

C H A P. 24

An Act respecting alcoholic liquor

[Assented to, 25th of February, 1921]

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

NATURE AND APPLICATION OF THE ACT

Short title. **1.** This act may be cited under the name of: "The Alcoholic Liquor Act".

Application of act. **2.** 1. The act shall apply to the whole Province, but its application shall be suspended in every municipality where the Canada Temperance Act is in force.

Interpretation. **2.** Nothing in this act must be interpreted as forbidding or regulating any transaction which is not subject to the legislative authority of the Province.

INTERPRETATION

Definitions of : **3.** For the interpretation of this act, unless the context indicates a different meaning,—

"Alcohol"; **1.** The word "alcohol" means the product of distillation of any fermented liquid, rectified either once or oftener, whatever may be the origin thereof, and includes synthetic ethyl alcohol;

"Spirits"; **2.** The word "spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, and includes, among other things, brandy, rum, whiskey and gin ;

"Wine"; **3.** The word "wine" means any alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits (grapes, apples, etc.) or other agricultural product containing sugar (honey, milk, etc.);

"Beer"; **4.** The word "beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley malt and hops in drinkable water;

"Alcoholic liquor"; **5.** The words "alcoholic liquor" include the four varieties of liquor above defined (alcohol, spirits, wine and beer), and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties above defined is considered

as belonging to that variety which has the higher percentage of alcohol, according to the order in which they are above defined;

6. The word "meal" means the consumption of food of a "Meal"; nature and quantity sufficient for the maintenance of the consumer, in one of the following places,—

a. in the dining-room of a hotel not only licensed for the reception of travelers but where full meals are regularly served;

b. in the dining-room of a restaurant situated in a city or town, and equipped for the accomodation of fifty guests at one time, and which is not only licensed for the reception of travelers but where full meals are regularly served;

c. in the dining-room of a club not only organized and authorized as such, but where full meals are regularly served to the members and their guests;

d. in the dining-room of a boat or the dining-car of a train, provided that it be while passengers are being carried;

7. The word "club" means a corporation created by "Club"; competent authority—other than that mentioned in articles 7233 to 7248 of the Revised Statutes, 1909, or any provision replacing any of such articles,—which is the owner, lessee or occupant of an establishment operated solely for objects of a national, social, patriotic, political, or athletic nature, or the like, but not for pecuniary gain, and the property as well as the advantages of which belong to all the members;

8. A "member of a club" is a person who, whether as "Member a charter member or admitted in accordance with the by-laws of the club, has become a member thereof,—who maintains his membership by the payment of his annual dues in the manner established by such rules and by-laws, and whose name and address is entered on the list of members supplied to the Commission at the time of the application for a permit under this act, or, if admitted thereafter, within eight days after his admission;

9. The word "tavern" means an establishment specially "Tavern"; adapted for the sale by the glass and consumption on the premises of beer as hereinabove defined, or, in a hotel, the room specially adapted for such purpose;

10. The word "Commission" means the commission "Commis- created by this act under the name of "The Quebec Liquor sion"; Commission" or "*Commission des liqueurs de Québec*";

11. Whenever they refer to anything forbidden under this "To sell"; act, and relating to alcoholic liquor, the words: "to sell"

include: to solicit or receive an order for; to keep or expose for sale; to deliver for value or in any other way than purely gratuitously; to peddle; to keep with intent to sell; to keep or transport in contravention of section 44 of this act; to traffic in; or, for any onerous consideration, promised or obtained, directly or indirectly, or under any pretext or by any means whatsoever, to procure or allow to be procured for any other person;—and the word: “sale” includes every act of selling as above defined;

“Sale”;

“Person”;

12. The word “person” includes partnership, corporation and club;

“Whosoever”;

13. The word “whosoever” when used in reference to any offender under this act, includes every person who acts for himself or for any other person, and includes also such other person;

“Residence”;

14. The word “residence” means the place where a person resides either permanently or temporarily, and includes not only the premises occupied by him, but also every annex or dependency thereof held by him under the same title as the premises in which he resides;

“Bottle”;

15. The word “bottle” means any vessel intended to contain liquids, and having a capacity of not more than forty-three ounces;

“To peddle”;

16. The words “to peddle” when used in reference to alcohol, spirits, wine or beer, mean to carry on one’s person or to transport with one with intent to sell the same outside any establishment where the sale thereof is allowed;

“Peddling”;

—and the word “peddling” means the act of doing as aforesaid;

“Establishment”;

17. The word “establishment” means any place where alcoholic liquor of one or more varieties is sold or used under the authority of this act, or manufactured by virtue of any act of the Parliament of Canada;

“Traveler”;

18. The word: “traveler” means a person who, in consideration of a given price per day, or fraction of a day, on the American or European plan, or per meal, *à table d’hôte*, or *à la carte*, is furnished by another person with food or lodging, or both;

“Restaurant”;

19. The word: “restaurant” means any establishment, provided with special space and accommodation, where, in consideration of payment, food (without lodging), is habitually furnished to travelers;

“Hotel”;

20. The word: “hotel” means any establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to travelers;

“Vehicle”;

21. The word “vehicle” means any means of transporta-

tion by land, by water or by air, and includes everything made use of in any way whatsoever for such transportation;

22. The words "disorderly house" have the meaning "Disorderly house" given them by Part V of the Criminal Code.

4. Every delivery of alcoholic liquor in a disorderly house shall be a delivery for value, and shall constitute a sale.

Every other delivery of alcoholic liquor made otherwise than by purely gratuitous title, shall constitute a sale.

In any proceeding instituted under this act, the burden of proving that such delivery was by purely gratuitous title shall be upon the defendant.

THE COMMISSION

5. A Commission composed of five members is by this act created under the name of "The Quebec Liquor Commission," or "*Commission des liqueurs de Québec*", and shall constitute a corporation, vested with all the rights and powers belonging generally to corporations.

6. The Lieutenant-Governor in Council shall appoint the members and the chief attorney of the Commission, who shall hold office during good pleasure; he shall indicate the members of the commission who shall act as the chairman and vice-chairman, and shall fix the salary of each such appointee. The chairman of the Commission shall follow no other occupation whatsoever.

7. No vacancy among the members of the Commission shall have the effect of dissolving it, and the Lieutenant-Governor in Council may fill every such vacancy.

8. The head office of the Commission shall be in the city of Montreal. The quorum at meetings of the Commission shall be three members.

9. The functions, duties and powers of the Commission shall be the following:

- a. to buy, have in its possession and sell, in its own name, alcoholic liquor in the manner set forth in this act;
- b. to lease or occupy any building or land required for its operations;
- c. in accordance with the regulations made under section 15, to borrow sums of money, guarantee the payment thereof and of the interest thereon, by the

transfer or pledge of goods or in any other manner required or permitted by law and particularly by the Bank act;—to issue, sign, indorse and accept cheques, promissory notes, bills of exchange and other negotiable instruments;

- d. to control the possession, sale and delivery of alcoholic liquor in accordance with the provisions of this act;
- e. to grant, refuse, or cancel permits for the sale of alcoholic liquor or other permits in regard thereto, and to transfer the permit of any person deceased;
- f. to prevent and investigate every contravention of this act, make every seizure of alcoholic liquor sold, kept or transported in contravention thereof and apply for the confiscation thereof, whenever required by this act, and to prosecute offenders in its own name before any court of competent jurisdiction;
- g. to act, for the purposes of this act, as the competent provincial authority in connection with customs and excise matters;
- h. to appoint every officer, inspector, clerk, or other employee required for its operations, dismiss them, fix their salaries or remuneration, assign them their official titles, define their respective duties and powers, and engage the services of experts and of persons engaged in the practice of a profession.

Oaths to be taken.

10. Every member of the Commission and every person appointed to any position by the Commission must, on entering upon his duties, take an oath in conformity with article 818 of the Revised Statutes, 1909.

Security to be given.

11. Every person appointed to any position by the Commission, must, if required, on entering upon his duties, give security by means of a guarantee policy to the amount fixed by the Commission, in accordance with articles 609 to 637 of the Revised Statutes, 1909.

Prosecutions of Commission and members thereof.

12. No member of the Commission may be prosecuted for doing or omitting to do any act in the performance of his duties as prescribed by this act, unless by the Provincial Government.

The Commission itself may be prosecuted only with the consent of the Attorney-General.

Employees to be public officers.
Notice to be

13. Every employee of the Commission shall be a public officer, and the one month's notice required in the case of any action for damages against any such officer,

must be served upon the Commission as well as upon the defendant. given in certain case.

14. No member or employee of the Commission may, Members directly or indirectly, individually or as member of a partnership or corporation or as shareholder of a company, have any interest whatsoever in dealing in or in the manufacture of alcohol, spirits, wine or beer, or in any enterprise or industry in which such alcoholic liquor is required, nor receive any commission or profit whatsoever from nor have interest whatsoever in the purchases or sales made by the Commission or by the persons authorized by virtue of this act to purchase or sell alcoholic liquor.

No provision of this article shall prevent any such member or such employee from purchasing and keeping in his possession, for the personal use of himself or members of his family, any alcoholic liquor which may be purchased or kept by any person by virtue of this act. Proviso.

15. 1. The Lieutenant-Governor in Council may make any regulation he may deem necessary for the carrying out of this act, and may amend or repeal any such regulation, respecting: Regulations by Lt.-Gov. in C.

- a. loans made by the Commission;
- b. the keeping of its books and the rendering and auditing of its accounts;
- c. the condition and inventory of the goods it has on hand.

2. The Commission may make any regulation it may deem necessary for the carrying out of this act respecting its internal economy and the conduct of its business, and may amend or repeal any such regulation. It must, whenever required, transmit a copy of every such regulation to the Lieutenant-Governor in Council. Regulations by Commission.

3. If any regulation of the Commission be,—

- a. approved by the Lieutenant-Governor in Council, and Regulations to have force of law in certain case.
- b. published in the *Quebec Official Gazette*,—

every contravention of any provision of such regulation shall be an offence under this act, and shall entail the penalty provided therefor by section 51.

4. No regulation made by the Commission and approved and published as above mentioned, may be repealed or amended save by another regulation of the Commission, approved and published in the same way. To be amended and repealed with same formalities.

16. Every order given by the Commission for alcoholic liquor must bear the signature of three of its members. Orders given by Commission.

Duplicates to be kept. A duplicate of every order shall be kept at the head office of the Commission.

Loans. **17.** Loans by the Commission must be made only at such bank or banks as the Provincial Treasurer, at his discretion, shall indicate.

Deposits. Every sum of money collected by the Commission must be deposited in the name of the Commission in such bank or banks as the Provincial Treasurer, at his discretion, shall indicate.

Property of Commission. **18.** All property owned by the Commission and all profits earned by it shall be the property of the Province.

Moneys to be handed over. Every sum of money collected by the Commission, which the Provincial Treasurer considers available, shall, on demand, be handed over to him, and every such sum of money, after it is so handed over, shall form part of the consolidated revenue fund of the Province.

Accounts to be rendered. **19.** The Commission shall render an account to the Provincial Treasurer, in the manner and at the times indicated by the latter, of its receipts and disbursements, as well as its assets and liabilities.

