

# BILL

No. 1 of 1916.

An Act respecting the Sale of Intoxicating Liquors.

(Assented to \_\_\_\_\_, 1916.)

**HIS MAJESTY**, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

## SHORT TITLE.

1. This Act may be cited as "*The Liquor Act*."

## INTERPRETATION.

2. In this Act, unless the context otherwise requires—

(a) The expression "vendor" means a person authorized by the Lieutenant Governor in Council under section 4 hereof to sell liquor under this Act;

(b) The expression "vendor's premises" means the warehouse or store in which the vendor under this Act is entitled to sell liquor and shall include every room, closet, cellar, yard, stable, outhouse, shed and any other place whatsoever, a part of or belonging, or in any manner appertaining, to such warehouse or store;

(c) The expression "liquor" or "liquors" shall include all fermented, spirituous and malt liquors, and all combinations of liquors and all drinks and drinkable liquids which are intoxicating; and any liquor which contains more than two and a half per cent. ( $2\frac{1}{2}\%$ ) of proof spirits shall be conclusively deemed to be intoxicating;

(d) The expression "physician" or "medical practitioner" means a member of a College of Physicians and Surgeons of the Province of Alberta;

(e) The expression "dentist" shall mean a member of the Alberta Dental Association;

(f) The expression "veterinary surgeon" shall mean a member of the Veterinary Association of Alberta;

(g) The expression "druggist" or "chemist" shall mean a member of the Alberta Pharmaceutical Association;

(h) The expression "judge" shall mean a judge of the District Court for the district within which an offence is alleged to have been committed;

(i) The expression "court" shall mean the District Court for the district within which an offence is alleged to have been committed;

(j) The expression "clerk" shall mean the clerk of the District Court for the district within which an offence is alleged to have been committed.

3. The expression "private dwelling house" in this Act shall mean a separate dwelling with a separate door for ingress and egress and actually and exclusively occupied and used as a private residence.

(a) Without restricting the generality of the above definition of a private dwelling house, the expression "private dwelling house" shall not include or mean and shall not be construed to include or mean, any house or building occupied or used or partially occupied or used as an office (other than a duly registered physician's, dentist's, veterinary surgeon's office), or as a shop, or as a place of business, or as a factory, or as a workshop, or as a warehouse, or as a clubhouse, or clubroom, public hall or hall of any society or order, or as a boarding house, or as a lodging house where there are more than three lodgers other than the members of the family, or as a livery stable, or as an inn, tavern, hotel or other house or place of public entertainment, or any house or buildings the rooms or compartments in which are leased to different persons, or any buildings or house mentioned in section 48 of this Act, or any house or building where for money or other valuable consideration any goods or chattels are kept for sale or sold, or meals given or lodging provided, nor shall it include or mean to be construed to include or mean any house or building connected by a doorway or covered passage or way of internal communication, except by telephone with any place where liquor is authorized to be sold under this Act, or with any office, except a duly registered physician's, dentist's, a veterinary surgeon's office, or with any place of business, factory, warehouse, workshop, clubhouse, clubroom, hall before mentioned, boarding house or lodging house as aforesaid, livery stable, inn, tavern, hotel or other house or place of public entertainment or resort or with any house or building mentioned in section 47 of this Act.

4. The Lieutenant Governor in Council may from time to time, appoint suitable persons as vendors who shall keep such liquors as are required for medicinal, mechanical, scientific and sacramental purposes only, in accordance with and as permitted by this Act.

5. No such vendor shall have any interest in the liquor sold by him, or shall derive any profit therefrom, but the profits derived from the sale shall accrue to the benefit of the province and shall form a part of the consolidated revenue of the province.

6. The Lieutenant Governor in Council shall fix the salary to be paid such vendors, and from time to time and not inconsistent with this Act shall prescribe the duties of such vendors and the price for which such liquor shall be sold.

7. The Lieutenant Governor in Council shall, from time to time, not inconsistent with this Act, prescribe the manner in which vendors may sell liquors under this Act and make such other regulations as may be deemed necessary and requisite for the proper administration and carrying out of this Act.

8. Every vendor who shall violate any of the provisions of this Act shall be guilty of an offence, and on summary conviction thereof, be liable for every offence to a penalty of not less than two hundred dollars and not more than five hundred dollars, and in default of payment forthwith after conviction, imprisonment for not less than three months nor more than six months.

**9.** Every vendor convicted of an offence under this Act shall, in addition to all other penalties herein provided, forfeit his right to be a vendor, and shall be disqualified from holding the position of vendor under this Act for a period of three years next succeeding conviction.

**10.** Every vendor and every clerk, servant or agent of such vendor who sells liquor in any other place or at any other time or in any other quantities, or sells liquors otherwise than as authorized by this Act, shall be guilty of an offence under this Act.

**11.** A vendor may sell alcohol for mechanical or scientific purposes, but no sale shall be made except upon the affidavit of the applicant, duly signed and sworn before the vendor, which affidavit shall be in a form prescribed by the Lieutenant Governor in Council, and which shall set forth that the alcohol is required for mechanical or scientific purposes only, stating how and where the same is to be used, and that the same is not intended to be used as a beverage or to be mixed with any other liquid for use as a beverage, or to be sold or to be given away to any other person, and that it is intended only for the applicant's own use and that the applicant is over twenty-one years of age and such affidavit shall also set forth the quantity desired, and no more than one sale and one delivery shall be made on one affidavit.

