient, found in the possession or in the establishment of the contravener; and the expenses occasioned, by this analysis and this confiscation shall constitute a part of the costs, the payment of which this justice of the peace shall have the power to impose on any person convicted; and in all proceedings instituted under the authority of the present section, the proof of the fact that the liquor was adulterated, or contained any harmful ingredient, or that a substance, matter or thing of a harmful nature has been found on the premises, shall be a *prima facie* evidence that the person in whose possession it shall be found, has knowingly sold, or offered, or exposed for sale, or had this liquor for sale, or that this substance, matter or thing of a harmful nature was kept for the purpose of adulterating the liquor sold or mixing it therewith; provided always that any person accused of a contravention to the present section, may render testimony in his own favor, for the purpose of proving that, at the moment of the seizure, the liquor was found in the same state as it was when purchased, that it has neither been adulterated nor mixed with any harmful ingredient by himself, or by any other person acting by his order, and that this substance, matter or thing, was not kept for the purpose of adulterating the liquors sold, nor of mixing it therewith.

Any license inspector may, at all times, examine each room and each part of this establishment, and take note of all the liquors found therein, and he may demand, choose and obtain samples of the liquors that may be found in this house or this establishment, which samples shall be sealed by the inspector, in the presence of the licensee or other person to whom the house or the establishment may be confided; and if the licensee or other person should desire it, it shall be done so with the seal of the licensee or of that other person; and, in consideration of payment, or offer of payment for those samples of liquors, the inspector may cause them to be removed for the purpose of analysis or other purposes.

NOTA

When the law will be submitted to the legislature, it will contain here other enactments concerning patentbrokers, auctioneers, pedlars and ferry-men.

§ 9. *Penalties relative to keeping Billiard Tables.*

Any one, who keeps for gain a billiard table, without having a license still in force to that effect, as hereinbefore stated, renders himself liable to a fine of fifty dollars for each table so kept by him.

All sum of money or value paid, furnished or promised, directly or indirectly, by those who play upon such billiard tables, to the keeper of the same, his employees or representatives, for so playing on the same, is considered gain within the meaning of the present act.

Every person, holding a license for a billiard table, shall cause to be painted or engraved upon such table, in visible and legible characters, the number of the license by virtue of which he is authorized to keep such table; and he shall also cause the said license to be exposed, in a prominent and visible manner in the apartment in which such billiard table is placed.

Every such person incurs a fine of fifty dollars for each week during which he contravenes the provisions of the preceding article; all persons likewise, who intentionally remove, deface or conceal any number so painted or engraved, incur a like fine of fifty dollars for each contravention.

It is forbidden any person holding a license for one or more billiard table, to knowingly allow any minor, apprentice, school boy or servant to play thereon, or any person whomsoever to play thereon for money, under penalty of a fine of twenty to fifty dollars for each contravention.

SECTION FIFTH.

HOW AND BEFORE WHAT TRIBUNALS PROSECUTIONS OF SUCH CONTRAVENTIONS SHALL BE BROUGHT.

§ 1.—*General Provisions.*

It is the duty of the collector of provincial revenue, to prosecute at law any contravener to the present act, whenever he has reason to believe that a contravention has been committed, and that such prosecution may be maintained.

Whenever the collector of provincial revenue is called upon to institute a prosecution, he may exact of the person soliciting the institution of such proceedings, the deposit of a reasonable amount to cover costs.

It is also the duty of the collector of provincial revenue to prosecute the contraventions to the present act, whenever he is requested to do so by a municipal corporation, and that such corporation has assumed the responsibility for the costs to be incurred.

In any municipality where a prohibitory by-law is in force, or where the council thereof prohibits the confirmation of certificates to obtain licenses for the sale of intoxicating liquors, it is the duty of the council of such municipality to prosecute all contraventions to the present act, in which case the municipality shall be responsible for all costs, and shall receive the whole amount of fines collected for contraventions to the said act.

The fines and penalties, imposed by the present act or by the regulations made under its authority, and the duties and fees exigible under the same, shall be recovered in the manner and before the tribunals hereinafter indicated.

