



(Continued from our last.)

XXIX. And be it enacted, That the said Surveyors of the Highways respectively by the direction of the Commissioners or any of them shall have full power and authority, and they are hereby required, during the winter season to summon such and so many of the Inhabitants having a Horse, Horses, Oxen or Teams in their respective Districts, as they in their discretion shall think fit, to work at the time and place appointed, on the Highways or public winter Roads, by breaking Roads in the snow with their said Horses, Horses, Oxen or Teams, whenever the depth of snow shall render the same necessary, not exceeding Four Days in each winter, and at no greater distance than three miles from their own houses, and such Inhabitants shall perform the same work over and above the work which such Inhabitants are liable to perform upon the Highways, Roads and Bridges, in and by this Act; and every person who shall refuse or neglect to work when so called upon, shall forfeit and pay for each and every day he shall so refuse or neglect to appear and work with his Horse, Horses or Oxen, as is herein required, the sum of eight shillings, to be recovered in the same manner as is prescribed by the twenty-second Section of this Act, and to be applied by the Commissioners towards breaking the winter Roads.

XXX. And be it enacted, That no Horse-draw or Sleigh shall be drawn on the Highways or public Roads of this Province, unless the same shall be furnished with one or more Bell or Bells for each Horse drawing such Sled or Sleigh, to be fastened to such Sled or Sleigh or to the Harness thereof so as distinctly to be heard, under the penalty of five shillings for every offence, to be recovered from the owner or driver thereof by any person who shall sue for the same, upon conviction before any one of His Majesty's Justices of the Peace by the oath of one or more credible witness or witnesses or on the view of such Justice, and levied by Warrant under the hand of such Justice, rendering the overplus (if any) after deducting the costs and charges of such distress and sale to the offender; which fines shall be paid and appropriated in like manner as is mentioned in the twenty-second Section of this Act.

XXXI. And be it enacted, That the respective Commissioners of Highways shall, on or before the fifteenth day of December in each and every year, deliver into the Clerk of the Peace of their respective Counties returns of the Statute Labour performed in their respective Parishes or Districts to be by him filed; which return shall set forth that all the persons liable to work within the Parish or District of the Commissioner or Commissioners making such return have either worked, paid their commutation or fines, or been prosecuted for the same as the Law directs, with the exception of those persons whom the said Commissioner or Commissioners have deemed it right to excuse; and also a correct account of all the fines and monies received, and of the manner in which they have been expended, with the vouchers in support thereof, and a statement of the balance (if any) on hand; also a list of the persons from whom the commutation or fines have not been recovered, and the names of all such persons as the Commissioners making such return have excused, and the cause thereof; which return shall be (as near as may be) agreeable to the form hereafter set forth; and if any balance shall remain in the hands of such Commissioner or Commissioners the same shall be paid into the hands of the County Treasurer, to be disposed of by the order of the Justices or the major part of them in their General Sessions, for the making, repairing and amending the Roads, Highways, public Streets and Bridges in the Parish where such money was collected or forfeited.

FORM OF RETURN:

The undersigned Commissioners (or Commissioner) of the Parish of _____ (or District of the Parish of _____, as the case may be), do hereby certify that all the persons liable to work within the said Parish (or District) have either worked, paid the commutation or fines, or been prosecuted for the same as the Law directs, with the exception of the person or persons excused.

Then follows an account of the receipts and expenditures showing the balance of money (if any) on hand, thus:

Statement of monies expended—Statement of monies received—specifying the items.

Names of Persons prosecuted, from whom fines not received.

List of Persons excused.—Causes of such excuse.

XXXII. And be it enacted, That the Commissioners appointed by virtue of this Act shall not be required to do any work on the Highways, and when any Surveyor or Surveyors shall be required to superintend the work on the Highways more than Eight Days, the Commissioners shall and they are hereby authorized and empowered to pay him or them at the rate of five shillings per day out of the monies voluntarily paid into their hands by way of commutation or collected for fines, by virtue of this Act.

