

No. .

4th Session, 3rd Parliament, 14 Victoria, 1851.

BILL.

**An Act for more effectually suppressing
Intemperance in Lower Canada.**

Received and Read a first time,

Second Reading,

Mr. GUY.

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B I L L .

An Act for more effectually suppressing Intemperance in Lower Canada.

WHEREAS it is expedient to repress the pernicious practice of tippling, and to prevent the rising generation from contracting the fatal habit of using intoxicating liquors; And whereas every house, tavern, grocery or bar at which such liquors are vended or retailed, affords occasion and holds out temptations to the young and inexperienced for indulging in such liquors, and commencing a career of intemperance prejudicial not only to those who resort to such houses or places, or to those who keep them, but to the community at large; and whereas the occasions and temptations aforesaid have greatly multiplied and ought to be diminished; and whereas the Act now in force in this behalf hath been found defective:—
Be it therefore enacted, &c.

Preamble.

15 That the Act passed in the session held in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, "*An Act for the more effectual Suppression of Intemperance,*" shall be and is hereby repealed, except that all licences lawfully granted under it shall remain in force for the term for which they were granted, as if issued under the authority of this Act; and except that every penalty, forfeiture or liability heretofore incurred, and every bond given or recognizance entered into under the said Act, shall remain in force and may be recovered and enforced under the provisions thereof as if it were not repealed: and every Act or Ordinance repealed by the said Act shall remain repealed.

Act 13 & 14
Vict. c. 27, re-
pealed.

Exception.

II. And be it enacted, That it shall not be lawful for any person not having previously had and obtained a licence in the manner provided by this Act, or by the Act hereby repealed, to sell, vend, or for any valuable consideration to dispense or furnish any spirituous or intoxicating liquor or malt liquor, except only in the cases in which he is allowed to do so by this Act; and that no Tavern, Hotel or House of Entertainment shall contain or have more than one bar, or be used by more than one person, unless they be co-partners, and the licence be obtained for the co-partnership.

Unlicensed
persons prohi-
bited from sell-
ing spirits, &c.

III. And be it enacted, That the following authorities shall alone be entitled to grant certificates for obtaining licences for the sale of spirituous or intoxicating liquors

Who may
grant certifi-
cates for
licence in the

country parts,
and how and
when.

or malt liquors in the rural districts and in those localities in which no police force shall have been organized, that is to say, the senior Magistrate of the township, parish or other municipal locality in which the house for which the licence is required shall be; the senior Officer of Militia within the limits of such locality, and resident in such municipal locality; and the Church Warden in office (*Marguillier en charge*,) of the parish, and wherever there shall be in such locality a Protestant Church, the senior Church Warden thereof, not being disqualified under this Act; and certificates shall be granted by the said authorities at a special meeting which shall take place between the first of February, and the twentieth day of April inclusively in each year, at such place as may be determined upon by the said authorities; and due notice of the time and place of such meeting shall be given at the Church door after Divine Service in the forenoon, or at some other public place, within the said township, parish or locality, at least fifteen days before the day so appointed: Provided, that if the said authorities shall deem it expedient, they may appoint any other special meeting for granting such licence, giving due notice of the time and place thereof as aforesaid: and in case there shall be a difference of opinion between any of the said authorities on the question relative to such certificates, the signature of any two of them to any such certificate shall be sufficient, and in the event of an equality of votes the senior Magistrate, or in his absence the senior Officer of Militia, or in his absence the Chairman for the time being appointed at the meeting, shall have a second or casting vote.

Proviso.

Necessity of a
Tavern must
be proved.

IV. And be it enacted, That no certificate for a tavern license shall be granted in such rural districts, unless the party applying for the same shall prove by a requisition signed by the majority of the municipal electors in his municipality, that in their opinion a tavern is necessary at the place at which he purposes to keep one.

Who shall
grant certificates
in cities,
&c.

