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No. 109.

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1st Session, 5th Parliament, 18 Victoria, 1854.

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**BILL.**

An Act for the prevention of Intemperance in this Province.

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Received and Read, First time, Tuesday, 10th  
October, 1854.

Second Reading, Tuesday, 24th Oct., 1854.

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**MR. CASAULT.**

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QUEBEC:  
PRINTED BY LOVELL AND LAMOUREUX,  
MOUNTAIN STREET.

(109)

1854.]

**BILL.**

[No. 109.

An Act for the prevention of Intemperance in this Province.

**W**HEREAS every measure of wise legislation should encourage what- Preamble.  
ever tends to improve the morals, to prevent and punish abuses  
detrimental to the good order of the State, to the peace and tranquillity of  
families and the well-being of the citizens; whereas Intemperance is a  
5 scourge to society, demoralizing the people, stupifying the mind and ruin-  
ing individuals; and whereas it is urgent and necessary that some legisla-  
tive provision should be adopted to repress that degrading vice: Be it  
therefore enacted, &c., as follows:

I. No License for the sale of intoxicating beverages, and of spiri- Granting of  
10 tuous or fermented Liquors, other than Licenses to hotel-keepers and store- Licenses a  
keepers shall be granted, after the passing of this Act. limited.

II. Licenses to hotel-keepers and store-keepers shall be granted by the Licenses, by  
Municipal Council of the Municipality, or by the Council of the City, Town, whom to be  
15 or incorporated Borough, within the limits of which the hotel or store is in- granted.  
tended to be kept and opened, where intoxicating beverages or spirituous  
or fermented Liquors, are to be exposed or kept for sale, or sold, disposed  
of, or given in exchange.

III. The Licenses to hotel-keepers and store-keepers, which the Councils Formalities  
above-mentioned are hereby authorised to refuse, if they think proper, necessary for  
20 shall only be granted upon the production of a recommendation to that procuring Li-  
effect, signed by at least four Justices of the Peace, and four Officers of censes.  
Militia, duly commissioned, residing in the Parish, Township, or Ward  
in which the person applying for such License intends to open and keep  
such hotel or shop; but it shall be further necessary, in order to obtain a  
25 License as hotel-keeper, to produce a further recommendation, signed by  
at least fifty electors residing in the Parish, Township or Ward in which  
such hotel is intended to be opened.

IV. In case there shall not be four Justices of the Peace or four Officers Quorum of  
of Militia residing in the said Parish, Township or Ward, then the said Justices or Mi-  
30 recommendation must be signed by any number of Justices of the Peace litia Officers,  
and Officers of Militia residing in the neighboring Parish, Township or how procured.  
Ward, sufficient with those residing in the said Parish, Township or  
Ward, to complete the number of four Justices of the Peace and four  
Officers of Militia.

35 V. A separate license shall be necessary for every hotel or store kept by Separate Li-  
the same person in the same Ward, Parish or Township, or in different cence for every  
Wards, Parishes or Townships, and every such license shall contain a hotel or store.

description of the house in which the hotel or store for which it shall have been granted is to be kept or opened.

Form of License.

VI. The certificate or recommendation, together with the licenses and each of them respectively, shall be in the form mentioned in Schedules Nos. 1, 2, 3 and 4 annexed to this Act, and the licenses shall be signed by the Mayor and the Clerk or Secretary-Treasurer, (as the case may be) of the Municipality or of the Town, Village or incorporated Borough, in which they shall have been granted. 5

Duration of Licenses.

VII. Licenses shall be granted during the month of March or April in each year, for the period of one year only, to commence upon the first day of May following, and to expire on the same day in the following year.

Penalty for sale of less than a gallon.

VIII. Any Store-keeper licensed as such, who shall sell, trade, deal in, barter or deliver or permit any one to sell, trade, deal in, barter or deliver in his store, shop, or place of business, or in the dependencies thereof any intoxicating drink or spirituous or fermented liquors in quantities less than one gallon at a time, shall incur a penalty of not less than \_\_\_\_\_ currency. 15

Penalty for allowing such sale.

IX. Any hotel-keeper licensed as such, who shall deal in, barter or deliver or shall permit any one to sell, trade, deal in, barter or deliver in his hotel or in the dependencies thereof, of or in any intoxicating drink or any spirituous or fermented liquors, to any persons other than the boarders in his hotel, shall incur for each offence a penalty of not less than \_\_\_\_\_ nor more than \_\_\_\_\_, and shall also be imprisoned in the common gaol of the District in which the offence shall have been committed, for \_\_\_\_\_ calendar months. 25

Penalty for allowing intoxication.

X. Any hotel-keeper or other person who shall permit any one to become intoxicated in his house, shall, upon conviction be condemned for every such offence, to be confined in the common gaol of the District, for \_\_\_\_\_ calendar months, and to pay a fine of not less than \_\_\_\_\_ 30

License to be forfeited upon conviction.