**12.** A vendor may sell to a druggist such liquor as a druggist is authorized to sell under this Act not exceeding in quantity five gallons at any one time, but no such sale shall be made except upon the affidavit of the druggist, duly made before such vendor, which affidavit shall be in a form prescribed by the Lieutenant Governor in Council, and shall set forth that the said liquor is required only for purposes authorized by this Act, and shall state how and where the same is to be used, and that the same is not intended as a beverage nor to be mixed with any other liquid for use as a beverage, or to be sold or given away, otherwise than as permitted by this Act, and which affidavit shall also set forth the quantity desired, and no more than one sale and one delivery shall be made on one affidavit.

**13.** A vendor may sell to a physician such liquor as under this Act the physician is entitled to have in his possession, but no such sale shall be made except upon the affidavit of the physician, duly signed and sworn before said vendor, which affidavit shall be in a form prescribed by the Lieutenant Governor in Council, and shall set forth that the said liquor is required only for purposes authorized by this Act, and shall state how and where the same is to be used, and that the same is not intended as a beverage or to be mixed with any other liquor for use as a beverage, or to be sold or given away, otherwise than as permitted by this Act, and which affidavit shall also set forth the quantity desired, and no more than one sale and one delivery shall be made on one affidavit.

**14.** A vendor may sell liquor to a dentist personally who is lawfully and regularly engaged in the practice of his profession, for use in his profession only, but not in a greater quantity than one pint at one time, and to a

veterinary surgeon who is lawfully and regularly engaged in the practice of his profession, for use in his profession only, but not in a greater quantity than one gallon at one time, but no such sale shall be made except upon an affidavit of the dentist or veterinary surgeon, similar to that required from a physician, and no more than one sale and one delivery shall be made on one affidavit.

15. A vendor may sell wine for sacramental purposes, but only to a minister of the Gospel, and only upon the written request of the said minister stating the purpose for which it is required.

16. Every such affidavit, prescription or request shall be retained on file by the vendor until the last day of the month next after that of its receipt, and the vendor shall permit the same to be inspected by any person who applies to him for that purpose.

17. Every vendor, druggist and physician shall keep or cause to be kept in a book to be kept for that purpose an accurate record of every sale or other disposal made by him, his partner, his clerk, servants or agents of any liquor under and forming an ingredient in any prescription, and of any wine sold for sacramental purposes, and of each sale of any liquor or alcohol made by him, his clerk, servant or agent for mechanical or scientific purposes, and such record shall be made before the delivery of such liquor, and shall show the time when, the name and address of the person to whom sold, the name of the clerk, servant or agent by whom the sale was made, the kind and quantity sold, and the prescription or request under which the sale is made, and, in default of such sale or disposal being so placed on record, every such sale shall be held to be a contravention of the provisions of this Act.

18. Every vendor, druggist and physician shall on the last day of each and every month next after that of the sale send to the Attorney General of the province all such affidavits, prescriptions and requests, together with a copy of the record mentioned in the preceding section of this Act for the preceding month not previously returned, verified by his affidavit attached thereto, and such affidavit shall state that no sales were made during such months save those mentioned in the said copy of the record sent to the Attorney General.

(1) In addition to the above every druggist and physician shall keep a record of all liquor purchased or received by him, and on the first day of each and every month send to the Attorney General of the province a copy of the said record for the preceding month verified by his affidavit attached thereto, and such affidavit shall state that no purchases of liquor were made and no liquor received during such month save those mentioned in the said copy of record.

19. Every vendor, druggist and physician who fails to make the returns required by this Act, or who refuses to allow any affidavit, prescription, request or record required under the provisions of this Act to be inspected where so provided herein without charge by any person, shall be guilty of an offence under this Act.

20. No vendor or druggist, and no partner, clerk, agent or servant of such vendor or druggist shall allow any liquor so sold to be consumed or drunk within or upon the premises upon which the sale is made.

21. Every distiller, brewer or other person licensed by the Government of Canada to manufacture any liquor mentioned in section twenty-six (26) hereof, and any vendor who makes or uses or allows to be made or used any internal communication between the premises in which he is entitled to carry on the business of manufacture or sale of any liquor and any other premises, except by means of electric telephone or telegraph, shall be guilty of an offence and liable to a penalty of fifty dollars for every day during which such communication exists, and in default of payment to one month's imprisonment for each day as aforesaid.

22. No sale or other disposal of liquors shall take place on, out of, or from any vendor's premises to any person or persons whomsoever, nor shall such licensed premises be open for such sale from or after the hour of five o'clock on Saturday night until seven o'clock on Monday morning thereafter, or from six o'clock at night until seven o'clock in the morning on the other nights of the week.

#### PROHIBITIONS AND REGULATIONS.

23. No person shall, within the Province of Alberta, by himself, his clerk, servant or agent, expose or keep for sale or directly or indirectly or upon any pretence or upon any device sell or barter or offer to sell or barter or, in consideration of the purchase or transfer of any property or thing, or for any other consideration, or at the time of the transfer of any property or thing, give to any other person any liquor except as authorized by this Act.