V. And be it enacted, That in the cities and in every locality in which a police force shall be organized the duty of granting certificates for obtaining licences shall be and is hereby imposed upon the chief or senior officer of police, or in his default upon such person or persons as the Governor for the time being may appoint. Provided always, that no application for a licence shall in any case be received after the first day of February of the year in and for which the applicant shall propose to take out his licence: Provided also, that no distiller, brewer or importer of or person dealing in spirituous or intoxicating liquors, or leasing any house or tenement for the purpose of a tavern, or in any manner deriving profit directly or indirectly from the vending or disposing of spirituous or intoxicating liquors shall take part in the granting of certificates.

Proviso.

VI. And be it enacted, That the authorities hereby empowered to grant certificates for tavern licences shall not grant any such certificate, unless the party applying for the same shall prove to their satisfaction that he holds, Applicant must have certain property, and be of good reputation.
 5 at the place at which his intention is to keep a tavern, property either real or personal of the value of at least one hundred pounds currency, nor unless the person or persons granting the licence shall know, or be convinced by sufficient evidence, that the applicant enjoys
 10 an unblemished reputation, and is not addicted to the use of intoxicating liquors.

VII. And be it enacted, That it shall be the duty of every person acting in the granting of certificates under this Act to use such information as he may possess, communicating the same to his colleagues, and to exercise his discretion in granting or rejecting applications for licences, keeping in view the attainment of the objects set forth in the preamble to this Act. Authorities bound to use their best discretion.
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VIII. And be it enacted, That on production of such certificate from the authorities aforesaid it shall be lawful for the Governor of this Province, or the officer or person whom he shall authorize for that purpose, to grant a tavern licence to the party producing the same, on payment by the said party of a duty of *ten pounds* currency, Licence to be granted on production of certificate.
 20 over and above the duty imposed by Act of the Imperial Parliament; and all such licences shall be in force until the first day of June in the year next after the granting thereof, and no longer: Provided that every application for licence, and certificate for licence shall contain a description of the house for which it shall be intended, by Proviso: house to be designated, &c.
 25 its street and number, or other clear designation, and that it shall not apply to any other house, or authorize the keeping of a tavern or the selling spirituous or intoxicating liquors therein.
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IX. And be it enacted, That every applicant who may prove to the satisfaction of the authorities by this Act, severally empowered to grant certificates for licences, that he is of unblemished character, and of strictly temperate habits, shall receive from them a licence to keep a Temperance House or Hotel for the accommodation of the public, upon the simple promise and undertaking of such applicant to exclude from such house every description of intoxicating drink and without any charge for the said licence; but every person who shall open or keep any such
 35 Temperance House or Hotel without such license as aforesaid, shall thereby incur the same penalty as if he had kept a Tavern and sold spirituous liquors without a licence, and such penalty may be recovered and applied in like manner. How licences to keep Temperance Hotels may be obtained.
 40
 45

Venders of temperance drinks to fy le notice of their intention to vend the same.

X. And be it enacted, That no person shall vend or retail any description of liquor, known as a temperance drink, such as spruce beer, sarsaparilla, raspberry vinegar, ginger beer, soda water or mineral water, essence or juice of lemons or of oranges or lemonade, or the like, without having filed a declaration of his intention so to do, specifying his name, surname, and place of residence, in the office of the clerk of the municipality or of the police, as the case may be, under a penalty of *ten pounds*, for every day on which he shall contravene the provisions of this section. 5 10

Lists of Taverns, &c. to be published.

XI. And be it enacted, That a list of the licenced taverns and temperance hotels shall be transmitted in every year by the officer or other person by whom the licences have been issued, to the clerk of the peace for the district in which the same shall be, and shall be published in at least one newspaper of the district; and a proper sign shewing the name of the party licenced to keep the same and stating that he is so licenced, shall be hung up at each of the said Taverns or Temperance Hotels for the information of travellers, under a penalty of *five pounds* for each day on which any such Tavern or Hotel shall be without such sign; and any person not licenced who shall put up or place near his house any sign which may induce travellers to think that he has a licence, shall thereby incur a penalty of *five pounds*: And all persons licenced as Tavern or Temperance Hotel-keepers shall be bound under a penalty of *ten pounds* currency, to keep their licence constantly exposed to view, hung up in a frame with a glass facing, in the most conspicuous part of their bar-room or most public room. 15 20 25 30

Signs.