Audit. Its operations shall be subject to examination and audit by persons appointed therefor by the Lieutenant-Governor in Council.

ESTABLISHMENTS OF THE COMMISSION

Stores and warehouses. **20.** The Commission may have the following stores and warehouses:

1. Its principal store and warehouse in the city of Montreal, in any place indicated by the Lieutenant-Governor in Council;

2. Branches of such principal store and warehouse in such cities and towns as the Commission may choose, and to the number that it decides.

None in Municipality where prohibitory by-law is in force, etc. Nevertheless, no such branch may be established in any municipality in which a prohibitory law, applying to such municipality or to the county in which such municipality is situated, is in force, nor in any municipality whose council has, by by-law, enacted that no such branch may be established therein.

TRANSITORY PROVISIONS

Authorized vendors and license **21.** 1. Every authorized vendor and every licensee under the Quebec Prohibition Law, and every licensee under

the Quebec License Law, must, before the expiration of his privilege or license, on the 30th of April, 1921, make a statement to the Commission showing all the alcoholic liquor belonging to him, or in his possession or under his control, by whatsoever title, and put the same under the control and in the possession of the Commission in the manner indicated by the latter.

2. Upon the failure of any such authorized vendor or licensee to comply with the provisions of this section, the Commission may, by virtue of a written order, signed by three of its members, direct the seizure, by any person entrusted with such order, and the confiscation, of such alcoholic liquor not entered in such statement nor put under the control or in the possession of the Commission, with all the vessels containing the same. No proceedings at law shall be required for such confiscation.

3. The Commission shall not be held responsible for any loss of, or damage to, any alcoholic liquor of which it has taken possession under paragraph 1 of this section. It may, in its discretion, sell or otherwise dispose of any of such alcoholic liquor for such price and upon such terms and conditions as it may deem advisable, and may compensate the owner therefor, less any such costs and charges as it may determine upon. It may also, at its discretion, destroy any such alcoholic liquor or any part thereof, or recover the alcohol therefrom.

22. Every manufacturer of articles for the manufacture or conservation of which alcohol, spirits or wine, is necessary, must, on the 1st of May, 1921, and on the 1st of May of every year thereafter, make a return to the Commission of the quantity of each variety of such liquor at that time in his possession, of the places where it is kept, and, at the same time, advise the Commission of the approximate quantity of each variety that he may require within the twelve months next after such date.

SALE AND DELIVERY OF ALCOHOLIC LIQUOR

23. It is forbidden to sell or deliver in this Province any alcohol, potable or non-potable, any spirits, wine or other alcoholic liquor, with the exception of beer, for which provision is made in section 26.

However, it may be sold or delivered to or by the Commission, or by any person authorized by it, or in any case provided for by this act.

24. 1. Each sale by the Commission of alcohol or

of amount
of each sale.

spirits, delivered in one of its establishments or shipped by it to a point within the Province, is limited, in quantity, to one bottle, unless such sale be made to a person authorized to resell the same, or for industrial purposes.

Special label
and sealed
package.

2. Whenever the alcohol or spirits sold by the Commission is in a bottle, the latter must bear the special label of the Commission, and be placed in a package sealed by it, and on which is shown the price paid.

Sales to be
for cash.

3. Every sale by the Commission shall be for cash.

Delivery of
alcoholic
liquor.

25. If any alcoholic liquor sold by the Commission is to be delivered in any city or town where the Commission has a store or warehouse, the delivery shall be made in the manner determined by the Commission. If it is to be delivered elsewhere, the delivery shall be made by the Commission by parcel post, common carrier or express company.

Sale and
delivery of
beer.

26. The sale or delivery of beer is forbidden in the province, unless such sale or delivery be made by the Commission or by a brewer, or other person authorized by the Commission under this act, and in the manner hereinafter set forth.

Conditions
on which
brewers may
sell beer.

27. No brewer may sell beer or ship it, either into or within the Province or from the Province,—

- a. unless a permit therefor be granted him by the Commission, upon payment to the Commission of a duty of five thousand dollars, and such permit be in force;
- b. unless such sale or delivery within the Province be to a person authorized by the Commission to sell beer, or beer and wine, as the case may be.

Brewers to
make monthly
return
of sales.

28. 1. Every brewer must make to the Commission, every month, in the form that it shall determine, an exact return of all his sales of beer shipped into or within the Province or from the Province, during the preceding calendar month, showing the gross amount of such sales.

Penalty for
failure to
make return.

2. Any brewer who fails to make such return to the Commission within the fifteen days following the expiration of any calendar month for which it should be made, shall be guilty of an offence, and shall be liable to a fine of fifty dollars per day, for each day's delay, counting from the expiration of such fifteen days.

Examina-
tion
of books.

29. 1. The Commission may have an examination made of the brewer's books, or may otherwise check the accuracy of any such return.

2. Any brewer who refuses to allow such examination ^{Penalty.} or who fails to make an accurate return according to the instructions of the Commission, shall be guilty of an offence, and shall be liable, in addition to the costs, to a fine of one thousand dollars.

30. 1. No person may purchase from a brewer any beer which he ships either into or within the Province or from the Province, without paying a duty equal to five per cent of the gross amount of his purchase. The brewer selling such beer must collect the duty, in the manner indicated by the Commission, and hand over the same to the Commission, whenever called upon. He shall in such case act as the agent of the Commission, and shall hand over the said duty at such times as it shall fix. ^{Duty upon purchases from brewers. To be collected by brewer and paid over to Commission.}

2. Every brewer who fails to collect the said duty from the purchaser in the manner indicated by the Commission, before the delivery of the beer sold, or to hand such duty over to the Commission at such times as it may fix, shall be guilty of an offence under this act, and liable, in addition to the costs and the payment of the duty collected or to be collected, to a fine of one thousand dollars. Every such failure, moreover, shall entail the cancellation by the Commission of the brewer's permit. ^{Penalty for brewer failing to collect and pay over duty. Cancellation of permit.}

31. The following persons may also, in the cases and under the conditions hereinafter set forth, sell certain alcoholic liquor in the manner hereinafter indicated, to wit: ^{Certain persons may sell in certain cases.}

1. Any person in charge of a hospital recognized by the Commission as such, shall have the right to administer alcoholic liquor to its patients, and to charge them the value thereof; ^{Persons in charge of hospitals.}
2. Every person having any trading post or industrial or mining establishment in New Quebec or other territory in the northern parts of the Province, designated from time to time by the Lieutenant-Governor in Council, may sell alcoholic liquor at such post or establishment to its employees and to the people living in such territory,—provided that a permit therefor be granted him by the Commission. Such permit may be subject to such conditions and restrictions as the latter may establish or impose; ^{Persons having establishments in New Quebec, etc.}
3. Any person in charge of any hotel, restaurant, steamboat, dining-car, club or other establishment recognized by the Commission as serving meals, may, during any such meal taken by a traveler, a boarder or a member of the club, as the case may be, sell him, ^{Hotels, restaurants, etc.}

- by the glass or by the bottle, wine or beer, which must be consumed on the premises during the meal, by himself and his companions,—provided, however, that a permit therefor be granted to such person by the Commission, upon payment of the duties prescribed by this act, and that such permit be in force;
- Groceries,
etc.
4. Any person in charge of a grocery or of a store where beer only is sold, may sell beer at such store, on condition: that no quantity of less than one bottle be sold; that such beer be not consumed in such store or any dependency thereof; that it be delivered either at such store, at some other place in the municipality in which such store is situated, or at some place in an adjoining municipality not under a prohibitory law, or that it be delivered outside such municipalities in the manner indicated in section 44; that a permit therefor be granted him by the Commission, upon payment of the duties prescribed by this act; and that such permit be in force. For the purposes of this paragraph, the island of Montreal shall be deemed to be one municipality;
- Special pro-
vision for
Island of
Montreal.
Taverns.
5. Any person in charge of a tavern, but in a city or town only, may sell therein beer by the glass,—provided that it be consumed on the premises, and provided that a permit to that effect be granted him by the Commission, upon payment of the duties prescribed by this act, and that such permit be in force;
- Banquets.
6. Any person in charge of a banquet may there sell beer and wine,—provided that it be consumed on the premises, and provided that a permit therefor be granted him by the Commission, upon payment of the duties prescribed by this act, and that such permit be in force. However, if such banquet be held in any place for which a permit for sale during meals has been granted under paragraph 3, and such permit be still in force, no special permit shall be required for such banquet.
- Persons
from whom
liquor must
be bought
- In every such case, the alcohol, spirits or wine must have been bought directly from the Commission by the hospital or the holder of the permit, and the beer must have been bought directly by the holder of the permit from a brewer who is also the holder of a permit.
- Applica-
tions for
permit.
- The application for the permit and the permit itself must contain sufficient information to identify the place where such permit may be used.
- Distribu-
ting est-
- The brewer may have, at such places and in such a manner as the Commission may determine, establishments

other than his brewery, to distribute the beer which he has sold. abshments
for brewer.

32. No permit shall be granted other than to an individual, and in his personal name. Permits to
be granted
to individ-
uals.

The application must be signed by the applicant before witnesses, and must give his name, surname, age, occupation and residence, the kind of permit required and the place where it will be used, and must be accompanied by the amount of the duties payable upon the application for the permit. Applica-
tions.

If the permit is to be used on behalf of a partnership or corporation, the application therefor must likewise be accompanied by a declaration to that effect, and duly signed by such partnership or corporation. In such case the partnership or corporation shall be responsible for any fine and costs to which the holder of the permit may be condemned; and the amount thereof may be recovered before any court having jurisdiction, without prejudice to the imprisonment, if any. To be ac-
companied
by declara-
tion in cer-
tain cases.

On or before the 20th of January in each year, the Commission shall render its decision upon every application made to it before the 31st of December preceding, for a permit for the year commencing on the 1st of May following. Decision to
be rendered
before cer-
tain date.

33. 1. The Commission may determine the manner in which a tavern or a dining-room must be furnished and equipped in order to allow the exercise therein of the privilege conferred by the permit. Furnishing
of taverns,
etc.

2. The Commission may require that every holder of a permit for the sale of beer under section 31, shall make a return of his purchases and sales of beer, in such manner and at such times as may be fixed by the Commission. Return
from holders
of permits.

34. The Commission may refuse to grant any permit mentioned in section 31. May refuse
permits.

Nevertheless, the Commission must refuse to grant any permit in any municipality where a prohibitory by-law is in force. It must also refuse to grant any permit, or any certain kind of permit, as the case may be, in any municipality whose municipal council has, by by-law, requested the Commission to refuse to grant any permit or any certain permit;—provided that every such by-law be filed at the office of the Commission. If it has not been filed until after the Commission has granted a permit in such municipality, the Commission may not give effect to such request before the first of May following the date of the filing. Must refuse
where prohibi-
tory by-
law is in
force, etc.

The Commission must also refuse to grant any permit for On exhibi-

tion grounds, the sale of alcoholic liquor upon the grounds occupied by any
etc. agricultural or industrial exhibition or by any race meeting.

Date when permits expire. **35.** 1. Whatever be the date of issue of any permit granted by the Commission, such permit shall expire on the 30th of April following, unless it be cancelled by the Commission before such date, or unless the date at which it must expire be prior to the 30th of April following.