(1) Provided that the provisions of this section shall not prevent any chemist or druggist, duly registered as such, from keeping, having and, subject to the further provisions of this section, selling liquors for strictly medicinal purposes; but no such sale for medicinal purposes shall be made except under a *bona fide* prescription from a registered practitioner on which prescription no more than one sale of liquor shall be made, and unless such sale is recorded as provided by this Act:

Provided further that any qualified druggist may sell to any person any combination of alcohol with any drug made according to any formula of the British or United States pharmacopœia:

Provided always that no person authorized to sell liquors as provided by this section shall allow any liquors sold by him on his premises to be consumed within his shop or the premises of which the shop forms a part.

(2) Any chemist or druggist who colourably for medicinal purposes sells liquors to be consumed by any person as a beverage shall on summary conviction thereof be liable to a penalty for the first offence of \$200 and in default of immediate payment to imprisonment for a term of three months, and for any subsequent offence to imprisonment for not less than four months and not more than

six months without the option of a fine, and in addition shall be disqualified from selling liquors under the provisions of this Act for a period of one year.

**24.** No person within the Province of Alberta by himself, his clerk, servant or agent shall have to keep or give liquor in any place wheresoever, other than in the private dwelling house in which he resides, except as authorized by this Act.

(1) This section shall not prevent any person engaged in mechanical business or in scientific pursuits from having in his possession alcohol for mechanical or scientific purposes, as the case may be, in a quantity not exceeding ten gallons at one time, but the alcohol used in the preservation of specimens for scientific purposes shall not be included in said ten gallons, and shall not prevent any clergyman from having in his possession a quantity of wine for sacramental purposes not exceeding two gallons at any one time; but such person in this subsection mentioned so having in his possession such liquor shall not allow same to be used or consumed as a beverage.

(2) Nothing in this section shall prevent an incorporated public hospital from having liquor in its possession for the use of the patients in such hospital, but no manager, matron, or other officer of said hospital, and no physician or nurse in attendance thereat shall give any of said liquor to any person other than a patient in said hospital, and then only when prescribed for or administered by a physician as provided by section 32 of this Act.

(3) Nothing herein contained shall prevent a sick person from having in his room where he sleeps the liquor prescribed for him by a physician under section 31 of this Act, but no liquor so prescribed shall be given by the physician, nurse or other attendant to any other person than the sick person for whom it has been so prescribed.

**25.** Nothing in section twenty-four (24) hereof contained shall apply to sales under execution or other judicial process to any vendor under this Act or to sales by assignees in bankruptcy or insolvency to such vendor, provided that the stock of liquor is not broken for the purpose of such sale, and nothing in section twenty-four (24) contained shall prevent common carriers or other persons from carrying or conveying liquor from a place outside of the province to a place where the same may be lawfully received and lawfully kept within the province, or from a place where such liquor is lawfully kept and lawfully delivered within the province to a place outside of the province, or from a place where such liquor may be lawfully kept and lawfully delivered within the province to another place within the province where the same may be lawfully received and lawfully kept, or through the province from one place outside of it to another place outside of it, but no person during the time such liquor is being carried or conveyed as aforesaid shall open or break or allow to be opened or broken any package or vessel containing the same, or sell, give, or otherwise dispose of any of said liquor to any person other than the consignee thereof.

**26.** Nothing herein contained shall prevent any brewer, distiller or other person duly licensed by the Government of Canada for the manufacture of spirituous, fermented

or other liquors, from keeping or having liquors manufactured by him in any building wherein such manufacture is carried on, provided such building forms no part of and does not communicate by any entrance with any house or building mentioned in section three (3) of this Act, including the subsection thereof, or from selling liquor therefrom to a person in another province or in a foreign country or to a vendor under this Act.

27. Nothing herein contained shall prevent any person from having liquor for export sale in his liquor warehouse provided such liquor warehouse and the business carried on therein complies with requirements in subsection (1) hereof mentioned, or from selling from such liquor warehouse to persons in other provinces or in foreign countries, or to a vendor under this Act.

(2) The liquor warehouse in this section mentioned shall be suitable for the said business, and shall be so constructed and equipped as not to facilitate any violation of this Act, and not connected by any internal way or communication with any other building or any other portion of the same building, and shall be a wareroom or building wherein no other commodity or goods than liquor for export from the province are kept or sold to such vendor, and wherein no other business than keeping or selling liquor for export from the province is carried on.

28. No person shall use or consume liquor in the province purchased and received from any person within the province, unless it be purchased and received from a vendor. This section shall not apply to any person who within a private dwelling house innocently uses or consumes liquor not thus purchased and received.

29. For the purpose of evidence every brewer, distiller or other person licensed by the Government of Canada, and mentioned in section twenty-six (26) hereof, and every liquor exporter mentioned in section twenty-seven (27) hereof who makes a sale of liquor in the province shall immediately enter in a book to be kept for that purpose the date of such sale, the person to whom such sale was made and the person or carrier to whom the same was delivered for carriage; and the failure of such person to make, keep and produce as evidence the said entry and record of such sale, shall, in any prosecution under this Act of such person for illegally making such a sale of liquor, be *prima facie* evidence against such person of having illegally sold such liquor.

