

LEGISLATIVE ASSEMBLY OF THE
NORTHWEST TERRITORIES
5TH COUNCIL, 29TH SESSION

RECOMMENDATION TO COUNCIL
NO. 8-29

TABLED ON FEBRUARY 9, 1965



February 1, 1965.

NORTHWEST TERRITORIES

RECOMMENDATION TO COUNCIL NO. 8 (First Session, 1965)

PROPOSED AMENDMENTS TO THE LIQUOR ORDINANCE

At the November, 1964 Session, Council asked the Administration to carry out a study of Provincial Liquor Legislation and, having regard to the particular circumstances in the Northwest Territories, make recommendations to amend the Liquor Ordinance to bring it more in line with Provincial practice.

A study of Provincial Legislation was carried out with particular reference to the control of bootlegging in the Territories. It was found that provinces are more strict than the Territories. The Administration consulted with the Royal Canadian Mounted Police. The R. C. M. Police reviewed the material obtained from the provinces and agreed that the Liquor Ordinance should be amended to provide that:

- (a) no persons shall, by himself, his clerk, servant or agent, expose or keep for sale, or directly or indirectly upon any pretence, or upon any device, sell or offer to sell, or in consideration of the purchase or transfer of any property, or for any other consideration, or at the time of the transfer of any property, give to any other person any liquor;
- (b) in any proceeding under this Ordinance, proof of one unlawful sale of liquor shall suffice to establish the intent or purpose of unlawfully keeping liquor for sale in violation of this Ordinance;
- (c) in providing sale, disposal, or gift, or purchase, gratuitous or otherwise, or consumption of liquor, it is not necessary in any prosecution to show that any money actually passed or that any liquor was actually consumed, if the Justice hearing the case is satisfied that a transaction in the nature of a sale, disposal, gift or purchase, 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 at which such consumption is prohibited by some person not authorized to consume liquor thereon is evidence that such liquor was sold or given to or purchased by the person consuming, or being about to consume, or carrying away the same, as against the occupant of said premises;
- (d) upon the hearing of any charge of selling and purchasing liquor, or of unlawfully having or keeping liquor contrary to any of the provisions of this Ordinance, the Justice trying the case has the right to draw inferences from the kind and quantity of liquor found in the possession of the person accused or in any building, premises, vehicle, motor car, automobile, vessel, boat, conveyance or place occupied or controlled by him from the frequency in which liquor is received thereat or thereon or is removed therefrom, and from the circumstances under which it is kept or dealt with.
- (e) If, on the prosecution of any person charged with committing an offence against this Ordinance, in selling or keeping for sale or giving or keeping 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. Then, unless such person proves that he did not commit the offence with which he is so charged, he may be convicted of the offence.
- (f) No person shall transport, carry, or have liquor in a motor vehicle had, kept, used, intended for use or operated, for the transportation of persons for compensation unless the liquor is lawfully in the possession of a

bona fide passenger in the motor vehicle.