Cancellation. The Commission may cancel any permit at its discretion.

Results of cancellation. 2. Saving the provisions of paragraph 4 of this section, the cancellation of a permit shall entail the loss of the privilege conferred by such permit, and of the duties paid to obtain it, and the seizure and confiscation by the Commission of the alcoholic liquor found in the possession of the holder thereof, without any judicial proceedings being required for such confiscation.

Service of cancellation. The cancellation of a permit shall be served by means of a bailiff leaving a duplicate of such order of cancellation, signed by three members of the Commission, with the holder of such permit or with any other reasonable person at his domicile or place of business.

The cancellation shall take effect as soon as the order is served.

Cancellation not to prevent prosecution. 3. The cancellation of a permit shall not prevent the Commission from instituting any prosecution or action for any offence under any provision of this act by the person who was the holder of such permit, while the same was in force, nor from applying for the confiscation of any alcoholic liquor seized before such cancellation.

Effect of convictions. No conviction obtained for any offence under one or more of the provisions of section 50 or 51 of this act shall prevent the Commission from cancelling the permit of any offender nor from making at the same time a seizure and confiscation of the alcoholic liquor.

If no conviction obtained, certain remission to be made by Commission. 4. If the cancellation of the permit be not preceded or followed by a conviction for any offence under this act committed by the holder of such permit while it was in force, the Commission shall remit to such holder,—

- a. such part of the duties which such person has paid upon the granting of such permit, proportionate to the number of full calendar months still to run up to the first of May following;
- b. the proceeds of every sale by the Commission, after the seizure and confiscation thereof, of beer having an alcoholic content of not more than five per cent, in weight, less ten per cent of such proceeds;

- c. the value, as determined by the Commission, of the other alcoholic liquor seized and confiscated, less ten per cent of such value.

5. Save in the case where a permit is granted to an individual on behalf of a partnership or corporation, in accordance with section 32, the Commission must cancel every permit made use of on behalf of any person other than the holder. Permits to be used by holder.

36. 1. The rights conferred by a permit may not be transferred by the Commission, except in case of the death of the person to whom the Commission granted such permit. Rights to be non-transferable. Exception.

2. The Commission may allow any holder of a permit to move from one premises to another. Changing of premises.

3. In case of seizure of alcoholic liquor, under any judgment rendered against the holder of a permit, or in case of the insolvency or abandonment of property of such person, the sheriff or bailiff entrusted with the writ of execution, or, as the case may be, the trustee or curator or the assignee for the benefit of the creditors, must, instead of selling it, deliver to the Commission all alcoholic liquor found in the possession of the said person. The Commission must, within one month after the date of such delivery, hand over to the officer who has made such delivery,— In case of execution, etc., liquor to be handed over to Commission.

a. the proceeds of the sale made, by the Commission, of beer so delivered, and the alcoholic content of which is not more than five per cent, in weight, less ten per cent of such proceeds;

b. the value, as established by the Commission, of the other alcoholic liquor so delivered, less ten per cent of such value.

TARIFF OF DUTIES

37. The duties exigible by the Commission and payable to it upon every application for a permit, shall be one-fifth of the amount exigible upon the granting of such permit. Duties on application for permit.

The duties exigible by the Commission and payable to it upon the granting of permits, shall be the following: Duties on granting of permit.

1. For every post or establishment mentioned in paragraph 2 of section 31, one hundred dollars; Posts, &c;
2. To sell during meals in the dining-room of a hotel or restaurant,— Dining-rooms;

- a. three hundred dollars if such hotel or restaurant be in a city;
 - b. one hundred and fifty dollars if it be in a town;
 - c. one hundred dollars if it be elsewhere;
3. To sell during meals in the dining-room of a boat, three hundred dollars;
4. To sell during meals in each dining-car, one hundred dollars;
5. To sell during meals in the dining-room of a club,—
 - a. four hundred dollars if such club be in a city;
 - b. two hundred dollars if it be elsewhere;
6. To sell during meals in the dining-room of any other establishment recognized by the Commission as serving meals,—
 - a. two hundred dollars if such establishment be in a city;
 - b. one hundred dollars if it be elsewhere;

Store;

7. To sell in a store,—
 - a. In the cities of Montreal and Quebec, a duty of twenty-five dollars and one hundred and twenty-five per centum of the annual value or rent of the premises for which the permit is required; provided that, in no case, shall the duties on such a permit be less than three hundred dollars or more than five hundred dollars;
 - b. In any other city, three hundred dollars;
 - c. In any town, two hundred and twenty-five dollars;
 - d. In any other part of the Province, one hundred and fifty dollars;

Tavern;

8. To sell in a tavern,—
 - a. In the city of Montreal, a duty of: five hundred dollars, if the annual value or rent of the premises for which the permit is required be five hundred dollars or less,—six hundred dollars, if the annual value or rent be over five hundred dollars and less than nine hundred dollars,—eight hundred dollars, if the annual value or rent be nine hundred dollars and less than two thousand dollars,—one thousand dollars if the annual value or rent be two thousand dollars and less than ten thousand dollars,—thirteen hundred dollars, if the annual value or rent be ten thousand dollars and less than twenty-five thousand dollars,—fifteen hundred dollars, if the annual

value or rent be twenty-five thousand dollars or more.

The holder of a permit paying not more than five hundred dollars shall pay one hundred dollars extra if his tavern be in a hotel;

- b. In the city of Quebec, a duty of: five hundred dollars, if the annual value or rent of the premises for which the permit is required be two hundred dollars or less,—six hundred dollars, if the annual value or rent be over two hundred dollars and less than four hundred dollars,—eight hundred dollars, if the annual value or rent be four hundred dollars and less than eight hundred dollars,—one thousand dollars, if the annual value or rent be eight hundred dollars and less than ten thousand dollars,—twelve hundred dollars, if the annual value or rent be ten thousand dollars or more;
 - c. In every other city,—
 - if only one permit is issued, four hundred and fifty dollars;
 - if two permits are issued, three hundred and thirty-eight dollars;
 - if three permits are issued, two hundred and sixty-three dollars;
 - if four or more permits are issued, one hundred and eighty-eight dollars;
 - d. In every town,—
 - if only one permit is issued, three hundred and thirty-eight dollars;
 - if two permits are issued, two hundred and sixty-three dollars;
 - if three permits are issued, one hundred and eighty-eight dollars;
 - if four or more permits are issued, one hundred and fifty dollars;
9. To sell at any banquet, ten dollars for each banquet; Banquet.
 10. to sell during meals in the dining-room of a hotel ^{Summer} situated in a summer resort, or of a restaurant forming ^{resort} part of an amusement park situated in a city or town, for a period of six months or less, one-half the duties indicated in paragraph 2 of this section;
 11. To sell in the tavern of a hotel situated in a summer ^{rd.} resort or in a tavern forming part of an amusement park situated in a city or town, for a period of six months or less, one-half the duties mentioned in paragraph 8 of this section.

Duties on application to apply.

When any permit is granted, the duties paid upon the application therefor shall be applied on the payment of the duties exigible upon the granting of such permit.

Rent or actual value to be taken from municipal valuation roll. Certificates of valuation.

The rent or annual value, upon which the permit duties payable under this section are to be based, shall be taken from the municipal valuation roll then in force, subject to the provisions of this section.

What to be included in valuation.

To every application for a permit the duty whereof is regulated by the amount of the rent or annual value, in the cities of Montreal and Quebec, there shall be annexed a certificate of the valuation, contained in the valuation roll, of the house and dependencies or premises for which such permit is sought, which valuation shall include not only the rooms used for the purpose required for such permit, but also all other rooms in the same house, and dependencies which are occupied by the holder of the permit or intended so to be for any purpose whatsoever, delivered by the city clerk, who shall deliver such a certificate, whenever thereto required, under a penalty of fifty dollars for each offence.

Ditto for store.

In the case of stores in which there is no communication from within between the parts of a building used for the purposes of the permit and the parts of the same building used for other purposes, the valuation shall include only such parts of the building as are intended to be used for the purposes of the permit. But in the case of a tavern in a hotel, the valuation shall be made in accordance with the terms of the preceding paragraph, even though there be no communication within between the tavern and the other parts of the building.

Tavern in hotel.

Penalty for presenting false certificate.

If the certificate of the clerk of the municipality, annexed to the application for the permit, does not give the actual rent or annual value, and has been obtained owing to incorrect information supplied to the assessors or valuers, the applicant presenting such certificate shall be liable to a penalty of not less than one hundred dollars nor more than two hundred dollars, and to imprisonment for three months in default of payment, and the Commission may further, at any time, cancel the permit granted upon such application.

Penalty for assessor in certain case.

Every assessor or valuator who knows that the rent or annual value is understated in such certificate, and accepts such valuation, shall also incur a penalty of not less than one hundred dollars nor more than two hundred dollars, and imprisonment for not less than three months nor more than six months, in default of payment.

Commission may

Whenever the Commission is of opinion that the valuation mentioned in this section is too low, it may have the

premises valued by a competent person; and the valuation so obtained shall be submitted to the Commission, who, after summarily hearing the parties and their evidence, shall decide thereupon; and such decision shall be final and not subject to *certiorari*, appeal or other recourse; and, in the event of the discovery of any fraud, the parties guilty thereof shall incur the penalties prescribed by this section, and may be proceeded against in the manner mentioned therein.

have valuation made.
Penalties for fraud.

38. In case any person commences after the 1st of May to carry on any business for which a permit is required, the Commission may accept an amount of duty proportionate to the number of months of the year still to run, from the first day of the month in which he begins to carry on such business, to the first day of May following.

Partial duty for permit granted after May 1st.

39. In case any permit ceases to be used, by reason of the death of the person who was the holder thereof, and the refusal on the part of the Commission to transfer the rights granted by such permit to any other person for the benefit of the legal representatives of such deceased person, the Commission shall hand back to such legal representatives a share of the duties received, proportionate to the number of full calendar months still to run, up to the 1st of May following.

Remission of duties in certain case.

SPECIAL PROVISIONS

40. Bottled beer or wine procured by the holder of a permit for the sale thereof, for the purpose of delivering the same to his customers or guests, must, while in the place where he carries on his commerce in liquor, be kept in the bottles in which it was delivered to him. So long as any such bottle bears the mark or label which it bore when delivered, he is forbidden to put therein any other liquor, substance or liquid; and no holder of a permit, nor anyone on his behalf, after the liquor bottled in one of the said bottles has been poured out, may refill such bottle, either wholly or in part, with intent to supply liquor or any other substance or liquid to any customer or guest.

Special provisions re bottled liquor.

No holder of a permit must use or allow the use of any mark or label on a bottle in which liquor is kept for sale in his place which does not precisely and clearly indicate the nature of the contents of such bottle, or which might in any way deceive any customer or guest as to the nature, composition or quality of such contents.

Marks or labels.

No such holder of a permit, nor any other person, must for any reason mix or permit the mixing of liquor or cause to be

Mixing of liquor.

mixed, any alcoholic liquor which he is not authorized to sell with any alcoholic liquor the sale of which is authorized by his permit.