XXXIII. And be it enacted, That no prosecution or suit for the recovery of any of the penalties mentioned in this Act shall be brought or instituted after the expiration of six months from the time of committing the offence intended to be prosecuted: Provided nevertheless, that nothing in this Act shall be construed to extend to prevent those intrusted with public money by virtue of any of the hereinbefore recited or any other Acts from being held accountable for all monies so received by them.

XXXIV. Provided always, and be it enacted, That any person thinking that he has been over-rated or assessed too high by the said Commissioners, may appeal to the Justices of the Peace at their next General Sessions after the said work and labour required by this Act has been performed; and the said Justices are hereby authorized and required to examine into the appeal, and if the said appellant shall make it appear to their satisfaction that he has been assessed too high, the said Justices shall and may give relief, by allowing the said appellant the number of Days in which he may appear to have been over-assessed, out of his proportion of Statute Labour on the Highways the next year.

XXXV. Provided also, and be it enacted, That no such appeal shall be heard unless the Person deeming himself aggrieved do, within one Calendar month after receiving notice of the said assessment or being summoned to perform labour leave a written memorandum in the office of the Clerk of the Peace for the County or with the Commissioners of Highways of the Parish, who are required to transmit the same to the Clerk's office; to which memorandum shall be annexed an affidavit in the form following or to that effect:

County of _____, I, A. B., of the Parish of _____, in the said County do make oath that the whole of the property, real and personal, owned by me or held by any other person in trust for me, or for my use, does not exceed _____, and that my whole yearly income does not exceed _____.

Sworn at _____, the _____ day of _____, before me.

C. D., Justice Peace.

XXXVI. Provided always, and be it enacted, That nothing in this Act contained shall extend or be construed to extend to the City of Saint John; and also, that in the Parish of Fredericton in the County of York, no person liable to perform Statute Labour under this Act shall be suffered or permitted to work by substitute, but that every Inhabitant of the said Parish shall work in person or pay the sum of money by this Act provided to be paid in lieu thereof, any thing hereinbefore in this Act contained to the contrary notwithstanding.

XXXVII. And be it enacted, That this Act shall continue and be in force until the first day of April which will be in the year of our Lord one thousand eight hundred and forty.

CAP. III.

An Act to regulate Tavern-keepers and Retailers.

Passed 17th March 1835.

BE it enacted by the Lieutenant Governor, Council and Assembly, That an Act made and passed in the first year of the Reign of King William the Fourth, intitled *An Act to regulate Inns, Taverns and Houses for selling strong or spirituous Liquors, and to repeal all the Laws now in force relating to the same*, excepting the repealing part thereof, be and the same is hereby repealed: Provided always, that all Licenses granted under the aforesaid Act shall continue and be of the same force and effect as if the said Act had not been repealed, and all Rules and Regulations made under and by virtue of the said Act shall continue and be in full force and effect until the said Licenses shall have expired.

II. And be it enacted, That the Courts of General Session of the Peace for the several and respective Counties in this Province are hereby authorized and empowered to grant Licenses to such and so many persons as they in their discretion shall think fit, being of good name, fame and character, and of sober habits, and (in case the License be granted to keep an Inn or Tavern) having the

means of decently and comfortably entertaining Travellers, to keep a Tavern or Inn or to sell Wine, Brandy, Rum, Beer, Ale or strong Liquors of any kind whatsoever, within their respective Counties, by retail in any quantity under five gallons and not less than one pint, demanding and receiving for every such License such sum as they in their discretion shall think fit, not exceeding ten pounds nor less than forty shillings, which License so granted shall in no case be in force for a longer period than one year; which sum so to be received shall be paid over by the Clerk of the Peace into the hands of the County Treasurer towards defraying such necessary contingent expenses of the County as such Court of General Sessions shall from time to time direct, such Clerk retaining for his trouble two shillings and sixpence: Provided always, nevertheless, that nothing in this Section contained shall extend or be construed to extend to prevent the Justices at their General Sessions in the respective Counties, in their discretion, from granting Tavern Licenses for the sum of twenty shillings to any person or persons residing in remote situations, where the same shall appear to such Justices absolutely necessary for the accommodation of travellers.