- (g) Where a Peace Officer is making any search he may seize and remove any books, papers, or things found in the vehicle, building, or place where the liquor is found, that in his opinion will afford evidence as to the commission of any offence against this Ordinance.
- (h) Any Peace Officer having, in pursuance of the authority conferred by this Ordinance, entered any licensed or unlicensed premises in which he seizes, or from which he removes, any liquor, may demand the name and address of any person found therein; and if the person refuses to give his name and address, or if the Peace Officer has reasonable grounds to believe that the name and address given is false, he may examine the person further as to the correctness of the name and address, and if the person fails upon the demand to give his name or address, or to answer satisfactorily the questions put to him, he shall be deemed guilty of a violation of this Ordinance and the Peace Officer may arrest him without warrant and prosecute him for that violation of this Ordinance.
- (i) Any person so found on the premises who does not answer the Peace Officer, refuses to give his name and address, or gives false information with respect to his name and address, or fails to answer satisfactorily the question put to him by the Peace Officer is guilty of an offence and liable, on summary conviction, to a fine of not more than \$20.00, and, in default of payment, shall be imprisoned for a period of not more than 40 days.
- (j) Where a Peace Officer, in making or attempting to make a search under or in pursuance of authority conferred by this Section, finds in any vehicle, liquor that in his opinion is unlawfully kept or had, or kept or had for an unlawful purpose, contrary to any provisions of this Ordinance, he may forthwith seize, besides the liquor and packages in which it is contained, the vehicle in which the liquor is so found; or, if he finds upon a public highway or elsewhere any trunk, box, valise, bag, or other receptacle whatever that he believes contains liquor unlawfully kept or had which contains liquor unlawfully kept or had for an unlawful purpose in contravention of this Ordinance, he may without warrant, forthwith seize and remove it, together with the vessels or packages in which the liquor is contained, whether in the custody of or under the control of any person or not.
- (k) Upon the prosecution of any person under the age of 21 years for an offence against this Ordinance the person prosecuted is a competent and compellable witness to state on oath the name of the person from whom, the place where, and the time when he obtained the liquor; and if he refuses, upon examination when called as a witness to state on oath the name, or give information of the person from whom, the place where, and the time when he obtained the liquor, he is, in addition to any penalty otherwise provided by this Ordinance, liable, on summary conviction, for the said offence to imprisonment for a period not exceeding 3 months, or until he sooner discloses the name or gives information of the person from whom and the place where and the time when he procured the liquor.
- (l) No statement made or information given pursuant to this Section by any so prosecuted shall be used or be receivable in evidence against him. Upon any prosecution for an offence arising out of or in respect of the violation of the provisions of any other section of this Ordinance or of the Regulations.
- (m) Upon any prosecution for an offence against this Ordinance relating to the procuring of liquor for, or the selling or giving of liquor to, an interdicted person, the interdicted person is a competent and compellable witness; and if he refuses, upon examination when called as a witness, to state on oath the name or give information of the person from whom, the place where, and the time when he obtained the liquor so procured, sold, or given to him, is guilty of an offence against this Ordinance, and is liable, on summary conviction, to imprisonment for a period not exceeding 3 months or until he sooner discloses the name or gives information of

the person from whom and the place where and the time when he obtained the liquor.

- (n) No statement made or information given pursuant to this Section by any interdicted person shall be used or be receivable in evidence against him upon any prosecution for any offence arising out of or in respect of the violation of the provisions of any section of this Ordinance or Regulations.

Penalties

- (o) Every person, other than a corporation who violates Sections 21 or 23 of this Ordinance is guilty of an offence and is liable on summary conviction:
 - (a) For a first offence, to a fine not less than \$300. and not more than \$800. and in default to imprisonment of not less than 2 months or not more than 4 months.
 - (b) For a second or subsequent offence, to imprisonment, without option of a fine, for a term of not less than 6 months and not more than 12 months.

Every person other than a corporation who violates Sections 22 or 25 is guilty of an offence and is liable on summary conviction:

- (a) For a first offence, to a fine of not less than \$200. and not more than \$400. and in default of payment to imprisonment for not less than 2 months and not more than 4 months.
- (b) For a second of subsequent offence, to imprisonment without option of a fine for a term of not less than 3 months and not more than 6 months.

Amend Section 38A (1) as follows:

- (p) Where the occupant of a residence of any part thereof, including the rooms of any lodger, boarder, or tenant therein, or any member of the family of such occupant, is convicted of keeping a disorderly house or of an offence under Section 21 of this Ordinance committed at, or in respect of such residence or part thereof, or in respect of any liquor kept therein or removed therefrom, the Justice making the conviction shall by order, declare such residence to be a public place for the purpose of this Ordinance, for a period of 1 year from the date of such conviction.
- (q) The presence of liquor in a dwelling declared to be a public place as a result of a conviction under Section 21 of the Ordinance is prima facie evidence of keeping liquor for sale.

Recommendation

The Commissioner recommends to Council that an amendment to the higher Ordinance incorporating the foregoing provisions be presented at the Summer, 1965 Session. The Liquor Ordinance requires amendment in other respects but the Commissioner is not ready at this time to make further recommendations. These will be made later.