Hours during which sale is forbidden.

41. 1. The Commission shall not sell or deliver on any holiday as hereinafter determined, nor before nine o'clock in the morning nor after six o'clock in the evening of any other day. On Saturday, it shall not sell after one o'clock in the afternoon.

2. It is forbidden for any brewer to sell or deliver on any holiday as hereinafter determined, or before seven o'clock in the morning or after six o'clock in the evening of any other day.

3. It is forbidden for any holder of a permit for the sale of beer in a store, or in a tavern, to sell or deliver the same on any holiday as hereinafter determined, or before nine o'clock in the morning or after ten o'clock in the evening of any other day. Outside the days and hours when such sale is allowed, every tavern must be closed.

4. It is forbidden for any holder of a permit for the sale of beer or wine during meals, to sell the same between ten o'clock in the evening of any day and nine o'clock in the forenoon of the following day.

Holidays.

5. For the purposes of this article, the following shall be considered as holidays:

- a. Sundays;
- b. New Year's Day;
- c. Epiphany, Ash Wednesday, Good Friday, Ascension Day; All Saints Day; Conception Day, Christmas Day; and
- d. for any territory where any municipal election or election of a member of the Canadian House of Commons or of the Legislative Assembly is held, the day upon which the polling for such election takes place.

Persons to whom liquor must not be sold.

42. It is forbidden to sell any alcoholic liquor,—

1. to any person who has not reached the age of eighteen years;
2. to any interdicted person;
3. to any keeper or inmate of a disorderly house;
4. to any person already convicted of drunkenness or of any offence caused by drunkenness;
5. to any person who habitually drinks alcoholic liquor to excess, and to whom the Commission has, after investigation, decided to prohibit the sale of such liquor upon application to the Commission by the

husband, wife, father, mother, brother, sister, curator, employer or other person depending upon or in charge of such person, or by the *curé*, pastor or mayor of the place. The interdiction in such case shall last until removed by the Commission.

No sale made to any of the persons mentioned in paragraphs 2, 3, 4 and 5 above, shall constitute an offence by the vendor unless the Commission has informed him, by registered letter, that it is forbidden to sell to such person.

43. The Commission may, at its discretion, refuse to make any sale of alcoholic liquor, except for religious purposes. Commission may refuse to sell. Exception.

The Commission must procure and keep constantly on hand for ministers of religion, such wine as is approved by the religious authorities and required for divine service or religious purposes. Wine for religious purposes.

44. 1. No alcoholic liquor may be kept in the province, except,— Keeping of liquor.

- a. in stores and warehouses of the Commission or in some other place under its control;
 - b. in an establishment where it is expressly permitted by the Commission to sell such kind of liquor;
 - c. in an establishment where it is expressly permitted by the Commission to keep such variety of liquor;
 - d. in an establishment where, by exception, it is permitted by law to keep the same;
 - e. in the residence of any person, provided such liquor be not kept with intent to sell the same (and one sale shall suffice to establish such intent);
 - f. in a club, as defined in section 3;
 - g. in the baggage of a traveller who is transporting such liquor for his personal use; or
 - h. as to wine, in a church, chapel or dependency,—
- and the keeping of alcoholic liquor elsewhere than in the places mentioned in this paragraph shall constitute an offence under this act.

2. No beer may be transported in the Province, except,— Transportation of beer.

- a. directly from the establishment of the brewer to an establishment in this Province of any holder of a permit to sell the same, or to a place outside the Province, or,
- b. directly from the store of a holder of a permit to sell the same in a store, to the residence in this Province of any person who has bought the same for his personal use.

Proviso.

Nevertheless, if the beer is to be shipped to a point within the Province, the transportation thereof outside of the municipality in which the establishment of the brewer or the store of the person authorized to sell the same is situated, or outside of an adjoining municipality, must be made only by railway, steamboat, common carrier, express company, or by the purchaser himself, on condition that he transports it in his own vehicle or in a vehicle hired by him, directly to his residence or, if he is the holder of a permit to sell, to his establishment; but such transportation must not be by the vendor nor by any employee, agent or representative of such vendor, nor by any other person interested in the sale.

Seizure and
confisca-
tion.

3. Any alcoholic liquor kept or transported in contravention of paragraph 1 or 2 of this article may be seized without warrant by the Commission, and confiscated.

EXCEPTIONS

Doctors, etc.

45. 1. No provision of this act shall prevent any person practising medicine, surgery or obstetrics in the Province, registered as such under the Quebec Medical Act, or licensed as such by the Montreal Homeopathic Association, or any person licensed as a dental surgeon, and registered as such in the Province, or any person practising the profession of veterinary surgeon, and registered as such under the Veterinary Surgeons' Act of the Province of Quebec,—from purchasing alcohol in quantities larger than one bottle and using the same for purposes of solution or sterilization in his own practice, or in any preparation for external application administered by himself, or from purchasing brandy, such as defined in the British Pharmacopeia, or rum,—for use in compounding his medicines;—provided, however, that no such person may sell any such alcohol or spirits except when used by him for the purposes above mentioned.

Druggists,
etc.

2. No provision of this act shall prevent any person entered as a licenciate in pharmacy in accordance with the Quebec Pharmacy Act, and keeping a drug store,—

- a. from purchasing alcoholic liquor in quantities larger than one bottle, for use in medicinal, officinal or pharmaceutical preparations,—provided, however, that no such person may sell such alcoholic liquor except when used by him for such purposes; or
- b. from purchasing ethyl alcohol rectified at ninety per cent, mentioned in the British Pharmacopeia, in quantities larger than one bottle, and selling the same for obstetrical or antiseptic purposes only, in quan-

tities not exceeding two ounces, upon prescription of a physician authorized to practise medicine in this Province, or upon the simple certificate of the latter if the sale be made to him personally;—provided, however, that such sale shall take place only at such hours and upon such days during which the Commission cannot sell.

3. Every such person must purchase such alcoholic liquor directly from the Commission. The latter may, at its discretion, refuse to sell the quantity applied for.

Liquor to be purchased from Commission.

46. No provision of this act shall prevent any distiller duly licensed by the Government of Canada for the manufacture of alcohol or spirits in the Province, or any wine manufacturer in the Province, from having or keeping for sale in his establishment in the Province, alcoholic liquor so manufactured by him, or from selling or delivering the same.

Distillers and wine manufacturers.

However, if such alcoholic liquor is to be shipped to a place in the Province, such distiller or manufacturer may sell it only to the Commission; and such distiller or manufacturer must, in every case, comply with every other provision of this act which may be applicable.

Proviso.

47. 1. No provision of this act shall prevent the Commission from agreeing to the sale and delivery of potable or non-potable alcohol from a distiller direct to a manufacturer of articles requiring such alcohol, provided each quantity of alcohol so sold and delivered be not less than one barrel, and provided such sale and delivery be made subject to such conditions and for such consideration as the Commission may establish.

Delivery of alcohol direct from distiller to manufacturer in certain cases.

2. No provision of this act shall, by reason only that such product contains any alcoholic liquor, prevent,—

Sale of certain preparations.

- a. the sale of any perfume, lotion, tincture, varnish, dressing, fluid extract or essence, or vinegar;
- b. the sale of any officinal, medicinal or pharmaceutical preparation, or of any patent or proprietary medicine, intended solely for medicinal purposes,—

provided that such product does not contain alcohol in any greater quantity than the amount required as a solvent or preservative, or provided that it be so compounded as to render it unsuitable for use as a beverage.

Conditions.

48. In order to determine whether any particular preparation, proprietary or patented, contains alcohol in excess of the amount required as a solvent or preservative, or whether it is so compounded as to render it unsuitable

Commission may order analysis.

for use as a beverage, the Commission may have a sample of such preparation, purchased from any person whomsoever, analysed by such person as it may select.

Action to be
taken upon
such analy-
sis.

If it appears from the analysis of such sample that such preparation contains alcohol, in excess of the amount required as a solvent or preservative, or that it is not so compounded as to render it unsuitable for use as a beverage, the Commission may notify the Advisory Board appointed under the Proprietary or Patent Medicine Act, of the result of the analysis, and, if no action be taken by the Board, under the above mentioned act, within thirty days of such notification, the Commission shall prosecute in accordance with the provisions of this act.

OFFENCES AND PENALTIES

Offences.

49. Whosoever,—

- a. peddles any alcoholic liquor; or
- b. keeps alcoholic liquor in a disorderly house; or
- c. being an employee of the Commission, infringes any of the provisions of this act, otherwise than by purchasing any alcoholic liquor in the manner mentioned in section 60 of this act, or
- d. not being the holder of a permit to that effect, still in force, or not being authorized thereto by this act, sells any alcoholic liquor in the Province,—

Penalty.

shall be guilty of an offence under this act, and may be arrested without warrant, provided that, without delay, he be brought before a magistrate having jurisdiction, and shall be liable, in addition to the costs, to imprisonment for a term of three months, which the court may reduce to one month.

Offences.

50. Whosoever,—

- a. being the holder of a permit, sells any alcoholic liquor of a kind other than that of which his permit or this act authorizes the sale; or
- b. being the holder of a permit, sells the alcoholic liquor which his permit or this act authorizes him to sell, but to any person other than those to whom his permit or this act authorizes him to sell; or
- c. being the holder of a permit to sell beer in a tavern or in a store, receives, directly or indirectly, by exchange or otherwise, anything other than money for such beer; or
- d. being the holder of a permit, keeps or allows the keeping, other than in his residence and for his personal

- use, of any alcoholic liquor other than that which he is authorized to sell in virtue of his permit; or
- e. being the manufacturer or the agent in this Province for the manufacturer of any liquid or solid containing alcohol, sells such liquid or solid as a patent or proprietary medicine when it contains alcohol in excess of the amount necessary as a solvent or preservative, or when it is not so compounded as to render it unsuitable for use as a beverage; or
 - f. keeps or allows the keeping of any alcoholic liquor in his residence, either for himself or for other persons, on deposit or otherwise, with intent to sell the same,—
- shall be guilty of an offence under this act, and shall be Penalty. liable, in addition to the payment of the costs, for the first offence to a fine of one thousand dollars, and, on failure to pay such fine and costs, to imprisonment in the common gaol for a term of three months, which the court may reduce to one month; and, for any subsequent offence, to imprisonment in the common gaol for three months.

51. Whosoever,—

Offences.