III. And be it enacted, That every person on taking out any such License, shall enter into recognizance with two good and sufficient sureties to His Majesty in the sum of forty pounds, to obey such Rules and Regulations as the said Court of General Sessions shall from time to time make and ordain to be observed by Tavern-keepers and Retailers respectively in such County; which Rules and Regulations the said Court of General Sessions as aforesaid are hereby authorized and empowered to make and ordain.

IV. And be it enacted, That if any person shall directly or indirectly sell or barter any Wine, Brandy, Rum, Beer, Ale or any strong or spirituous Liquor whatsoever, in any quantity under five gallons without License for that purpose first had and obtained, or if a licensed Retailer shall sell any such Liquor in any quantity less than one pint, or shall allow any such Liquor to be drank on the premises of such Retailer, every person so offending shall for each and every offence forfeit and pay a sum not exceeding ten pounds nor less than forty shillings, to be recovered with costs on complaint being made to any one of His Majesty's Justices of the Peace in the County where such offence had been committed on the oath of one or more witness or witnesses, and levied, collected and applied as hereinafter directed.

V. And be it enacted, That no License granted by virtue of this Act shall entitle any person to keep a Tavern or Inn, or to sell any strong or spirituous Liquor by retail in any other house or place than that in which first kept and sold by virtue of said License, but in case of the death or removal of any person who has taken out License as aforesaid, before the expiration of the same, it shall and may be lawful for the said Justices at any general or special Sessions of the Peace to grant to the person succeeding to such Tavern or retail premises a License to keep on and continue the same during the residue of the term of the said License; the person so succeeding entering into the like recognizance as if the same had been originally granted to such person under the authority of this Act.

VI. And be it enacted, That no Inn-keeper, Tavern-keeper or Retailer who shall sell upon trust or credit any Wine, Brandy, Rum, strong Beer, Ale or any other strong or spirituous Liquors, mixed or unmixed, to any person whatsoever to the amount of any sum exceeding five shillings, shall have any remedy against the said person, his executors or administrators, either in law or equity for the recovery of the same; and in case any servant, apprentice, bound servant, or other person whosoever, shall leave any pawn or pledge as a security for the payment of any sum exceeding five shillings contracted in such manner, such servant, apprentice, bound servant, or other person, or the master or mistress of such servant, apprentice or bound servant, may complain to any Justice of the Peace where such Retailer, Tavern-keeper or Inn-keeper receiving such pawn or pledge usually resides, that such pawn or pledge is detained from him or her by such Tavern-keeper or Inn-keeper, and having made proof thereof upon oath, such Justice of the Peace is hereby authorized and required by Warrant under his hand and seal to compel such Retailer, Inn-keeper or Tavern-keeper, by distress and sale of the offender's goods, to restore the said pawn or pledge to the party complaining or to make him or her satisfaction for the loss or abuse thereof, and shall further be subject to a fine not exceeding five pounds, to be recovered and applied as is hereinafter provided.

VII. And be it enacted, That no Retailer, Tavern-keeper, Inn-keeper or other person whatsoever, shall permit or suffer any apprentice, servant or minor, to sit or remain drinking in his or her house, nor give or sell nor suffer to be given or sold to such apprentice, servant or minor, any strong Liquor whatever, without the order or allowance of their respective masters or mistresses, parents or guardians, on pain of forfeiting a sum not exceeding five pounds for each and every such offence, together with the charges of prosecution, to be recovered upon conviction on the oath of one credible witness before any one of His Majesty's Justices of the Peace within the County where the offence shall be committed, or by the view of such Justice, or by such other proof as shall be satisfactory to such Justice, and to be levied, collected and applied as hereinafter directed.

VIII. And be it enacted, That no Retailer shall, upon any pretence whatever, sell any strong or spirituous Liquors to any person or persons whosoever, to be by him or them or any other person or persons used or consumed in the house or licensed premises of such Retailer, under the penalty of five pounds for each and every offence, to be recovered upon due conviction upon the oath of one or more credible witness or witnesses before any one of His Majesty's Justices of the Peace, or if in the City of Saint John, before the Mayor, Recorder or any Justice of the Peace for the City and County of Saint John, and levied, collected and applied as hereinafter directed.