30. No person shall by himself or his partner, servant, clerk, agent or otherwise, sell or deliver liquors of any kind to any person not entitled to sell liquor (and who sells such liquor or who buys for the purpose of re-selling), and any violation of the foregoing provision shall be an offence under this Act, and no person shall take or carry or employ or suffer any other person to take or carry any liquor out of any premises where the same is lawfully kept for sale for the purpose of being sold in the province by any person except a vendor.

31. No person shall consume any liquor in or upon any vendor's premises nor in any liquor warehouse mentioned in section twenty-seven (27) hereof, nor in any

distillery or brewery mentioned in section twenty-six (26) hereof, and no person shall purchase any liquor from any person who is not authorized to sell the same for consumption within the province, and no person who purchases liquor shall drink or cause anyone to drink or allow such liquor to be drunk upon the premises where the same is purchased.

**32.** Any physician who is lawfully and regularly engaged in the practice of his profession, and who shall deem any intoxicating liquors necessary for the health of his patients, may give such patient or patients a written or printed prescription therefor, or may administer the liquor himself; for which purpose he may have liquor in his possession not exceeding in quantity two quarts at any one time when in the discharge of his professional duties; but no such prescription shall be given or liquors administered, except in cases of actual need, and when in the judgment of such physician the use of liquor is necessary. And every physician who shall give such prescription or administer such liquors in evasion or violation of this Act, or who shall give to or write for any person a prescription for or including intoxicating liquor for the purpose of enabling or assisting any person to evade any of the provisions of this Act, or for the purpose of enabling or assisting any person to obtain liquor for use as a beverage, or to be sold or disposed of in any manner in violation of the provisions of this Act, shall be guilty of an offence under this Act.

(2) Any dentist who is lawfully and regularly engaged in the practice of his profession, and who shall deem it necessary for any patient being then under treatment by him that such patient should have a drink of liquor, may himself administer to such patient the liquor thus needed, and for such purpose he may keep in his office a quantity of liquor not exceeding one pint at any one time, and every such dentist who shall administer such liquor in evasion or violation of this Act shall be guilty of an offence against this Act.

(3) Any veterinary surgeon lawfully and regularly engaged in the practice of his profession, and who shall deem liquor necessary for the health of dumb animals, may have in his possession liquor for such purpose, not exceeding, however, in quantity one gallon.

**33.** No person shall sell or give liquor to any person under the age of twenty-one years except a vendor or the father, mother, guardian or physician of such minor, and these only for medicinal purposes and pursuant to a prescription from a physician.

**34.** A vendor shall sell for cash only.

**35.** If any vendor harbours or entertains, or knowingly suffers to remain on his premises where such liquor is sold or kept for sale, any constable or peace officer during any part of the time during which such constable or peace officer ought to be on duty, unless for the purpose of keeping or restoring order, or in the execution of his duty, or supplies



any liquor or refreshment whatever, by way of gift or sale, to any constable or police officer on duty, he shall be guilty of an offence against this Act.

**36.** If any person permit drunkenness or any violent, quarrelsome, riotous or disorderly conduct, arising from drunkenness, to take place in the house or on the premises of which he is owner, tenant or occupant, or gives any liquor to any drunken person, or permit or suffer any drunken person to consume any liquor in said house or on said premises, or permit or suffer drunken persons to meet in said house or on said premises, he shall be guilty of an offence against this Act, and, in addition to any other punishment provided by law, be liable to the penalty provided by this Act therefor.

**37.** Every society, association or club heretofore or hereafter formed or incorporated, and every unincorporated society, association or club, and every member, officer or servant thereof, or person resorting thereto who sells or barter or therein gives liquor to any member thereof or to any other person, and every person who directly or indirectly keeps or maintains by himself or by associating or combining with any other or others, and who in any manner aids, assists or abets in keeping liquor in any clubhouse, club or association room or hall or other place for the purpose of use, gift, barter or sale as a beverage, or for distribution or division among the members of any society, club or association by any means whatever, and every person who barter, sells or gives away or assists or abets another in bartering, selling or giving away any liquor so received and kept, shall be held to have violated section twenty-three (23) of this Act, and shall incur the penalties provided for the unlawful sale of liquor.

(2) The keeping or having any liquor in the house, hall or building, or in any room or place occupied or controlled by any such club, association or society, or by any persons associating or combining together as aforesaid, shall be a violation of section twenty-four (24) of this Act.

(3) Proof of consumption or intended consumption of liquor in such premises by any member of any such club, association, or society, or person who resorts thereto, shall be conclusive evidence of sale of such liquor by the officers thereof, and any liquor found on such premises shall be liable to seizure in the manner provided by this Act.

**38.** If the occupant of any private dwelling house or of any part thereof is convicted of any offence against any of the provisions of this Act committed in or in respect of such house the same shall cease to be a private dwelling house within the meaning of this Act during the time the person so convicted occupies the said house or any part thereof.

**39.** Whenever any person has drunk liquor to excess, and while in a state of intoxication from such drinking has come to his death by suicide or drowning, or perishing from cold or other accident caused by such intoxication, the person or persons who furnished or gave the liquor to such person when in a state of intoxication, or on whose premises it was obtained by such intoxicated person while

intoxicated, shall be liable to an action for a wrongful act and as a personal wrong, and the amount which may be recovered as damages shall not be less than one hundred dollars nor more than fifteen hundred dollars.