Every prosecution shall be brought in the judicial district where the contravention has been committed, or in that where the contravening person resides. If the contravention has been committed on board a steamboat or other vessel, the prosecution may be instituted in any judicial district of the Province, and, if the contravention have taken place on the borders of two adjacent districts where it is difficult to determine in which of said districts the offence has been committed, the prosecution may be instituted in either of said districts.

All action or prosecution, where the amount claimed does not exceed two hundred dollars, may be optionally with the prosecutors, brought before the Circuit Court, but without any right of evocation therefrom to the Superior Court, or before two justices of the peace of the judicial district, or before a judge of the sessions of the peace or a recorder, or before a police magistrate or

before a district magistrate, or before any other officer having the powers of two justices of the peace ; but, if the amount claimed exceed two hundred dollars, this action or prosecution shall be brought before the Superior Court.

Nevertheless in the districts of Montreal, and of Quebec, the said prosecutions shall be brought before a judge of the sessions of the peace, or a recorder, whatever be the amount claimed.

In the Superior Court, the service of the summons and of the other proceedings in these prosecutions and actions, is made in the manner provided for suits between lessors and lessees..

The service by a bailiff shall be certified under his oath of office, and that made by a constable shall be proved by means of a return, sworn to before a justice of the peace, in the judicial district, or before the court ; before the other courts the services of proceedings and convictions are made in the same manner, as the service of the summons.

In all prosecutions under the authority of the present act, before the Circuit Court and the Superior Court, the procedure shall be summary, and be the same, *mutandi mutandis*, that prescribed in articles 887 to 889 of the Code of Civil Procedure of Lower Canada.

On all prosecutions instituted before two justices of the peace, a judge of the sessions of the peace, a recorder, a police or district magistrate, the provisions of chapter 178 of the revised statutes of Canada and its amendments shall be followed. Nevertheless, it shall not be required that the complaint or denunciation be upheld by an affidavit when there shall be question of emanating a summons only.

§ 2.—*In whose name prosecutions are instituted, and the procedure thereon.*

The actions or prosecutions for contraventions of the present act are brought, in the name of the collector of provincial revenue for the district in which the offence has been committed.

It is not necessary to allege, in the declaration, information, complaint or summons, negative facts, nor any facts which devolve upon the defendant to prove.

Several cases of contravention committed by the same person, may be cumulated in one and the same declaration, information, complaint or summons, provided that such declaration, information, complaint or summons contain a specific statement of the time and place of each contravention ; and, in such case, the forms indicated by the present law shall be modified, *mutatis mutandis* ; but no further additional fees shall be allowed to the attorneys, than if there had been only one offence.

But if the prosecution be brought before a tribunal, other than the Circuit Court or the Superior Court, the amount of the fine shall never exceed, on the same prosecution, two hundred dollars, notwithstanding the number of offences. This provision does not apply to the district of Montreal, nor to the district of Quebec.

Before every tribunal, except the Superior Court and Circuit Court where the ordinary rules of procedure, in reference to amendments prevail, any declaration, information, complaint or summons may, on application of the prosecutor, to that effect, be amended in substance or in form, without costs.

Upon such amendment, the defendant may obtain a further delay, in which to make his defence and proof.

Any married man living and residing with his wife, when any contravention of this law is committed by her, whether she is a public trader or not, may be prosecuted and convicted, in the same manner, as if he himself had been guilty of the contravention.

In every prosecution, under the present act, before any tribunal other than the Superior Court or Circuit Court, in which courts the ordinary rules of procedure as to the taking of evidence prevail, the tribunal may summon before it, any person represented to it as a material witness therein, without it being necessary to affirm under oath, that this person is an essential witness, or that the opponent has reason to believe that he will not appear without a subpoena to that effect ; and, if such person refuse or neglect to attend on such summons, the

tribunal, if from the circumstances of the case, is of opinion that the witness refuses to appear, that thereby to defeat the ends of justice, may issue a warrant for the arrest of such person; and, thereupon, the witness shall be brought before the tribunal, and if he refuse to be sworn, or to affirm or to answer any question touching the case, he may be committed to the common jail, there to remain, until he consent to be sworn or to affirm, and to answer.