- a. being the holder of a permit for the sale of beer, or of beer and wine, as the case may be, sells any beer which has an alcoholic content of over five per cent, in weight; or
- b. being the holder of a permit, sells beer to which wine, spirits or alcohol, or more than one of any such liquors, has been added, or sells wine to which spirits or alcohol, or both, have been added, otherwise than to render possible the importation thereof; or,
- c. being the holder of a permit, sells any alcoholic liquor that his permit or this act authorizes him to sell, but in any place, or in any manner, or in any quantity other than his permit authorizes him to sell; or,
- d. being the holder of a permit to sell beer in a tavern, or beer and wine in a dining-room, has not such tavern or dining-room furnished, fitted up or equipped in the manner or to the extent indicated by the Commission; or,
- e. being the holder of a permit to sell beer, or beer and wine, as the case may be, does not comply with the requirements of section 40 of this act, or any provision of said section; or,
- f. being the holder of a permit, sells any alcoholic liquor which he is authorized by his permit to sell, at any time forbidden by section 41 of this act, or, if his permit be to sell in a tavern, does not close such tavern as required by the said section 41; or,

- g. being the holder of a permit, sells any alcoholic liquor for the sale of which he is authorized by his permit, to any person who has not reached the age of eighteen years, or sells or delivers to any person of the age of eighteen years or more, any alcoholic liquor for the sale or delivery of which he is authorized by his permit, knowing that such liquor is bought for a person whose age is less than eighteen years and is to be drunk by the latter; or,
- h. being the holder of a permit, knowingly sells to any of the persons mentioned in paragraph 2, 3, 4 or 5 of section 42 of this act, after notice sent to him by the Commission in compliance with the said section, any alcoholic liquor for the sale of which he is authorized by his permit; or,
- i. being the holder of a permit to sell beer in a tavern, employs therein any woman who is not his wife, or allows gambling therein; or,
- j. being the holder of a permit to sell beer in a store, allows any beer sold therein to be drunk in such store or its dependencies, either by the purchaser or by any other person not residing with the vendor nor in his employ, or delivers the same contrary to the provisions of paragraph 4 of section 31 of this act; or,
- k. being the holder of a permit to sell beer in a tavern, or beer and wine in the dining-room of any hotel, restaurant, club or steam-boat, or in a dining-car, does not keep his license constantly posted up in view of the public in such tavern, dining-room or dining-car; or
- l. keeps or transports any alcoholic liquor in contravention of section 44 of this act; or
- m. having acquired for the purpose of re-sale any liquid or solid containing alcohol, sells it as a patent or proprietary medicine when the same contains alcohol in excess of the amount necessary as a solvent or preservative, or when it is not so compounded as to render it unsuitable for use as a beverage; or,
- n. being one of the persons mentioned in section 22 of this act, does not comply with the requirements of such section; or,
- o. not being the holder of a permit, leads the public or travellers to believe, by means of signs, inscriptions, advertisements or circulars, that he is authorized to sell alcoholic liquor; or,
- p. being of the age of less than eighteen years, is found in any tavern in which any beer is sold, and gives

no satisfactory reason for his presence, or who buys any beer for his own use, or performs the duty of clerk in any tavern; or,

- q. buys or receives, by onerous title, any alcohol or spirits from any person not authorized to sell such variety of liquor, or keeps such alcohol or spirits in his possession; or,
- r. obtains, even gratuitously, during the time when the sale thereof is forbidden, any beer from any holder of a permit for the sale thereof in a tavern; or,
- s. causes any disturbance in a tavern or brings thereinto or drinks therein any alcoholic liquor other than beer; or,
- t. contravenes any provision of this act otherwise than as mentioned in sections 49 and 50 and the foregoing paragraphs of this section,—

shall be guilty of an offence under this act, and shall ^{Penalty.} be liable, in addition to the payment of the costs, for the first offence to a fine of not more than one hundred dollars, and, on failure to pay such fine and costs, to imprisonment in the common gaol for one month; and, for any subsequent offence, to imprisonment in the common gaol for one month.

52. Whosoever interferes with or hinders any officer ^{Interferen-} or inspector authorized by the Commission to investigate ^{ce with of-} any infringement of this act, or to make any search, exami- ^{ficer, etc.} nation or seizure, in the performance of his duties to that end, shall be guilty of an offence under this act, and shall be liable, in addition to any penalty, which may be imposed upon him under section 49, 50 or 51, and in addition to the payment of the costs, to a fine of one hundred ^{Penalty.} dollars, for each offence, and, on failure to pay such fine and costs, to imprisonment in the common goal for one month.

53. Whosoever, being the holder of a permit for the sale ^{Neglect to} of beer under section 31, neglects or refuses to make a ^{make return} return to the Commission, within ten days immediately ^{of sales of} following the date indicated by the Commission, of his purchases and sales of beer, up to such date, shall be guilty of an offence under this act, and shall be liable to a fine ^{Penalty.} of ten dollars per day for each day's delay, to run from the expiration of such ten days.

54. In any case of conviction for any offence under para- ^{Restitution} graph c of section 50, the court may, in addition to the ^{may be or-} penalty, issue its warrant for the restitution of the things ^{dered in cer-} he has received and the payment of the costs, and order- ^{tain case.}

ing that, on failure to make such restitution or payment, an amount sufficient to cover the value of such things, and the costs, shall be levied by the sale of the moveable property of the accused.

Burden of
proof on
defendant in
certain case.

55. In any trial for the offence mentioned in paragraph *g* of section 51, the burden shall be upon the defendant to prove that the person to whom or for whom the alcoholic liquor was sold is of the age of more than eighteen years.

Condemna-
tion in da-
mages in
certain case.

56. Notwithstanding the penalties imposed by section 51, every person who, being the holder of a permit for the sale of beer in a tavern or in a store, sells knowingly, after having been notified by the Commission, in accordance with section 42 of this act, to any person to whom it is forbidden under such section to sell, because he habitually drinks alcoholic liquor to excess,—may be condemned, in an action taken by the person who has made the application mentioned in paragraph 5 of section 42, to pay to the latter a sum of not more than five hundred dollars by way of exemplary damages, and shall, moreover, be responsible jointly and severally with the person to whom he was forbidden to sell, for any act of violence committed, or damage to property caused, by such person while intoxicated by the alcoholic liquor so delivered to him.

Liability in
damages in
certain case.

57. Notwithstanding the penalties imposed by this act, any holder of a permit for the sale of beer in a tavern, and every person employed by him, shall be jointly and severally liable in damages, towards the representatives of any person who becomes intoxicated in such tavern, by reason of the drinking of alcoholic liquor delivered to him by such holder, or such employee, and who, by reason of such drunkenness, commits suicide or is killed by some accident caused by such drunkenness.

Prescription
and limita-
tion of
amount.

The right of action must be exercised within three months after the death; the representatives of the person who has so died may recover a sum of at least one hundred dollars but not more than one thousand dollars.

Application
of section 57.

58. The provisions of section 57 shall likewise apply to anyone who, not being the holder of a permit, sells any alcoholic liquor causing drunkenness which brings about the consequences therein mentioned.

Married
woman may
institute

59. Any married woman may, notwithstanding article 176 of the Civil Code, institute, in her own name, without

the authorization of her husband, any action in damages mentioned in section 56 or 57 of this act. certain actions.

60. No officer, inspector or other person employed by the Commission for the enforcement of this act, when acting in his official capacity, nor any person acting under the instructions of any such officer, inspector or other employee, shall incur any of the penalties enacted by this act for the punishment of those who obtain alcoholic liquor, either from a holder of a permit granted under this act or from a person who is not the holder of a permit. Officers, etc. not to incur penalties.

61. If, within twelve months following the date at which an offence has been committed, the offender be guilty of a new offence, after the prosecution for the previous offence has been served upon him, or after a seizure has been taken against him by reason of such previous offence, such new offence shall constitute a subsequent offence within the meaning of this act, and the court which is seized thereof must punish it as such, provided there was a conviction for the previous offence. Subsequent offences.

In order to be subsequent, an offence need not be a violation of the same provision of this act as that which was violated by the previous offence.

62. The court before which any proceeding is instituted for any offence under this act must ascertain if the offence is a first offence or a subsequent offence, and, if it be found that the complaint is not according to the facts in that respect, it must order that such complaint be amended accordingly, and render judgment on the complaint as amended. Courts must render judgment for subsequent offence.

63. Any payment in money or in objects of pecuniary value on account of the sale of alcoholic liquor supplied in contravention of this act shall be deemed to have been made without consideration, and contrary to law. Payments to be invalid in certain case.

A refund of such payment may be obtained from him who received it, by him who made it, or by his wife without the authorization of her husband, or by his father or tutor, if he is a minor; and, saving the rights of third parties, every deed or obligation made and agreed to, in whole or in part, in consideration or by reason of the delivery of alcoholic liquor in contravention of this act, shall be null. Who may obtain refund.

64. No action to recover the price of any alcoholic liquor sold in contravention of this act may be maintained. Nor may any action be maintained to recover the price No action to recover price of liquor.

of any beer sold by the holder of a permit for the sale of beer in a tavern.

SEIZURES

Searches
and seizures.

65. The Commission may, by a document signed by one of its members, authorize, generally or specially, any officer or inspector of the Commission to make searches, examinations, and seizures in connection with alcoholic liquor in every case where such search, examination or seizure is authorized by law; and such document shall be *prima facie* proof before any court.

Receptacles
may be
opened in
certain cases.

66. 1. Whenever any alcoholic liquor is transported in this Province in receptacles of any kind, whether or not they be labeled or marked as containing alcoholic liquor or other wares,—

- a. if such alcoholic liquor be in sufficient quantity to give rise to suspicion that it is being transported for the purpose of selling the same; or,
- b. if it be addressed to a person not the holder, under this act, of a permit for the sale of alcoholic liquor of such variety, and if the Commission has reason to believe that such person has already been convicted for any offence under this act; or,
- c. if the said liquor be transported under circumstances justifying the presumption that it is being so transported to be sold without a permit,—

any officer or inspector of the Commission, authorized to that effect, may open any such receptacle wherever it may be, with all the necessary aid and even by force in case of resistance, and may examine the contents thereof; and, if such receptacle contains alcoholic liquor, he shall, without a warrant being required, seize the same, as well as the receptacle containing it, and hand them over to the Commission, which shall keep them in its custody until the court has disposed of them by a judgment.

Seizure with-
out warrant.

Peddling.

2. The same powers may be exercised in a case of peddling of alcoholic liquor.

Rights of
entry of
officer mak-
ing search.

67. Any officer or inspector of the Commission, authorized to that effect, may, even by force if entrance is refused him, go on board any boat or vehicle, and enter any place, lot, or building in which he has reason to suspect that any alcoholic liquor is kept or sold in contravention of this act, make every search, and open, with all the necessary aid and even by force in case of refusal to do so, any cupboard or receptacle in which he thinks such liquor is con-

tained; and, if he discover any alcoholic liquor, he must, ^{Seizure without a warrant being required, seize it, as well as every receptacle containing it, and hand them over to the Commission, which shall keep them in its custody until the court has disposed of them by a judgment.} without a warrant.

68. Any officer or inspector of the Commission, authorized thereto, may seize, without a warrant, any alcoholic liquor, as well as any receptacle containing it, shipped into a municipality in which a prohibitory by-law is in force, or whose council has decided, in the manner set forth in this act, that any permit or any certain kind of permit shall not be granted, unless each parcel containing such liquor is clearly and visibly addressed to the *bona fide* purchaser. The fact that such parcel is so addressed shall not however prevent the seizure of the liquor, if it be shipped or sold contrary to any provision of this act. ^{Seizure of liquor shipped into territory under prohibitory by-law.}

The liquor seized shall be handed over to the Commission, which shall keep it in its custody until the court has disposed of the same by a judgment.