XI. Any hotel-keeper or store-keeper licensed in pursuance of this Act, who shall be convicted of any of the offences mentioned in this Act shall forfeit his license, and the same shall by the fact alone of such conviction be annulled and of no effect.

In case of sale without License.

XII. Any person not being licensed in the manner provided by this Act, who, by himself, his shopman, servant or agent shall expose or keep for sale, or shall trade in, sell, dispose of, or exchange for any matter or thing, or who shall permit or suffer to be exposed or kept for sale or to be traded in, sold, exchanged in his house, any intoxicating beverage or any spirituous or fermented liquors, shall be liable to a penalty of not less than £ \_\_\_\_\_ and to imprisonment for not less than \_\_\_\_\_ for every such offence. 40

No person convicted of offences against this Act may obtain License.

XIII. No person convicted of any of any of the offences mentioned in this Act, shall at any time be able to obtain a license either as hotel-keeper or store-keeper, and in case any license shall through error be granted to any such person, such license shall be null and of no effect whatsoever. 45

Drunkard disqualified for certain offices.

XIV. Every drunkard convicted as such in the manner hereinafter provided, shall be and he is hereby declared to be incompetent to be chosen,

nominated or elected member of either of the branches of the Legislature, or to fill any lucrative or honorary office in the gift of the executive of this Province, or to hold any office whatsoever in any of the public departments or in any of the offices of the Legislature.

5 XV. No drunkard convicted as such in the manner hereinafter provided, shall be appointed or elected councillor for any City, Town, incorporated Village, or Borough, or municipal councillor for any County, Parish, Township, Town, Village or Borough or for any municipality at present existing or which may hereafter be created, nor be appointed to any office  
10 whatsoever at the disposal of the municipal authorities, nor be elected or appointed a School Commissioner, nor be chosen to fill any office at the disposal of the said School Commissioners.

Also, for any Municipal office.

XVI. Every person convicted of being a drunkard, or convicted three times or more of drunkenness or of being intoxicated, shall be incompetent to vote at any election either of representatives of the people  
15 in either of the branches of the Legislature, or of municipal Councillors or officers, or of any other officers requiring to be elected by any law of Upper or Lower Canada, or of Canada, at present in force or which may hereafter be in force, any law, usage, or custom to the contrary notwithstanding.  
20

Drunkards incompetent to vote.

XVII. The incapacities and prohibitions described and referred to in the three preceding sections, shall continue and remain in force until the expiration of the four years immediately following the last conviction for which they shall have been incurred or of which  
25 they shall be the consequence as the punishment established by each of the said three sections.

Duration of incapacity.

XVIII. Any drunkard convicted as such in the manner provided by this Act shall be upon the fact alone of such conviction and he is hereby declared to have resigned or given up his seat if he hold one, in  
30 either of the branches of the Legislature, and to have resigned or given up of any office or place whatsoever, either honorary or lucrative, which he may occupy under the Crown, at the period of the said conviction and to have resigned or given up any office which he might have had or filled either in any of the public departments or in the  
35 offices of the Legislature at the time the said conviction shall have been had and pronounced, and the seat, office or place of any such drunkard convicted as such as aforesaid, shall be and is hereby declared to be vacant.

Drunkards, upon conviction, deprived of seats or offices.

XIX. The seat in the Council of any City, Town or incorporated  
40 Village, or in the Municipal Council of any Municipality, held by any drunkard convicted as such by virtue of this Act, shall be and is hereby declared to be vacant, and any School Commissioner or person filling any Office or charge whatsoever, at the disposal of the Municipal Authorities or School Commissioners, who shall have been convicted of being a drunkard, shall be and he is hereby declared to have resigned and given up  
45 his Office, charge or appointment, and the said Office, charge or appointment is hereby declared to be vacant.

Also, of any Municipal office they may hold.

XX. The seat, office, charge or appointment of any drunkard convicted as such as aforesaid, shall be filled in the same manner as if the  
50 holder thereof had deceased.

Seat or office of drunkard may be filled.

Penalty, in case of being found drunk in the streets.

XXI. Every person who shall be found intoxicated in the streets, or who shall, upon proof to that effect, be convicted in the manner hereinafter provided, of drunkenness or intoxication, shall incur a penalty of not less than \_\_\_\_\_ nor more than \_\_\_\_\_ for the first offence, of not less than \_\_\_\_\_ nor more than \_\_\_\_\_ for the second offence and of not less than \_\_\_\_\_ nor more than \_\_\_\_\_ for the third offence, and for every subsequent offence; such person shall be imprisoned in the Common Gaol of the District in which the conviction shall have taken place, for the space of \_\_\_\_\_ calendar months, and in default of payment of the fine and costs, such person shall be condemned to be imprisoned in the said Common Gaol for the space of \_\_\_\_\_ calendar months for the first offence, \_\_\_\_\_ months, for the second offence, and \_\_\_\_\_ months for the third offence. 5

Duties of Justices of the Peace under this Act.