If, in addition to the case mentioned in the preceding article, a person summoned as a witness, to give evidence before a tribunal, touching any of the matters relative to the present act, neglect or refuse to appear at the time and place appointed for that purpose, without reasonable excuse, and in respect of the reasonableness of which excuse, the tribunal charged with the prosecution shall decide, or appearing, refuse to be examined or to give evidence upon oath, shall incur, for such neglect or refusal, a penalty not exceeding forty dollars, even though the prosecution may have terminated, without his having appeared or given evidence.

Upon the demand of either party, the tribunal may, at its discretion, receive and cause to be taken in writing, the depositions of the witnesses then and there present, and postpone the trial to a further day which is appointed for that purpose.

Every person, other than the defendant, summoned or examined as a witness in any prosecution brought under the present act, is bound to answer all questions put to him, which are pertinent to the issue, notwithstanding any declaration on his part, that his answers may disclose facts tending to subject him to any penalty imposed by the present act; but such evidence shall not be used against him in any prosecution.

No defendant shall be examined as a witness, in any prosecution under the present act.

In prosecutions for the sale, without license, of intoxicating liquors, it shall not be necessary to give the precise description of the liquor sold, nor shall it be necessary to state the quantity of liquor sold, except in the case of offences where the quantity is essential to

constitute the offence, and then it shall be sufficient to allege the sale of more or less than such quantity.

The rigorous precision of the date mentioned in the complaint is not necessary in the proof to justify a conviction. It is sufficient to prove that such contravention was committed on or about the time mentioned.

The production of the license constitutes sufficient evidence of the payment of the duty thereon, unless the party prosecuting proves that the duty has not been paid, in which case the license, obtained without such payment, is deemed to be invalid.

In an action or prosecution against a defendant accused of having carried on, without a license, the business of an auctioneer, the following are reputed *prima facie* evidence of the auction sale :

1. The fact of having placed publicly, to be bid upon, any article, merchandize, or property moveable or immoveable, before an assemblage of persons in order to induce them, or any number of them, to purchase the same ;

2. The publishing in any newspaper or hand-bill, of a notice of an auction sale, by defendant ;

3. The exhibiting to view, in, on, or near his house or dependencies, of any sign, printed matter, painting or writing, indicating, or of a nature to indicate, that he is desirous of acting as an auctioneer, or the fact that such have been exhibited with his knowledge or consent.

The proof that a person exhibits, or exposes to view, or permits that there should be exposed to view, in, on, or near a house or its dependencies, belonging to, or occupied by him, any sign, painting, writing, or printed matter, indicating, or tending to indicate that a billiard table is kept in such a house, or its dependencies, is *prima facie* evidence, that such person keeps a billiard table for gain.

The proof that a billiard table is kept in an hotel, temperance hotel, buffet or restaurant is held to establish that such table is thus kept for gain.

§ 3.—*Judgments.*

When a prosecution, instituted under the authority of the present act, has been brought before two justices of the peace, judgment may be pronounced by one of them in the absence of the other, provided that such judgment be reduced to writing, and signed by both justices of the peace.

Whenever a prosecution has been brought before two justices of the peace, and they fail to agree on the judgment to be rendered, either of such justices of the peace may sign a certificate to that effect, and transmit it to the collector of provincial revenue, who, thereupon, may institute a new action for the same contravention.

In default of payment of any fine imposed, and of any sum claimed under the present act, the contravening person condemned to pay the same shall be imprisoned, and detained in the common gaol during the period of three months if it be a first offence, and six months in case of any subsequent offence, unless another period of detention be prescribed.

In the cases mentioned in the two preceding articles, and in all other cases wherein a similar legal provision exists, every judgment or conviction, shall contain a condemnation of the defendant to such imprisonment.

§ 4.—*Provisions respecting costs.*

1. In all prosecutions or actions brought before the Circuit Court, the fees of the clerk of such court, of the attorney and of the bailiff shall be the same as those which are now allowed in the tariff of fees for the class of actions of forty dollars and under, but above twenty-five dollars.

2. In all prosecutions or actions brought before the Superior Court, the fees of the prothonotary of the attorney and of the bailiff, shall be those which are now allowed in the tariff of fees for the class of actions in the Circuit Court of sixty dollars and over, but not exceeding eighty dollars.