IX. And be it enacted, That no Tavern-keeper, Inn-keeper or Retailer, shall sell any Wine, strong Beer, Ale, Brandy, Rum or other spirituous Liquors mixed or unmixed on the Lord's Day, commonly called 'Sunday,' under the penalty of a sum not exceeding five pounds nor less than forty shillings for each and every offence, to be recovered, levied and applied as is hereinafter provided.

X. And be it enacted, That if any Tavern-keeper, Inn-keeper or Retailer, shall sell, offer for sale or have in his possession, any Wine, Brandy, Rum, Gin, strong Beer, Ale or any other strong or spirituous Liquors, knowing the same to have been illegally imported into this Province, such Tavern-keeper, Inn-keeper or Retailer, on conviction thereof on the oath of one or more credible witness or witnesses before any one of His Majesty's Justices of the Peace of the City or County in which such offence hath been committed, shall forfeit and pay the sum of five pounds with costs of prosecution, to be recovered, levied and applied as is hereinafter directed; and the License granted to him or her shall be revoked and annulled, and he or she shall not be eligible to have or enjoy a Tavern or retail License for the space of two years thence next ensuing.

XI. And be it enacted, That any Tavern-keeper or Retailer who shall be convicted of enticing, seducing, harbouring or concealing any article seaman or apprentice under the existing Law, shall not only forfeit his License but shall be disqualified from holding a Tavern or retail License for the space of one year after conviction of the offence.

XII. And whereas by the Charter of the City of Saint John, confirmed by Act of Assembly, it is among other things provided, that the Mayor of the said City for the time being, and no other person whatsoever, shall have power to give and grant Licenses under the Common Seal of the said City, to all such persons as he shall think fit, to license them or every of them to keep a Tavern, an Inn, an Ordinary, a Victualling or a Coffee House, or to sell Wine, Brandy, Rum, strong Waters, Punch, Beer, Ale or any other ciseable or strong Liquors whatsoever, within the City of Saint John or the liberties or precincts thereof, by retail or the small measure under the quantity of five gallons, and that it shall and may be lawful to and for the Mayor of the said City for the time being, to ask, demand and receive for every such License by him to be granted as aforesaid, such sum or sums of money as he and the person to whom such License shall be given and granted shall agree for, not exceeding the sum of four pounds for each License, and all which monies as by the said Mayor shall be so received shall be used and applied to the public use of the Mayor, Aldermen and Commonalty of the said City of Saint John: Be it enacted, That it shall and may be lawful to and for the Mayor of the said City for the time being, to ask, demand and receive for every such License by him to be given and granted as aforesaid, any such sum or sums of money as he and the person to whom such License shall be given and granted shall agree for, in manner and form aforesaid, not exceeding the sum of ten pounds for each License, to be applied for the public use of the Mayor, Aldermen and Commonalty of the said City of Saint John: Provided always, That nothing in this Act contained shall apply or be construed to apply in any manner to affect the rights and powers given by the said Charter to the Mayor of the said City in granting Licenses to Tavern-keepers and Retailers of Spirituous Liquors otherwise than in this Section is expressly mentioned and contained: Provided also, that all the penalties, forfeitures, pains and imprisonments to which the Inn-keepers and Retailers are liable for any offences against the provisions of this Act shall extend and apply to all and every Inn-keeper, Tavern-keeper, Retailer, keeper of an Ordinary, Coffee House or Victualling House in the City of Saint John, as fully to all intents and purposes as the same extend and apply to Inn-keepers, Tavern-keepers or Retailers in any other part of this Province, any thing in this Act contained to the contrary in any way notwithstanding.