Licences to be exposed publicly.

Storekeepers, &c. not to sell liquors in less than certain quantities, &c.

XII. And be it enacted, That it shall not be lawful for any distiller, merchant or trader, who shall not have a Tavern licence, to sell intoxicating liquors in less quantities than one gallon, except wine or beer, which he may sell by the bottle, but not in any less quantity, and such liquor when sold shall be taken away from the premises of such merchant or trader, within twenty-four hours after the purchase thereof; nor shall any person not having a Tavern licence allow any liquor sold by him to be drunk in his house, or on his premises, or on the highway in front thereof, or lend or furnish any glass, pot or vessel, for the purpose of drinking the same; and any person contravening any provision of this section shall be held to have acted as a Tavern-keeper without a licence, and be liable to the penalty hereby imposed for that offence; Provided always, that when any person shall produce a certificate from a physician, a priest, or a minister of religion, stating that such person really requires it as a remedy for himself or some member of his family or household, then in such case only it shall be lawful for such merchant or trader, for once only within the period of one year, to sell 35 40 45 50

Penalty.

Proviso: for cases of absolute necessity.

to such person any quantity he shall require: Provided Proviso.
 also, that nothing herein contained shall be construed to
 exempt any person selling spirituous liquors without keep-
 ing a tavern from the obligation to take out a licence as
 5 now by law required, or to relieve him from any penalty
 he may incur by selling without such licence; and if the
 provisions of the Act of the Parliament of Great Britain
 imposing such obligation and penalties, and fixing the
 duty to be paid for such licence should be repealed by
 10 the Parliament of the United Kingdom, such provisions
 shall nevertheless continue in force by virtue of this Act
 as if herein re-enacted, until it be otherwise ordered by
 Act of the Provincial Parliament.

XIII. And be it enacted, That no tippling house, dram Tavern-keepers and keepers of Temperance Hotels to have certain accommodation for the public.
 15 shop, or place merely or solely intended for vending and
 retailing spirituous liquors to be there drunk shall be toler-
 ated, and that no licence to vend and retail spirituous
 or intoxicating liquors shall be granted unless there be
 suitable accommodation and food for travellers and the
 20 community at large; wherefore all Taverns for the sale
 of intoxicating liquors, and all Temperance Hotels, shall
 contain at least three rooms with the same number of
 beds for travellers, over and above those used by the
 family, and also suitable provision and accommodation for
 25 dressing and preparing food and victuals for such persons
 as may require the same, and in the country parts at least
 three stalls for horses, with hay and provender, to the
 satisfaction of the Revenue Inspector who shall certify
 the same after inspection on each of his semi-annual visits;
 30 and if the keeper of any Tavern or Temperance Hotel Penalty.
 shall not at any time provide such accommodation he
 shall during such time be held to be keeping the same
 without a licence, and shall incur the same penalties as
 if he had no licence; and it shall be lawful for the Govern- Revocation of licence in certain cases.
 35 nor on the report of the Revenue Inspector or Chief of
 Police, as the case may be, to revoke the licence of such
 person after the Inspector shall have given him fifteen
 days notice of the intention to revoke his licence in
 default of his providing such accommodation, and any
 40 licence so revoked shall be null and void, and notice in
 writing to such person by the Inspector that his licence is
 revoked shall be a legal revocation thereof.

XIV. And be it enacted, That if any Tavern-keeper Penalty for refusing to accommodate any Traveller.
 or keeper of a Temperance Hotel shall refuse to receive
 45 and make suitable provision and provide proper accom-
 modation and food for any stranger or traveller, or for
 his horse or cattle without just cause, he shall on convic-
 tion thereof, incur a penalty not exceeding five pounds
 currency.