69. Any officer or inspector of the Commission, authorized to that effect, may, without a warrant, seize alcoholic liquor found in a disorderly house, as well as any receptacle containing the same, and hand them over to the Commission, which shall keep them in its custody until the court has disposed of them by a judgment. ^{Seizure of liquor in disorderly house.}

70. Every officer or inspector of the Commission, authorized to that effect, may, without a warrant, seize any alcoholic liquor which to his knowledge or that of the Commission is, in any way other than above indicated, kept, transported or sold in contravention of this act, as well as any receptacles containing it, and hand them over to the Commission, which shall keep them in its custody until the court has otherwise disposed of them by a judgment. ^{Seizures in other cases.}

71. When any alcoholic liquor is seized in a vehicle, and such vehicle is of such a nature that it can be confiscated by the court if such liquor was being transported in contravention of this act, the officer or inspector effecting the seizure may detain such vehicle and use it, without charge, for transporting the alcoholic liquor so seized, as well as the receptacles containing it, to the custody of the Commission; further, the Commission may seize such vehicle, and it must keep it until the court, by its judgment, declares it confiscated for the benefit of the Commission. ^{Seizures of vehicles in certain cases.}

Court must order confiscation. **72.** Whenever any alcoholic liquor is seized under this act, it must be declared by the court to be confiscated, upon proof of any contravention of the law, save in cases otherwise provided for.

Commission must apply for confiscation. Saving the cases otherwise provided for by this act, the Commission must, within thirty days of the seizure, apply to the court for the confiscation of anything of such a nature that it can be confiscated under this act.

Confiscation of liquor, vessels, etc. Any judgment inflicting a penalty, under this act, must order the confiscation of the liquor, vessels, vehicles or other things which have been seized.

In case address unknown. If the name or the address in this Province of the person at whose residence or in whose possession such liquor, vessels, vehicles or other things have been seized, be unknown to the Commission, such liquor, vessels, vehicles or other things shall be deemed confiscated at the expiry of two months from the date of seizure.

Disposal of confiscated liquor, &c. When the confiscation has been ordered by any court, or has taken place as a result of the expiration of the two months' delay aforesaid, the Commission shall sell any beer seized, the alcoholic content of which is not more than five per cent, in weight, with the receptacles containing the same, to a brewer or other person holding a permit for the sale of beer, or of beer and wine, as the case may be, in this Province, and shall take possession, as owner, of all other alcoholic liquor seized, with the receptacles containing the same, and shall dispose by onerous title of the vehicles or other things seized.

PROSECUTIONS

General Provisions and Procedure

Name in which prosecution to be taken. **73.** Every action or prosecution for any offence under this act shall be instituted in the name of the Commission or in the name of the corporation of the local municipality where the offence has been committed.

When Commission may prosecute. **74.** Whenever there is reason to believe that any offence under this act has been committed and that such prosecution will be held to be well founded, the Commission may take action.

May require deposit in certain case. **75.** Whenever any person has called upon the Commission to take any action, it may, in its discretion, either before or during the suit, exact, from such person, the deposit of a sum sufficient to cover the costs in case the proceeding is dismissed.

76. The Commission must prosecute every offender under this act, whenever it is called upon to do so by a municipal corporation, and when such corporation has assumed responsibility for the costs to be incurred. Duty of Commission to prosecute in certain case.

In any municipality where a prohibitory law is in force, or whose municipal council has decided, in the manner set forth in this act, that permits or certain kinds of permits shall not be granted, the council of the municipality must prosecute every contravention of this act, in which case the municipality shall be responsible for costs and shall receive the fines collected. Municipal councils must prosecute in certain case.

If the council refuses or neglects to prosecute any offence, after having been notified thereof, the Commission may prosecute the offender, at the expense of the municipality. Commission may prosecute if council neglects.

77. Fines and penalties enacted by this act or by the regulations made under its authority, and costs, duties and fees declared by it to be exigible, shall be recovered in the manner and before the courts hereinabove indicated. Recovery of fines, etc.

78. Every prosecution shall be instituted in the judicial district where the offence was committed, or in that in which the offender resides. Where prosecution to be instituted.

If the offence be committed upon or near the boundary of two adjoining districts, where it is difficult to determine in which of such districts the offence was committed, the prosecution may be instituted in either one or the other. Adjoining districts.

If the offence was committed on or in a vehicle, the prosecution may be instituted in any judicial district of the Province through which such vehicle has passed in the course of the journey or voyage during which the offence was committed. Offence on vehicle.

79. For every judicial proceeding instituted under this act, the county of Berthier shall form part of the district of Richelieu, and the county of Verchères shall form part of the district of Montreal. Districts of Richelieu & Montreal.

80. Any action or prosecution may, at the choice of the party prosecuting, be instituted before the Circuit Court, before two justices of the peace, the police magistrate, the district magistrate or any other officer having the powers of two justices of the peace, saving the provisions of article 708 of the Criminal Code. Before whom prosecution may be instituted.

For the purposes of this section, whatever is necessary for the execution of any provision of this act respecting any proceeding against any offender, including the signing of summonses and warrants of arrest, and the adjourn- Certain acts may be done by one justice of the peace.

ments granted, may be done by a single justice of the peace. Nevertheless the hearing and the judgment shall be governed by the provisions of sections 109 to 115, inclusive.

81. The delays upon summonses and all other procedure before Circuit Court. cedure in actions and proceedings brought before the Circuit Court shall be governed by the provisions of the Code of Civil Procedure respecting actions between lessor and lessee.

82. Except in proceedings instituted before the Circuit Court, the service of the summons shall be made by any Service of summons. bailiff or constable appointed for the judicial district where the action or prosecution is instituted. A copy certified by the magistrate, judge or official who signed the original or by the plaintiff's attorney, must be left with the defendant personally, or with a responsible person of his family or of his staff, at his domicile or at his place of business, as the case may be.

In case of evasion of service, etc. Nevertheless, in case the defendant evades the service of the summons, or in the case of a person occupying any premises situated on the frontier between this Province and the United States of America, or between this Province and another Province, the judge, magistrate or justice of the peace may, on a return to that effect, prescribe whatever mode of service he deems proper, or order the summary arrest of the defendant.

83. The service, when made by a bailiff, shall be proven by a return under his oath of office, and, when made by a constable, shall be proven by his return duly sworn to before the court or before a justice of the peace of the judicial district in which the proceeding is instituted.

Circuit Court. Before the Circuit Court, the service of proceedings and convictions shall be made in the same manner as that of the summons.

84. Before the Circuit Court, the procedure relating Procedure before Circuit Court. to any suit taken according to this act shall be that provided for by articles 1150 to 1162 of the Code of Civil Procedure for actions between lessor and lessee.

Law applicable. **85.** Except in any case otherwise provided for by this act, in every prosecution other than those instituted before the Circuit Court, the provisions of Part XV of the

Exception. Criminal Code shall apply. Nevertheless the words in article 722 of the said Criminal Code: "but no such ad-

journalment shall be for more than eight days", shall not apply to the prosecutions instituted under this act. However, no such adjournment during any such prosecution shall be for more than thirty days.

86. The provisions of articles 237 to 250 of the Code of Civil Procedure shall also apply, *mutatis mutandis*, to any prosecution instituted under this act before any district or police magistrate. Provisions to apply.

87. In every prosecution for any offence under this act, instituted in the name of the Commission, the complaint must be signed in the name of the Commission by one of its members, or by the provincial revenue collector appointed for the revenue district in which the offence has been committed, and duly authorized by the Commission to act on its behalf in the same. How complaint must be signed.

88. Every proceeding instituted by a municipal corporation, and the judgment rendered on the same, shall become null and of no effect if another prosecution is instituted by the Commission in order to prevent collusion between the parties. Such proceeding or judgment cannot be opposed against such second prosecution unless the amount claimed by the corporation has been paid according to law or the defendant has been imprisoned for the term for which he has been sentenced in default of payment. Proceedings to be null in certain case.

89. In every proceeding under this act, the declaration of any person that he is a member of the Commission shall be sufficient proof, saving proof to the contrary, of his appointment and of his having entered upon his duties prior to the date of such declaration. Proof of certain facts.

90. In any prosecution instituted under this act, it shall not be necessary to allege in the declaration, information, complaint or summons, any negative fact, nor any fact the burden of proof of which is upon the defendant. Negative facts, etc., need not be alleged.

91. In any prosecution under this act the real offender as well as the owner, lessee or occupant of the premises where the offence was committed, and in the case of a disorderly house any inmate thereof, shall be personally responsible for the fines and penalties which may be imposed for any offence under this act, even if such offence has been committed by another person against whom it cannot be proved that he has so acted under or according to the directions of such owner, lessee or occupant. The Who are punishable in prosecutions under this act.

proof that such offence has been committed by any person in the employ of such owner, lessee or occupant or present on sufferance in the establishment of such owner, lessee or occupant, shall be conclusive proof that such offence was committed with the authorization and under the direction of the said owner, lessee or occupant. At the option of the party prosecuting, the real offender and such owner, lessee or occupant, may be prosecuted jointly or separately, but both may not be convicted for the same offence, and the conviction of one shall suffice to prevent the conviction of the other for the same offence.

Whenever any person has been convicted, under this act, of an offence committed in a certain place, and when, within the twelve months following the commission of such offence, the lessee, the purchaser or any other person who, in virtue of a lease, a deed of sale or any other contract, verbal or written, replaces the person convicted, commits, in the same place, any offence under this act, such new offence shall be held to be a subsequent offence, notwithstanding the provisions of section 61.

Proof of sale
or consump-
tion.

92. In order to prove a sale or consumption of intoxicating liquor in contravention of this act, it shall not be necessary to prove that there has been any actual handing over of money, nor actual consumption of such liquor, if the magistrate or the court hearing the case is convinced that a transaction of the nature of a sale or of any other mode of alienation has actually taken place, or that the consumption of liquor was about to take place. Whenever it is established that, in any premises for which a permit is required under this act, any person, other than the occupant of the said premises, has consumed or was about to consume any alcoholic liquor, it shall, by reason thereof, be presumed, against the holder of the permit, or the occupant of the said premises, that such alcoholic liquor has been sold to the person who has consumed or was about to consume the same, or who took it away or was about to take it away.

Option of
Commis-
sion in cer-
tain cases.

93. In any prosecution by the Commission instituted under this act against any person not the holder of a permit, the Commission may, at its option, prosecute such person for the sale of alcoholic liquor without a permit, or for the special offence which he has committed and for which he would be liable to be prosecuted even if he had been the holder of a permit.

Double
punishment.

94. Whenever any person is prosecuted and found guilty of any offence under this act, the amount of the

fine, or the length of the term of imprisonment, to which in certain such person would be otherwise liable, shall be doubled, ^{cases.} if, at the trial, it be proved that the alcoholic liquor sold by such person was of bad quality and unfit for consumption.

95. Several offences committed by one person may be included in one declaration, complaint, information or summons, provided the said declaration, complaint, information or summons contain a specific statement of the time and place of the commission of each offence; but the fees allowed the advocates shall be the same as if there had been only one offence. ^{Cumulation of several offences.}

96. Except before the Circuit Court,—where the ordinary rules of procedure concerning amendments are applied, ^{Amendment to be allowed without costs.}—any declaration, complaint or summons laid before a court may, on petition of the party prosecuting, be amended, either as to substance or form, without costs.