#### PENALTIES.

40. For every offence against this Act or any of the provisions thereof, for which a penalty has not been specially provided by this Act, the person committing the offence shall be liable on summary conviction to a penalty for the first offence of not less than fifty dollars nor more than one hundred dollars, and in default of immediate payment to imprisonment for a period of not less than thirty days nor more than two months, and for the second offence to a penalty of not less than \$200 nor more than \$500, and in default of immediate payment to imprisonment for a term of not less than two months nor more than four months, and for any subsequent offence to imprisonment for not less than three months nor more than six months, without the option of a fine.

#### PROSECUTIONS.

41. In all cases of prosecution for any offence against any provisions of this Act for which penalty or punishment is prescribed, a conviction or order of the justice, justices or police magistrate, as the case may be, except as hereinafter mentioned, shall be final and conclusive, and, except as hereinafter mentioned, against such conviction or order there shall be no appeal.

(2) Subject to the provisions contained in the following subsection hereof, an appeal shall lie to a judge of the District Court of the district in which the conviction is made, without a jury in all cases where the person convicted is a vendor or druggist, or the conviction is for any offence committed on or with respect to a vendor's or druggist's premises, provided a notice of such appeal shall be given to the prosecutor or complainant within five days after the date of the said conviction.

(3) The person convicted, in case he is in custody, shall either remain in custody until the hearing of such appeal before the said judge, or (where the penalty of imprisonment with or without hard labour is adjudged) shall enter into a recognizance with two sufficient sureties in the sum of \$200 each, before the convicting justice, justices or police magistrates conditioned personally to appear before the said judge and to try such appeal and abide his judgment thereupon, and to pay such costs as he may order, and in case the appeal is against a conviction whereby only a penalty or sum of money is adjudged to be paid, the appellant may (although the order directs imprisonment in default of payment) instead of remaining in custody as aforesaid give such recognizance as aforesaid, or may deposit with the said justice, justices or police magistrates convicting, the amount of the penalty and costs, and a further sum of \$25 to answer the respondent's costs of appeal.

(4) Upon such recognizance being given or deposit made, the said justice, justices or police magistrates shall liberate such persons, if in custody, and shall forthwith deliver or transmit by registered letter postpaid, the depositions

and papers in the case, with the recognizance or deposit, as the case may be, to the clerk of the District Court of the district wherein such conviction was held, or to such other persons as may be under the provisions of any law, order, rule or regulation be exercising the functions of clerk of the District Court.

(5) The appellant shall pay to such clerk for his attendance and services in connection with such appeal the sum of \$1.00, and the same may be taxed as costs in the cause.

(6) An appeal shall lie to the judge of the District Court of the district in which an order of dismissal is made, without a jury, in all cases in which an order has been made by a justice, or justices dismissing an information or complaint laid by an inspector or anyone on his behalf, for contravention of any of the provisions of this Act, provided notice of such appeal has been given to the defendant or his solicitor within fifteen days after the date of such order of dismissal.

(7) Within ten days after service of the notice of appeal the judge shall grant a summons calling upon the defendant and the justice or justices making the order to show cause why the order of dismissal should not be reversed and the case reheard. Upon the return of the summons the judge, upon hearing the parties, may either affirm or quash the order, or if he thinks fit, may hear the evidence of such other witnesses as may be produced before him, or the further evidence of any witnesses already examined, or may make an order affirming the order of dismissal, or may reverse such order and convict the defendant and may impose such fine and costs or other penalty as is provided by this Act, and the order so made shall have the same effect and shall be enforced in the same manner as is provided in the case of convictions before magistrates under this Act.

(8) The practice and procedure upon such appeals and all the proceedings thereon shall thenceforth be governed by the provisions of part 15 of *The Criminal Code* or any Act passed in amendment or substitution thereof, so far as the same is not inconsistent with this Act:

Provided no such conviction or order as aforesaid shall be removed by *certiorari* except upon the ground that an appeal to the court to which an appeal is by law provided would not afford an adequate remedy:

And provided further that no writ of *certiorari* shall issue for the purpose of quashing any conviction for any violation or contravention of any of the provisions of this Act unless the party applying therefor shall produce to the judge to whom the application is made an affidavit that he did not by himself or by his agent, servant or employee, or any other person with his knowledge or consent, commit the offence charged in the information; and such affidavit shall negative the charge in the terms used in the information; and shall further negative the commission of the offence by the agent, servant or employee of the accused, or any other person with his knowledge.

(9) An appeal by an inspector, or other prosecutor, shall lie to the Supreme Court of Alberta *en banc* from the decision, judgment or order of any judge of a District Court upon an appeal from any conviction or order made in a case arising out of or under this Act in which conviction

or order has been quashed or set aside upon the ground directly or indirectly of the invalidity of any Ordinance or of any Act or Acts of the Legislature of this province, or of any part thereof or from the decision, judgment or order of the judge of a District Court in any other case arising out of or under this Act; such appeal shall be had upon notice thereof to be given to the opposite party of his intention to appeal within eight days after such judgment, decision or order has been made, and in the case of such appeal, the clerk of the District Court or such other person as may under the provisions of any law, order, rule or regulation be exercising the functions of clerk of the District Court, shall certify the judgment, convictions, orders and all other proceedings to the registrar of the Supreme Court of Alberta for use upon appeal. The said court shall thereupon hear and determine the said appeal, and shall make such order for carrying into effect the judgment of the court as the court shall

(10) No appeal shall lie by any person convicted of an offence under the provisions of this Act unless the party appealing shall, within the time limited for giving notice of such appeal, make an affidavit before the justice or one of the justices or police magistrates who tried the cause, that he did not by himself or by his agent, servant or employee, nor did any other person with his knowledge or consent commit the offence charged in the information; and such affidavit shall negative the charge in the terms used in the information; and shall further negative the commission of the offence by the agents, servant or employee of the accused or any other person with his knowledge or consent; which affidavit shall be transmitted with the conviction to the court to which the appeal is given.