3. In all other prosecutions or actions the following fees shall be allowed :

a. To the clerks :

For original summons.....	\$0 20
“ each copy of do	0 10
“ original subpoena.....	0 15
“ each copy of do	0 10
“ original warrant.....	0 30
“ each copy of do	0 10
“ original bail-bond.....	0 30
“ each copy of do	0 10
“ warrant of seizure and sale.....	0 30
“ “ commitment.....	0 30
“ each witness sworn.....	0 10
“ drawing up every deposition.....	0 30
“ minutes of proceedings in each case.....	0 50
“ conviction.....	0 30
“ copy of conviction.....	0 20
“ bill of costs.....	0 20
“ certificate of taxation.....	0 10

b. To the bailiff, peace officer or constable :—

For the service of any summons warrant, subpoena or order and return.....	\$0 30
“ each mile travelled to serve the same (no allow- ance for mileage in returning).....	0 20
“ every arrest, exclusive of mileage.....	1 00
“ seizure and sale under warrant, including publication, but exclusive of mileage.....	1 50
“ seizure only, not followed by sale.....	0 75

c. To the attorney :—

When no witnesses are examined.....	\$5 00
“ witnesses are examined.....	8 00

d. Witnesses shall be allowed one dollar per day, and ten cents for each mile travelled by them to attend the court, when they reside more than five miles from the place where the court is held.

4. In each case, such further and other fees, as are not provided for in the above tariff, shall be allowed the prothonotary, clerk of the Circuit Court, to any other clerk, bailiff, constable or attorney as shall be taxed at the discretion of the court, tribunal or functionary, before whom the prosecution or action is brought or heard; and when

so taxed, such additional fees shall be as legal and valid as if they were specially enumerated in the above lists.

No fee shall be paid for any summons or warrants, issued by a justice of the peace, in conformity with the present act, when the same has reference to goods pawned.

No costs shall be adjudged against the collector of provincial revenue, in any action or prosecution instituted under the present act; but, on the recommendation of the tribunal, or of the collector of provincial revenue, the provincial treasurer may, at his discretion, pay to the person, in favor of whom judgment has been pronounced against the collector or provincial revenue, the costs or indemnity to which he may deem such person equitably entitled.

§ 5.—*Provisions respecting the execution of judgments*

In default of immediate payment of the fine and costs, the prosecutor may, upon the rendering of the judgment or conviction, or at any time during the delay, if any, granted to the defendant, make option whether the defendant shall be first imprisoned for the time mentioned in the judgment or conviction, or shall be first proceeded against by seizure.

In the latter case, the amount of such fine and costs is levied by a warrant of seizure and sale of the moveable effects of the defendant; in default of moveables and effects, or, in case they should be insufficient the defendant shall be imprisoned; but, in either case, he may be discharged from imprisonment, by paying the fine in full, and all costs incurred at the time of the conviction and subsequent costs.

Except, in the case of full payment as aforesaid, no defendant, imprisoned in virtue of any provision of the present act, shall be liberated on the ground of any defect of form in the warrant of commitment, nor without due notice given to the prosecutor, nor shall any partial payment affect or modify the terms of the judgment pronounced against him, in so far as imprisonment is concerned.

Any one knowing or having reason to believe that a commitment has been issued against any person under

the present act, who prevents the arrest of the defendant, or by any act or counsel, or in any other manner whatsoever, procures for the defendant the means of or facilitates his avoiding arrest, is liable of a fine of forty dollars.

The execution of a judgment, rendered in the Superior Court, or in the Circuit Court, may take place on the expiration of the two days, from the date of such judgment.

In the case where *contrainte par corps* is had recourse to in the said Superior or Circuit Court, it is granted by one of the judges of the Superior Court, or by the prothonotary of the said court, or by the clerk of the Circuit Court, on a summary petition, alleging that the defendant has not paid the total fine, or the amount claimed, and the costs of the prosecution.

It is not necessary that the defendant should be notified of the presentation of such petition.

Each term of imprisonment, under the present act, reckoned from the date of incarceration.

If the conviction be for having sold, or allowed to be sold, intoxicating liquors on board of any steamboat or other vessel, without the requisite license, the fine and costs may be equally levied, by seizure and sale of the tackle and furniture of the steamboat or vessel, on board of which such liquors have been sold.

If the conviction be for having kept a billiard table without license, or for any contravention to articles of the present act, the fine and costs may be levied by means of seizure and sale of any billiard table, in possession of the defendant at the time of the rendering the judgment, whether the defendant be or be not the proprietor thereof.