50 XV. And be it enacted, That the Inspector of Reve- Inspectors of Revenue, &c.
 nue, or his deputy, in every revenue district, and such Jus-

may visit
houses where
liquors are
sold, to see
whether the
law is faithful-
ly carried out
therein: their
powers on such
visits.

tices of the Peace and members of the Police Force as may see cause, shall and may from time to time, without previous notice, visit all breweries, distilleries and stores, groceries, taverns and places in which spirituous or intoxicating liquors are sold in their respective districts, in order to ascertain and report whether the provisions of this Act are complied with, and if need be, to cause the same to be enforced, and examine whether the said liquors are adulterated; and to that end it shall be lawful for such Revenue Inspector, Justices of the Peace or members of the Police Force to obtain such quantity of the liquor or liquors there sold, paying for the same, as may be necessary to establish the fact by sufficient chemical tests, and upon the adjudication of any competent chemist upon oath that such liquor is adulterated, any Justice of the Peace shall and may declare that the person or persons in whose house or premises such liquor shall have been found hath or have forfeited his or their licence, and such licence shall be thereupon null and void and of none effect whatever, and the party in whose possession such adulterated liquor shall be found shall, on conviction, be condemned to pay a penalty of not less than *ten pounds*, and the said Inspector, or deputy, Justice of the Peace or member of the Police Force, shall spill the said liquor; and the said Inspector, or his deputy, or any Justice of the Peace and such members of the Police Force as may see cause, shall from time to time, visit the taverns, temperance hotels, and places where any temperance drink is sold within their respective districts, in order to ascertain whether every thing is carried on according to law in such taverns and temperance hotels, and places; and any proprietor or keeper of any brewery, distillery, tavern, store, or temperance hotel, or places where any temperance drink is sold, refusing admission to the Revenue Inspector, or his deputy, or to any member of the Police Force into such brewery, distillery, tavern, store, or temperance hotel, or places where temperance drink is sold, shall be liable, on conviction before any one Justice of the Peace, to a penalty of *five pounds* currency, with costs and expenses; and it shall also be lawful for the said Inspector, or his deputy, Justice of the Peace or such member of the Police Force as may see cause, from time to time, to visit any house in which it shall be suspected that spirituous or intoxicating liquors are retailed without a licence, and any competent chemist being first duly sworn, may in any case in the presence of any Justice of the Peace, or Revenue Inspector or member of the Police Force, apply any sufficient test upon the spot, and if any adulterated liquor be found therein, shall spill the same, and on the information of any such Inspector, or his deputy, or members of the Police Force, any such person in whose possession such adulterated liquor shall be found shall, on conviction before any Justice of the Peace, be condemned to pay a penalty

of *five pounds* current money: Provided always, that on all such occasions the liquor suspected of being adulterated may be seized and carried away by the Revenue Inspector, or his deputy, or member of the Police Force, 5 upon a warrant from any Justice of the Peace, and within a reasonable time, shall be tested by a competent chemist, and that such sum as may be necessary and sufficient for his remuneration shall in every case be paid to the chemist so employed and acting, by the Revenue Inspector, 10 or Officer of Police, as the case may be: Provided further, that such sum shall in cases of conviction be included in the costs and expenses to be paid by the defendant.

XVI. And be it enacted, That whenever any person shall have drunk spirituous or intoxicating liquors in any 15 Inn or Tavern with the permission or sufferance of the keeper thereof, and shall, while in a state of intoxication or drunkenness arising out of the use of such liquors as aforesaid, come to his death by committing suicide, or by drowning or perishing from cold or any other acci- 20 dent, such keeper of any such Inn or Tavern shall be guilty of a misdemeanor, and being convicted thereof, in due course of law, shall be liable to be imprisoned in the common jail of the district in which the offence shall have been committed, for a period of time not less than *two* and 25 not more than *six months*, and to pay a penalty of not less than *twenty-five pounds* nor more than *one hundred pounds*; and to remain in prison until the same be paid; the amount of which penalty shall by the court before which such conviction shall take place be ordered to be 30 paid to such one or more of the heirs, legal representatives or surviving relatives of the deceased as shall have informed and caused the offender to be prosecuted to conviction; and such offender shall also pay the costs of such prosecution, which being taxed by the court shall be, 35 added to the penalty and levied in like manner.