If the amendment be allowed, the defendant may obtain further delay for the preparation of his defence and of his evidence. ^{Delay.}

97. Any married man living and residing with his wife at the time of any contravention of this act committed by his said wife, whether she be a public trader or not, may be prosecuted and convicted in the same manner as if he had committed the offence himself. ^{Husband responsible for offence of wife.}

98. Except before the Circuit Court, where the rules of procedure between lessor and lessee are to be followed, the court may, in any proceeding taken under this act, summon to appear before it any person who is shown to be an important witness in the case. If such person refuses or neglects to appear in obedience to the said summons, and if, by reason of any affidavit filed, or owing to the circumstances of the case, the court is of opinion that the witness is refusing or neglecting to appear in order to defeat the ends of justice, the court may issue a warrant for the arrest of such witness. The witness, if arrested, must be brought before the court; and, if he refuses to be sworn, or to answer any question relating to the case, he may be imprisoned in the common gaol and be therein imprisoned until he consents to be sworn and to give his evidence. ^{Witnesses may be summoned: Arrest for refusal. Imprisonment.}

99. If any person summoned to appear to give evidence before a court in connection with any matter arising under this act, neglects or refuses to appear at the time ^{Penalty for refusal to appear or}

give evidence. and place set for the purpose without cause deemed reasonable by the court before whom such proceeding is taken, or if such person at the time of his appearance refuses to be sworn or to give evidence, such person shall be liable, for each refusal or omission, to a fine of not less than five dollars nor more than forty dollars, and, on failure to pay such fine, to imprisonment for not less than ten nor more than thirty days, the whole at the discretion of the court. Such penalty must be imposed even in the event of the case being decided without such person having appeared or having been heard as a witness.

Depositions taken in writing. Adjournment. **100.** On the application of either the prosecution or the defence, the court may, if it sees fit, hear and have taken down in writing the depositions of the witnesses. It may also adjourn the case.

Witness must answer questions tending to incriminate. **101.** 1. Subject to the provisions of paragraphs 2 and 3 of this section, any person other than the defendant, examined as a witness in any action or proceeding brought under this act, shall be obliged to answer all questions put to him and judged pertinent to the issue, even if such answers may reveal facts tending to make him liable to any penalty imposed under the provisions of this act. However such evidence cannot be adduced against him in any prosecution.

Witness not to be asked if he is informer, etc. 2. No witness examined in any proceeding under this act may be compelled to state that he is the informer in such proceeding. Nor shall any question be put to him with the object of showing whether the action was taken on a complaint by an informer, or of revealing the name of the informer.

Nor if security for costs given. 3. No witness called in any proceeding under this act may be asked whether the deposit mentioned in section 75 has been required or made.

Proof as to description of liquor, etc., may be general. **102.** In any prosecution for the sale of alcoholic liquor it is not necessary to prove the exact variety, nor to mention the quantity of alcoholic liquor sold, except in the case where the variety or quantity are essential to establish the offence. As regards quantity, it shall be sufficient to allege the sale of a quantity the sale of which quantity is not allowed.

Proof as to time, etc. **103.** In order to obtain a conviction, it is not necessary that the precise time mentioned in the complaint as the time of the commission of the offence be exactly proved. It shall be sufficient to prove that the delay

granted by the law for the prosecution of such offence has not expired.

104. The provisions of section 103 shall apply to all proceedings, including proceedings instituted for the sale of alcoholic liquor on days and in hours during which such sale is forbidden. Application of provisions.

105. In any proceeding instituted against a person who is not the holder of a permit under the provisions of this act, proof of the correct name of the defendant shall not be necessary to justify a conviction; it shall suffice that the identity of the defendant be established by the sworn testimony of one of the officers of the Commission, or of a collector of provincial revenue, acting for the Commission. No error in the name of the defendant shall invalidate the conviction or the warrant of imprisonment. Proof as to name of defendant. Identification.

106. If, in any proceeding under this act, evidence be required respecting a permit, a certificate signed by one of the members of the Commission, or by a person authorized thereto by it, or by the collector of provincial revenue authorized by the Commission to act for it in such proceeding, shall be sufficient evidence of the existence of such permit and of the identity of the person to whom it was issued. Such certificate shall be sufficient evidence of the contents thereof and of the authority of the Commission. Certificate to be proof of certain facts.

107. The production of a permit or of a copy thereof delivered by the Commission, shall be sufficient evidence of the payment of the duty payable thereon, unless the prosecuting party proves that the duty has not been paid, in which case the permit obtained without such payment shall be held to be null. Duty shall be presumed to be paid. Exception.

108. Whenever the court deems it necessary for the purposes of this act that any liquor suspected of being alcoholic be analysed, the costs of such analysis shall be included in the taxed costs of the case. Costs of analysis of liquor to be part of costs of suit.

In any proceeding instituted under this act, the production by the Commission, or by one of its officers or by the collector of provincial revenue authorized by the Commission to act in such proceeding, of a certificate as to such analysis, signed by the analyst of the Commission, shall constitute *prima facie* evidence of the facts contained in such certificate, provided that a copy of such certificate be served upon the defendant with the proceed- Certificate of analyst to be prima facie proof.

ing. The costs of such analysis shall also be included in the taxed costs of the case.

JUDGMENTS.

Hearing by two justices of the peace, Judgment may be delivered by one alone. **109.** The judgment rendered in any proceeding instituted in virtue of this act, and tried before two justices of the peace, may be delivered by one of them in the absence of the other, provided that such judgment be drawn up in writing and that it be signed by the two justices of the peace.

In case they fail to agree. **110.** Whenever any proceeding has been heard by two justices of the peace, and they do not agree as to the judgment to be rendered, either of such justices may sign a certificate to that effect, and transmit the same to the Commission. The latter, on receipt thereof, may institute a new proceeding for the same offence. Prescription shall not run between the service of the first proceeding and the date at which the certificate is transmitted to the Commission.

Imprisonment of offender on failure to pay. **111.** If he does not pay the fine imposed or the sum he has been condemned to pay, by virtue of this act, the offender shall be imprisoned and held during a term of three months in the common gaol, unless some other term of imprisonment has been provided for in this act.

Penalty for subsequent offence. **112.** Unless otherwise provided for, the penalty for any subsequent offence, for any person already convicted of two offences under this act, shall be imprisonment for six months if the new offence be of a similar nature and kind as that of which he was previously convicted.

Contents of judgment. **113.** In the cases mentioned in sections 111 and 112, and in other cases where a similar provision of law exists, the judgment or sentence shall contain a provision condemning the defendant to the said imprisonment.

Recording judgment in absence of judge, etc. **114.** Whenever a judge, magistrate or justice of the peace who has heard a case is unable, on account of sickness, absence or any other reason, to himself deliver judgment, he may transmit his judgment in writing, duly certified by him, to the clerk of the court, of the magistrate, or of the justice or justices of the peace, to whom the matter appertains, with instructions to register the judgment, and, on request, to deliver or communicate it to the parties or their attorneys on the day fixed by him for the purpose.

The clerk, on receipt of such written judgment, and the instructions which accompany it, must comply with such instructions. The judgment thus registered shall have the same effect as if it were delivered by the judge, the magistrate, or the justice of the peace at the trial. Effect of registration of judgment,

115. Every conviction under this act shall, in the fifteen days which follow the date of the judgment, be brought, under penalty of a fine of twenty dollars, to the knowledge of the Commission by the clerk of the court before whom the action was taken, or, failing a clerk, by the justice of the peace or magistrate before whom such conviction was had. Report of judgment to Commission.

116. The judgment rendered in any proceeding instituted under this act, shall apply only to the offences alleged in the complaint, and to no other offence which might have been committed before the date of such judgment. Application of judgment.

COSTS.

117. The Lieutenant-Governor in Council may make, amend, replace and repeal the tariff of fees which may be granted to any clerk, bailiff, peace officer, constable, advocate, witness, inspector or officer of the Commission, in any suit or action instituted under this act. Tariff of fees for clerks: etc.

118. In any action or proceeding instituted under this act, the Commission may not be condemned to pay costs. Nevertheless, upon the recommendation of the court, the Commission, if judgment has been rendered against it, may, in its discretion, pay, to the person in whose favour judgment has been given, such costs or such indemnity as it may deem just to pay him. No costs against Commission. Commission may pay costs.

119. In every proceeding under this act, or under section fifteenth of chapter fifth of title fourth of the Revised Statutes, 1909, (articles 1316 to 1328 inclusive), if the collector of provincial revenue authorized to act for the Commission, or an officer or inspector of the Commission, be present at the sittings of the court, as a witness, and in order to attend the sittings of such court travels a distance of over three miles from his domicile, the magistrate, justice or justices of the peace seized with the trial of the case may then tax against the defendant, if he be found guilty, as costs in the case, the following amounts, to wit,— Costs of officer attending as witness, etc.

1. if he travels by railway or stage, the sum he has had to pay;

2. if he travels in a hired vehicle, the sum actually charged for such horse and vehicle, and the tolls;
3. if he travels in his own conveyance, twenty cents a mile for a trip one way only;
4. to cover all other expenses, an additional sum of two dollars a day.

Costs of adjournment.

In the event of the trial being adjourned at the request of the defendant, the latter may be condemned to the payment of like additional costs when such collector, officer or inspector is actually present at the sitting of the court.

Travelling and other expenses shall be attested under oath by such collector, officer or inspector.

Cost of evidence to be included in taxed costs.

120. In every proceeding instituted under this act or under section fifteenth of chapter fifth of title fourth of the Revised Statutes, 1909 (articles 1316 to 1328 inclusive), the cost of evidence taken in writing, stenography or otherwise shall be included in the taxed costs of the action.

EXECUTION OF JUDGMENT

Right of prosecuting party to make option.

121. In default of the immediate payment of the fine and costs, the prosecuting party may, at the time of the rendering of the judgment or of the conviction, or at any time during the delay, if any be granted to the defendant, make option for the imprisonment of the defendant during the time mentioned in the judgment or the conviction, or for the immediate issue of a seizure against his property.

Seizure and imprisonment.

In the latter case the amount of the fine and costs shall be levied by a warrant of seizure and sale of the furniture and effects of the defendant. Failing any furniture and effects, or in case the amount realized by the sale be insufficient to cover the sums due, the defendant shall be imprisoned. However, in either case he may free himself from such imprisonment by paying in full the fine, the costs incurred up to the conviction, and the subsequent costs.

Partial payment and defects of form not to affect the judgment in certain cases.

122. Save in the case of payment in full as above mentioned, no defendant imprisoned under any provision of this act shall be set free by reason of any defect of form in the warrant of imprisonment, nor without a notice of the application being duly served upon the prosecuting party. No partial payment shall affect or modify the terms of the judgment pronounced against him in so far as the imprisonment is concerned.

Penalty for procuring

123. Whosoever, knowing or having reason to believe that a warrant of imprisonment has been issued against any

person under this act, hinders the arrest of the defendant, ^{avoidance of} or procures the means of or facilitates, by advice, action ^{arrest.} or in any other manner, the avoiding of arrest by the defendant, shall be guilty of an offence under this act, and liable to a fine of forty dollars.