The tribunal may, in its discretion, in case the fine and costs should not be immediately paid, fix an ulterior day, for payment, and order that the defendant be placed in custody, unless he binds himself with securities, to the satisfaction of the said tribunal, (which is hereby authorized to take the security under the form of an obligation or otherwise, as it may deem fit,) to appear on the

day fixed, and, if on the day appointed, the fine and costs should not be paid, the complainant may make his option, and the defendant shall be dealt with in accordance with article of the present act.

When a married woman shall have been convicted in an action instituted under the authority of the present act, the complainant may exercise the option whether to proceed by seizure and sale either against the goods of the married woman, or of her husband; and, moreover, in case the goods of one of them should be found insufficient, then against the property of the other, provided they habitually live together.

On the condemnation of one member of a co-partnership, under the authority of the present act, the right of the prosecutor to proceed by seizure and sale, may, in case the goods and effects of the defendant should be found insufficient, be exercised against the goods and effects of the co-partnership, found on the premises where the contravention has been committed.

§ 6. *Recourse by Certiorari.*

Unless that within forty-eight hours after conviction, judgment, or order in any action or prosecution, instituted under the present act, the defendant deposits, in the hands of the clerk of the justices of the peace, or of the court which has rendered the judgment, the full amount of the fine and all costs, and a further sum of fifty dollars, to secure the payment of such costs as may be subsequently incurred, no action, prosecution, conviction, judgment or order shall be taken by *certiorari* to any other court, and, in default of complying with these requirements, the notice of application for *certiorari* shall not suspend, retard nor affect the execution of such conviction, judgment or order.

2. The tribunal or judge, to which such application is made, shall dispose of the same upon the merits, notwithstanding any variance, between the information and the conviction, or of any defect in form or substance therein, provided, it appears by such conviction, that the same was made for an offence against some provision of the present act, by two justices of the peace, a recorder, a police magistrate, a district magistrate or a judge of the sessions of the peace within the limits of their juris-

dition, and it further appears from such conviction, that the appropriate penalty or punishment for such offence was intended to be thereby adjudged; and, in all cases, where it appears that the merits have been tried, and that the conviction is valid under this act, such conviction shall not be quashed, and, in case the original record is before the tribunal or judge, it shall be remitted to the court below.

3. There is no appeal, from such conviction, judgment order, to any court of sessions of the peace or Queen's Bench.

The *certiorari* mentioned in the preceding provisions, shall not hinder the execution of a sentence, against a person condemned for second offences unless a deposit of two hundred dollars be immediately placed in the hands of the collector of provincial revenue; and this deposit shall belong to the crown, if the conviction is not invalidated.

4. Any person, applying for a writ of prohibition in reference to anything done or sought to be done under this act, shall previously deposit with the prothonotary of the court, before which the application is made, the sum of thirty dollars, to secure the payment of the costs of the adverse party in case the petition should be dismissed.

§ 7. *Collection of duties and application of fines.*

All duties, levied under the present act, shall be paid by the collector of provincial revenue and all other functionaries charged with their collection, under the same authority, to the provincial treasurer, and shall form part of the consolidated revenue fund, and any proportion thereof may be applied, from time to time, by the Lieutenant Governor in Council, under the direction of the provincial treasurer, to the payment of all expenses incurred for the carrying out of the present act, and the costs incurred in actions instituted for contraventions of the same.

When the prosecution is instituted by the collector of provincial revenue and in his name, the fine recovered shall be applied in the following manner, viz:

1. If the full amount of fine and costs have been levied, one half of the fine belongs to the collector of provincial revenue, he being obliged to pay one half of such

half to the informer, (if there be one), and the balance is remitted to the provincial treasurer to form part of the consolidated revenue fund.

2. If the fine and costs have not been paid in full, the amount levied is applied, in the first instance, to the payment of costs, and the balance is divided between the collector of provincial revenue, the informer (if there be one), and the provincial treasurer in the proportions mentioned in the preceding paragraph.

The preceding distribution does not apply to fines levied, under section for contraventions of this act in the City of Montreal; such fines shall be applied in the following manner, viz:

1. If the fine and costs have been recovered in full, fifteen dollars thereof belong to the informer, a like amount to the collector of provincial revenue, and the balance to the provincial treasurer;

2. If the fine and costs have not been paid in full, the amount levied shall be applied, in the first instance, to the payment of costs and the balance divided in the last-named proportion.