Liability of keepers of Taverns for accidents to persons while in a state of drunkenness from liquors drunk in such Taverns.

XVII. And be it enacted, That if it be within the personal knowledge of any Magistrate, or if complaint be 5 made upon oath by any one before such Magistrate, that any person has been seen in a state of intoxication in any 40 public place whatsoever, or in any place in which such intoxicated person shall be exposed to public view, such Magistrate shall cause such person to be brought before him, and place him in custody until he shall have recovered his reason; and the person so found intoxicated 45 shall incur and be sentenced by such Magistrate to pay a penalty of not less than *five shillings* nor more than *twenty-five shillings* for his said offence, together with the costs of suit, the expenses of arresting the person so found intoxicated, and in keeping him in safe custody; and in 50 default of immediate payment shall be committed by such Magistrate and be imprisoned in the house of correction or other place of confinement at hard labour for a space of time not exceeding *one month*.

Magistrate may commit and fine drunkards.

Penalty on persons drinking at unlicensed Taverns.

Exception.

Additional penalty for selling to youths or females.

Penalty in cases where no other is expressly provided.

Proviso.

Proviso.

Proviso.

Proviso.

Persons actually selling liable as well as the keeper of the house.

XVIII. And be it enacted, That any person who shall buy or drink of any spirituous or intoxicating liquor at any house not duly licenced according to law shall upon conviction thereof be subject to *one half* of the penalties by this Act imposed upon those who sell without licence, 5 unless such person so buying and drinking shall forthwith give such information against the person vending or retailing such spirituous or intoxicating liquor as may lead to conviction of the latter under this Act.

XIX. And be it enacted, That in every case in 10 which spirituous or intoxicating liquors shall be sold or retailed or delivered for pay or compensation in contravention of the provisions of this Act to any youth under the age of eighteen years or to any female, the penalties in each and every case, whether such youth or female be 15 merely employed as the messenger or servant of another or otherwise, shall be doubled.

XX. And be it enacted, That any person offending against or attempting to evade any of the provisions of this Act, for which no penalty is herein specially im- 20 posed, and being thereof convicted before any one Justice of the Peace, shall incur and be condemned to pay a penalty of *ten pounds* currency for the first offence, and double that sum for the second or any subsequent offence: Provided always, that unless the penalty be immediately 25 paid, the person or persons so convicted shall, on the warrant of the convicting Magistrate, be imprisoned at hard labour for a period not exceeding *six months* for the first offence, and *twelve months* for the second or any subsequent offence: Provided also, that such conviction 30 shall in every case operate as a forfeiture of any licence which the person so offending may have, whatever it be; Provided further, that three-fourths of the penalty shall in every case go to the informer, and the balance shall be paid to the Revenue Inspector for the district, and form 35 part of a fund for the suppression of Intemperance, under the direction and control of the Governor for the time being; Provided always, that whensoever the informer shall see fit to forego his share of the penalty, the same shall form part of the said fund, and he shall be a 40 competent witness; and that upon the report of the Chief of Police in any city or town that any Tavern is kept by a disreputable person, or in a disorderly or an improper manner, it shall be competent to the Governor for the time being to revoke the licence for such house. 45

XXI. And be it enacted, That in every case the master of the house or chief or head of the family or household in or by any member of which any spirituous or intoxicating liquors shall be vended or retailed shall be liable to the penalties imposed by this Act, and that the individual member of the family or household, whether male

or female, related to or servant or sojourner in the family who shall have vended, retailed or dispensed any spirituous liquors contrary to the provisions of this Act, shall also be liable to the same penalty: Provided always, that
 5 whenever any Justice of the Peace before whom any complaint of the violation of any of the provisions of this Act shall be made shall be satisfied by affidavit that the accused has not means sufficient to enable him to pay the penalty, or that there is reason to fear that the accused
 10 will withdraw himself from the jurisdiction of the Court or fly from justice, it shall and may be lawful for such Justice of the Peace to issue his warrant for the apprehension of the person so accused, to cause him to be kept in safe custody until the judgement in the case shall
 15 be rendered, unless the accused shall give good and sufficient security to ensure his appearance and his abiding by the judgment: Provided always, that if the accused shall desire it, the trial shall take place forthwith.