124. The execution of a judgment upon any prosecution or action instituted under this act may take place ^{Delay for} ^{execution of} ^{judgment.} forthwith. If the judgment condemns the offender to imprisonment only, it must be executed immediately.

125. When coercive imprisonment lies to enforce a judgment of the Circuit Court, it shall be granted by one ^{Coercive} ^{imprison-} of the judges of the Superior Court or of the Circuit Court, or by the clerk of the Circuit Court, on summary petition alleging that the defendant has not paid in full the fine or the sum recovered, and the costs of the prosecution.

It shall not be necessary to give notice to the defendant ^{Notice not} of such petition. ^{required.}

126. Every term of imprisonment under this act shall ^{Term of im-} run from the date of incarceration. ^{prisonment.}

127. If the conviction be for having sold or allowed the sale of alcoholic liquor on board a boat or a railway car, ^{Seizure of} ^{fittings and} without a permit, the fine and costs may likewise be levied ^{furniture of} by the seizure and sale of the fittings and furniture of the ^{vessel, etc.} boat or car on board which such liquor was sold.

128. In the case of a first offence committed by the holder of a permit under this act, the court may, in its ^{Delay for} ^{payment of} discretion, if the fine and costs are not paid forthwith, ^{fine.} fix a later date for such payment. It may also order that the defendant be arrested, unless he binds himself to appear on the day set, by giving security, to the satisfaction of the court, for the payment of a sum equal to the ^{Arrest and} ^{security.} amount of the fine and costs. The court is hereby authorized to receive the security, in the form of a bond or otherwise, at its discretion. If, on the day so fixed, such fine and costs are not paid, the complainant may exercise his right of option, as provided in section 121, and the defendant shall be dealt with according to the terms of such section.

129. When a married woman, living habitually with her husband, has been convicted in any proceeding ^{Rights of} ^{complainant} ^{if defendant} ^{be a married} ^{woman.} instituted under this act, the complainant may cause the seizure of the goods of such married woman, or of her

husband. In case the goods of one should be found insufficient, he may exercise his recourse against the goods of the other.

If defendant be member of partnership.

130. Upon conviction of a member of any partnership under this act, the prosecuting party may, in case the goods and effects of the defendant are found insufficient, cause the seizure and sale of the goods and effects of the partnership which are found in the place where the offence was committed.

APPEALS AND OTHER REMEDIES

No writ of:
Quo warranto;

131. 1. No writ of *quo warranto* may be granted with respect to the office held or any power exercised by the Commission or by any member thereof.

Mandamus;

2. No writ of *mandamus* may be issued to order the Commission or any member thereof to discharge any duty or to do any act.

Injunction;

3. No writ of injunction may be granted to prevent, either temporarily or permanently, the Commission or any of its members doing anything or carrying out any operation, or continuing to do anything or to carry out any operation.

Certiorari;

4. No writ of *certiorari* may be granted to evoke any action or proceeding instituted under this act.

Prohibition.

5. No writ of prohibition may be issued with respect to anything done or proposed to be done under this act.

Appeals.

6. There shall be no appeal from any judgment rendered in any prosecution or action instituted under this act, except,—

- a. in any case wherein the court which rendered the judgment has exceeded its jurisdiction;
- b. in case the offence in respect of which the prosecution or the action was instituted, renders the offender liable to imprisonment only; or
- c. in case any alcoholic liquor has been seized under this act, when, under any of the provisions thereof, the court must order confiscation.

How appeal may be taken.

In each such case the appeal must be taken, by petition, before a judge of the Superior Court in the judicial district in which the judgment was rendered. It must be taken within eight days of the date of the judgment. The subsequent proceedings shall be summary, and must be followed up from day to day.

By either party.

The appeal may be taken by either party to the prosecution or action. If it be taken by the defendant, he

must at the same time make a deposit of three hundred dollars in the hands of the prothonotary for the district. Deposit if taken by defendant. If the appeal be dismissed such deposit shall be confiscated and forfeited to the Commission, and the defendant shall be liable, in addition, to the penalties and costs to which he has been condemned.

Such appeal shall be final.

7. The judge of the Superior Court before whom the appeal is taken must hear the witnesses upon the questions of fact, if the evidence of such witnesses has not already been taken in writing, in accordance with section 100 of this act. He must decide the question on the merits, without taking into account any defect, either as to form or matter, provided that it appears by the judgment that conviction has been had for an offence against any provision of this act, before the Circuit Court, two justices of the peace, a police magistrate, district magistrate, or other officer having the powers of two justices of the peace, acting within his jurisdiction, and that it appears more-over by such judgment that the penalty or punishment applicable to that offence has been applied. If it appears that the case has been decided on the merits and that the conviction is valid, under this act, such conviction shall not be set aside. Appeal to be final. Procedure before judge on appeal.

If the original record of the case has been submitted to the judge of the Superior Court, it shall be sent back to the court below, after the judgment in appeal. Record to be sent back.

FINES

132. Whenever any proceeding is taken by the Commission or in its name, the fine and costs shall be paid to the clerk of the peace, or to the clerk of the justices of the peace, district magistrate or police magistrate before whom such proceeding has been brought, or, if there be no such clerk, then to the justice of the peace or to the magistrate himself, or to the clerk of the Circuit Court. To whom fines shall be paid.

133. Every clerk, justice of the peace or magistrate who has collected any fine or costs, under section 132, must hand the same over to the Commission within fifteen days from the date of their collection, if no appeal be taken from the judgment rendered, under section 131 of this act, and, in case of appeal, within fifteen days from the date of the final judgment. On failure so to do, the said clerk, justice of the peace or magistrate shall be liable to a fine of one dollar for every day he neglects to make such remittance after the expiration of such delay of fifteen days. Fines to be paid over to Commission. Penalty for neglect.

Employ-
ment of fine
in certain
case.

134. Whenever, in accordance with the provisions of the second paragraph of section 76, any proceeding is taken by a municipal corporation, the fine recovered shall be employed as follows:

- a. if the fine and costs have been recovered in full, one-half of the fine shall belong to the Commission, and the other one-half to the municipality. The municipality shall be obliged to give to the informer one-half of the amount it receives;
- b. if the fine and costs have not been recovered in full, the amount recovered shall first be applied to the payment of the costs, and the balance divided in the manner and proportion indicated in paragraph a of this section.

No remis-
sion of fine
nor suspen-
sion of pro-
ceedings.

135. No remission of any fine imposed under this act may be made, nor any suspension, before or after judgment, of the proceedings instituted under it, saving any delay the court may see fit to grant in the interests of the parties.

Power of Lt-
Gov. in C.
does not
apply.

The power to remit certain fines, conferred upon the Lieutenant-Governor in Council by article 900 of the Revised Statutes, 1909, shall not apply to any fine imposed under this act.

PREScription

Prescrip-
tion.

136. Unless otherwise provided, every proceeding taken under this act shall be begun: within two months of the commission of the offence if it took place in either of the cities of Quebec or Montreal; within twelve months, if it occurred in the revenue district of Saguenay, and within four months of the commission of the offence if it occurred in any other part of the Province.

Exception.

Nevertheless, the above limitation of time shall not apply to the confiscation of the alcoholic liquor seized before judgment; the judgment of the court confiscating such liquor may be applied for and rendered at any time.

RESTRICTIONS RESPECTING THE AMOUNTS MUNICIPALITIES MAY LEVY UPON HOLDERS OF PERMITS

Limitation
of taxation
by munici-
palities for
same purpo-
se.

137. Notwithstanding any special act to the contrary, no municipality may, by by-law, resolution or otherwise, levy, in the same year, from any holder of a permit under this act, any license, tax, impost, or duty exceeding two hundred dollars in cities and towns, or fifty dollars in other municipalities, for the purpose for which

the said person holds such permit. Any municipality which levies or receives directly or indirectly any amount greater than as allowed by this section for the above purposes, may be compelled to reimburse the overcharge, at any time, to the holder of such permit or to his legal representatives.

AMENDMENTS

138. In section fifteenth of chapter fifth of title fourth of the Revised Statutes, 1909, comprising the articles from 1316 to 1328, inclusive, and the forms following article 1328, and in every amendment to such section and to such articles and forms, the words "Quebec License Act" shall mean "The Alcoholic Liquor Act",—the words "Revenue Collector for the Revenue District" shall mean "The Quebec Liquor Commission",—the word "license" shall mean "permit",—and the word "intoxicating" shall mean "alcoholic". Interpretation.

139. In every special act, the words "Quebec License Law", when they refer to the first division of the said Quebec License Law, shall mean "The Alcoholic Liquor Act", and the words "intoxicating liquor" shall mean "alcoholic liquor". Interpretation.

140. Every provision in any general or special act which is incompatible with this act is declared not to apply thereto. Incompatible provisions.

REPEALS

141. The first division of section fourteenth of chapter fifth of title fourth of the Revised Statutes, 1909, comprising the articles from 904 to 1175, inclusive, and all the amendments to such division and such articles, are repealed. R. S. 904-1175, etc., repealed.

Every confirmation of a certificate obtained under any provision of such first division above-mentioned, for the issue of a license commencing on or after the 1st of May, 1921, shall be without effect and shall confer no right whatsoever. Certain proceedings cancelled.

Section sixteenth of chapter fifth of title fourth of the Revised Statutes, 1909, comprising the articles from 1329 to 1333, inclusive, and all the amendments to such section and articles, are repealed. R. S. 1329-1333, etc., repealed.

142. Section 3 of the act 8 George V, chapter 23, is repealed. 8 Geo. V, c. 23, s. 3. repealed.

9 Geo. V, **143.** Sections 1 to 26, inclusive, of the act 9 George c. 18, ss. 1-26, repealed. V, chapter 18, are repealed.

Pending cases. **144.** No repeal made by this act shall affect pending cases.

Coming into force. **145.** Sections 1, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 32, 33, 34 and 37 of this act shall come into force on the day of its sanction, and the other sections on the first day of May, 1921.

CHAP. 25

An Act respecting the possession and transportation of alcoholic liquor

[Assented to, 19th of March, 1921]

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

Short title. **1.** This act may be cited as "The Alcoholic Liquor Possession and Transportation Act".

Application. **2.** This act shall apply to the whole Province.

Keeping, possession and transportation of alcoholic liquor. **3.** No alcoholic liquor, as defined in the Alcoholic Liquor Act, shall be kept, possessed, or transported in the Province, except:

a. by or for the Quebec Liquor Commission;

b. in accordance with the provisions of the Alcoholic Liquor Act, by those who have acquired it from the Quebec Liquor Commission, or who have acquired the same upon the authorization of such Commission in accordance with section 47 of the said act;

c. in the residence of any person, for personal consumption and not for sale, provided it has been acquired by and delivered to such person, in his residence, previous to the 1st of May, 1921, or has been acquired by him, since such date, from the Quebec Liquor Commission;

d. by any distiller licensed by the Government of Canada for the manufacture of alcohol or spirits, or by any wine manufacturer, who may keep for sale in his manufacturing establishment or warehouse in the Province any alcoholic liquor manufactured by him, and may ship the same out