(11) Any justice making a conviction for any violation or contravention of any of the provisions of this Act shall not transmit the conviction to the court to which an appeal is given unless and until the affidavit required by this section has been made and deposited with such justice within the time limited by this section; any notice of appeal or other proceedings respecting appeal which may be given or taken shall be absolutely null and void and of no effect whatever; and the justice shall proceed in respect of such conviction as if no such notice of appeal had been given or proceeding taken.

(12) Upon notice being given of appeal from a conviction for an infraction of this Act, a consequence of which conviction is that the person is disqualified from selling liquor for any period of time, and upon the affidavit required by this section being made and deposited as provided, the Attorney General may apply to the court to which such appeal is made to expedite the hearing of the said appeal, and to fix the time and place for the disposal of the said appeal as to it may seem proper.

**42.** Several charges of contravention of this Act committed by the same person may be included in one and the same information or complaint; provided that such information and complaint and the summons, or warrant issued thereon contains the time and place of each contravention.

**43.** The description of any offence under this Act in the words of this Act or in words of like effect, shall be

sufficient in law; and any exception, exemption, proviso, excuse or qualification, whether it does or does not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information; but, if it be so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant.

44. In describing offences respecting the sale or keeping for sale or other disposal of liquor, or the having, keeping, giving, purchasing, receiving or the consumption of liquor, in any information, summons, conviction, warrant, or proceeding under this Act, it shall be sufficient to state the sale, or keeping for sale or disposal, having, keeping, giving, purchasing, receiving or consumption of liquor simply, without stating the name or kind of such liquor, or the price thereof, or the name of any person to whom it was sold or disposed of, or by whom it was taken or consumed, or from whom it was purchased or received, and it shall not be necessary to state the quantity of liquor so sold, kept for sale, disposed of, had, kept, given or consumed, except in the case of offences where the quantity is essential, and then it shall be sufficient to allege the sale or disposal of more or less than such quantity.

45. In any prosecution for the violation of any of the provisions of this Act, in the event of any variance between the information and the evidence adduced in support thereof, the justice or justices hearing the case may amend such information and may substitute for the offence charged therein any other offence against the provisions of this Act, but if it appears that the person charged has been materially misled by such variance he shall be granted an adjournment of the hearing if he applies therefor.

46. Any person summoned as a party to, or as a witness in any proceeding under this Act may, by the summons, be required to produce at the time and place appointed for his attendance, all books and any papers, accounts, deeds and other documents in his possession, custody or control relating to any matter connected with the said proceeding, and shall be liable to the same penalties for nonproduction of such books, papers or documents as he would incur by refusal or neglect to attend pursuant to such summons, or to be sworn or answer any question touching the case.

47. In any prosecution or proceeding under this Act, in which proof is required of the authority of the vendor to sell liquor, a certificate under the hand of the chief inspector or Attorney General shall be *prima facie* proof of the said authority; and the production of such certificate shall be sufficient *prima facie* evidence of the facts therein stated, and of the authority of the chief inspector or Attorney General without any proof of his appointment or signature.

48. Any house, shop, room or other place in which it is proved that there exists a bar or counter or beer pumps or kegs, jars or decanters or tumblers or glasses or any other appliances, preparations, or utensils, similar to those usually found in hotels and shops where liquors

are accustomed to be sold or trafficked, it shall be deemed to be a place in which liquors are kept or had for the purpose of being sold, bartered or traded in, in contravention of this Act unless the contrary is proved by the defendant in any prosecution, and the occupants of such house, shop, room or other place shall be taken to be the person who has or keeps therein such liquors for sale, traffic or barter therein.

**49.** In proving the sale or disposal, giving, purchasing or receiving gratuitously or otherwise, or consumption of liquor for the purpose of any proceeding relative to any offence under this Act, it shall not be necessary to show that any money actually passed, or any liquor was actually consumed, if the judge or magistrate or justice or justices hearing the case is or are satisfied that a transaction in the nature of a sale or other disposal, giving, purchasing or receiving actually took place or that any consumption of liquor was about to take place; and proof of consumption or intended consumption of liquor on premises on which such consumption is prohibited, by some person not authorized to consume liquor thereon, shall be evidence that such liquor was sold or given to the person consuming, or being about to consume, or carrying away the same, as against the occupant of the said premises.