XIII. And be it enacted, That this Act shall be publicly read by the Clerk at the opening of every Court of General Sessions of the Peace in the several Counties in this Province, and the Justices of such Court shall at the same time cause a list of all the Tavern-keepers, Inn-keepers and Retailers respectively in the respective Counties, to whom License has been granted as aforesaid, to be delivered to the Grand Jurors at such Courts respectively, and it shall be particularly given in charge to such Grand Jurors to make diligent enquiry and presentment of all and every such person or persons as shall be guilty of any breach of or offence against this Act, and also of any breach of or offence against the same by any person or persons not licensed as aforesaid; and upon such presentment it shall and may be lawful for the Justices of such Court or any one of them to proceed against such offenders in the manner hereinbefore directed, to one Justice to proceed for the recovery of the penalties hereinbefore inflicted, and upon conviction of such offender before the Justices of such Court or any one of them, such penalty and penalties shall upon the recovery thereof be paid to the respective County Treasurers, to be applied to the same uses and purposes and under the same orders and directions as the sums paid for Licenses are hereinbefore directed to be applied and subject to.

XIV. And be it enacted, That all fines or penalties imposed by virtue of this Act together with costs of prosecution shall be levied by Warrant of Distress and sale of the offender's goods and chattels, directed to any Constable of the County within which the offence may be committed, rendering the overplus (if any) after deducting the costs and charges of such distress and sale to the offender, and if no goods shall be found whereon to levy it shall be lawful for such Constable to commit such offender to the common Gaol of the County where such offence may be committed, there to remain without bail or mainprize the period to be specified in such Warrant, not exceeding forty days, unless such fine, costs and charges are sooner paid.

XV. And be it enacted, That all fines which may be imposed and collected by virtue of this Act shall be paid into the hands of the County Treasurers by the person who may receive or collect the same, to be applied by such Justices for the same purposes as monies received for Licenses.

XVI. And be it enacted, That the costs of prosecutions under this Act had before a single Justice of the Peace shall be regulated by the Table of Fees allowed and established by the Act now in force to regulate proceedings before Justices of the Peace in Civil Suits, and that the costs of all prosecutions had before the Justices in General Sessions shall be regulated by the ordinance of Fees established in this Province.

XVII. And be it enacted, That the summons, convictions and executions issued and made by any Justice of the Peace for offences against this Act may be agreeably to the forms in the Schedule to this Act, or in any other form of words to the same effect, and when the proceedings are had before the Justices in General Sessions the same forms may be adopted as near as may be; the summons and executions being under the Seal of such Court and signed by the Clerk.

XVIII. And be it enacted, That this Act shall continue and be in force until the first day of April which will be in the year of our Lord one thousand eight hundred and forty.

SCHEDULE.

FORM OF SUMMONS:

ss. To any Constable of the County of _____ Whereas complaint hath been made before me that A. B., of _____, hath sold spirituous Liquor under the quantity of five gallons without a License first had and obtained for that purpose [or hath sold Liquor on Sunday, as the case may be] contrary to the directions of the Act of Assembly in such case made and provided. These are therefore to require you forthwith to summon the said A. B. to appear before me at my office in _____, on _____ day of _____, at _____ o'clock in the forenoon, to answer the matter of such complaint, and further to be dealt with according to Law. Given under my Hand this _____ day of _____, 1835. C. D., J. P.

FORM OF CONVICTION:

ss. Be it remembered, that on the _____ day of _____, 1835, at _____ in said County, A. B. is convicted before me, one of the Justices of the Peace for said County, for that the said A. B. did on the _____ day of _____, 1835, sell spirituous Liquor contrary to the provisions of the Act of Assembly for regulating Tavern-keepers and Retailers; and I the said Justice adjudge the said A. B. for said offence to pay a fine of _____, and also _____ for costs of prosecution. Given under my Hand the day and year aforesaid. C. D., J. P.

FORM OF EXECUTION:

ss. To any Constable of said County. Whereas A. B. of _____, was duly convicted before me and adjudged to pay a fine of _____ and _____ shillings, costs of suit, for an offence against the Act of Assembly for regulating Tavern-keepers and Retailers. These are therefore to require you to levy said fine and costs besides your own fees on the goods and chattels of said A. B. within this County, and for want thereof that you take the said A. B. and him commit to the common Gaol of said County, the Gaoler of which is hereby required to receive the said A. B. into custody and him detain for the period of _____ days, unless such fine and costs be sooner paid. Given under my Hand this _____ day of _____, 1835.