The fine and costs, or the amount levied, are payable into the hands of the collector of provincial revenue for the district, who shall, without delay, apply, divide and apportion the amount recovered, in the manner prescribed by the foregoing articles.

No fine, incurred under the authority of the present act, shall be remitted, except by and with the authorization of the Lieutenant Governor in council.

Every clerk of the peace, of the justices of the peace, of the recorder, and of the district or police magistrates, of the judge of the sessions of the peace, and the prothonotary of the Superior Court and the clerk of the Circuit Court, shall, during the months of April and October, of each year, transmit, under a penalty of one dollar for each day during which the same is wilfully neglected, (such penalty to be recovered in the same manner as is provided by this act for the recovery of penalties) to the provincial treasurer, a statement of all prosecutions instituted under the present act, which have been brought before them and adjudicated upon, during the six months ending on the thirty first

day of March and the thirtieth day of September, respectively, and such statement shall mention the names of the judges or the magistrates before whom each case has been tried, the name of each defendant, the date of every judgment, and the amount of fine or other condemnation in each case.

§ 8.—*Additional provisions respecting fines.*

Unless otherwise provided, every prosecution against an auctioneer or a pawnbroker, under the present act, shall be instituted within three months, and all others within two months of the contravention.

No action shall be maintained against a collector of provincial revenue, by reason of his official acts, unless it shall have been instituted within three months from the date of the act which gave rise to it.

Under a plea of the general issue, the collector of provincial revenue may prove all facts of a nature to establish a special defence, in the same manner as if he had pleaded the same. On dismissal or discontinuance of the complaint or action, the defendant is entitled to a condemnation for costs in his favor against the adverse party.

If the judgment be rendered in favor of such party, and if the tribunal certify that the defendant had reasonable grounds to justify his proceedings, the plaintiff has no right to costs, and shall only recover nominal damages.

§ 9.—*Additional duties and privileges of collectors of provincial revenue.*

There shall be published a classified list of all persons having obtained licenses under the present act, by the different collectors of provincial revenue, once a year or more frequently, at the periods, and in the newspapers indicated by the treasurer.

Every collector of provincial revenue, and every other functionary receiving public monies, is accountable for, and shall pay and account for to the provincial treasurer into whose hands he shall pay, at the periods and in the manner ordered by the latter, all sums of

money which he shall have levied arising from the duties imposed by the present act, as well as for all other sums of money, which the law obliges him to pay to the said treasurer, which belong to the provincial revenue and form part thereof.

In rendering his accounts to the provincial treasurer, the collector of provincial revenue shall transmit, in addition to the information which he shall be ordered to give, a statement showing the sums received by him for duties on auction sales, and the number of licenses he shall have issued.

With the consent and approval of the provincial treasurer, each collector of provincial revenue may appoint one or more deputies for the performance of his duties, under the present act or any other law, and such deputies, as well as the collector of provincial revenue, shall take and subscribe to the oath required by article 10 of the treasury law in the manner therein prescribed.

An additional indemnity of one hundred dollars, annually, may be granted by the Lieutenant Governor in Council, to any collector of provincial revenue, for travelling expenses, in addition to his ordinary salary.

§ 10.—*Final Provisions.*

All provisions of the Municipal Code of the Province of Quebec, whereby any municipalities are empowered to regulate the storage of gunpowder, or any other matter, shall apply only, in so far as such storage, or such other matter is not, or shall not, at any time hereafter, be regulated by the present act or by any regulations made in virtue thereof.

The provincial treasurer, whenever he shall deem it conducive to the better administration and carrying out of the revenue laws, may, from time to time, at the public expense, cause to be prepared, printed and distributed, in the English and French languages, or in either, and in such numbers and manner as he may see fit, pamphlets containing the present act, the regulations of the Lieu-

tenant Governor in Council, and instructions from the treasury department as he may deem desirable.

But such pamphlets shall be deemed to be printed for public convenience only, and nothing contained therein shall prevail against the regularly promulgated versions of the law or the meaning or construction thereof.

NOTA.—The schedules are here omitted.



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