**50.** The occupant of any house, shop, room or other place in which any sale, barter or traffic having, keeping or giving liquor, or any matter, act or thing in contravention of any of the provisions of this Act, has taken place, shall be personally liable to the penalty and punishment prescribed by this Act, notwithstanding such sale, barter or traffic, having, keeping, or giving be made by some other person who cannot be proved to have so acted on, under or by, the directions of such occupant, and proof of the fact of such sale, barter or traffic, having, keeping or giving, or other act, matter or thing by any person in the employ of such occupant, or who is suffered to be or remain in or upon the premises of such occupant or to act in any way for such occupant, shall be *prima facie* evidence that such sale, barter, traffic, having, keeping or giving or other act, matter or thing took place with the authority and by the direction of such occupant.

**51.** The burden of proving the right to have or keep or sell or give liquor shall be on the person accused of improperly or unlawfully having or keeping or selling or giving such liquor.

**52.** In any prosecution under this Act in respect of any sale, purchase, disposal, giving, having, keeping or receiving of liquor it shall not be necessary that any witness depose directly to the precise description of the liquor sold, purchased, disposed of, given, had, kept or received, or the precise consideration, if any, therefor.

**53.** In any prosecution under this Act, whenever it appears that the defendant has done any act or been guilty of any omission in respect of which, were he not duly authorized under this Act, he would be liable to some penalty under this Act, it shall be incumbent upon the defendant to prove that he is duly authorized under this Act and that he did the said act lawfully.

54. If, in the prosecution of any person charged with committing an offence against any of the provisions of this Act in the selling or keeping for sale or giving or having or purchasing or receiving of liquor, *prima facie* proof is given that such person had in his possession or charge or control any liquor in respect of, or concerning which, he is being prosecuted, such person shall be obliged to prove that he did not commit the offence with which he is so charged.

55. The fact of any person, not being a vendor, keeping up any sign, writing, printing or other mark, in or near to his house or premises, or having such house fitted up with a bar or other place containing bottles or casks displayed so as to induce a reasonable belief that liquor may be lawfully purchased in such house or premises, or that liquor is sold or served therein, or that there is on such premises more liquor than is reasonably required for such person and his family, not exceeding one quart of spirits and two gallons of malt liquor, shall be deemed *prima facie* evidence of the unlawful sale and keeping for sale and having and keeping of liquor by such person.

56. On the trial of any proceeding, matter or question under this Act the person opposing or defending shall be competent to give evidence in such proceeding, matter or question.

57. Any contravention of any of the provisions of this Act by any servant, agent or employee of a vendor shall be presumed to be the act of such vendor, but such presumption may be rebutted by proof of explicit instructions to the contrary by such vendor, and any such servant, agent or employee contravening any of the provisions of this Act and disobeying any such explicit instructions shall be liable on summary conviction to imprisonment for not less than ten days or more than three months without the option of a fine.

58. In the event of an incorporated company contravening any of the provisions of this Act the officer or agent of the company in charge of the particular premises upon which the offence is committed, as well as the said company, shall be liable to the penalties prescribed by this Act.

#### CASES OF SEVERAL CONVICTIONS.

59. The proceedings upon any information for an offence against any of the provisions of this Act, in a case where a previous conviction or convictions are charged, shall be as follows:

(1) The judge, magistrate, justice or justices of the peace shall in the first instance inquire concerning such subsequent offence only, and if the accused be found guilty thereof he shall then and not before be asked whether he was so previously convicted as alleged in the information, and, if he answers that he was so previously convicted, he shall be sentenced accordingly; but, if he denies that he was so previously convicted, or does not answer such question, the judge, magistrate or justice shall then inquire concerning such previous conviction or convictions.

(2) Such previous convictions shall be proved *prima facie* by the production of a certificate purporting to be under the hand of the convicting judge, magistrate, justice or justices of the peace, or the Attorney General to whose office the conviction has been returned, without proof of signature or official character.

(3) In the event of any conviction for any second or subsequent offence becoming void or defective after the making thereof by reason of any previous conviction being set aside, quashed or otherwise rendered void, the judge, magistrate, justice or justices of the peace by whom such second or subsequent conviction was made shall summon the person convicted to appear at a time and place to be named and shall thereupon, upon proof of the due service of such summons if such person fails to appear, or on his appearance, amend such second or subsequent conviction and adjudge such penalty or punishment as might have been adjudged had such previous conviction never existed; and such amended conviction shall thereupon be held valid to all intents and purposes as if it had been made in the first instance.

(4) In case of any person who has been convicted of a contravention of any provision of any of the sections of this Act and is afterwards convicted of an offence against any other provision of this Act, such conviction shall be deemed a conviction for a second offence within the meaning of the Act and shall be dealt with and punished accordingly, although the two convictions may have been under different sections.

**60.** One conviction for several offences may be made under this Act although such offences may have been committed on the same day; but the increased penalty or punishment hereinbefore imposed shall only be incurred or awarded in the case of offences committed on different days and after information laid for a first offence.

**61.** In addition to all other costs the magistrate or justice shall be entitled to charge the following sums:

For making up and forwarding certificate of conviction to the chief inspector, the sum of fifty cents.

#### CONVICTIONS AND SUBSEQUENT PROCEEDINGS.

**62.** No conviction or warrant for enforcing the same or any other process or proceeding under this Act shall be held insufficient or valid by reason of any variance between the information and the conviction or by reason of the punishment imposed or the conviction or order made being in excess of that which might lawfully have been imposed or made or by reason of any other defect in form or substance, provided it can be understood from such conviction, warrant, process or proceeding that the same was made for an offence against some provision of this Act within the jurisdiction of the judge, magistrate, justice or justices of the peace or other officer who made or signed the same, and provided there be evidence to prove such offence, and that it can be understood from such conviction, warrant or process that the appropriate penalty or punishment for such offence was thereby adjudged.