XXII. It shall be the duty of each and every Justice of the Peace in this Province, and they are hereby enjoined and required within the fifteen days following that on which a conviction shall have been obtained or pronounced by them for an offence against this Act, to transmit a copy of the said conviction to the Provincial Secretary and to the Clerk or Secretary-Treasurer (as the case may be) of the Municipal Corporation of the locality within which the said offence shall have been committed, and if the person so convicted of an offence against this Act as aforesaid be a member of either of the branches of the Legislature or an officer or employé either in a superior or subordinate capacity of either of the said branches of the Legislature or in the offices thereof, the said Justice of the Peace shall, and he is hereby enjoined and required to transmit within the delay aforesaid, besides the copies before mentioned, copies of the said conviction to the Clerk or other Officer filling such office, in either of the branches of the Legislature. 15 20 25

Persons who may apply for interdiction of drunkards.

XXIII. Any relation or friend, or the husband or wife, or children of full age, or any of them, of a person who shall have been convicted of drunkenness or intoxication or of being a drunkard, four times of within a period of fifteen days, shall be entitled to apply for the interdiction of the said person, and such interdiction shall be obtained in the manner provided by the laws in force with respect to interdiction in the section of the Province in which such person shall have his or her domicile, and the production of four convictions within the space of fifteen days as aforesaid shall be sufficient proof of the allegations of the petition for interdiction. 30 35

Persons interdicted, how relieved.

XXIV. The person so interdicted shall only be relieved from the said interdiction, upon the consent of his relatives and friends, and upon satisfactory proof that he has corrected himself of the vice of drunkenness. 40

Who shall be deemed a drunkard under this Act.

XXV. Any person in the habit of getting intoxicated, or who gets intoxicated whenever he has the opportunity or the means, either in his own house or elsewhere, or who shall have been thrice convicted of drunkenness or being intoxicated during a period of one month, or who shall from time to time either at his own residence or elsewhere, neglect his occupation for the purpose of becoming intoxicated, or who neglects his duty and is unable to attend to it from the effects of intoxication, shall be deemed a drunkard under this Act. 45

Offences against this Act how to be tried.

XXVI. Every offence against this Act shall be tried on complaint before a Justice of the Peace for the District in which it shall have been committed, and the said complaint shall be heard and decided summarily upon the oath of one credible witness other than the informer. 50

XXVII. Any Peace Officer, Municipal Officer, and any person other than the informer shall be a competent witness. Who may be witness.

XXVIII. One half of the fine levied in pursuance of this Act shall belong to the prosecutor, and the other half to the Municipality within which the place in which the offence shall have been committed is situate. Fines how disposed of.

XXIX. Any person found guilty of one or more of the offences mentioned in this Act shall, besides the fine and imprisonment, be condemned to the payment of costs, and shall be imprisoned in the Gaol of the District in which the offence shall have been committed until payment of the fine and costs. Imprisonment in certain cases.

XXX. Any person who shall deem himself aggrieved by any conviction pronounced in virtue of this Act, may appeal to the next Court of General or Quarter Sessions, which may be held not less than six days after the day of conviction in the District, County or place in which the cause of complaint shall have arisen; provided that such person shall give to the party complaining, notice in writing of the said appeal within three days after the conviction, and shall enter into recognizances with two good and sufficient sureties, before a Justice of the Peace, to appear in person at the said Sessions, and to prosecute the said Appeal and submit to the Judgment of the Court thereupon: and to pay such costs as may be fixed by the Court, and upon such notice and recognizances being given and entered into, the Justice of the Peace who shall have received such recognizances shall release the person if he or she be under arrest, and the Court at such Sessions shall hear and decide upon the reasons of appeal and shall give such order thereupon to the two parties with or without costs as it shall deem proper; and in case of the dismissal of the appeal and of the confirmation of the conviction, the Court shall order that the delinquent be punished in accordance with the conviction and that he do pay such costs as shall be adjudged; and shall if necessary, issue an order for the execution of the said Judgment. Appeal allowed to persons aggrieved, upon giving security.

XXXI. It shall be the special duty of every peace officer and every Municipal officer to attend to the execution of this Act, and to prosecute every offence committed against the provisions thereof, but this provision shall not extend, nevertheless to, exclude any other person from the right of bringing a complaint for such offence. Municipal officers to attend to execution of this Act.

XXXII. Every Justice of the Peace who shall neglect or refuse to hear or determine any complaint brought before him by virtue of this Act, or who shall neglect or refuse to perform any duty required of him by this Act, shall be deemed guilty of misdemeanour, and upon conviction thereof, in any Court having competent jurisdiction, shall be punished by fine not exceeding , and such conviction shall in all cases carry with it forfeiture of his office. Justices of the Peace neglecting to hear complaints.

XXXIII. Every offence against this Act shall be prescribed at the expiration of six calendar months to be computed from the day on which it shall have been committed. Prescription of offences against this Act.

XXXIV. The Interpretation Act shall apply to this Act. Interpretation Act.