Proviso: where the offender has no good to answer the condemnation.

XXII. And be it enacted, That any person may be a
 20 competent witness under this Act, although he be related, allied or of kin to, or in the service of any party who may bring a complaint or who may be complained against for any infringement of the provisions of this Act; and if any witness legally summoned to appear on any such com-
 25 plaint shall refuse or neglect so to do without reasonable cause, he shall incur a penalty of *five pounds*; and if any person shall be convicted of endeavoring to prevent any witness from appearing to give evidence, such person shall incur a penalty of *twenty pounds*.

Who shall be a competent witness.

Witnesses summoned must attend.

30 XXIII. And be it enacted, That except as otherwise provided by this Act, all complaints against parties contravening the provisions of this Act, shall be summarily disposed of by one or more Justices of the Peace on the evidence of one credible witness; and any party who
 35 shall be found guilty of any offence under this Act shall, in default of immediate payment of the fine to which he shall be condemned for such offence, be imprisoned under warrant of such Justice or Justices until payment be made of such penalty and of the costs incurred for
 40 the recovery thereof; but such penalty and costs may also be levied of the goods and chattels of the offender under warrant of the convicting Justice of the Peace.

How penalties may be recovered.

XXIV. And be it enacted, That all Justices of the
 Peace before whom any trial shall be had under this Act,
 45 shall take down minutes in writing of the proceedings and evidence of such trial, in case an appeal be brought from any judgment rendered by them; during the pendency of which appeal the defendant shall remain in gaol unless he, she, or they shall give good and sufficient security to the satisfaction of the convicting Justice
 50 that

Justices to keep minutes of proceedings.

Proceedings
under this Act
not to be
avoided for
technical
errors or
defects of
form.

XXV. And be it enacted, That in any prosecution or proceeding under this Act, no objection of mere form or founded on any mere want of form, shall be allowed to avail, nor shall any objection to the proceedings be maintained unless it be shewn that some substantial injustice would be done if the objection were not allowed; and no particular form of words shall be necessary in any such proceeding, but it shall be sufficient that the words used will, according to the ordinary construction of the language, bear the meaning and convey the facts or information intended by the party using them; and it shall be sufficient that the offence be proved to have been committed at some time within days of that on which it is alleged in the complaint to have been committed and before such complaint: and the largest and most liberal interpretation shall be given to the description of the offence in the complaint, which may be consistent with substantial justice to the defendant: it shall not be necessary to prove the precise quantity or kind of liquor alleged to have been sold without a licence: it shall be sufficient to convict the master or keeper of any house, to prove that the offence was committed by any member of his family or household, (if he is by this Act made liable in such case) although the offence be alleged in the complaint to have been committed by the master or keeper of the house, and any person proved to reside in his house or to have acted as his servant or as a member of his family or household, shall be held to be so unless the contrary be proved: and clear day's notice to the defendant to appear and answer the complaint, or to any witness to appear and give evidence shall be sufficient.

Tavern-keepers and officers of steamers made special constables.

XXVI. And be it enacted, That for the purposes of preserving order in and upon his house and premises, every Tavern-keeper or Hotel-keeper shall be a peace officer, and shall take the oath as a special constable; and that every master, purser, and mate of a steamer shall also be a special constable, with the rights, immunities, duties and powers of such, and as such entitled and bound to preserve order on board of his or their steamer or vessel.

Authorities granting certificates may administer oath.

XXVII. And be it enacted, That the person or persons on whom the duty of granting any certificate for licence or of enforcing the provisions of this Act or any of them, or of seeing that the same are duly enforced by others, is imposed, shall be and each of them is hereby empowered to administer any oath which may be necessary for enabling them properly to perform such duty, and to keep a record of the same and of the tenor and effect thereof.

Act to affect only Lower Canada.

XXVIII. And be it enacted, That this Act shall apply only to Lower Canada.