**63.** Upon any application to quash or set aside any such conviction or order, or the warrant for enforcing the same, or other processes or proceeding, whether in appeal or upon *habeas corpus*, or by way of *certiorari* or otherwise, the court or judge to which or to whom such appeal is made, or to which or to whom such application has been made upon *habeas corpus* or by way of *certiorari* or otherwise, shall dispose of such appeal or application upon the merits, notwithstanding any such warrant, excess of jurisdiction or defect as aforesaid; and in all cases where it appears that the merits have been tried, and that the conviction, warrant, process or proceeding is sufficient and valid under this section or otherwise, and there is evidence to support the same, such conviction, warrant, process or proceeding shall be affirmed, or shall not be quashed (as the case may be); and such court or judge may in any case amend the same if necessary; and any conviction, warrant, process or proceeding so affirmed, or affirmed and amended, shall be enforced in the same manner as convictions affirmed on appeal, and the costs thereof shall be recoverable as if originally awarded.

**64.** The judge, magistrate, justice or justices of the peace on any conviction of any person for an offence against this Act shall send forthwith to the chief inspector a certificate of such conviction.

**65.** It shall not be necessary for the prosecutor in any proceeding under this Act against a corporation to prove the fact of incorporation.

**66.** In all prosecutions, actions or proceedings under the provisions of this Act against a corporation, every summons, warrant, order, writ or other proceeding may in addition to any other manner of service which may be provided or authorized by law, be served on such corporation by delivering the same to any officer, attorney or agent of the said corporation, or by leaving it at any place where it carries on any business; provided that service in any other way shall be deemed sufficient if the court, judge, magistrate, justice or justices of the peace by or before whom such summons, warrant, order, writ or other proceeding was issued or is returnable, or by or before whom any proceeding subsequent to such service is to be had or taken, shall be of the opinion that the service has been such as to bring the summons, warrant, order, writ or other proceeding to the notice of such corporation.

**67.** Whenever any corporation is convicted of any offence against or under this Act and the conviction adjudges a pecuniary penalty or compensation to be paid by such corporation, or an order under this Act requires the payment of a sum of money by a corporation the court, judge, magistrate, justice or justices of the peace, by his or their conviction or order after adjudging payment of such penalty, compensation or sum of money with or without costs may order and adjudge that in default of payment of such penalty, compensation or sum of money forthwith or within a limited time, such penalty, compensation or sum of money shall be levied by distress and sale of the goods and chattels of such corporation.

(2) In any such case and in addition to the other remedies provided hereby a copy of such conviction or order certified

to by any judge, magistrate, justice or justices of the peace, or by the officer in whose custody the same is by law required to be kept, may be filed in the office of the clerk of the Supreme Court, and such conviction or order shall thereupon become a judgment of said court and all proceedings may be thereupon taken and had as on any other judgment of said court.

(3) Provided always that nothing in this section contained shall be construed as in any way affecting, limiting or restricting any proceedings which otherwise can or may by law be taken or had for the infliction of punishment by penalty or imprisonment or the modes of enforcement or recovery of fines or penalties.

#### DISPOSITION OF PENALTIES.

68. The penalties in money under this Act, or any portion of them which may be recovered, shall be paid to the convicting judge, magistrate, justice or justices of the peace, and shall by him be paid to the Provincial Treasurer.

69. All fines levied under this Act shall go to the general revenue fund of the province, except as hereinafter provided.

#### REMISSION OF PENALTIES.

70. No judge, magistrate, justice or inspector shall have any power or authority to remit, suspend or compromise any penalty or punishment inflicted under this Act; and every judge, magistrate and justice is hereby required to make a return of the case and pay over all fines and money immediately on receiving the same to the Provincial Treasurer.

#### POWERS OF INSPECTORS AND OFFICERS.

71. Police officers, policemen and constables shall have full authority to enforce any of the provisions of this Act.

#### GENERAL PROVISIONS.

72. While this Act is intended to prohibit and shall prohibit transactions in liquor which take place wholly within the Province of Alberta, except as specially provided by this Act, and restrict the consumption of liquor within the limits of the Province of Alberta, it shall not affect and is not intended to affect *bona fide* transactions in liquor between a person in the Province of Alberta and a person in another province or in a foreign country and the provisions of this Act shall be construed accordingly.

73. *The Liquor License Ordinance*, being chapter 89 of the Consolidated Ordinances of 1905, and all amendments thereto, are hereby repealed.

74. This Act shall come into force and operation on the first day of July, 1916, but the provisions of this Act with respect to the appointment of vendors and all matters connected therewith or appertaining thereto may be resorted to, applied and followed at any time before the said first day of June, to take effect on and from the said first day of July, 1916.

No. 1.

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FOURTH SESSION  
THIRD LEGISLATURE  
6 GEORGE V  
1916

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**BILL**

An Act respecting the Sale of  
Intoxicating Liquors.

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Received and read the

First time . . . . .

Second time . . . . .

Third time . . . . .

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